I. Call To Order

II. Roll Call

III. Invocation

IV. Pledges Of Allegiance - United States And Texas

EXECUTIVE SESSION

NOTE: The City Council may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The City Council may also publicly discuss any item listed on the agenda for Executive Session.

1. 5:00PM Executive Session in accordance with Section § 551.072 - Real Property: Receive a Staff briefing and deliberate regarding the possible acquisition of property out of the Wildenthal Tract for open space purposes; and the possible acquisition of property in the vicinity of Sink Creek for parks purposes.

2. Consider adoption or direction to Staff on matters discussed in Executive Session.

PRESENTATIONS

3. Receive a Staff presentation and hold a discussion regarding contracting with the Hays County Election Administrator for Election Services, and a Joint Election Agreement with Hays County, and provide direction to Staff.

6:00 PM

V. 30 Minute Citizen Comment Period

CONSENT AGENDA

THE FOLLOWING ORDINANCES, RESOLUTIONS AND OTHER ITEMS MAY BE ACTED UPON BY ONE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THE ITEMS IS NECESSARY UNLESS DESIRED BY A COUNCIL MEMBER OR A CITIZEN, IN WHICH EVENT THE ITEM SHALL BE CONSIDERED IN ITS NORMAL SEQUENCE AFTER THE ITEMS NOT REQUIRING SEPARATE DISCUSSION HAVE BEEN ACTED UPON BY A SINGLE MOTION.
4. Consider approval, by motion, of the following meeting Minutes:
   A) June 16, 2017 - Special Meeting Minutes
   B) June 16, 2017 - Packet Meeting Minutes
   C) June 20, 2017 - Regular Meeting Minutes
   D) July 5, 2017 - Regular Meeting Minutes

5. Consider approval of Ordinance 2017-31, on the second of two readings, amending the City’s 2016-2017 Fiscal Year Budget to add a Full-Time Employment Position for a Deputy Court Clerk; providing procedural provisions; and providing an effective date.

6. Consider approval of Ordinance 2017-35, on the second of two readings, repealing Article 6 of Chapter 90 of the San Marcos City Code pertaining to the regulation of Transportation Network Companies and Transportation Network Company drivers due to State Law Preemption of Local Regulation of those matters; and providing an effective date.

7. Consider approval of Resolution 2017-106R awarding a contract to JTS located in Dallas, Texas in the amount of $189,855.32 through the Interlocal Purchasing System (TIPS) Contract #170306 for Technology Solutions, Products, and Services to construct a 195 foot monopole in the San Marcos Cemetery for installation of wireless antenna equipment previously installed on the Franklin Water Tank; authorizing the Interim City Manager or his designee to execute the appropriate purchasing documents on behalf of the City; and declaring an effective date.

8. Consider approval of Resolution 2017-107R, approving a second amendment to Interlocal Agreement for Commercial Office Lease with Hays County for the WIC Office at 401c Broadway street for the purposes of extending the lease term for one additional year, reducing the rentable area and reducing the monthly rent to $965 per month; authorizing the Interim City Manager to execute said agreement; and declaring an effective date.

9. Consider approval of Resolution 2017-108R, approving a second amendment to an interlocal agreement for commercial office lease with Hays County for the WIC Satellite Office at 150 Lockhart Street in Kyle for the purposes of extending the lease term for one additional year, increasing the rentable area and reducing the monthly rent to $1,600 per month; authorizing the Interim City Manager to execute said agreement; and declaring an effective date.

10. Consider approval of Resolution 2017-109R, approving a commercial lease amendment with Twofold, LLC for the WIC Program Satellite Office at 645 North Walnut Avenue, New Braunfels, Texas for the purposes of extending the lease term for one additional year and reducing the rent to $3,255 per month; authorizing the Interim City Manager to execute said commercial lease amendment; and declaring an effective date.

11. Consider approval of Resolution 2017-110R, approving the purchase of road building materials in the total estimated amounts of $150,000 for Fiscal Year 2017, $850,000 for Fiscal Year 2018, $850,000 for Fiscal Year 2019, $892,000 for Fiscal Year 2020, $937,125 for Fiscal Year 2021, and $983,981 for Fiscal Year 2022 through the Texas Comptroller of Public Accounts Texas Smartbuy Contract #745-A1 for aggregate,
asphaltic and Contract #750-A1 for aggregate, non-asphaltic; authorizing the Interim City Manager or his designee to execute the appropriate purchasing documents on behalf of the City and declaring an effective date.

12. Consider approval of Resolution 2017-111R, approving an interlocal contract between the City and the State of Texas, acting by and through the Texas Department of Information Resources ("DIR"), to purchase equipment to replace components of the City’s Computer Network through DIR’s Contract #DIR-TSO-2542 with Sigma Technology Solutions, Inc. of El Paso, Texas, in the total sum of $380,718.83; authorizing the Interim City Manager to execute the interlocal contract on behalf of the City; and declaring an effective date.

13. Consider approval of Resolution 2017-112R approving the appointment of the law firm of Davidson, Troilo, Ream & Garza as special counsel to advise the Ethics Review Commission as it considers a request from Council Member Ed Mihalkanin for an Ethics Advisory Opinion; and declaring an effective date.

PUBLIC HEARINGS - 7:00 PM

14. 7:00PM Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2017-36 amending various sections of Subpart B, Land Development Code, of the City’s Code of Ordinances to clarify the applicability of Neighborhood Character Studies to various requests and determinations under such Code; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date; and consider approval of Ordinance 2017-36, on the first of two readings.

15. 7:00 PM Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2017-37 amending Chapter 34, Article 7 of the City’s Code of Ordinances to establish regulations and registration requirements for Home Share Rentals of property for periods of less than 30 days, together with corresponding amendments to Chapter 4 of the Land Development Code, Subpart B of the City’s Code of Ordinances to establish Home Share Rentals as a new land use, subject to the requirements of Chapter 34; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date; and consider approval of Ordinance 2017-37, on the first of two readings.

16. 7:00PM Receive a Staff presentation and hold the first of two Public Hearings to receive comments for or against PSA-16-02, a request by Hermann Vigil, Vigil and Associates, on behalf of Robert McDonald III, Whisper Master Community Limited Partnership, for a Preferred Scenario Amendment from Area of Stability to Employment Center for approximately 100 acres out of the Joel Minor Survey, located at the southwest corner of Yarrington Road and Harris Hill Road (Whisper).

NON-CONSENT AGENDA

17. Consider approval of Resolution 2017-113R, adopting a Governance Policy that establishes a code of conduct and protocols for Council and City Staff interactions and communications; and declaring an effective date.
18. Consider the Public Hearing Dates proposed by Staff regarding the 2017 Property Tax Rate and Fiscal Year 2017-2018 Budget, and provide direction to Staff.

19. Discuss proposed amendments to the San Marcos City Charter; and provide direction to Staff.

20. Receive a Staff update and follow-up of the Transportation Master Plan regarding Thoroughfare, Bike and Greenway plans, and street cross-sections; and provide direction to Staff.

VI. Question and Answer Session with Press and Public.

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

VII. Adjournment.

POSTED ON THURSDAY, JULY 13, 2017 at 8:00 AM

JAMIE LEE CASE, TRMC, CITY CLERK

Notice of Assistance at the Public Meetings

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 855-461-6674 or sent by e-mail to ADArequest@sanmarcostx.gov
5:00PM Executive Session in accordance with Section § 551.072 - Real Property: Receive a Staff briefing and deliberate regarding the possible acquisition of property out of the Wildenthal Tract for open space purposes; and the possible acquisition of property in the vicinity of Sink Creek for parks purposes.
Consider adoption or direction to Staff on matters discussed in Executive Session.
AGENDA CAPTION:
Receive a Staff presentation and hold a discussion regarding contracting with the Hays County Election Administrator for Election Services, and a Joint Election Agreement with Hays County, and provide direction to Staff.

Meeting date: July 18, 2017

Department: City Clerk

Funds Required:
Account Number: 100-01-101-00-52425
Funds Available: $30,000, FY18
Account Name: Election Expenses

CITY COUNCIL GOAL:

COMPREHENSIVE PLAN ELEMENT(s):

BACKGROUND:
The City of San Marcos has previously entered into Joint Election Agreements and Election Services Agreements with Hays County while Ms. Joyce Cowen was the Hays County Elections Administrator. With Ms. Cowen’s retirement at the end of 2016 it is necessary for the City to update these agreements reflecting Ms. Jennifer Anderson as the Hays County Election Administrator for the conduct and supervision of the City’s General and Special Election to be held on November 7, 2017, and if necessary a runoff election.
AGENDA CAPTION:
Consider approval, by motion, of the following meeting Minutes:
A) June 16, 2017 - Special Meeting Minutes
B) June 16, 2017 - Packet Meeting Minutes
C) June 20, 2017 - Regular Meeting Minutes
D) July 5, 2017 - Regular Meeting Minutes

Meeting date: July 18, 2017

Department: City Clerk

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL: N/A

COMPREHENSIVE PLAN ELEMENT(s): N/A

BACKGROUND:
The following minutes are attached for review:
A) June 16, 2017 - Special Meeting Minutes
B) June 16, 2017 - Packet Meeting Minutes
C) June 20, 2017 - Regular Meeting Minutes
D) July 5, 2017 - Regular Meeting Minutes
I. Call To Order

With a quorum present, the special meeting of the San Marcos City Council was called to order by Mayor Thomaides at 11:06 a.m. Friday, June 16, 2017 in the City Hall Conference Room, 630 E. Hopkins, San Marcos, Texas 78666.

II. Roll Call

Present: 7 - Mayor John Thomaides, Mayor Pro-Tem Jane Hughson, Deputy Mayor Pro Tem Lisa Prewitt, Council Member Saul Gonzales, Council Member Ed Mihalkanin, Council Member Scott Gregson and Council Member Melissa Derrick

EXECUTIVE SESSION

1. Executive Session in accordance with Section § 551.074 of the Texas Government Code: Personnel Matters - to discuss Appointee Evaluations.

A motion was made by Mayor Thomaides, seconded by Mayor Pro-Tem Hughson, to enter into Executive Session at 11:07 a.m. The motion carried by a unanimous vote.

The Council came back into open session at 11:30 a.m. They provided direction to Dr. Richard Lewis of Roundtop Consulting regarding the appointee evaluation process in Executive Session.

For: 7 - Mayor Thomaides, Mayor Pro-Tem Hughson, Deputy Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Mihalkanin, Council Member Gregson and Council Member Derrick

Against: 0

III. Question and Answer Session with Press and Public.

None.

IV. Adjournment.

Mayor Thomaides adjourned the special meeting of the San Marcos City Council at 11:30 a.m.
I. Call To Order

With a quorum present, the packet meeting workshop of the San Marcos City Council was called to order by Mayor Thomaides at 12:02 p.m. Friday, June 16, 2017 in the City Council Chambers, 630 E. Hopkins, San Marcos, Texas 78666

II. Roll Call

Present: 7 - Mayor John Thomaides, Mayor Pro-Tem Jane Hughson, Deputy Mayor Pro Tem Lisa Prewitt, Council Member Saul Gonzales, Council Member Ed Mihalkanin, Council Member Scott Gregson and Council Member Melissa Derrick

1. Consider Staff briefing and Council Member discussion and questions regarding items on the agenda for the June 20, 2017 Regular City Council Meeting, to wit Items (1-14).

   1. Proposed amendments to the San Marcos City Charter.

CONSENT AGENDA

2. Meeting Minutes:
   A) June 2, 2017 - Packet Meeting Minutes
   B) June 6, 2017 - Regular Meeting Minutes

3. Resolution 2017-87R approving an agreement between the City and ABIP, P.C. for the provision of professional auditing services in an amount not to exceed $323,245.00 for all five terms of the agreement contingent upon the Auditor’s provision of sufficient insurance in accordance with the attached agreement; authorizing the Interim City Manager or his designee to execute this agreement on behalf of the City; and declaring an effective date.

4. Resolution 2017-93R, approving a lease agreement between the City of San Marcos and Terry Serur for property located at 317 North LBJ Drive to be occupied by the Main Street Program for a term of one year with two one year extension options; authorizing the City Manager to execute the lease agreement on behalf of the City; and declaring an effective date.

5. Resolution 2017-98R, approving the procurement of a subscription for Kaspersky Anti-Virus Protection Software and associated technical support from Insight Public
Sector in the total amount of $92,744.18 through the U.S. Communities Government Purchasing Alliance Contract #4400006644 for technology products, equipment, services and solutions; authorizing the Interim City Manager or his designee to execute the appropriate purchasing documents on behalf of the City and declaring an effective date.

6. Resolution 2017-99R, approving Amendment No. 1 to the Local Transportation Project Advance Funding Agreement with the State of Texas, acting through the Texas Department of Transportation for construction of a multi-use bike and pedestrian facility along Hopkins street from Thorpe Lane to CM Allen Parkway (CSI No. 0914-33-075) for the purpose of amending the project budget to reflect the allocation of CAMPO funds toward design and construction costs and the application of $500,000 in transportation credits toward project costs; authorizing the Interim City Manager to execute said amendment on behalf of the City; and declaring an effective date.

7. Resolution 2017-100R, approving a list of qualified Engineering Firms for their provision of Professional Engineering Services in connection with CDBG-DR Infrastructure Projects as needed; and declaring an effective date.

PUBLIC HEARINGS - 7:00 PM

8. Public Hearing to receive comments for or against Resolution 2017-101R, adopting the Community Development Block Grant (CDBG) Action Plan that provides for the allocation of CDBG funds for program year 2017; authorizing the Interim City Manager or his designee to act as the official representative of the City in matters related to the CDBG program and action plan; and declaring an effective date.

NON-CONSENT AGENDA

9. Ordinance 2017-25, on the first of two readings, creating a two-hour parking restriction between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday in the general area of downtown San Marcos as authorized by Section 82.160 of the San Marcos City Code and amending the traffic register to reflect such parking restriction; and including procedural provisions.

10. Ordinance 2017-33, on the first of two readings, amending section 86.531 of the San Marcos City Code regarding the maintenance and repair of permanent Stormwater Management Facilities to require that annual inspections be performed by engineers who are precertified by the City; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

11. Staff update, discussion and hear details regarding the following Summer 2017 Preferred Scenario Amendment applications received:

1. PSA-17-02 / ZC-17-12 Walton Development & Management: 85.5 acres, more or
less, located on Centerpoint Road: Proposal to change from Medium Intensity / Area of Stability to Employment Center: Proposal to change from SmartCode / SmartCode Special-District to Heavy Commercial / Light Industrial.

2. PSA-17-03 / ZC-17-13 Jennifer M. Garcia on behalf of 417 North Comanche Partners, LLC: 0.212 acres, more or less, located at 323 Lindsey Street: Proposal to change from Area of Stability to High Intensity: Proposal to change from Multifamily (MF-24) to T5 Urban Center, SmartCode.

12. Discussion regarding the capital funding request related to the Village Main Building along with the potential discussion of how the City sponsored Women, Infants and Children (WIC) will participate in the building program of the Village Main Project.

13. Discussion regarding a sponsorship request from the Mermaid Society SMTX for the Second Annual Mermaid SPLASH community event in the amount of $25,000 for Fiscal Year 2017 and a like amount for Fiscal Year 2018.

14. Hold discussion regarding a request from the Downtown Association for City Council to consider a license agreement allowing downtown business employees to park in the City Park parking lot Monday-Friday during the hours of 8:00 a.m. - 5:00 p.m.; and also discuss other potential locations identified by the City and the Downtown Association.

The City Council held discussion and asked questions regarding items on the agenda for the June 20, 2017 Regular City Council Meeting, to wit Items (1-14).

Item #7 Staff will provide the Council with a list of what has been spent in connection with the CDBG-DR Infrastructure Projects.

Item #8 Staff will ask CASA what amount they need from the City in order to show "local support" for potential grant providers. Staff will provide options for the east side resource center currently being considered for the current Fire Station location.

No additional direction was provided.

III. Question and Answer Session with Press and Public.

None.

IV. Adjournment.

Mayor Thomaides adjourned the packet meeting of the San Marcos City Council at 1:05 p.m.
I. Call To Order

With a quorum present, the regular meeting of the San Marcos City Council was called to order by Mayor Thomaides at 5:03 p.m. Tuesday, June 20, 2017 in the City Council Chambers, 630 E. Hopkins, San Marcos, Texas 78666

II. Roll Call

Present: 7 - Mayor John Thomaides, Mayor Pro-Tem Jane Hughson, Deputy Mayor Pro Tem Lisa Prewitt, Council Member Ed Mihalkanin, Council Member Saul Gonzales, Council Member Scott Gregson and Council Member Melissa Derrick

III. Invocation

A moment of silence was observed.

IV. Pledges Of Allegiance - United States And Texas

Council Member Mihalkanin led the Council in the Pledges of Allegiance.

PRESENTATIONS

1. Discuss proposed amendments to the San Marcos City Charter; and provide direction to Staff.

Paul Mayhew, Chair of the Charter Review Commission, provided an opening statement and made himself available to the City Council. Mayor Thomaides guided the Council through cumulative list of recommended City Charter amendments. The following amendments had consensus of the City Council to move forward, except as otherwise noted:

1. Require the proposed city budget to be made available at city hall, at the San Marcos Public Library, and on the city’s website. Require the adopted budget and supporting schedules to be published on the city’s website. [Sections 8.02 and 8.05] Consensus to create a new (a) that would require a Visioning Workshop to be held by January 31 of each year. Staff will correct,
“policy budget workshop” to read “budget policy workshop”.

2.  Require proposed ordinances granting a public utility franchise to be made available at the San Marcos Public Library, at city hall, and on the city’s website.  [Section 11.04]

3.  Require updates to annual financial disclosure forms by council members, council appointees, and board and commission members within 30 days of any significant changes.  [Section 12.02(a)(2)]

4.  Prohibit council members and employees from having a financial interest in the purchase from the city of any land, materials, supplies, or service.  [Section 12.02(a)(3)]

5.  Prohibit council members from having a financial interest in the sale to the city of any land, materials, supplies, or service for a period of two years from the date of leaving office; rendering contracts entered into in violation of this provision voidable by city manager or city council.  [Section 12.02; add a new subsection (a)(4)]

Staff will insert, “These provisions shall not apply to acquisitions of property by the city as a result of eminent domain proceedings or the threat of eminent domain proceedings.” at the end of Section 12.02 (a) (4). The Council provided direction for the City Attorney Staff to provide language to the Council at the July 5 meeting related to this item.

6.  Correct punctuation errors  - Insert a comma, known as the Oxford comma or serial comma, immediately before the coordinating conjunction (usually “and” or “or”) in a series of three or more items – in each instance where this occurs in the city charter.

7.  Amend the powers of the Ethics Review Commission; granting the authority to conduct hearings regarding alleged violations of the city charter, render advisory opinions regarding potential violations of the city charter, and make recommendations regarding such violations.  [Section 12.02(c), subparagraphs (2),(3), and (4)]

8.  Amendments to Section 12.03, Nepotism:
   a.  Rename this section to read:  “12.03 Nepotism and Conflict of Interest”
   b.  Rephrase the sentence structure of the current provision to make it less cumbersome and to provide greater clarity (this topic to be further discussed on July 5)
c. Prohibit direct supervision of an employee by his/her relative, roommate, or sexual partner. Council provided direction to Staff to look into what other communities have in their Charter.

d. Require supervisors to report relationships with subordinates promptly to the Human Resources Department. Staff to look into what other communities have in their Charter.

e. Defining “relative” to include persons related within the third degree by blood or within the second degree by affinity (marriage, including common law marriage) Staff to look into what other communities have in their Charter.

Council discussed the addition the statement: Prohibit any councilpersons business associate to be nominated or appointed by any council member. If a council member’s business associate is nominated or appointed then it will have to be disclosed. Following discussion the Council consensus was to not accept the language as submitted by the Charter Review Commission for Section 12.03, and would like it to be modified. The Council directed the City Attorney’s Office to clarify this item by looking into what other cities have in their Charters and all boards that have final decision making authority.

6:00 PM

V. 30 Minute Citizen Comment Period

Emily Fabian, no show.

Jessie Hargrave, spoke about he and his wife’s involvement in San Martians for Off leash areas and the benefits of having dogs in an off leash environment. He spoke in support of the proposed dog park, and believed that it could help alleviate the pressures of the current dog park. He asked the Council to approve the request for funds.

Elena Duran, spoke in opposition of the Mermaid Society request for funding. She stated that they received sponsorships last year and that July Moreno paid herself $9000 of those monies. She stated that if the Council wants to give $25,000 to give it to her so that she can establish a kid’s dental clinic, to construct an entrance into the Hills of Hays neighborhood that would keep drivers from running into homes that are next to Staples Road.

Christopher Hanson, spoke as a proud member of the Mermaid Society, and stated that he hoped the Council would support the Mermaid Society request. He invited his wife up to the podium and they played a song that was inspired by the image of the mermaid.
Roland Saucedo addressed the Council regarding the desire to include the Sunset Acres Drainage Project in the upcoming CIP. He would like the Council to move this up in the CIP from 2020 to 2017. He stated that he has been communicating with TxDot, and he believes that once it has been approved on the Council side that it will be easier to get the TxDot ball rolling.

Sean Quinones spoke on the Mermaid Society request, and he feels that asking for $25,000 is not necessary. He stated that the City just purchased 10 mermaid statues that will require maintenance to be kept. He stated that the Mermaid Society needs to fundraise, and not put this burden on the taxpayer. He spoke about the City being in poverty and other areas of the City that could benefit from a $25,000 investment. He asked council to deny the request and to use the funds more appropriately.

Diana Gonzales addressed the Council on behalf of the Sunset Acres Neighborhood and explained how the residents would like to see the Sunset Acres Drainage Project moved up in the CIP. She spoke about homes that were recently damaged or impacted in the recent flood event. She explained how many of the residents in this area are on fixed incomes, and that they are asking the council to start working towards improving the quality of life for this neighborhood.

Chris Rue, spoke to the Council on behalf of the Downtown Association. He spoke in favor of the License Plate Recognition software and the need to get it implemented as soon as possible. He thanked the Staff for locating the additional parking spots for the employee parking permit program. He asked that spots on Guadalupe and LBJ that are currently parallel spots be made into angled parking to add additional spots. He spoke about a parking lot sharing program that they are working on, but it is the LPR that will make this work.

Matt Akins, spoke in favor of the Hopkins Bike and Ped improvements. He spoke in favor of metered parking and about an incentive program that would encourage employees or residents to not drive to downtown.

Lisa Marie Coppoletta, thanked the Sunset Acres Neighborhood for being organized. She applauded the Communications Director for her awards. She spoke about the mold that affects her and about the air quality reports that the City recently had completed. She then spoke about the “split screen” during public hearings, and about how a viewer cannot see the council/staff and the speaker at the same time.
Following Ms. Coppoletta’s comments, Mayor Thomaides provided a statement of fact that the City has completed an indoor the air quality study and that the air quality meets all of the required standards.

The following individuals submitted written comments:
Lacey Carnes
Amanda Hargrave
Melissa Millecam
Dean John Fleming
Christina McCourt
Thomas R. Simpson
Kimberly M. Meitzen, Ph.D.
Megan Jung
Matthew Hill
Erika Olsen
Michael Scanio
Karen Jennett
Stephanie Symmes

CONSENT AGENDA

A motion was made, seconded by Mayor Pro-Tem Hughson, to approve the consent agenda with the exception of Item #5, which was pulled and considered separately. The motion carried by the following vote:

For: 7 - Mayor Thomaides, Mayor Pro-Tem Hughson, Deputy Mayor Pro-Tem Prewitt, Council Member Mihalkanin, Council Member Gonzales, Council Member Gregson and Council Member Derrick

Against: 0

2. Consider approval, by motion, of the following meeting Minutes:
A) June 2, 2017 - Packet Meeting Minutes
B) June 6, 2017 - Regular Meeting Minutes

3. Consider approval of Resolution 2017-87R approving an agreement between the City and ABIP, P.C. for the provision of professional auditing services in an amount not to exceed $323,245.00 for all five terms of the agreement contingent upon the Auditor’s provision of sufficient insurance in accordance with the attached agreement; authorizing the Interim City Manager or his designee to execute this agreement on behalf of the City; and declaring an effective date.

4. Consider approval of Resolution 2017-93R, approving a lease agreement between the City of San Marcos and Terry Serur for property located at 317 North LBJ Drive to be occupied by the Main Street Program for a term of one year with two one year
extension options; authorizing the City Manager to execute the lease agreement on behalf of the City; and declaring an effective date.

5. Consider approval of Resolution 2017-98R, approving the procurement of a subscription for Kaspersky Anti-Virus Protection Software and associated technical support from Insight Public Sector in the total amount of $92,744.18 through the U.S. Communities Government Purchasing Alliance Contract #4400006644 for technology products, equipment, services and solutions; authorizing the Interim City Manager or his designee to execute the appropriate purchasing documents on behalf of the City and declaring an effective date.

A motion was made by Mayor Pro-Tem Hughson, seconded by Council Member Gregson, to postpone Resolution 2017-98R indefinitely. The motion carried by the following vote:

For: 7 - Mayor Thomaides, Mayor Pro-Tem Hughson, Deputy Mayor Pro Tem Prewitt, Council Member Mihalkanin, Council Member Gonzales, Council Member Gregson and Council Member Derrick

Against: 0

6. Consider approval of Resolution 2017-99R, approving Amendment No. 1 to the Local Transportation Project Advance Funding Agreement with the State of Texas, acting through the Texas Department of Transportation for construction of a multi-use bike and pedestrian facility along Hopkins street from Thorpe Lane to CM Allen Parkway (CSI No. 0914-33-075) for the purpose of amending the project budget to reflect the allocation of CAMPO funds toward design and construction costs and the application of $500,000 in transportation credits toward project costs; authorizing the Interim City Manager to execute said amendment on behalf of the City; and declaring an effective date.

7. Consider approval of Resolution 2017-100R, approving a list of qualified Engineering Firms for their provision of Professional Engineering Services in connection with CDBG-DR Infrastructure Projects as needed; and declaring an effective date.

PUBLIC HEARINGS - 7:00 PM

8. 7:00PM Hold a Public Hearing to receive comments for or against Resolution 2017-101R, adopting the Community Development Block Grant (CDBG) Action Plan that provides for the allocation of CDBG funds for Program Year 2017; authorizing the Interim City Manager or his designee to act as the official representative of the City in matters related to the CDBG program and action plan; and declaring an effective date; and consider approval of Resolution 2017-101R.

Stacy Brown, Housing and Community Manager, presented the applications and funding matrix to allow the City Council to allocate the City's annual award for the Community Development Block Grant (CDBG) funding.

Mayor Thomaides opened the Public Hearing at 7:21 p.m.
Tricia Snyder, CASA of Central Texas, spoke about their request for CDBG funding. She addressed the timeline, and explained how it would meet the requirements of HUD. The timeline is contingent upon securing funding. She stated that two other organizations are asking for the support of the city this evening. She stated that they could take out a loan, but they do not want to go that route. Most of the children they serve are from San Marcos and she stated that Hays County is awarding them $300,000.

Marla Johnson, spoke in support of the Hays Caldwell Women's Center's request for $22,000 for their building remodel so that they can apply for a grant to get additional staffing.

Lisa Coppoletta, spoke about Blanco Gardens and environmental racism. She made comments related to CDBG-DR funds, and not the CDBG Action Plan. She continued to speak about flooding in the Blanco Gardens areas and the demographics within that area. She asked for reparations instead of buyouts. She said that this benefits the developers and not the citizens. She asked the Council to look into their hearts and give them reparations.

There being no further comments, the Mayor closed the Public Hearing at 7:30 p.m.

A motion was made by Council Member Gregson, seconded by Mayor Pro-Tem Hughson, to approve Resolution 2017-101R with the following funding allocations:
- Program Admin Request - $112,560
- CASA - $29,810
- CenTex Dispute Resolution - $24,500
- City - Rec Fee Scholarship - $10,500
- BR3T - $217,349 (BR3T to do outreach to the Sunset Acres Neighborhood to provide assistance)
- HC Women's Shelter - $22,000
- Southside Rehab - $100,000
- Dog Park - $75,000 (For use on improvements to the current dog park)
- Veteran's Park - $30,000
- Cumulative Total Allocated - $621,719

Staff will identify another method to finance the $350,000 requested by CASA. The motion carried by the following vote:
NON-CONSENT AGENDA

9. Consider approval of Ordinance 2017-25, on the first of two readings, creating a two-hour parking restriction between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday in the general area of downtown San Marcos as authorized by Section 82.160 of the San Marcos City Code and amending the traffic register to reflect such parking restriction; and including procedural provisions.

A motion was made by Council Member Gregson, seconded by Mayor Pro-Tem Hughson, to approve Ordinance 2017-25, on the first of two readings.

The motion carried by the following vote:

For:  7 - Mayor Thomaides, Mayor Pro-Tem Hughson, Deputy Mayor Pro Tem Prewitt, Council Member Mihalkanin, Council Member Gonzales, Council Member Gregson and Council Member Derrick

Against:  0

10. Consider approval of Ordinance 2017-33, on the first of two readings, amending section 86.531 of the San Marcos City Code regarding the maintenance and repair of permanent Stormwater Management Facilities to require that annual inspections be performed by engineers who are precertified by the City; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

A motion was made by Mayor Pro-Tem Hughson, seconded by Council Member Gregson, to approve Ordinance 2017-33, on the first of two readings.

The motion carried by the following vote:

For:  7 - Mayor Thomaides, Mayor Pro-Tem Hughson, Deputy Mayor Pro Tem Prewitt, Council Member Mihalkanin, Council Member Gonzales, Council Member Gregson and Council Member Derrick

Against:  0

11. Receive a Staff update, hold a discussion and hear details regarding the following Summer 2017 Preferred Scenario Amendment applications received and provide direction to staff:

1. PSA-17-02 / ZC-17-12 Walton Development & Management: 85.5 acres, more or less, located on Centerpoint Road: Proposal to change from Medium Intensity / Area of Stability to Employment Center: Proposal to change from SmartCode / SmartCode Special-District to Heavy Commercial / Light Industrial.

2. PSA-17-03 / ZC-17-13 Jennifer M. Garcia on behalf of 417 North Comanche Partners, LLC: 0.212 acres, more or less, located at 323 Lindsey Street: Proposal to change from Area of Stability to High Intensity: Proposal to change from Multifamily (MF-24) to T5 Urban Center, SmartCode.
Shannon Mattingly, Director of Development Services, provided the Council with an overview of the requests. Following the presentation and discussion the Council provided direction to Staff to proceed.

12. Hold discussion regarding the capital funding request related to the Village Main Building along with the potential discussion of how the City sponsored Women, Infants and Children (WIC) will participate in the building program of the Village Main Project, and provide direction to Staff.

Council Member Mihalkanin provided an overview of the request made by the Village Main Project. Assistant City Manager, Steve Parker, provided an overview of how WIC would be involved with this request. Following discussion, Council provided direction to Staff to look at funding options, and to bring this item back in either late July or early August.

13. Hold discussion regarding a sponsorship request from the Mermaid Society SMTX for the Second Annual Mermaid SPLASH community event in the amount of $25,000 for Fiscal Year 2017 and a like amount for Fiscal Year 2018, and provide direction to Staff.

Council Member Mihalkanin provided an overview of why he requested this discussion item regarding the sponsorship request from the Mermaid Society SMTX in the amount of $25,000. July Moreno, Founder of the Mermaid Society SMTX, responded to questions from the Council regarding the request. Following discussion the Council provided direction to Staff to expend the funds from Hotel Motel Tax Funds, if Legal provides assurance that is allowed, and the general fund. Council provided direction to Ms. Moreno to request funds through the Arts Commission for next year.

Council Member Gregson filed an affidavit abstaining on this item and was not present during this discussion.

14. Hold discussion regarding a request from the Downtown Association for City Council to consider a license agreement allowing downtown business employees to park in the City Park parking lot Monday-Friday during the hours of 8:00 a.m. - 5:00 p.m.; and also discuss other potential locations identified by the City and the Downtown Association, and provide direction to staff.

Mayor Thomaides introduced this discussion item and turned it over to Kevin Burke, Economic and Development Coordinator. The Council was informed that because the City Park Parking Lot is designated parkland that in order to use it for anything other than a parks purpose it would require the City to go through a lengthy process. Following discussion the Council provided direction to Staff to stripe the 100 peripheral parking spaces that Staff identified previously. Staff will inform downtown businesses that they are
available for use by employees. Staff will also stripe the parking lot at the dog park as well.

VI. Question and Answer Session with Press and Public.

None.

VII. Adjournment.

Mayor Thomaides adjourned the regular meeting of the San Marcos City Council at 10:45 p.m.

Jamie Lee Case, TRMC, City Clerk                                      John Thomaides, Mayor

Notice of Assistance at the Public Meetings

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 855-461-6674 or sent by e-mail to ADArequest@sanmarcostx.gov
AGENDA CAPTION:
Consider approval of Ordinance 2017-31, on the second of two readings, amending the City’s 2016-2017 Fiscal Year Budget to add a Full-Time Employment Position for a Deputy Court Clerk; providing procedural provisions; and providing an effective date.

Meeting date:  July 5, 2017 - 1st Reading
July 18, 2017 - 2nd Reading

Department: Municipal Court, Susie Garcia, Court Administrator

Funds Required:  $10,000.00  - budget neutral-expense reimbursed through vendor contract
Account Number:  10001114.XXXXX-Various Personnel Accounts
Funds Available:  funded by vendor contract for remainder of year/ upon contract renewal funded for 80% of fiscal year 2017-2018
Account Name: Various Personnel Accounts

CITY COUNCIL GOAL: N/A

COMPREHENSIVE PLAN ELEMENT(s):

BACKGROUND: The court has utilized temporary staffing for the past 5 years to accomplish its work load. In fiscal year 2014/2015 a contract for collections was awarded which included funding for a deputy court position for the court up to $38,548 per annum, this position is currently projected at $51,683.10 annually. Initially the position was set up as a fulltime deputy court clerk hired through a temp agency. The person who filled the job since its inception was recently hired into a position vacated by a retiring deputy court clerk. Instead of filling a temporary position for a deputy court clerk, the court’s workload demonstrates a need to make this position permanent and part of the courts compliment of jobs. The position would be budget neutral for the remainder of this fiscal year. If the city exercises its last renewal option with the collections vendor this position will be funded for 80% of fiscal year 2017/2018.
ORDINANCE NO. 2017-_______

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING THE CITY’S 2016-2017 FISCAL YEAR BUDGET TO ADD A FULL-TIME EMPLOYMENT POSITION FOR A DEPUTY MUNICIPAL COURT CLERK; PROVIDING PROCEDURAL PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

RECITALS:

In accordance with Section 8.16 of the City Charter, the City Council declares that a public necessity exists that requires an amendment to the City’s 2016-2017 Fiscal Year Budget.

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

SECTION 1. The City Budget Ordinance for the 2016-2017 Fiscal Year is amended to add a full-time employment position for a Deputy Municipal Court Clerk as shown in Exhibit “A,” attached hereto and made a part hereof for all purposes.

SECTION 2. This amendment will be incorporated into the 2016-2017 Fiscal Year City Budget.

SECTION 3. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 4. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 5. This ordinance will take effect immediately after its passage, approval and adoption on second reading.

PASSED AND APPROVED on first reading on May 16, 2017.

PASSED, APPROVED AND ADOPTED on second reading on June 6, 2017.

John Thomaides
Mayor

Attest: Approved:

Jamie Lee Case Michael J. Cosentino
City Clerk City Attorney
Budget Amendment
Approved by Ordinance No.

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Description

Amend the budget to add one head count for a Deputy Court Clerk and increase the FY17 budget for the addition of this position. The cost will be reimbursed through the current collections contract.
AGENDA CAPTION:
Consider approval of Ordinance 2017-35, on the second of two readings, repealing Article 6 of Chapter 90 of the San Marcos City Code pertaining to the regulation of Transportation Network Companies and Transportation Network Company drivers due to State Law Preemption of Local Regulation of those matters; and providing an effective date.

Meeting date: July 5, 2017 - 1st Reading
July 18, 2017 - 2nd Reading

Department: City Clerk’s Office

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL: N/A

COMPREHENSIVE PLAN ELEMENT(s): N/A

BACKGROUND:
On May 29, 2017, Governor Greg Abbott today signed House Bill 100 (HB 100), which ended a patchwork of local regulations on ride-sharing companies in Texas, and expands transportation options. This law overrides local provisions therefore, it is necessary to repeal our Ordinance regulating Transportation Network Companies in San Marcos.

Safety standards included in HB 100:
- Drivers must undergo annual criminal background check.
- Drivers must provide all necessary information to the consumer before each ride.
- Drivers must provide electronic receipts to passengers.
- There is a zero-tolerance intoxication standard for drivers will be strictly enforced.

This bill is effective immediately.
ORDINANCE NO. 2017-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS REPEALING ARTICLE 6 OF CHAPTER 90 OF THE SAN MARCOS CITY CODE PERTAINING TO THE REGULATION OF TRANSPORTATION NETWORK COMPANIES AND TRANSPORTATION NETWORK COMPANY DRIVERS DUE TO STATE LAW PREEMPTION OF LOCAL REGULATION OF THOSE MATTERS; AND PROVIDING AN EFFECTIVE DATE

Recitals:

1. On May 5, 2015 the San Marcos City Council adopted Ordinance No. 2015-14 to add Article 6 to Chapter 90 of the San Marcos City Code for the purpose of regulating Transportation Network Companies and Transportation Network Company Drivers.
2. H.B. 100, adopted by the 85th Texas Legislature and signed by the Governor, amends the Texas Occupations Code by adding a new section, Section 2402.003, to prohibit local regulation of Transportation Network Companies and Transportation Network Company Drivers.

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

SECTION 1. Article 6 of Chapter 90 of the San Marcos City Code pertaining to the regulation of Transportation Network Companies and Transportation Network Company Drivers is hereby repealed in its entirety and shall not be observed or enforced in any manner within the City of San Marcos, Texas.

SECTION 2. This ordinance will take effect after its passage, approval and adoption on second reading.

PASSED AND APPROVED on first reading on July 5, 2017.

PASSED, APPROVED AND ADOPTED on second reading on July 20, 2017
Attest:

Jamie Lee Case
City Clerk

Approved:

Michael J. Cosentino
City Attorney

John Thomaides
Mayor
ORDINANCE NO. 2015-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 90, ARTICLE 3 OF THE SAN MARCOS CITY CODE GOVERNING TAXICABS BY MODIFYING INSPECTION AND APPLICATION REQUIREMENTS, REQUIRING CRIMINAL BACKGROUND CHECKS FOR DRIVERS, AND INCREASING RATES OF FARE; FURTHER AMENDING SAID CHAPTER 90 BY ADDING A NEW ARTICLE 6 THAT ESTABLISHES REGULATIONS FOR TRANSPORTATION NETWORK COMPANIES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. Chapter 90, Vehicles for Hire, of the San Marcos City Code is hereby amended as set forth below. Added text is indicated by underlining. Deleted text is indicated by strikethroughs.

SECTION 2. Chapter 90, Article 3, Taxicabs and Pedicabs, Section 90.122 is hereby amended as follows:

Sec. 90.122. Vehicle standards.

(a) No taxicab shall be driven or operated upon the streets of the city unless the same is in safe condition and free from mechanical defects, and it must further meet the following requirements:

(1) Have a current valid state of Texas motor vehicle registration and inspection sticker and be in compliance with the safety requirements of the Texas Motor Vehicle Code as amended; and

(2) Have a seat belt for each passenger; and

(3) Have an operating heater and air conditioner; and

(4) Have a fire extinguisher that is in good operating order; and

(5) Have a taxi-top light.

(b) The vehicle identification number and license number of each taxicab must match the numbers listed for that taxicab on the permit application.
(c) Insignia of taxicab must be the same as that indicated on the permit application.

SECTION 3. Chapter 90, Article 3, Taxicabs and Pedicabs, Section 90.125 is hereby amended as follows:

Sec. 90.125. Taximeter required.

(a) A person may not drive or allow another person to drive a taxicab unless the taxicab is equipped with an operational taximeter that displays an accuracy seal, certifying its accuracy in accordance with procedures determined by the chief of police. A taxicab in service is subject to inspection by any peace officer for purposes of determining compliance with this subsection.

(b) For purposes of determining a fare for taxicab service, a person may not use a device other than a taximeter for measuring distance or time.

(c) Except as provided by subsection 90.126(e), a person may not drive or allow another person to drive a taxicab unless an accurate taximeter is used to determine the fare to be charged.

(d) When using a taximeter to compute a fare, a driver shall place the taximeter in the revenue-earning position when a passenger enters a taxicab, or at the pre-arranged time, if any, after the customer is informed of the taxicab's presence.

(e) When using a taximeter to compute a fare, a driver shall call the attention of passengers to the amount registered on the taximeter before resetting the taximeter. The taximeter may not be reset to the "vacant" position until after the fare is paid.

SECTION 4. Chapter 90, Article 3, Taxicabs and Pedicabs, Section 90.126 is hereby amended as follows:

Sec. 90.126. Rates of fare; rate card required.

(a) This section establishes maximum fares that the owner or operator of a taxicab can charge.

(b) For four or fewer passengers, the owner or operator of a taxicab may charge a pickup fee of not to exceed $5.00. For five or more passengers, the owner or operator of a taxicab may charge $1.00 for each additional passenger.

(c) For trips wholly within the City of San Marcos, the fare shall be a maximum of $2.50 per mile, regardless of the number of passengers. The
taximeter shall be calibrated to charge no more than $0.50 $0.625 per one-fourth of a mile.

(d) For trips that originate in the City of San Marcos, but terminating outside the City of San Marcos, the fare shall be a maximum of $2.50 per mile, regardless of the number of passengers. The taximeter shall be calibrated to charge no more than $0.625 per quarter mile.

(e) A taximeter is not necessary to determine the maximum fare for a trip under a contract with a governmental agency, a nonprofit organization, or as otherwise reasonably necessary to provide a public service.

(f) The maximum fare for wait time will be $24.00 for each hour the driver must wait for a passenger. The taximeter shall be calibrated to charge a maximum of $0.40 per minute of wait time.

(g) A cab driver may charge a cleaning fee if a passenger soils a taxicab to the extent that the taxicab must be pulled from service for cleaning. The cleaning fee shall not exceed $250.00.

(h) Every taxicab operated under this article shall have a rate card setting forth the rates of fare established by this section displayed in a place in view of all passengers. The rate card shall instruct customers to call the San Marcos Police Department at (512) 753-2110 or any successor non-emergency telephone number if they have questions or concerns about the rates.

(i) In January of each year, the chief of police shall review the rates of fare to determine whether the fares need to be reconsidered. The chief of police shall base such the determination on the consumer price index, the costs of gasoline, and other reasonable costs of operating a taxicab service. The chief of police shall report his findings each year to the city council.

(j) This section shall become effective June 1, 2015.

SECTION 5. Chapter 90, Article 3, Taxicabs and Pedicabs, Section 90.162 is hereby amended as follows:

Sec. 90.162. Application.

An application for an operating permit required in section 90.161 shall be filed with the city clerk upon forms provided by the city. The application shall contain the following information:

(1) The name and address of the applicant.
(2) If the applicant is a business entity, copies of the applicant’s organizational documents, e.g., certificate of organization, articles of incorporation, bylaws, operating agreement, partnership agreement or similar documents as applicable, together with evidence of authority from the Texas Secretary of State to conduct business in the state of Texas, and current franchise tax account status and information report from the Texas Comptroller.

(3) The experience of the applicant in the transportation of passengers.

(4) Any facts the applicant believes tend to prove that public convenience and necessity require the granting of an operating permit.

(5) The name, usual trade description, seating capacity, equipment, motor number, state license number, vehicle identification number (VIN) of each motor vehicle to be operated or controlled by applicant, and the year in which each automobile was manufactured.

(6) The location of any stand at which the taxicabs will remain when not in actual service.

(7) The name and address of the person who will be in active charge and control of the taxicab business.

(8) The proposed fares.

(9) The color scheme or insignia to be used to designate the vehicles of the applicant.

SECTION 6. Chapter 90, Article 3, Taxicabs and Pedicabs, Section 90.163 is hereby amended as follows:

Sec. 90.163. Fees.

No operating permit required under this division shall be issued or continued in operation unless the holder thereof has paid an annual license fee of $400.00 and a twenty-dollar fee each year for each vehicle operated under an operating permit. The fees shall be paid to the city to compensate the city for its superintendence of the taxicab business operated under this article and for the use of the city streets, alleys and public ways.

SECTION 7. Chapter 90, Article 3, Taxicabs and Pedicabs, Section 90.187 is hereby amended as follows:
Sec. 90.187. Application.

(a) Every individual proposing to drive a taxicab within the City shall submit an application to the City. The application shall include a sworn statement by the applicant that all information provided in the application is true and correct and shall further state that the City is authorized to require a copy of the applicant's driving record and criminal history - provided by the applicant, if any, of the applicant. The City shall investigate the facts stated in the application. A City taxi driver permit shall be issued to each driver fulfilling the requirements of this section. Every applicant shall furnish under oath the following information:

1) Name, local residence address, date of birth, and telephone number.

2) Texas driver's license number, expiration date and three-year driving record.

3) A statement that the applicant has not been finally convicted within the past seven (7) years of a felony or the following offenses involving moral turpitude which adversely affects the applicant's ability to provide safe and reliable passenger transportation:
   a. prostitution or related offenses;
   b. driving while intoxicated;
   c. driving while under the influence of drugs;
   d. violations of the Controlled Substance Act;
   e. rape, murder, attempted murder, aggravated assault;
   f. theft offenses of a Class B Misdemeanor or higher; or
   g. a felony or other offense involving moral turpitude which adversely affects the applicant's ability to provide safe and reliable passenger transportation.

4) A statement certifying that there is currently in effect an insurance policy covering the driver while the driver is engaged in providing taxi service.

5) That the applicant has read in full and understands the provisions of this section.
(f) It is the responsibility of the holder to immediately notify the city clerk if the insurance required by subsection (a) of this section is no longer in effect for a driver holding a driver's permit and employed by the holder.

SECTION 8. Chapter 90, Vehicles for Hire, of the San Marcos City Code is hereby amended by adding a new Article 6 to read as follows:

ARTICLE 6. TRANSPORTATION NETWORK COMPANIES

DIVISION 1. GENERALLY

Sec. 90.321. Definitions.

In this article:

Abnormal market disruptions are defined as any change in the ground transportation market, whether actual or imminently threatened, resulting from stress of weather, convulsion of nature, failure or shortage of electric power or other source of energy, strike, civil disorder, war, military action, national or local emergency, or other cause of an abnormal disruption of the market which results in the declaration of a state of emergency by the governor.

Operating permit means the permission granted by the city to operate a TNC inside the city for a period of one year, renewable under the provisions of this chapter.

Transportation Network Company (TNC) is defined as an organization whether a corporation, partnership, sole proprietor, or other form, that provides on-demand transportation services for compensation using an online-enabled application (app) or platform to connect passengers with drivers.

Transportation Network Company (TNC) Driver shall mean an individual who operates a motor vehicle that is:

(1) owned, leased or otherwise authorized for use by the individual;

(2) not a taxicab; and

(3) used to provide Transportation Network Company services.

"Transportation Network Company (TNC) Services" shall mean transportation of a passenger between points chosen by the passenger and prearranged with a TNC Driver through the use of a TNC digital network or software application. TNC Services shall begin when a TNC Driver accepts a request for transportation received through the TNC's digital network or software application service, continue while the TNC Driver transports the passenger in the
TNC Driver's vehicle, and end when the passenger exits the TNC Driver's vehicle. TNC Service is not taxicab or street hail service.

Sec. 90.322. Fare charged for services.

(a) A TNC may charge a fare for the services provided to passengers; provided that, if a fare is charged, the TNC shall disclose to passengers the fare calculation method on its website or within the software application service. The TNC shall also provide passengers with the option to receive an estimated fare before the passenger enters the TNC Driver's vehicle.

(b) If a TNC utilizes dynamic pricing through its software application to incentivize drivers in an effort to maximize the supply of available vehicles on the network to match the demand for rides and increase reliability, the software application must:

(1) provide clear and visible indication that dynamic pricing is in effect prior to requesting a ride;

(2) include a feature that requires riders to confirm that they understand that dynamic pricing will be applied in order for the ride request to be completed; and

(3) provide a fare estimator that enables the user to estimate the cost under dynamic pricing prior to requesting the ride;

(4) during periods of abnormal market disruptions, dynamic pricing shall be prohibited;

Sec. 90.323. Agent Required.

The TNC must maintain an agent for service of process in the State of Texas.

Sec. 90.324. Identification of TNC Vehicles and Drivers.

Before a TNC ride is accepted, the TNC's software application or website shall display the driver's first name, an accurate picture of the TNC Driver, a picture or description of the vehicle, and the license plate number of the motor vehicle utilized for providing the TNC Service.

Sec. 90.325. Electronic Receipt Required.

Within a reasonable period of time following the completion of a trip, a TNC shall transmit an electronic receipt to the passenger that lists:
(1) the origin and destination of the trip;

(2) the total time and distance of the trip; and

(3) an itemization of the total fare paid, if any.

Sec. 90.326. Zero Tolerance for Alcohol or Drug Use.

(a) The TNC shall implement a zero tolerance policy on the use of drugs or alcohol while a TNC Driver is providing TNC Services or is logged into the TNC’s digital network but is not providing TNC Services, and shall provide notice of this policy on its website, as well as procedures to report a complaint about a driver with whom a passenger was matched and whom the passenger reasonably suspects was under the influence of drugs or alcohol during the course of the trip.

(b) Upon receipt of such passenger complaint alleging a violation of the zero tolerance policy, the TNC shall immediately suspend such TNC Driver’s access to the TNC’s digital platform, and shall conduct an investigation into the reported incident. The suspension shall last the duration of the investigation.

(c) The TNC shall maintain records relevant to the enforcement of this requirement for a period of at least two (2) years from the date that a passenger complaint is received by the TNC.

Sec. 90.327. No Street Hails

A TNC Driver shall exclusively accept rides booked through a TNC’s digital network or software application service and shall not solicit or accept street hails.

Sec. 90.328. No Cash Rides

The TNC shall adopt a policy prohibiting solicitation or acceptance of cash payments from passengers and notify TNC Drivers of such policy. TNC Drivers shall not solicit or accept cash payments from passengers. Any payment for TNC Services shall be made only electronically using the TNC’s digital network or software application.

Sec. 90.329. No Discrimination; Accessibility.

(a) The TNC shall adopt a policy of non-discrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity with respect to passengers and potential passengers and notify TNC Drivers of such policy.
(b) TNC Drivers shall comply with all applicable laws regarding non-discrimination against passengers or potential passengers on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity.

(c) TNC Drivers shall comply with all applicable laws relating to accommodation of service animals.

(d) A TNC shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.

(e) A TNC shall provide passengers an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a TNC cannot arrange wheelchair-accessible TNC Service in any instance, it shall direct the passenger to an alternate provider of wheelchair-accessible service, if available.

Sec. 90.330. Records Required.

(a) A TNC shall maintain:

(1) individual trip records which must include driver and passenger identity information for at least one (1) year from the date each trip was provided; and

(2) TNC Driver records at least until the one year anniversary of the date on which a TNC Driver's activation on the TNC digital network has ended.

(b) Within 7 business days of the receipt of a duly issued subpoena, court order or warrant relating to investigation of a criminal matter, or within a longer period of time if agreed to by the parties, the TNC shall furnish the requested records to the Chief of Police. For any non-criminal investigations conducted by the Chief of Police in his administrative capacity, a TNC will conduct an internal investigation and shall within 7 business days or within a longer period of time if agreed to by the parties furnish records in response to a written request related to the underlying complaint, in accordance with its publicly posted privacy policies.

Sec. 90.331. Personal Identity Information.

A TNC shall not disclose a passenger's personal identity information to a third party unless: the passenger consents, disclosure is required by a legal obligation, or disclosure is required to protect or defend the terms of use of the service or to investigate violations of those terms. In addition to the foregoing, a
TNC shall be permitted to share a passenger's name and/or telephone number with the TNC Driver providing TNC Services to such passenger in order to facilitate correct identification of the passenger by the TNC Driver, or to facilitate communication between the passenger and the TNC Driver.

**Secs. 90.334--90.350. Reserved.**

DIVISION 2. OPERATING PERMIT

**Sec. 90.351. Required.**

No TNC shall operate upon the city streets without having first obtained an operating permit from the city council.

**Sec. 90.352. Application.**

An application for an operating permit required under this division shall be filed with the city clerk upon forms provided by the city. The application shall contain the following information:

1. the name and business address of the applicant;

2. if a business entity, certified copies of the applicant's organizational documents, e.g., certificate of organization, articles of incorporation or similar documents as applicable, together with evidence of authorization from the Texas Secretary of State to conduct business in the state of Texas, and current franchise tax account status with the Texas Comptroller;

3. the experience of the applicant in the transportation of passengers; and

4. any facts the applicant believes tend to prove that public convenience and necessity require the granting of an operating permit.

**Sec. 90.353. Fees.**

No operating permit required under this division shall be issued or continued in operation unless the holder thereof has paid an annual license fee of four hundred dollars ($400.00). The fees shall be paid to the city to compensate the city for its superintendence of the TNC business operated under this article and for the use of the city streets, alleys and public ways.

**Sec. 90.354. Public hearing.**
(a) Upon the filing of an application for a permit under this division, a time and place shall be set for a public hearing thereon. Notice of the hearing shall be given to the applicant and to all persons to whom operating permits have been previously issued. Due notice shall also be given to the general public by publication of the notice, at least ten days prior to the date set for the hearing, in a newspaper of general circulation in the city.

(b) Any interested person may file with the city council a statement in support of or opposition to the issuance of an operating permit.

Sec. 90.355. Issuance.

If the city council, after the public hearing required by section 90.354, finds that TNC service or additional TNC service in the city is required by the public convenience and necessity and that the applicant is fit, willing and able to provide the public transportation and to conform to this article, the city council shall issue an operating permit stating the name and address of the applicant; otherwise the application shall be denied.

Sec. 90.356. Suspension and revocation.

(a) Upon complaint alleging a violation of any of the provisions of this article by a TNC driver or a TNC filed by any person with the chief of police, or upon the person's motion, the chief of police, after five (5) days' notice of the grounds of such complaint to the TNC driver or owner or operators of the TNC against whom complaint is made, shall hear evidence with reference to such complaint, and after such hearing, the chief of police may revoke or suspend the operating permit of such holder or require the TNC to remove said TNC driver from the system with good cause shown.

(b) Due cause for the suspension or revocation of an operating permit will include, but not be limited to, the following:

(1) failure of the operating permit holder to maintain any and all of the general qualifications applicable to the initial issuance of the permit as set forth in this title;

(2) obtaining an operating permit by providing false information;

(3) discontinuing operations for more than ten days;

(4) violating any ordinance of the city, the laws of the United States or of the state, the violation of which adversely affects the ability of holder to offer transportation network services; or

(5) violating any part of this article.
(c) The holder shall have the right to appeal the suspension or revocation to the city manager within ten (10) business days of the notice of suspension or revocation. Such appeal will be submitted by a letter addressed to the city manager stating that an appeal from the decision of the chief of police is desired to the city manager. Upon receiving such notice of appeal, the city manager, as soon as practical thereafter, shall conduct a hearing at which the appealing party will be given an opportunity to present evidence and make argument in the person’s behalf. The formal rules of evidence do not apply to an appeal hearing under this section. The city manager shall make its ruling on the basis of a preponderance of the evidence at the hearing.

(d) The city manager will affirm, modify or reverse the decision of the chief of police. The decision of the city manager is final.

(e) If no appeal is taken from the ruling of the chief of police in the time and manner as provided in this title, the ruling of the chief of police shall be final.

(f) Any person who continues to operate a TNC under a permit that has been suspended or revoked for any reason while the suspension or revocation is in effect shall be considered guilty of a misdemeanor and upon conviction thereof, shall be assessed a penalty accordingly. Every day’s violation shall be considered to be a separate offense.

Secs. 90.357--90.370. Reserved.

DIVISION 3. DRIVER AND VEHICLE REQUIREMENTS

Sec. 90.371. Driver background check required.

(a) Prior to permitting an individual to act as a TNC Driver on its digital platform, the TNC shall:

(1) require the individual to submit an application to the TNC which includes information regarding his or her address, age, driver’s license, driving history, motor vehicle registration, automobile liability insurance, and other information required by the TNC;

(2) conduct, or have a third party conduct, a local and national criminal background check for each applicant that shall include:

a. Multi-State/Multi-Jurisdiction Criminal Records Locator or other similar commercial nationwide database with validation (primary source search); and
b. National Sex Offender Registry database; and

(3) obtain and review a driving history research report for such individual.

(b) The TNC shall not permit an individual to act as a TNC Driver on its digital platform who:

(1) has had more than three moving violations in the prior three-year period, or one major violation in the prior three-year period (including, but not limited to, attempting to evade the police, reckless driving, or driving on a suspended or revoked license);

(2) has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, and/or class B misdemeanor or higher theft, acts of violence, or acts of terror;

(3) is a match in the National Sex Offender Registry database;

(4) does not possess a valid driver’s license;

(5) does not possess proof of registration for the motor vehicle(s) used to provide TNC Services;

(6) does not possess proof of automobile liability insurance for the motor vehicle(s) used to provide TNC Services; or

(7) is not at least 19 years of age.

(c.) Notification – in the event that a TNC becomes aware of a driver being involved in criminal conduct or driving violations or otherwise becomes ineligible to serve as a driver by virtue of no longer meeting the criteria listed above, the TNC shall immediately terminate the driver’s ability to access the platform’s application.

Sec. 90.372. Vehicle safety and emissions.

The TNC shall require that any motor vehicle(s) that a TNC Driver will use to provide TNC Services meets the requirements set forth in Chapter 547 of the Texas Transportation Code for vehicle safety equipment and inspection.

Secs. 90.373--90.380. Reserved.

DIVISION 4. TNC AND TNC DRIVER INSURANCE REQUIREMENTS
Sec. 90.381. Insurance requirements.

(a) The following automobile liability insurance requirements shall apply during the time that a TNC Driver has logged into a TNC’s digital network and is available to receive requests for transportation but not providing TNC Services:

1. Automobile liability insurance that meets at least the minimum coverage requirements per section 601.072 (a-1) of the Texas Motor Vehicle Safety Responsibility Act.

2. Automobile liability insurance in the amounts required in paragraph (1) of subsection (a) shall be maintained by a TNC and provide coverage in the event a participating driver’s insurance policy under subsection (a)(1) excludes coverage according to its policy terms or does not provide coverage of at least the limits required in paragraph (1) of subsection (a).

(b) The following automobile liability insurance requirements shall apply while a TNC driver is providing TNC Services:

1. Provides primary automobile liability insurance that recognizes the TNC Driver’s provision of TNC Services;

2. Provides primary automobile liability insurance coverage of at least one million dollars ($1,000,000) for death, personal injury and property damage;

3. The coverage requirements of this subsection (b) may be satisfied by any of the following:
   a. Automobile liability insurance maintained by the TNC Driver; or
   b. Automobile liability insurance maintained by the TNC; or
   c. Any combination of subparagraphs (a) and (b).

(c) In every instance where insurance maintained by a TNC Driver to fulfill the insurance requirements of this section has lapsed, failed to provide the required coverage, denied a claim for the required coverage or otherwise ceased to exist, insurance maintained by a TNC shall provide the coverage required by this section beginning with the first dollar of a claim.
(d) Insurance required by this section may be satisfied by an insurer authorized to do business in the state or with a surplus lines insurer eligible under Chapter 981 of the Insurance Code.

**Sec. 90.382. Disclosure requirements.**

A TNC shall disclose in writing to TNC Drivers, as part of its agreement with those drivers, the insurance coverage and limits of liability that the TNC provides while the driver uses a personal vehicle in connection with a TNC’s online-enabled digital network. A TNC shall also disclose in writing to participating drivers, as part of its agreement with those drivers, that the driver's own automobile insurance policy might not provide coverage while the TNC driver uses a vehicle in connection with a TNC’s digital network depending on its terms.

**Secs. 90.383--90.400. Reserved.**

SECTION 9. In codifying the changes authorized by this ordinance, paragraphs, sections and subsections may be renumbered and reformatted as appropriate consistent with the numbering and formatting of the San Marcos City Code.

SECTION 10. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 11. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 12. This ordinance will take effect after its passage, approval and adoption on second reading.

PASSED AND APPROVED on first reading on April 7, 2015.

PASSED, APPROVED AND ADOPTED on second reading on May 5, 2015.

Daniel Guerrero
Mayor

Attest: Approved:
AGENDA CAPTION:
Consider approval of Resolution 2017-106R awarding a contract to JTS located in Dallas, Texas in the amount of $189,855.32 through the Interlocal Purchasing System (TIPS) Contract #170306 for Technology Solutions, Products, and Services to construct a 195 foot monopole in the San Marcos Cemetery for installation of wireless antenna equipment previously installed on the Franklin Water Tank; authorizing the Interim City Manager or his designee to execute the appropriate purchasing documents on behalf of the City; and declaring an effective date.

Meeting date: July 18, 2017

Department: Engineering and Capital Improvement - Laurie Moyer, Director (By Cheryl Pantermuehl, Purchasing Manager)

Funds Required: $189,855.32
Account Number: CIP - Franklin Water Tank Demolition (C611)
Funds Available: $900,000
Account Name: Franklin Water Tank/Monopole Antenna

CITY COUNCIL GOAL:
Goal #5 - Maintain and improve City’s infrastructure
Goal #7 - Maintain fiscal responsibility
Goal #8 - Provide for the efficient and effective delivery of services

COMPREHENSIVE PLAN ELEMENT(s):

BACKGROUND:
The City of San Marcos is authorized by the Local Government Code, Chapter 271, to participate in cooperative purchasing programs. The Interlocal Purchasing System (TIPS) has awarded contract #170306 for Technology Solutions, Products and Services to JTS located in Dallas, Texas.

The City is in the process of demolishing the Franklin Water Tank that currently hosts City wireless infrastructure equipment. The current wireless infrastructure consists of Emergency Operation’s FCC licensed Public Safety 4.9GHz radio antennas as well as the Traffic Division’s wireless traffic control system. It was determined that a replacement would need to be constructed before the water tank is removed to prevent potential loss of FCC license and disruption to both Public Safety 4.9GHz and traffic control systems. The new tower is designed with ample space for growth in support of a broader City wireless network in the future.
This project is for the construction and installation of a monopole tower to house antennas at the location identified in the attached map for $189,855.32. The purchase and installation of antennas will be separate and not included in this project. JTS will provide all labor, equipment, tools, materials, supplies, supervision, and other items or services necessary to install the monopole. Services will include monopole design, foundation design, per-construction, foundation construction, pole assembly and erection, installation of cable ladder, inspection, site compound installation, and fencing.
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, AWARDING A CONTRACT TO JTS LOCATED IN DALLAS TEXAS IN THE AMOUNT OF $189,855.32 THROUGH THE INTERLOCAL PURCHASING SYSTEM (TIPS) CONTRACT #170306 FOR TECHNOLOGY SOLUTIONS, PRODUCTS, AND SERVICES TO CONSTRUCT A 195 FOOT MONOPOLE IN THE SAN MARCOS CEMETERY FOR INSTALLATION OF WIRELESS ANTENNA EQUIPMENT PREVIOUSLY INSTALLED ON THE FRANKLIN WATER TANK; AUTHORIZING THE INTERIM CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE APPROPRIATE PURCHASING DOCUMENTS ON BEHALF OF THE CITY AND DECLARING AN EFFECTIVE DATE.

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

PART 1. The award of a contract to JTS of Dallas, Texas in the amount of $189,855.32 through The Interlocal Purchasing System (TIPS) Contract #170306 for Technology Solutions, Products, and Services to construct a 195 foot monopole in the San Marcos City Cemetery for installation of wireless antenna equipment previously installed on the Franklin Water Tank is approved.

PART 2. The Interim City Manager or his designee is authorized to execute the appropriate purchasing documents on behalf of the City.

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

ADOPTED on July 18, 2017.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
BORING LOCATION MAP
SAN MARCOS CEMETERY MONOPOLE ANTENNA
SAN MARCOS, TEXAS

NOTE: This Drawing is Provided for Illustration Only, May Not be to Scale and is Not Suitable for Design or Construction Purposes.
"When it Come to Wireless, We Know What to Do"

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<thead>
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<th>Quote To:</th>
<th>Ship To:</th>
<th>Bill To:</th>
<th>Project</th>
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<tbody>
<tr>
<td>Carl Stewart</td>
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<td>City of San Marcos</td>
<td>City of San Marcos</td>
<td>and Shelter Installation</td>
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<td>630 East Hopkins St.</td>
<td>(TIPS Quote)</td>
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<tr>
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</table>

This is a TIPS quotation.
Please email your PO to: BIDS@TIPS-USA.COM. Please cc: a copy to kyle@jts.net.

Please reference the following on your purchase order:
- The above Quote Number
- Note on the PO "CONFIRMATION ONLY"
- JTS TIPS contract #170306: Technology Solutions, Products and Services
- Your company contact for this PO
- JTS contact: Kyle Fuller, kyle.fuller@jts.net, 972-620-1435 x.125
- "Ship to" and "Bill to" addresses
- An authorizing signature
- Any special instructions (requested shipping dates, etc.)

This pricing shown is valid for the contract period.
Terms are NET 30. Pricing shown is FOB: Origin (Freight charge is shown below)
The warranty on all OEM items quoted is pass-through from the OEM.

195' Pole Construction

Scope of Work

Pre-Construction
1. Location of tower will be clearly identified with Customer and staked using wooden stakes
   with pink identifying marker
2. Dig Tess will be performed and Customer will be checked with for any underground water or sewage
   lines in the area of proposed tower location
3. Geo-technical Soil Test will be performed. The results of this soil test will be used in the engineering of
   the foundation for the tower

Foundation Construction
1. Foundations will be excavated according to foundation design
2. Rebar will be built and placed into excavated hole according to foundation designs
3. Anchor bolts will be put into place and supported using wooden forms to hold and level the anchor bolts
4. Concrete will be poured and finished (3 samples from each truck load of concrete will be taken for testing later)
5. If applicable inspection will be scheduled prior to the pouring of foundation as well as any city permit needed
6. A 7, 14, and 28-day break test will be performed on the concrete samples by the Geo-technical company
7. Once the concrete break test, breaks at the required PSI of the concrete a report with the break test will be sent in a submittal

Pole Construction
1. Pole will be delivered to site
2. Pole will be assembled and accessories added before erection of the towers
3. Pole erection will commence using a crane or lift capable of supporting the weight of the towers and placed onto the foundation in 40-60' sections
4. Pole sections will be stacked until towers reaches 195'
5. Each bolt will be torqued to the correct PSI
6. Cable ladder and safety climb will be installed
7. Pole will be inspected after completion to assure tower meets MFG installation specifications
8. Pole will be plumbed and bolted to foundation to correct torque on each bolt
9. Plumb will be checked from 0 degrees and 90 degrees to assure the pole is plumb

Site Compound Installation
1. Plot of land is 87' X 50' with the NW end being 48'
2. 6' high fence with 3 rows of barbed wire at the top of the fence around the perimeter
3. A single swing 4' gate will be installed on the SW face of the fencing
4. Site will be leveled and vegetation layer will be removed.
5. Weed barrier will be placed down to limit the vegetation regrowth
6. 1/2" Crushed Granite aggregate will be placed on top of the weed barrier on the inside of the fencing perimeter
7. Fencing will be grounded to monopole and cabinet grounding system

Shelter Installation and Grounding

Scope of Work
1. JTS will create a 10' X 13' X 6" concrete shelter pad
2. Crane will be delivered to the site
3. Crane will be used to offload shelter and place onto slab
4. Shelter will be bolted to the slab
5. Inside condition will be checked and cleaned if needed,
6. Locksmith will be called to make new keys for the shelter

Notes:
1. The used shelter is a RufNek Shelter that was built in 2000
2. The shelter comes "As Is" and has no warranty
3. The shelter will be loaded on to the truck and pricing is included into the price of the shelter
4. Once purchased shelter drawings can be provided.
5. City of San Marcos will be responsible for supplying power to shelter
6. City of San Marcos will be responsible for back up power (generator) if desired
7. Shelter and Freight will be billed upon receipt of Purchase Order
8. Pole and Foundation materials will be billed upon receipt of purchase order
9. Soil Tests will be billed for upon completion
10. Tower and Foundations labor will be billed upon completion
11. Access will be granted M-F between 8am to 6pm
12. If any delays occurs out of the control of JTS, additional labor will be charged as a change order.

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<tr>
<th>Line #</th>
<th>Qty</th>
<th>Description</th>
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<th>Extended Price</th>
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SubTotal $189,855.32
Sales Tax $0.00
Shipping $0.00

Total $189,855.32
File #: Res. 2017-107R, Version: 1

AGENDA CAPTION:
Consider approval of Resolution 2017-107R, approving a second amendment to Interlocal Agreement for Commercial Office Lease with Hays County for the WIC Office at 401c Broadway street for the purposes of extending the lease term for one additional year, reducing the rentable area and reducing the monthly rent to $965 per month; authorizing the Interim City Manager to execute said agreement; and declaring an effective date.

Meeting date: July 18, 2017

Department: Community Services - WIC

Funds Required: $11,580
Account Number: multiple
Funds Available: $11,580
Account Name: Building Rental

CITY COUNCIL GOAL:
Goal #8, provide for the efficient and effective delivery of services

COMPREHENSIVE PLAN ELEMENT(s):
Parks, Public Spaces, and Facilities, Goal 5: Effective social services delivered to those who can most benefit from them.

BACKGROUND:
The WIC Program began leasing from Hays County in 2012. This amendment provides for a one-year extension to August 31, 2018, reducing the amount of space occupied by WIC from 3,200sf to 2,150 and reducing the rental payment from $1,600 to $965 per month. The revised corresponding allocation of utilities is also specified in this amendment.
RESOLUTION NO. 2017- R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING A SECOND AMENDMENT TO INTERLOCAL AGREEMENT FOR COMMERCIAL OFFICE LEASE WITH HAYS COUNTY FOR THE WIC OFFICE AT 401C BROADWAY STREET FOR THE PURPOSES OF EXTENDING THE LEASE TERM FOR ONE ADDITIONAL YEAR, REDUCING THE RENTABLE AREA AND REDUCING THE MONTHLY RENT TO $965 PER MONTH; AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE SAID AGREEMENT; AND DECLARING AN EFFECTIVE DATE.

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

PART 1. The attached Second Amendment to Interlocal Agreement for Commercial Office Lease with Hays County (the “Second Amendment”) is hereby approved.

PART 2. The Interim City Manager is hereby authorized to sign the Second Amendment on behalf of the City.

PART 3. This resolution shall become effective immediately from and after its passage.

ADOPTED on July 18, 2017.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
SECOND AMENDMENT TO
INTERLOCAL AGREEMENT FOR COMMERCIAL OFFICE LEASE

This 2\textsuperscript{nd} Amendment to Interlocal Agreement for the Commercial Office Lease at 401C Broadway Street San Marcos, Texas ("Amendment") is made this ______ day of _________________________, 2017, by and between Hays County, a political subdivision of the State of Texas (hereinafter referred to as "County"), and the City of San Marcos, Texas, administering the \textit{Woman, Infants, and children} ("\textit{WIC}") \textit{Program of San Marcos} (hereinafter referred to as "City"). The above-cited parties are collectively referred to as “the parties to this Agreement” or “the parties.”

\textbf{Section 1.4 Rentable Area} of the Agreement shall be amended to reflect the approximate ‘rentable area’ is 2,150 square feet.

\textbf{Section 2.1 Base Rent and Additional Rents} of the Agreement shall be amended to reflect the following:

<table>
<thead>
<tr>
<th>Monthly Rent</th>
<th>Annual Rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>$965.00</td>
<td>$11,580.00</td>
</tr>
</tbody>
</table>

\textbf{Section 4.1 Term, Possession, and Anniversary} of the Agreement shall be amended to reflect that the last day of the lease term will be August 31, 2018.

\textbf{Section 7.1 Utilities and Services by Lessee} of the Agreement shall be amended as follows:

Except where otherwise stated in this lease, Lessor agrees to maintain existing accounts in its name, pay for the associated utilities and services, and submit a monthly invoice pursuant to Section 27.1 to Lessee for reimbursement. Lessee shall reimburse Lessor for the following utilities and services within thirty (30) days of receiving an undisputed invoice:

(a) 100\% of Electric for the front building (account 001-0012718-04) and 25\% of Electric for the back building (account 001-00025518-00)

(b) 25\% of Water and Wastewater

(c) 25\% of Solid Waste Disposal

(d) Phone/fax/data lines

(e) Natural Gas

(f) Security system monitoring

Disputed invoices under this section shall be resolved via the agreed-upon Dispute Resolution procedures cited in Section 23.1, below.

\textbf{Exhibit A} of the Agreement shall be amended as attached.

\textbf{EXCEPT FOR THE ABOVE MODIFICATION, ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT SHALL REMAIN UNCHANGED, UNLESS PROPERLY MODIFIED BY SUBSEQUENT AMENDMENT UNDER THE TERMS OF THE AGREEMENT.}

This 2\textsuperscript{nd} Amendment to Interlocal Agreement for the Commercial Office Lease is hereby executed this the _____ day of _________________________, 2017, as is evidenced by the authorized signatures of the Parties, below.
LESSOR

CITY OF SAN MARCOS
A MUNICIPAL CORPORATION
Printed name of company or firm (if applicable)

Printed name of person signing

Signature

City Manager
Title of person signing (if applicable)
630 East Hopkins, San Marcos, Texas 78666
Lessor Address

Date signed

LESSEE

HAYS COUNTY
A POLITICAL SUBDIVISION OF THE STATE OF TEXAS
Printed name of company or firm (if applicable)

Printed name of person signing

Signature

County Judge
Title of person signing (if applicable)
111 E. San Antonio, San Marcos, Texas 78666
Lessee Address

Date signed

Attest: 
County Clerk
Floor Plan of Lessee’s Office Space  
(see paragraph 1.2 of lease)

Building Name: 401C Broadway St.  
Approximate Usable SF: 2,150  
Approximate Rentable SF: 2,150

The parties agree that the floor plan is a true and correct diagram of Lessee’s office space referred to in paragraph 1.2.

(SEE THE FOLLOWING PAGE)
This drawing was prepared using dimensions and features represented in the construction drawings. Some features may have been installed slightly different during construction.

Hays County Use and Access Only = 1400 sq-ft
(Hays County will access this area, shown as shaded, via the loading area and door in the back of the warehouse)

Door to be secured by Hays County

Door to be installed for WIC access to Bathroom

Approx. 525 sq-ft
(WIC use of back building)

Approx. 1625 sq-ft
(front building)
AGENDA CAPTION:
Consider approval of Resolution 2017-108R, approving a second amendment to an interlocal
agreement for commercial office lease with Hays County for the WIC Satellite Office at 150 Lockhart
Street in Kyle for the purposes of extending the lease term for one additional year, increasing the
rentable area and reducing the monthly rent to $1,600 per month; authorizing the Interim City
Manager to execute said agreement; and declaring an effective date.

Meeting date:  July 18, 2017
Department:  Community Services - WIC

Funds Required: $19,200
Account Number: multiple
Funds Available: $19,200
Account Name: Building Rental

CITY COUNCIL GOAL:
Goal #8, provide for the efficient and effective delivery of services.

COMPREHENSIVE PLAN ELEMENT(s): [add the Plan elements and Goal # and Objective(s)]
Parks, Public Spaces, and Facilities, Goal 5: Effective social services delivered to those who can most benefit
from them.

BACKGROUND:
The WIC Program began leasing from Hays County in 2012. This amendment provides for a one-year
extension to August 31, 2018. The space allocated to WIC increased from 3,200sf to 3,390sf and the rental
amount decreased from $1,853 to $1,600 per month. The revised corresponding allocation of utilities is also
specified in this amendment.
RESOLUTION NO. 2017-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING A SECOND AMENDMENT TO INTERLOCAL AGREEMENT FOR COMMERCIAL OFFICE LEASE WITH HAYS COUNTY FOR THE WIC SATELLITE OFFICE AT 150 LOCKHART STREET IN KYLE FOR THE PURPOSES OF EXTENDING THE LEASE TERM FOR ONE ADDITIONAL YEAR, INCREASING THE RENTABLE AREA AND REDUCING THE MONTHLY RENT TO $1,600 PER MONTH; AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE SAID AGREEMENT; AND DECLARING AN EFFECTIVE DATE.

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

PART 1. The attached Second Amendment to Interlocal Agreement for Commercial Office Lease with Hays County (the “Second Amendment”) is hereby approved.

PART 2. The Interim City Manager is hereby authorized to sign the Second Amendment on behalf of the City.

PART 3. This resolution shall become effective immediately from and after its passage.

ADOPTED on July 18, 2017.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
SECOND AMENDMENT TO
INTERLOCAL AGREEMENT FOR COMMERCIAL OFFICE LEASE

This 2nd Amendment to Interlocal Agreement for the Commercial Office Lease at 150 Lockhart Street, Kyle, Texas (“Amendment”) is made this _____ day of ___________________________ 2017, by and between Hays County, a political subdivision of the State of Texas (hereinafter referred to as “County”), and the City of San Marcos, Texas, administering the Woman, Infants, and children (“WIC”) Program of San Marcos (hereinafter referred to as “City”). The above-cited parties are collectively referred to as “the parties to this Agreement” or “the parties.”

Section 1.4 Rentable Area of the Agreement shall be amended to reflect the approximate ‘rentable area’ is 3,390 square feet.

Section 2.1 Base Rent and Additional Rents of the Agreement shall be amended to reflect the following:

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<thead>
<tr>
<th>Monthly Rent</th>
<th>Annual Rent</th>
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<td>$1,600.00</td>
<td>$19,200.00</td>
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Section 4.1 Term, Possession, and Anniversary of the Agreement shall be amended to reflect that the last day of the lease term will be August 31, 2018.

Exhibit A of the Agreement shall be amended as attached.

EXCEPT FOR THE ABOVE MODIFICATION, ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT SHALL REMAIN UNCHANGED, UNLESS PROPERLY MODIFIED BY SUBSEQUENT AMENDMENT UNDER THE TERMS OF THE AGREEMENT.

This 2nd Amendment to Interlocal Agreement for the Commercial Office Lease is hereby executed this the _____ day of ___________________________, 2017, as is evidenced by the authorized signatures of the Parties, below.

LESSOR

CITY OF SAN MARCOS
A MUNICIPAL CORPORATION

Printed name of company or firm (if applicable)

Printed name of person signing

Signature

City Manager

Title of person signing (if applicable)

630 East Hopkins, San Marcos, Texas 78666

Lessor Address

LESSEE

HAYS COUNTY
A POLITICAL SUBDIVISION OF THE STATE OF TEXAS

Printed name of company or firm (if applicable)

Printed name of person signing

Signature

County Judge

Title of person signing (if applicable)

111 E. San Antonio, San Marcos, Texas 78666

Lessee Address

Date signed

Attest: ____________________________

County Clerk
Floor Plan of Lessee’s Office Space
(see paragraph 1.2 of lease)

Building Name: 150 Lockhart St. Approximate Usable SF: 3,390
Approximate Rentable SF: 3,390

The parties agree that the floor plan is a true and correct diagram of Lessee’s office space referred to in paragraph 1.2.

(SEE THE FOLLOWING PAGE)
AGENDA CAPTION:
Consider approval of Resolution 2017-109R, approving a commercial lease amendment with Twofold, LLC for the WIC Program Satellite Office at 645 North Walnut Avenue, New Braunfels, Texas for the purposes of extending the lease term for one additional year and reducing the rent to $3,255 per month; authorizing the Interim City Manager to execute said commercial lease amendment; and declaring an effective date.

Meeting date: July 18, 2017
Department: Community Services - WIC

Funds Required: $39,060
Account Number: multiple
Funds Available: $39,060
Account Name: Building Rental

CITY COUNCIL GOAL:
Goal #8, provide for the efficient and effective delivery of service.

COMPREHENSIVE PLAN ELEMENT(s): [add the Plan elements and Goal # and Objective(s)]
Parks, Public Spaces, and Facilities, Goal 5: Effective social services delivered to those who can most benefit from them.

BACKGROUND:
The WIC Program began leasing from Two Fold LLC in 2009. This amendment provides for a one year extension to July 31, 2018 and reduces the rental amount from $3,360 to $3,255 per month.
RESOLUTION NO. 2017-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING A COMMERCIAL LEASE AMENDMENT WITH TWOFOLD, LLC FOR THE WIC PROGRAM SATELLITE OFFICE AT 645 NORTH WALNUT AVENUE, NEW BRAUNFELS, TEXAS FOR THE PURPOSES OF EXTENDING THE LEASE TERM FOR ONE ADDITIONAL YEAR AND REDUCING THE RENT TO $3,255 PER MONTH; AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE SAID COMMERCIAL LEASE AMENDMENT; AND DECLARING AN EFFECTIVE DATE.

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

PART 1. The attached Commercial Lease Amendment between the City of San Marcos and TwoFold, L.L.C. (the “Lease Amendment”) is hereby approved.

PART 2. The Interim City Manager is hereby authorized to sign the Lease Amendment on behalf of the City.

PART 3. This resolution shall become effective immediately from and after its passage.

ADOPTED on July 18, 2017.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
COMMERCIAL LEASE AMENDMENT

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.

Texas Association of REALTORS®, Inc. 2010

AMENDMENT TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE LEASED PREMISES AT 645 N. WALNUT AVE, NEW BRAUNFELS, TX 78130

Effective on June 14, 2017, Landlord and Tenant amend the above-referenced lease as follows:

☐ A. Leased Premises: The suite or unit number identified in Paragraph 2A(1) is:
   (1) changed to ____________.
   (2) contains approximately ________________ square feet.

☐ B. Term:
   (1) The length of the term stated in Paragraph 3A is changed to _______ months and _______ days.
   (2) The Commencement Date stated in Paragraph 3A is changed to ________________.
   (3) The Expiration Date stated in Paragraph 3A is changed to ________________.

☐ C. Rent: The amount of the base monthly rent specified in Paragraph 4A is changed to:
   $3255.00 from Aug. 1, 2017 to July 31, 2018
   $____________ from ______________ to ______________
   $____________ from ______________ to ______________
   $____________ from ______________ to ______________

☐ D. Security Deposit: The amount of the security deposit in Paragraph 5 is changed to $____________.

☐ E. Maintenance and Repairs: The following item(s) specified in the identified subparagraph of Paragraph 15C will be maintained by the party designated below:

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<tr>
<th>Para. No.</th>
<th>Description</th>
<th>Responsible Party</th>
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</table>

☐ F. Parking:

☐ (1) Common Parking: The number of vehicles identified in Paragraph A(1) of the Commercial Lease Parking Addendum is changed ____________ to vehicles.

☐ (2) Restricted Common Parking for Tenants: The number of vehicles identified in Paragraph A(2) of the Commercial Lease Parking Addendum is changed to ____________ vehicles.

(TAR-2114) 1-26-10 Initiated for Identification by Landlord: __________, __________, __________, __________ and Tenant: __________, __________, __________, __________ Page 1 of 2
Amendment to Commercial Lease concerning 645 N. Walnut Avenue, New Braunfels, TX 78130

☐ (3) Assigned Parking: Tenant's assigned parking areas identified in Paragraph A(3) of the Commercial Lease Parking Addendum is changed to ____________________________.

☐ (4) Parking Rental: The amount of rent identified in Paragraph B of the Commercial Lease Parking Addendum is changed to $ ____________________________.

☐ G. Other: Paragraph(s) 15.B. are changed to read (cite specific paragraphs and copy the applicable paragraphs verbatim, making any necessary changes):

1. Tenant is responsible for reimbursing Landlord for an air conditioner Service Contract in the amount of $54.90 / Month

2. Subject to Funding. The obligations under this Lease are contingent upon the annual appropriation of funds by the San Marcos City Council based on funding from the Texas Department of State Health Services for the purposes of this Lease. If the San Marcos City Council fails to appropriate funds for such purposes in any fiscal year during the term of this Lease, the Lease term will be adjusted to terminate concurrently with the end of the period for which funding has been appropriated. Notwithstanding any other provision in this Lease to the contrary, termination of the Lease under this paragraph does not constitute a default by Lessee under any provisions of this Lease and the penalties and remedies for default outlined in this Lease are not applicable. Lessor further agrees that it shall have no recourse against the Lessee for failure of the San Marcos City Council to appropriate funds for the purposes of this Lease.

3. This Commercial Lease Amendment amends that certain Commercial Lease concerning the Leased Premises at 645 N. Walnut Avenue, New Braunfels, TX 78130, including all addenda and prior amendments thereto (collectively, the “lease” or “Commercial Lease”).

Landlord: TWO FOLD LLC

By: LARRY LEHR

By (signature): ____________________________

Printed Name: LARRY LEHR

Title: ___________ Date: 6-1-17

By: ____________________________

By (signature): ____________________________

Printed Name: ____________________________

Title: ____________________________ Date: ____________________________

Tenant: City of San Marcos - WIC Program

By: ____________________________

By (signature): ____________________________

Printed Name: ____________________________

Title: ____________________________ Date: ____________________________

(1AR-2114) 1-26-10
AGENDA CAPTION:
Consider approval of Resolution 2017-110R, approving the purchase of road building materials in the total estimated amounts of $150,000 for Fiscal Year 2017, $850,000 for Fiscal Year 2018, $850,000 for Fiscal Year 2019, $892,000 for Fiscal Year 2020, $937,125 for Fiscal Year 2021, and $983,981 for Fiscal Year 2022 through the Texas Comptroller of Public Accounts Texas Smartbuy Contract #745-A1 for aggregate, asphaltic and Contract #750-A1 for aggregate, non-asphaltic; authorizing the Interim City Manager or his designee to execute the appropriate purchasing documents on behalf of the City and declaring an effective date.

Meeting date: July 18, 2017

Department: Public Services Department - Tom Taggart, Executive Director

Funds Required $150,000 FY 2017
Account Number: 10006150.53010; Various Accounts
Funds Available: $900,000
Account Name: Asphalt

CITY COUNCIL GOAL:
Goal #2 - Beautify and Enhance the Quality of Place
Goal #5 - Maintain and improve City’s infrastructure
Goal #7 - Maintain Fiscal Responsibility
Goal #8 - Provide for the efficient and effective delivery of services

COMPREHENSIVE PLAN ELEMENT(s): [add the Plan elements and Goal # and Objective(s)]

BACKGROUND:
The Texas Comptroller of Public Accounts (TCPA) has awarded a Texas SmartBuy (TxSmartBuy) contract #745-A1 for Aggregate, Asphaltic and contract #750-A1 for Aggregate, Non-Asphaltic to multiple area vendors including, but not limited to, Colorado Materials, LTD, and Industrial Asphalt. This process is authorized by Texas Government Code, Title 10, Subtitle D, Section 2155.504(b) and the Local Government Code, Section 271.101.

The Public Services Department - Transportation Division routinely purchases road building materials as a necessary part of maintaining the City’s existing street infrastructure as well as completing new road building, sidewalk, and drainage projects. Several types of road building materials are available through the TCPA’s
TxSmartBuy purchasing cooperative. City Council has previously approved the City’s participation in the TCPA’s TxSmartBuy purchasing cooperative.

This request is to approve an estimated amount of $150,000 for the remainder of FY2017 as well as the next five (5) fiscal years estimated as follows:

- FY2018 = $850,000
- FY2019 = $850,000
- FY2020 = $892,000
- FY2021 = $937,125
- FY2022 = $983,981

The TCPA’s TxSmartBuy purchasing cooperative may change vendors, but we will utilize the vendors that are awarded contracts through the cooperative. For other road building materials, the City will use its contracts established through the bid process as approved by City Council.

RECITALS:

1. The Public Services Department–Electric Utility Division routinely purchases road building materials as a necessary part of providing road building service to San Marcos citizens.

2. The City wishes to authorize the expenditure of the estimated amounts of $150,000 for the purchase of road building materials for FY 2017, $850,000 for FY 2018, $850,000 for FY 2019, $892,000 for FY 2020, $937,125 for FY 2021 and $983,981 for FY 2022 through the Texas Public Comptroller of Public Accounts (TCPA) Texas SmartBuy (TxSmartBuy) Contract #745-A1 for Aggregate, Asphaltic and Contract #750-A1 for Aggregate, Non-Asphaltic road building materials.

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

PART 1. The purchase of road building materials as is necessary for the Public Services Department-Transportation Division through the TCPA TxSmartBuy Contract #745-A-1 for Aggregate, Asphaltic and Contract #750-A1 for Aggregate, Non-Asphaltic in the total estimated amounts stated in Recital No. 2 is necessary.

PART 2. The City Manager or his designee is authorized to execute the appropriate purchasing documents on behalf of the City for the purchase of the road building materials.

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

ADOPTED on July 18, 2017.
John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
AGENDA CAPTION:
Consider approval of Resolution 2017-111R, approving an interlocal contract between the City and the State of Texas, acting by and through the Texas Department of Information Resources (“DIR”), to purchase equipment to replace components of the City’s Computer Network through DIR’s Contract #DIR-TSO-2542 with Sigma Technology Solutions, Inc. of El Paso, Texas, in the total sum of $380,718.83; authorizing the Interim City Manager to execute the interlocal contract on behalf of the City; and declaring an effective date.

Meeting date: July 18, 2017

Department: Information Technology Department - Mike Sturm, Director (By Cheryl Pantermuehl, Purchasing Manager)

Funds Required: $380,718.83
Account Number: C136
Funds Available: $450,000
Account Name: Network Infrastructure

CITY COUNCIL GOAL:
Goal #5 - Maintain and improve City’s infrastructure
Goal #7 - Maintain Fiscal Responsibility
Goal #8 - Provide for the efficient and effective delivery of services

COMPREHENSIVE PLAN ELEMENT(s): [add the Plan elements and Goal # and Objective(s)]

BACKGROUND:
The City of San Marcos is authorized by the Local Government Code, Chapter 271, to participate in cooperative purchasing programs. The Texas Comptroller of Public Accounts (TCPA) Department of Information Resources (DIR) has awarded contract #DIR-TSO-2542 for Cisco Branded Equipment and Related Services to Sigma Technology Solutions, Inc., located in El Paso, Texas.

The City is in the process of replacing end-of-life network technology throughout the City’s infrastructure for the Network Refresh Project. The City is in a five (5) year replacement cycle for network equipment. The Information Technology (IT) Department will upgrade all three (3) data centers to 40GB (currently 10GB) as well as five (5) other buildings on the City dark fiber network. The IT Department will purchase replacement...
equipment for the Network Refresh Project from Sigma Technology Solutions, Inc., through the DIR purchasing cooperative in the total amount of $380,718.83. Below is the break-out for the segments of the project:

- $169,472.04 - Network Routers
- $ 32,761.02 - External Networks
- $146,006.00 - Network Switches
- $ 32,479.77 - Optics for Routers and Switches
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, APPROVING AN INTERLOCAL CONTRACT BETWEEN THE CITY AND THE STATE OF TEXAS, ACTING BY AND THROUGH THE TEXAS DEPARTMENT OF INFORMATION RESOURCES ("DIR"), TO PURCHASE EQUIPMENT TO REPLACE COMPONENTS OF THE CITY’S COMPUTER NETWORK THROUGH DIR’S CONTRACT #DIR-TSO-2542 WITH SIGMA TECHNOLOGY SOLUTIONS, INC. OF EL PASO, TEXAS, IN THE TOTAL SUM OF $380,718.83; AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE THE INTERLOCAL CONTRACT ON BEHALF OF THE CITY; AND DECLARING AN EFFECTIVE DATE.

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

PART 1. The attached interlocal contract between the City and the State of Texas, by and through the Texas Comptroller of Public Accounts (TCPA) Department of Information Resources (DIR) for the purchase of Cisco branded equipment to replace components of the city’s computer network through DIR’s contract with Sigma Technology Solutions, Inc. of El Paso, Texas, Contract #DIR-TSO-2542, in the total sum of $380,718.83 is approved.

PART 2. The City and the State of Texas by and through the Texas DIR enter into this contract pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, as amended.

PART 3. The Interim City Manager is authorized to execute this interlocal contract on behalf of the City.

PART 4. This resolution shall be in full force and effect immediately from and after its passage.

ADOPTED this the day of 2017.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
# Quotation

**Core Distro**  
Texas DIR Contract #DIR-TSO-2542

<table>
<thead>
<tr>
<th>Sold To:</th>
<th>Ship To:</th>
<th>Sales Representative:</th>
</tr>
</thead>
</table>
| Carl Stewart  
City of San Marcos  
630 E Hopkins St  
San Marcos, TX 78666  
US  
(512) 393-8120  
cstewart@sanmarcostx.gov | Carl Stewart  
City of San Marcos  
630 E Hopkins St  
San Marcos, TX 78666  
US  
(512) 393-8120  
cstewart@sanmarcostx.gov | Ed Loveless  
Account Executive  
eloveless@sigmasolinc.com  
210-387-3111 |

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<th>Item #</th>
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**SubTotal**  
$155,349.37

**CONFIDENTIAL**  
Page 1 of 4
## Quotation

Core Distro  
Texas DIR Contract  
#DIR-TSO-2542

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SubTotal: $14,122.67
### Quotation

**Core Distro**  
**Texas DIR Contract**  
**#DIR-TSO-2542**

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<th>Item #</th>
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**Total** $169,472.04

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06/29/17

CONFIDENTIAL
* Unless otherwise stated, Quotes are valid for 30 days from the quote date
* All shipping is FOB Source. Shipping and handling charges are the responsibility of the customer and will be added at the time of invoicing.
* Applicable taxes are the responsibility of the customer, and will be added at the time of invoicing unless a valid resale or exemption is on file at the Company’s corporate office.
* Please include Company Remit To address on purchase order.
* Cancellation and/or restocking fees may apply if the order is cancelled or changed after the purchase order is received.
* Returns: RMA# must be issued prior to return. Software must be unopened with original manufacturer seal unbroken.
* Lease pricing may be available. Contact your sales representative for more information.
* All quotes are in US Dollars.

Texas DIR Customers Please Note

If your Order is being placed pursuant to a Texas DIR Contract, your Order is subject to the Terms and Conditions of that Contract and the above Terms and Conditions do not apply to your Order. Please refer to the specific DIR Contract(s) covering the Products on this Quote for further details.
## Quotation

**Texas DIR Contract #DIR-TSO-2542**

### Sold To:
Carl Stewart  
City of San Marcos  
630 E Hopkins St  
San Marcos, TX 78666  
US  
(512) 393-8120  
cstewart@sanmarcostx.gov

### Ship To:
Carl Stewart  
City of San Marcos  
630 E Hopkins St  
San Marcos, TX 78666  
US  
(512) 393-8120  
cstewart@sanmarcostx.gov

### Sales Representative:
Ed Loveless  
Account Executive  
eloveless@sigmasolinc.com  
210-387-3111

<table>
<thead>
<tr>
<th>Item #</th>
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<th>Unit Price</th>
<th>Ext. Price</th>
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</thead>
</table>
| 1      |        | Muni = 1 ISR for I-net / 1 ISR for TX-State  
PD = 1 ISR for I-net  
Muni I-net ISR to External and two Palo FWs = 3 optics  
Muni TX-State ISR to External and two N9K Core Switches = 3 |     |            |            |
| 2      | ISR4451-X/K9 | Cisco ISR 4451 (4GE,3NIM,2SM,8G FLASH,4G DRAM) | 3   | $8,910.00  | $26,730.00 |
| 3      | CON-PSUT-ISR45XK9 | PRTNR SUP 8X5XNBD Cisco ISR4451 (4GE,3 | 3   | $1,570.34  | $4,711.02  |
| 4      | SL-44/IPB-K9 | IP Base License for Cisco ISR 4400 Series | 3   | $0.00      | $0.00      |
| 5      | PWR-4450-AC | AC Power Supply for Cisco ISR 4450 and ISR4350 | 3   | $0.00      | $0.00      |
| 6      | PWR-4450-AC/2 | AC Power Supply (Secondary PS) for Cisco ISR 4450 | 3   | $440.00    | $1,320.00  |
| 7      | CAB-AC | AC Power Cord (North America), C13, NEMA 5-15P, 2.1m | 6   | $0.00      | $0.00      |
| 8      | MEM-44-4G | 4G DRAM (1 x 4G) for Cisco ISR 4400 | 3   | $0.00      | $0.00      |
| 9      | POE-COVER-4450 | Cover for empty POE slot on Cisco ISR 4450 | 6   | $0.00      | $0.00      |
| 10     | NIM-BLANK | Blank faceplate for NIM slot on Cisco ISR 4400 | 9   | $0.00      | $0.00      |
| 11     | SM-S-BLANK | Removable faceplate for SM slot on Cisco 2900,3900,4400 ISR | 6   | $0.00      | $0.00      |
| 12     | MEM-4400-DP-2G | 2G DRAM (1 DIMM) for Cisco ISR 4400 Data Plane | 3   | $0.00      | $0.00      |
| 13     | MEM-FLSH-8G | 8G eUSB Flash Memory for Cisco ISR 4430 | 3   | $0.00      | $0.00      |
Quotation

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Total $32,761.02

Accepted by: ___________________________ Date: ______________ PO: ___________________________

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* All shipping is FOB Source. Shipping and handling charges are the responsibility of the customer and will be added at the time of invoicing.
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Texas DIR Contract #DIR-TSO-2542

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**Total**  
$146,006.00
Accepted by: ___________________________ Date: ___________________ PO: __________________________

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Texas DIR Contract #DIR-TSO-2542

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<tr>
<th>Sold To:</th>
<th>Ship To:</th>
<th>Sales Representative:</th>
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</table>
| Carl Stewart  
City of San Marcos  
630 E Hopkins St  
San Marcos, TX 78666  
US  
(512) 393-8120  
cstewart@sanmarcostx.gov | Carl Stewart  
City of San Marcos  
630 E Hopkins St  
San Marcos, TX 78666  
US  
(512) 393-8120  
cstewart@sanmarcostx.gov | Ed Loveless  
Account Executive  
eloveless@sigmasolinc.com  
210-387-3111 |

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Total  $32,479.77
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AGENDA CAPTION:
Consider approval of Resolution 2017-112R approving the appointment of the law firm of Davidson, Troilo, Ream & Garza as special counsel to advise the Ethics Review Commission as it considers a request from Council Member Ed Mihalkanin for an Ethics Advisory Opinion; and declaring an effective date.

Meeting date:  July 18, 2017

Department:  City Attorney’s Office

Funds Required:

 Account Number:  
 Funds Available:
 Account Name:

CITY COUNCIL GOAL:  N/A

COMPREHENSIVE PLAN ELEMENT(s):  N/A

BACKGROUND:

In accordance with Article 5. Code of Ethics, Section 2.445. Special counsel. An independent outside attorney approved by the city council, who does not otherwise represent the city, shall be retained to serve as special counsel to the ethics review commission in the following situations:

(1) When a complaint is filed alleging that the mayor or a member of the city council, or the city manager, city attorney, city clerk, or municipal court judge violated this article or a state conflict of interest law.
(2) When an advisory opinion is requested under section 2.443 (d) by the mayor or a member of the city council, or by the city manager, city attorney, city clerk or municipal court judge.

On July 5, 2017, Council Member Ed Mihalkanin submitted the attached request for an advisory opinion. Staff recommends that Council approve the selection of Mr. Frank Garza, with the law firm of Davidson & Troilo of San Antonio, Texas to advise the Ethics Review Commission regarding this matter at a rate not to exceed $210 per hour for professional services.
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING THE APPOINTMENT OF THE LAW FIRM OF DAVIDSON TROILO REAM & GARZA AS SPECIAL COUNSEL TO ADVISE THE ETHICS REVIEW COMMISSION AS IT CONSIDERS A REQUEST FROM COUNCIL MEMBER ED MIHALKANIN FOR AN ETHICS ADVISORY OPINION; AND DECLARING AN EFFECTIVE DATE.

RECITALS:

1. On July 5, 2017 Council Member Ed Mihalkanin submitted a request to the San Marcos Ethics Review Commission for an advisory opinion regarding his ability to vote on matters pertaining to expansion of the Hopkins Street and Lindsey-Rogers Historic Districts or any proposed Lindsey Hill development, zoning, or land use request. A copy of his request for an advisory opinion is attached to this resolution as Exhibit “A”.

2. Section 2.445 of the San Marcos City Code requires the city council to appoint an independent outside attorney as special counsel to the Ethics Review Commission when an advisory opinion is requested by a council member.

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

PART 1. Mr. Frank Garza, with the firm of Davidson Troilo Ream & Garza is hereby approved as special counsel to the Ethics Review Commission regarding Council Member Ed Mihalkanin’s request for an advisory opinion under the terms stated in the law firm’s proposal attached to this resolution as Exhibit “B.”

PART 2. This Resolution shall be in full force and effect immediately from and after its passage.

ADOPTED on July 18, 2017.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
July 7, 2017

Mr. Michael J. Cosentino  
City Attorney  
City of San Marcos  
630 East Hopkins  
San Marcos, Texas 78666

Email to: MCosentino@sanmarcostx.gov

Dear Michael:

I am pleased to have this opportunity to submit this proposal on behalf of Davidson Troilo Ream & Garza, a Professional Corporation, to provide legal services to the City of San Marcos regarding a request for an ethics advisory opinion requested by Councilman Edward Mihalkanin. Davidson Troilo Ream & Garza has focused primarily on the public sector and our firm has a long history of successful collaborative effort in the representation of municipalities. As such, we are well qualified to provide legal services to the City of San Marcos.

Davidson Troilo Ream & Garza is prepared with extensive experience in handling all legal issues associated with the ethics advisory opinion. Our firm clearly understands the needs of cities to have effective legal assistance while also keeping those costs down. Our firm has assisted the following cities with ethics matters, including opinions for the following cities: Balcones Heights, Bulverde, Helotes, Karnes City, Kyle, Live Oak, Olmos Park, Poteet, and San Antonio.

I propose to have the City’s team led by Lea Ream and myself. Our fees for professional services are charged at hourly rates ranging from $210.00 to $350.00. Services that I and Lea Ream will perform will be at the reduced rate of $210.00 per hour and our associate Molly Solis at $175.00 per hour. The services for our paralegal personnel, who assist our attorneys by performing many technical services under their supervision, are charged at $90.00 an hour. The firm’s fees shall not exceed $5,000.00 without City Council approval.

If selected, our firm will bill the City monthly for services rendered and for any support expenses (copying, special mailing, out of town travel, etc.) incurred in its behalf. Our statements are payable within thirty (30) days upon receipt. Since I am familiar with the requirements of most cities, our statements will include a description and a breakdown of each of my entries for each day, the amount of time expended and the
dollar figure charged for each entry. There is no expectation for any billable hours per attorney and only anticipate payment for actual services provided.

To the best of our knowledge, our firm does not represent any person, company or entity that would create a conflict of interest with the City of San Marcos. It is our firm’s policy not to represent any client against any of our governmental entity clients. If we represent any entity that seeks services from the City of San Marcos, our firm will represent the City and not the private entity.

If you have any questions regarding this submission, please contact me at (210) 349-6484. Thank you for your consideration and I look forward to hearing from you.

Sincerely,

Frank J. Garza
Davidson Troilo Ream & Garza
A Professional Corporation

FJG/am
5 July 2017

Dear Mr. Centeno,

I am requesting that the Ethics Review Committee give me an opinion on whether it recommends that, on the voting on the expansion of the Workers Street and Laidley Streets District, and on the voting on any proposed Lindsey Hill Development Zoning/Land Use Request, Edward S. Nichols serve.

Edward S. Nichols
AGENDA CAPTION:
7:00PM Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2017-36 amending various sections of Subpart B, Land Development Code, of the City’s Code of Ordinances to clarify the applicability of Neighborhood Character Studies to various requests and determinations under such Code; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date; and consider approval of Ordinance 2017-36, on the first of two readings.

Meeting date: July 18, 2017

Department: Planning and Development Services

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL: Beautify and Enhance the Quality of Place

COMPREHENSIVE PLAN ELEMENT(s): Land Use Goal #1 Objective #4: Replace the Land Development Code with an updated document to support the preferred scenario.

BACKGROUND:
The City’s Comprehensive Plan Vision San Marcos was adopted in April 2013. One of the goals of the Comprehensive Plan is to adopt Neighborhood Character Studies as part of the Comprehensive Plan “in order to ensure that each neighborhood maintains its existing character, and follows development and redevelopment patterns desired by the residents.”

In 2013, an amendment to the City’s Land Development Code was made to incorporate the new comprehensive plan including all related plans, maps and addendums in order to ensure that this information was utilized when analyzing new development requests. Neighborhood Character Studies were included in this list in anticipation of their completion so that they would be immediately applied as review criteria upon their adoption.

The inclusion of this reference prior to the adoption of Neighborhood Character Studies has led to confusion about their applicability when analyzing development requests. In order to provide clarity, the following amendments are made anywhere that Neighborhood Character Studies are referenced as review criteria: “Is the request consistent with the any adopted Neighborhood Character Study for the area?”
On June 27, 2017 the Planning and Zoning Commission recommended unanimous approval of the amendment as proposed.
Neighborhood Character Study Applicability

Tuesday, July 18, 2017
Background

April 2013

- Comprehensive Plan recommends Neighborhood Character Studies adopted as part of the Comprehensive Plan.
- References to Neighborhood Character Studies were included in the Code to ensure immediate applicability as review criteria after adoption.

Spring 2015

- Neighborhood Workshops are conducted to receive input on the tools needed in Code SMTX to implement the Comprehensive Plan.

After Code SMTX

- Neighborhood Character Studies will be conducted and adopted as part of the Comprehensive Plan.
Purpose:

The purpose of this amendment is to provide clarity and remove any confusion over the applicability of the review criteria when analyzing development requests.

Amendment:

“Is the request consistent with the any adopted Neighborhood Character Study for the area?”
ORDINANCE NO. 2017-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING VARIOUS SECTIONS OF SUBPART B, LAND DEVELOPMENT CODE, OF THE CITY’S CODE OF ORDINANCES TO CLARIFY THE APPLICABILITY OF NEIGHBORHOOD CHARACTER STUDIES TO VARIOUS REQUESTS AND DETERMINATIONS UNDER SUCH CODE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

RECITALS:

1. City staff proposed and the Planning and Zoning Commission considered and recommended approval of amendments to Subpart B, Land Development Code, of the City’s Code of Ordinances (the “Land Development Code”) to clarify the applicability of Neighborhood Character Studies to various requests and determinations under the Land Development Code.

2. The City Council hereby finds and determines that the adoption of the following ordinance incorporating such revisions and amendments is in the interest of the public health, welfare and safety.

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

SECTION 1. The Land Development Code is amended as set forth below. Added text is indicated by underlining. Deleted text is indicated by strikethroughs.

SECTION 2. Section 1.4.1.5 is amended to read as follows:

Section 1.4.1.5 Criteria for Approval

The Planning and Zoning Commission in making its recommendation and the City Council in taking action on the request for amendment of the Comprehensive Plan shall consider the following criteria:

(a) For text amendments, whether the amendment is consistent with other policies of the Comprehensive Plan, taking into account the nature of any proposed map amendment associated with the text amendment;

(b) Whether the amendment promotes the orderly and efficient growth and development of the community and furthers the public health, safety and general welfare of the City;
(c) For preferred scenario map amendments, whether the amendment is consistent with the following policies of the Comprehensive Plan:

(1) Is the request in an area suitable for development as shown on the Land Use Suitability Map? If not, what development constraints exist?

(2) Is the request consistent with the any adopted Neighborhood Character Study for the area?

(3) Is the request near existing parks and public utilities?

(4) Based on the Travel Demand Model, is the request in an area with sufficient roadway capacity?

SECTION 3. Section 1.5.1.5 is amended to read as follows:

Section 1.5.1.5 Criteria for Approval

(a) In making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

(1) Whether the proposed zoning map amendment implements the policies of the plan elements in the adopted Comprehensive Plan, as follows, including the land use classification of the property on the Preferred Scenario Map.

a. Is the request in an area suitable for development as shown on the Land Use Suitability Map? If not, what development constraints exist?

b. Is the request consistent with the any adopted Neighborhood Character Study for the area?

c. Is the request near existing parks and public utilities?

d. Based on the Travel Demand Model, is the request in an area with sufficient roadway capacity?

(2) Whether the proposed zoning map amendment is consistent with a development agreement in effect;

(3) Whether the uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified;

(4) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other
public services and utilities to the area; and

(5) Any other factors which will substantially affect the public health, safety, morals, or general welfare.

SECTION 4. Section 1.5.3.5 is amended to read as follows:

Section 1.5.3.5 Criteria for Approval

(a) Factors. The following criteria will be used by the Planning and Zoning Commission in recommending and the Council in deciding whether to approve, approve with modifications, or deny a petition for a PD district:

(1) The extent to which the land covered by the proposed PD district fits one or more of the special circumstances in Section 4.2.6.1 warranting a PD district classification.

(2) The extent to which the proposed PD district furthers the policies of the Comprehensive Plan, as follows:

a. Does the request further the goals of the Core 4 through their strategies as outlined in the Comprehensive Plan?

b. Is the request in an area suitable for development as show on the Land Use Suitability Map? If not, what development constraints exist?

c. Does the request have a negative impact on the watershed?

d. Is the request consistent with the any adopted Neighborhood Character Study for the area?

e. Is the request near existing parks and public utilities?

f. Will additional parks or greenspace be provided?

g. Is the request near a water or wastewater maintenance hotspot?

h. Based on the Travel Demand Model, is the request in an area with sufficient roadway capacity?

(3) The extent to which the proposed PD district will result in a superior development than could be achieved through conventional zoning classifications.

(4) The extent to which the proposed PD district will resolve or mitigate any compatibility issues with surrounding development.
(5) The extent to which the PD district is generally consistent with the criteria for approval of a watershed plan for land within the district.

(6) The extent to which proposed uses and the configuration of uses depicted in the Concept Plan are compatible with existing and planned adjoining uses;

(7) The extent to which the proposed development is consistent with adopted master facilities plans, including without limitation the water facilities, master wastewater facilities, transportation, drainage and other master facilities plans; and

(8) The extent to which the proposed open space and recreational amenities within the development provide a superior living environment and enhanced recreational opportunities for residents of the district and for the public generally.

(b) Conditions. The Planning and Zoning Commission may recommend and the Council may impose such conditions to the PD district regulations and Concept Plan as are necessary to assure that the purpose of the PD district is implemented.

SECTION 5. Section 1.5.3.7 is amended to read as follows:

Section 1.5.3.7 Expiration of Rights

(a) Lapse of Rights in District. In a PD district, progress toward development of the Concept Plan shall occur within the following time periods:

(1) An application for approval of a Cluster Development Plan, accompanied by a Watershed Protection Plan (Phase 1), where applicable, or other required permit, shall be submitted for approval within five years of the date of establishment of the PD district, unless otherwise provided in the adopting ordinance. If a Cluster Development Plan or required permit application for all or a phase of the development depicted in the Concept Plan is not submitted within this period, the authority to submit a Cluster Development Plan or required permit and all subsequent Cluster Development Plans or required permits for the PD district shall be suspended.

(2) If the land within the PD district is to be developed in phases, a Cluster Development Plan and Watershed Protection Plan (Phase 1), or other required permit, shall be submitted for the next phase within two years from approval of a Cluster Development Plan or required permit application for the preceding phase, or as otherwise provided in the approved phasing schedule for the PD district. If a subsequent Cluster Development Plan or
required permit application is not submitted within this period, the authority to submit a Cluster Development Plan or permit application for that portion of the property and any subsequent Cluster Development Plans for the district shall be suspended.

(3) Expiration of an approved Cluster Development Plan or required permit shall result in suspension of the authority to submit a new Cluster Development Plan or required permit for that portion of the property and any Cluster Development Plans or required permits for subsequent phases of development within the district.

(b) **Commission Recommendation.** Following expiration of the right to submit a Cluster Development Plan or required permit, the Planning and Zoning Commission shall consider whether the undeveloped land within PD district should be changed to another zoning classification in accordance with the procedures for action upon a petition for a zoning map amendment under Division 1 of this Article 5. The Planning and Zoning Commission thereafter shall recommend to the City Council whether the right to submit a Cluster Development Plan or required permit application should be reinstated, or whether the property should be zoned to another classification.

(c) **Council Consideration.** The Planning and Zoning Commission's recommendation shall be considered by the City Council in accordance with procedures for action upon a petition for a zoning map amendment under Division 1 of this Article 5. The Council shall determine whether the right to submit the Cluster Development Plan or required permit application should be reinstated, or whether the property should be rezoned to another classification. In making such determination, the Council shall consider the following factors:

1. Whether the PD district remains consistent with the Comprehensive Plan and any related adopted Neighborhood Character Study;
2. Whether the uses authorized in the PD district are compatible with existing and planned land uses adjacent to the site;
3. Whether there are extenuating circumstances justifying the failure to submit a development plan during the applicable time period; and
4. Whether rezoning the property to another classification would constitute confiscation of a vested property right or deprive the owner of the economically viable use of the land.

(d) **Council Action.** The City Council may take the following actions:

1. Reinstate the right to submit the Cluster Development Plan or required permit application within a time certain, subject to any conditions that may
be appropriate to ensure that significant progress will be made toward development of land within the PD district;

(2) Modify the PD district regulations applicable to the property; or

(3) Repeal the PD district for the affected portions of the property and zone the property to another zoning district classification.

SECTION 6. Section 1.5.7.5 is amended to read as follows:

Section 1.5.7.5 Criteria for Approval

(a) Factors. When considering an application for a Conditional Use Permit, the Planning and Zoning Commission shall evaluate the impact of the proposed conditional use on and its compatibility with surrounding properties and residential areas to ensure the appropriateness of the use at the particular location, and shall consider the extent to which:

(1) The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan;

(2) The proposed use is consistent with the any adopted Neighborhood Character Study that has been completed for the area;

(3) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;

(4) The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;

(5) The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;

(6) The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;

(7) The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and
(8) The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.

(b) Conditions. The Planning and Zoning Commission may require such modifications in the proposed use and attach such conditions to the Conditional Use Permit as the Planning and Zoning Commission deems necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of this Section. Conditions and modifications may include but are not limited to limitation of building size or height, increased open space, limitations on impervious surfaces, enhanced loading and parking requirements, additional landscaping, curbing, sidewalk, vehicular access and parking improvements, placement or orientation of buildings and entryways, buffer yards, landscaping and screening, signage restrictions and design, maintenance of buildings and outdoor areas, duration of the permit and hours of operation.

SECTION 7. Section 3.1.1.2 is amended to read as follows:

Section 3.1.1.2 Implementation

(a) The Director is authorized and directed to implement the policies of the Comprehensive Plan through the activities described therein. Implementation tools and strategies within Vision San Marcos: A River Runs Through Us are found throughout the plan and include, but are not limited to:

(1) Preferred Scenario Map.

(2) Land Use Intensity Matrix.

(3) Land Use Suitability Map.

(3) 2035 Vision, Goals and Objectives.

(4) Introduction Section - How to Use This Plan.

(5) All Plan Element Sections.

(6) Neighborhood Character Studies, when adopted.

(7) Process for Updating the Plan Section.

(8) Five Year Action Items Section.

(9) All adopted updates to the plan, figures and addendum.
SECTION 8. Section 3.2.1.2 is amended to read as follows:

Section 3.2.1.2 Applicable Comprehensive Plan Elements, Maps and Policies

The following Comprehensive Plan elements and maps apply to legislative development applications:

(a) The Vision San Marcos Comprehensive Plan and all Maps, Addenda contents and any adopted Neighborhood Character Studies, as amended;

(b) Water, Wastewater and Drainage Master Plans;

(c) The Preferred Scenario Map and Land Use Intensity Matrix;

(d) The Transportation Master Plan including the Thoroughfare Map and all other Maps;

(e) Density Policies;

(f) Parks and Open Space Master Plan.

SECTION 9. In codifying the changes authorized by this ordinance, paragraphs, sections and subsections may be renumbered and reformatted as appropriate consistent with the numbering and formatting of the San Marcos City Code.

SECTION 10. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 11. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 12. This ordinance will take effect after its passage, approval and adoption on second reading.


PASSED, APPROVED AND ADOPTED on second reading on August 1, 2017.

John Thomaides
Mayor
Attest:       Approved:

Jamie Lee Case       Michael J. Cosentino
City Clerk       City Attorney
Section 1.4.1.5 - Criteria for Approval

The Planning and Zoning Commission in making its recommendation and the City Council in taking action on the request for amendment of the Comprehensive Plan shall consider the following criteria:

(a) For text amendments, whether the amendment is consistent with other policies of the Comprehensive Plan, taking into account the nature of any proposed map amendment associated with the text amendment;

(b) Whether the amendment promotes the orderly and efficient growth and development of the community and furthers the public health, safety and general welfare of the City;

(c) For preferred scenario map amendments, whether the amendment is consistent with the following policies of the Comprehensive Plan:

   (1) Is the request in an area suitable for development as shown on the Land Use Suitability Map? If not, what development constraints exist?

   (2) Is the request consistent with the any adopted Neighborhood Character Study for the area?

   (3) Is the request near existing parks and public utilities?

   (4) Based on the Travel Demand Model, is the request in an area with sufficient roadway capacity?

(Ord. No. 2013-35, § 1(Exh. A), 8-6-13)
Section 1.5.1.5 - Criteria for Approval

(a) In making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

(1) Whether the proposed zoning map amendment implements the policies of the plan elements in the adopted Comprehensive Plan, as follows, including the land use classification of the property on the Preferred Scenario Map.
   a. Is the request in an area suitable for development as show on the Land Use Suitability Map? If not, what development constraints exist?
   b. Is the request consistent with the any adopted Neighborhood Character Study for the area?
   c. Is the request near existing parks and public utilities?
   d. Based on the Travel Demand Model, is the request in an area with sufficient roadway capacity?

(2) Whether the proposed zoning map amendment is consistent with a development agreement in effect;

(3) Whether the uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified;

(4) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area; and

(5) Any other factors which will substantially affect the public health, safety, morals, or general welfare.

(Ord. No. 2013-35, § 1(Exh. A), 8-6-13)
Section 1.5.3.5 - Criteria for Approval

(a) **Factors.** The following criteria will be used by the Planning and Zoning Commission in recommending and the Council in deciding whether to approve, approve with modifications, or deny a petition for a PD district:

1. The extent to which the land covered by the proposed PD district fits one or more of the special circumstances in Section 4.2.6.1 warranting a PD district classification.
2. The extent to which the proposed PD district furthers the policies of the Comprehensive Plan, as follows:
   a. Does the request further the goals of the Core 4 through their strategies as outlined in the Comprehensive Plan?
   b. Is the request in an area suitable for development as show on the Land Use Suitability Map? If not, what development constraints exist?
   c. Does the request have a negative impact on the watershed?
   d. Is the request consistent with the any adopted Neighborhood Character Study for the area?
   e. Is the request near existing parks and public utilities?
   f. Will additional parks or greenspace be provided?
   g. Is the request near a water or wastewater maintenance hotspot?
   h. Based on the Travel Demand Model, is the request in an area with sufficient roadway capacity?
3. The extent to which the proposed PD district will result in a superior development than could be achieved through conventional zoning classifications.
4. The extent to which the proposed PD district will resolve or mitigate any compatibility issues with surrounding development.
5. The extent to which the PD district is generally consistent with the criteria for approval of a watershed plan for land within the district.
6. The extent to which proposed uses and the configuration of uses depicted in the Concept Plan are compatible with existing and planned adjoining uses;
7. The extent to which the proposed development is consistent with adopted master facilities plans, including without limitation the water facilities, master wastewater facilities, transportation, drainage and other master facilities plans; and
8. The extent to which the proposed open space and recreational amenities within the development provide a superior living environment and enhanced recreational opportunities for residents of the district and for the public generally.

(b) **Conditions.** The Planning and Zoning Commission may recommend and the Council may impose such conditions to the PD district regulations and Concept Plan as are necessary to assure that the purpose of the PD district is implemented.

(Ord. No. 2013-35, § 1(Exh. A), 8-6-13)
Section 1.5.3.7 - Expiration of Rights

(a) Lapse of Rights in District. In a PD district, progress toward development of the Concept Plan shall occur within the following time periods:

(1) An application for approval of a Cluster Development Plan, accompanied by a Watershed Protection Plan (Phase 1), where applicable, or other required permit, shall be submitted for approval within five years of the date of establishment of the PD district, unless otherwise provided in the adopting ordinance. If a Cluster Development Plan or required permit application for all or a phase of the development depicted in the Concept Plan is not submitted within this period, the authority to submit a Cluster Development Plan or required permit and all subsequent Cluster Development Plans or required permits for the PD district shall be suspended.

(2) If the land within the PD district is to be developed in phases, a Cluster Development Plan and Watershed Protection Plan (Phase 1), or other required permit, shall be submitted for the next phase within two years from approval of a Cluster Development Plan or required permit application for the preceding phase, or as otherwise provided in the approved phasing schedule for the PD district. If a subsequent Cluster Development Plan or required permit application is not submitted within this period, the authority to submit a Cluster Development Plan or permit application for that portion of the property and any subsequent Cluster Development Plans for the district shall be suspended.

(3) Expiration of an approved Cluster Development Plan or required permit shall result in suspension of the authority to submit a new Cluster Development Plan or required permit for that portion of the property and any Cluster Development Plans or required permits for subsequent phases of development within the district.

(b) Commission Recommendation. Following expiration of the right to submit a Cluster Development Plan or required permit, the Planning and Zoning Commission shall consider whether the undeveloped land within PD district should be changed to another zoning classification in accordance with the procedures for action upon a petition for a zoning map amendment under Division 1 of this Article 5. The Planning and Zoning Commission thereafter shall recommend to the City Council whether the right to submit a Cluster Development Plan or required permit application should be reinstated, or whether the property should be zoned to another classification.

(c) Council Consideration. The Planning and Zoning Commission's recommendation shall be considered by the City Council in accordance with procedures for action upon a petition for a zoning map amendment under Division 1 of this Article 5. The Council shall determine whether the right to submit the Cluster Development Plan or required permit application should be reinstated, or whether the property should be rezoned to another classification. In making such determination, the Council shall consider the following factors:

(1) Whether the PD district remains consistent with the Comprehensive Plan and any related adopted Neighborhood Character Study;

(2) Whether the uses authorized in the PD district are compatible with existing and planned land uses adjacent to the site;

(3) Whether there are extenuating circumstances justifying the failure to submit a development plan during the applicable time period; and

(4) Whether rezoning the property to another classification would constitute confiscation of a vested property right or deprive the owner of the economically viable use of the land.

(d) Council Action. The City Council may take the following actions:

(1) Reinstate the right to submit the Cluster Development Plan or required permit application within a time certain, subject to any conditions that may be appropriate to ensure that significant progress will be made toward development of land within the PD district;

(2) Modify the PD district regulations applicable to the property; or
(3) Repeal the PD district for the affected portions of the property and zone the property to another zoning district classification.

(Ord. No. 2013-35, § 1(Exh. A), 8-6-13)
Section 1.5.7.5 - Criteria for Approval

(a) **Factors**. When considering an application for a Conditional Use Permit, the Planning and Zoning Commission shall evaluate the impact of the proposed conditional use on and its compatibility with surrounding properties and residential areas to ensure the appropriateness of the use at the particular location, and shall consider the extent to which:

1. The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan;

2. The proposed use is consistent with the any adopted Neighborhood Character Study that has been completed for the area;

3. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;

4. The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;

5. The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;

6. The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;

7. The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and

8. The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.

(b) **Conditions**. The Planning and Zoning Commission may require such modifications in the proposed use and attach such conditions to the Conditional Use Permit as the Planning and Zoning Commission deems necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of this Section. Conditions and modifications may include but are not limited to limitation of building size or height, increased open space, limitations on impervious surfaces, enhanced loading and parking requirements, additional landscaping, curbing, sidewalk, vehicular access and parking improvements, placement or orientation of buildings and entryways, buffer yards, landscaping and screening, signage restrictions and design, maintenance of buildings and outdoor areas, duration of the permit and hours of operation.

(Ord. No. 2013-35, § 1(Exh. A), 8-6-13)
Section 3.1.1.2 - Implementation

(a) The Director is authorized and directed to implement the policies of the Comprehensive Plan through the activities described therein. Implementation tools and strategies within Vision San Marcos: A River Runs Through Us are found throughout the plan and include, but are not limited to:

(1) Preferred Scenario Map.
(2) Land Use Intensity Matrix.
(3) Land Use Suitability Map.
(4) 2035 Vision, Goals and Objectives.
(5) Introduction Section - How to Use This Plan.
(6) All Plan Element Sections.
(7) Neighborhood Character Studies, when adopted.
(8) Process for Updating the Plan Section.
(9) Five Year Action Items Section.

(Ord. No. 2013-35, § 1(Exh. A), 8-6-13)
Section 3.2.1.2 - Applicable Comprehensive Plan Elements, Maps and Policies

The following Comprehensive Plan elements and maps apply to legislative development applications:

(a) The Vision San Marcos Comprehensive Plan and all Maps, Addenda contents and any adopted Neighborhood Character Studies, as amended;
(b) Water, Wastewater and Drainage Master Plans;
(c) The Preferred Scenario Map and Land Use Intensity Matrix;
(d) The Transportation Master Plan including the Thoroughfare Map and all other Maps;
(e) Density Policies;
(f) Parks and Open Space Master Plan.

(Ord. No. 2013-35, § 1(Exh. A), 8-6-13)
AGENDA CAPTION:
7:00 PM Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2017-37 amending Chapter 34, Article 7 of the City’s Code of Ordinances to establish regulations and registration requirements for Home Share Rentals of property for periods of less than 30 days, together with corresponding amendments to Chapter 4 of the Land Development Code, Subpart B of the City’s Code of Ordinances to establish Home Share Rentals as a new land use, subject to the requirements of Chapter 34; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date; and consider approval of Ordinance 2017-37, on the first of two readings.

Meeting date: July 18, 2017

Department: Planning and Development Services

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL: Beautify and Enhance the Quality of Place

COMPREHENSIVE PLAN ELEMENT(s): Land Use Goal #1 Objective #4: Replace the Land Development Code with an updated document to support the preferred scenario.

BACKGROUND:
The City Council and Planning Commission discussed and considered an ordinance regulating short-term rentals during five public meetings between the months of July 2016 and February 2017. The City Council ultimately recommended that a sub-committee be formed to continue work on short-term rental regulation and that consideration be delayed pending the resolution of proposed State legislation.

Since February 2017, the City Council sub-committee held four separate meetings to discuss the regulation of short-term rentals and provided the following direction:
Commercial short-term rentals where a single-family home is used primarily or exclusively as a short-term rental is not permitted within the City Limits;

When a home is used as an individual’s primary residence, that home may be shared through the rental of:
  - A portion of the home while the primary resident is on-site;
  - An accessory unit on the same lot;
  - The entire home while the primary resident is on vacation.

When an individual elects to share their home they will be subject to the following standards:
  - Hotel Occupancy Taxes are required;
  - Registration of the home share rental under the City’s Nuisance Abatement Program is required;
  - The registration number must be included on any advertisement;
  - The property owner must be a party to any application by a long term tenant for home sharing on a property that they own.
  - An applicant or property owner may operate or sign off on no more than one home share rental operation within the City Limits;
  - A maximum of two adult guests per bedroom plus an additional 2 adults are permitted;
  - A brochure must be available for guests and must include all emergency information and relevant neighborhood information pertaining to parking, trash etc.; and
  - The name and contact information for a local responsible party must be included in the brochure for guests and provided to the City to be posted and available for surrounding property owners and residents.

Enforcement of home sharing rentals is provided through the City’s existing Nuisance Abatement Ordinance. Under these provisions violation of the home sharing standards or any other Federal, State, or Local laws may lead to the suspension or revocation of the home sharing registration and the right to share your home.

On June 27, 2017, the Planning and Zoning Commission recommended approval of the ordinance as presented with a 4 - 1 - 1 vote (Lee Porterfield: no; Betsey Gail Rand: Recused) and including the following amendment:
  - Add short-term rentals as a separate use in the Land Use Matrix.
  - Define the short-term rental of a home as the primary use in a home where no individual lives on a permanent basis.
  - Allow short-term rentals as a conditional use only.
  - Expand the restriction of only one registration being permitted per person to both home share
and short-term rentals.
ORDINANCE NO. 2017-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 34, ARTICLE 7 OF THE CITY’S CODE OF ORDNANCES TO ESTABLISH REGULATIONS AND REGISTRATION REQUIREMENTS FOR HOME SHARE RENTALS OF PROPERTY FOR PERIODS OF LESS THAN 30 DAYS, TOGETHER WITH CORRESPONDING AMENDMENTS TO CHAPTER 4 OF THE LAND DEVELOPMENT CODE, SUBPART B OF THE CITY’S CODE OF ORDNANCES TO ESTABLISH HOME SHARE RENTALS AS A NEW LAND USE, SUBJECT TO THE REQUIREMENTS OF CHAPTER 34; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

RECITALS:

1. The advent of residential rentals for periods of less than 30 days has resulted from the rapidly growing sharing economy and has recently been accepted by cities as a way to enhance tourism and economic development when regulations are in place to protect the well-being and property of the local residents as well as the safety of the visitors.

2. A subcommittee of the City Council, working with City staff has proposed regulations for such rentals of residential property in the city.

3. The Planning and Zoning Commission considered aspects of the proposal relating to the City’s Land Development Code and recommended amendments to the Land Development Code to establish a new land use allowing for and regulating such residential.

4. The City Council hereby finds and determines that allowing and regulating certain residential rentals for periods of less than 30 days is in the interest of the public health, welfare and safety.

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

SECTION 1. The City Council finds the Recitals to be true and correct and the Recitals are adopted and incorporated herein.

SECTION 2. The City’s Code of Ordinances is hereby amended as set forth below. Additions are indicated by underlining. Deletions are indicated by strikethroughs.
SECTION 3. Chapter 34, Article 7 is hereby amended to read as follows:

ARTICLE 7. RENTAL NUISANCE ABATEMENT CODE PROPERTY STANDARDS

DIVISION 1. ADMINISTRATION

Sec. 34.801. Administration.

Sec. 34.802. Title.

These regulations shall be known as the "Rental Nuisance Abatement Property Standards Code" code of San Marcos, Hays County, Texas, hereinafter referred to as "this code", "chapter" or "provision".

Sec. 34.803. Scope Applicability.

The provisions of this Code shall apply to all existing and future residential rental properties, units and accessory structures.

Sec. 34.804. Purpose.

The purpose of this chapter is to safeguard the life, health, safety, welfare, and property of the occupants of single family and multi-family residential rental unit(s) and the general public by establishing minimum standards and registration requirements for certain residential rental properties and home share rental properties in the city. Additionally, this chapter authorizes cumulative enforcement action against repeated or multiple violations under this chapter.

Sec. 34.806. Applicability and administration Generally.

(1) Residential rental registration shall be required before applying to all registrants of renting any residential single-family homes, accessory dwellings, manufactured/mobile homes, duplexes, and multi-family units located in the City of San Marcos for a continuous period of at least 30 days.

(2) Home share rental registration shall be required before renting any residential single-family homes, accessory dwellings, manufactured/mobile homes, duplexes, and multi-family units located in the City of San Marcos for a period of less than 30 consecutive days.

(3) The code official (city marshal), the marshal's authorized representatives, neighborhood services and other city personnel authorized may enforce the provisions of this Code.
Sec. 34.807. Applications outline.

(a) **Residential Rental Application Requirements.** Application for residential rental registration shall be made upon a form prescribed by the City of San Marcos for such purposes, and shall include at least the following information. The following information is required of all applications and missing items or information constitute an invalid application. Additional information may be required based on individual circumstances.

1. Registrant’s name, business address, home address, telephone number, electronic mail address; or

2. If owner is a partnership the principal business addresses, and contact (including electronic) information; or

3. If owner is a corporation, the person registering must state whether it is organized under the laws of this state or is a foreign corporation, and must show the mailing address, business location, telephone number, electronic mail address, contact information and name of the primary individual in charge of the local office of such corporation, if any, and the names of all officers and directors or trustees of such corporation, and, if a foreign corporation, the place of incorporation; or

4. Name, address, electronic mail address and telephone number of the property manager or management company (if any); and

5. Street address of the rental unit; and

6. Number of persons the rental unit is designed to occupy; and

7. Whether there has been a change of occupancy use; and

8. The name(s), address, electronic mail address and phone number (24-hour contact number) of designated employee(s) or authorized representative(s) who shall be assigned to respond to emergency conditions. Emergency conditions shall include but not limited to; fire, natural disaster, flood, burst pipes, collapse hazard, emergency repairs and violent crime; and

9. Signature or electronic signature by the registrant requiring the applicant to self-certify that the information on the application is accurate and truthful under penalty of perjury under the laws of the State of Texas.

(b) **Home Share Rental Registration Requirements.** Application for home share rental registration shall be made upon a form prescribed by the City of San Marcos for such purpose. The following information is required of all applications and missing items or information constitute an invalid application. Additional information may be required based on individual circumstances.
(1) Registrant’s name, home address, telephone number, and electronic mail address

(2) Proof of possession of the premises being registered, either by warranty deed, or valid lease.

(3) If the applicant does not own the property where the premises are located, the applicant must provide written documentation, signed by the property owner before a notary public, authorizing the registrant to operate a home share rental on the premises.

(4) Proof that the premises is the primary residence of the applicant, including at least two of the following: motor vehicle registration, driver’s license, Texas State Identification card, voter registration, tax documents, or utility bill.

(5) Signature or electronic signature by the registrant requiring the applicant to self-certify that the information on the application is accurate and truthful under penalty of perjury under the laws of the State of Texas.

(6) The name(s), address, electronic mail address and phone number (24-hour contact number) of a local responsible party who shall be assigned to respond to emergency conditions. Emergency conditions shall include but not limited to: fire, natural disaster, flood, burst pipes, collapse hazard, emergency repairs and violent crime.

(7) Incomplete applications will not be processed and, as a result, any premises associated with an incomplete application will not be registered in compliance with or as required by this Division.

DIVISION 2. DEFINITIONS

Sec. 34.808. Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated. Where terms are not defined, they shall have their ordinary accepted meanings.

Advertise means the act of drawing the public’s attention to a home share rental in order to promote the availability of the home share rental.

Code official means city marshal or designated official who is charged with the enforcement of this Code.
Complex. See "Multi-family unit (MFU)".

Duplex Unit (DU)—(two family dwelling). As defined by the International Building and/or Residential Code.

Home Share Rental means a primary residence having fewer than five bedrooms, or portion thereof, used for lodging accommodations to guests for a period of less than 30 consecutive days. A home share rental does not include a bed and breakfast inn as defined in the City’s Land Development Code, Subpart B of the City’s Code of Ordinances.

Hotel Occupancy Tax means the hotel occupancy tax required to be assessed and collected for the operation of any home share rental and paid pursuant to Chapter 351 of the Texas Tax Code.

Landlord means the owner, landlord, operator, and lessor, management company, managing agent or on-site manager of a rental unit or multi-family dwelling unit.

Local responsible party means an individual located in the City of San Marcos while a home share rental is being rented and who has access to the premises and is authorized to make decisions regarding the premises.

Multi-family unit (MFU) means any building or portion thereof which is designed, built, rented, leased, or let to be occupied as three or more dwelling units or apartments. The term shall not include hotels, motels, nursing facilities, or assisted living units.

Occupant means any individual living or sleeping in a building, or having possession of a space within a building. This includes, but is not limited to, persons that reside at a residence the majority of 21 calendar days, regardless if that person pays rent or provides in-kind services. The person is not required to have a lease, contract or other legal document to be considered an occupant.

Owner means any person, agent, operator, firm, trust, corporation, limited liability company, partnership or business organization having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or code official of the estate of such person if ordered to take possession of real property by a court.

Owner-occupied rental unit a dwelling unit in which at least one owner of record of the property resides as his/her primary dwelling.

Premises means property, a lot, plot or parcel of land, easement or public way, including any structures thereon.
Primary Residence means the usual dwelling place of the owner or tenant of a residential dwelling and is documented as such by at least two of the following: motor vehicle registration, driver’s license, Texas State Identification card, voter registration, tax documents, or utility bill. For purposes of this chapter, a person may have only one primary residence.

Property. See "premises".

Registrant means owner, manager or representative of a property. For home share rentals only, it also includes a lessee of property under a lease for a period of at least 30 days.

Rental unit means a structure or portion thereof that is rented or offered for rent as a residence; including but not limited to, single-family unit, duplex unit, tri-plex, quad-plex unit, multi-family unit, manufactured or mobile home unit, town home or condominium. This is not intended to regard individual rental spaces inside of a structure for separate fee related submissions.

Single Family Unit (SFU) as defined by the International Residential Code.

Unit. See "rental unit".

DIVISION 3. RESIDENTIAL RENTAL PROPERTY REGISTRATION

Sec. 34.809. Residential rental property registration.

The purpose of this division is to identify and notify owners regarding minimum building standards, complaints and property maintenance codes in a timely manner. In this Division rental registration has the same meaning as residential rental registration in Division 1.

Sec. 34.810. Registration timeline.

Each registrant or landlord of a rental unit within the City of San Marcos subject to section 34.818 shall register each such rental unit with the City of San Marcos before January 1st of each year, or as prescribed in section 34.813. If subject to provisions of section 34.818 prior to the annual deadline, registration must be completed within 14 days of notice. Notice can be in the form of mail, electronic communication, or posting on the property.

Sec. 34.811. Separate registration required.

Separate registration shall be required for each rental unit on a property. If more than one structure is on the same property, then each structure is considered a separate rental unit.
Sec. 34.812. Registration expires.

A residential rental property registration shall be valid for no more than 12 calendar months. There are no prorated registration time periods.

Sec. 34.813. Geographic designation.

The City of San Marcos, may by administrative order, divide the city into geographical areas and establish annual registration dates for rental units located within each geographical area. A copy of the geographical designation shall be on file with the code official.

Sec. 34.814. Incomplete application

Incomplete applications will not be processed and, as a result, any rental units associated with an incomplete application will not be registered in compliance with or as required by this Division. A residential rental property registration will not be issued.

Sec. 34.815. Registrant registration responsibility.

It is the registrant's and/or landlord's responsibility of the landlord, owner, or registrant to renew the registration for each rental unit within the City of San Marcos as prescribed by this code.

Sec. 34.816. Renewals or change of status notice required.

If a change in ownership, trade name or transfer occurs for the premise prior to the expiration of the permit, the new landlord, owner, or registrant (new owner) of the premise shall have 30 days from the date the change of ownership occurred to file a new registration with the City of San Marcos and pay the applicable fee.

A landlord, owner, or registrant required to register a property under this Division shall notify the new owner or transferee of the current registration and associated violations, as well as the requirement for the new owner or transferee to register under this Division. Notice shall be in writing and signed by both parties.

Sec. 34.817. Liability.

Neither the registrant, it's officers, employees, agents, representatives, or any person, who is in good faith carrying out, complying with, or attempting to comply with, release of information pursuant to the provisions of this chapter shall be liable for any such activity.
Sec. 34.818. Registration required.

Except as provided in section 34.820, a rental registration is required to operate, lease, occupy, or otherwise allow multi-family or single family rental property to be occupied by a non-owner if the following conditions exist:

1. Two or more separate notices of violation are issued for the same property within a 12-month period and the owner of the property fails to correct the violations within the time frame required by the code official; or

2. Five or more separate code violations within a 12-month period regardless of whether the owner of the property corrects the violations within the time frame required by the code official; or

3. Two or more citations are issued for the same property within a 12-month period.

For the purposes of this section, violations identified in the notices and citations must be related to the San Marcos Code of Ordinances, or violations of state law relating to public order and decency, controlled substances or alcohol, or public health, safety and morals as adopted.

Sec. 34.819. Voluntary registration.

Nothing in this chapter prohibits voluntary submission of registration for convenience and expediency of landlord or owner notification. The voluntary registration submission cannot be related to any enforcement action or as a method to avoid enforcement of this chapter. For purposes of this section annual registration is not required. However, if a property that voluntarily registered meets requirements of section 34.818, the registrant must comply with this entire chapter.

Sec. 34.820. Exceptions.

The provisions of this Code do not apply to:

1. Owner-occupied rental units; or

2. Properties specifically registered as members, or affiliate members with property designation of the Achieving Community Together (ACT) program. However, if a property, member or affiliate withdraws or is suspended from the ACT program the requirements of this Division shall apply immediately. This provision shall apply before the end of a thirty-day period from date of separation.
Sec. 34.821. Performance.

Registered properties that do not receive further notices of violation, or have any registration violations for three contiguous years, are not required to re-register. However, Should a previously registered property that was required to register be found in subsequent violation of provisions under section 34.818 or require registration after been a registered property, the property and has subsequent violations of section 34.818 must will have to re-register and maintain a registration for a period of five years.

DIVISION 4. OFFENSES AND ENFORCEMENT HOME SHARE RENTALS

Sec. 34.821.1. Purpose and applicability.

The purpose of this Division is to establish regulations for the registration and use of home share rentals. The requirements of this division apply only to home share rentals located in residential only zoning districts established under the City’s Land Development Code, Subpart B of the City’s Code of Ordinances. Nothing in this division, however, shall be construed to be a waiver of the requirement to assess and collect hotel occupancy taxes for any residential rental for less than 30 consecutive days of property that is located outside of such residential only zoning districts or that is located in any SmartCode zoning district.

Sec. 34.821.2. Home Share Rental Registration Restrictions.

(a) It is unlawful rent, lease, or otherwise permit or allow any rental unit or premises to be operated as a home share rental unless all requirements of this code are met, including all registration requirements.

(b) Home share rental is not permitted for any property where the registrant is under suspension or revocation of the Residential Rental Registration requirements.

(c) Registration non-transferrable. An approved home share rental registration shall not be assigned or transferred to any person or entity. Any attempt to transfer a registration shall render the registration subject to suspension or revocation as provided in this chapter.

(d) Only one home share rental allowed per registrant. No registrant shall be allowed to operate or register more than one home share rental in the city, and no registration for a new home share rental shall be authorized, while another registration in the registrant’s name is still active or under suspension.

(e) Only one home share rental per property owner and affiliates of owner. An owner of property may not have more than one property in the city that is registered or operated as a home share rental. When an owner of property registered or operated as a home share rental is a business organization, trust or other entity, no person or entity affiliated with such business organization, trust or other entity as
an organizer, officer, member, manager, shareholder, trustee, beneficiary, partner, equity owner or investor shall be allowed to register or operate an additional home share rental at a different property address in the city.

Sec. 34.821.3. Restrictions on Home Share Rentals.

(a) Limit on occupants allowed. No more than two adult guests per bedroom, plus no more than two additional guests, shall be allowed when renting a property as a home share rental.

(b) Other restrictions. It is unlawful:

1. to operate or allow to be operated a home share rental without first registering the property in which the rental is to occur with the city in accordance with this article;

2. to operate a home share rental in any location that is not the registrant’s primary residence;

3. to operate a home share rental that does not comply with all applicable City and State laws and codes;

4. for a registrant to operate or property owner to allow the operation of more than one home share rental within the City Limits;

5. to operate a home share rental without paying the required hotel occupancy taxes.

Sec. 34.821.4. Brochure and Safety Features.

(a) Informational brochure. Each registrant operating a home share rental shall provide to guests a brochure that includes:

1. the registrant’s contact information;

2. the property owner’s contact information if the registrant is not the property owner;

3. a local responsible party's contact information if neither the registrant nor the property owner are in the city limits when guests are renting the premises;

4. pertinent neighborhood information including, but not limited to, parking restrictions, restrictions on noise and amplified sound, trash collection schedule, and relevant water restrictions;
(5) information to assist guests in the case of emergencies posing threats to personal safety or damage to property, including emergency and non-emergency telephone numbers for police, fire and emergency medical services providers and instructions for obtaining severe weather, natural or manmade disaster alerts and updates.

(b) Safety features. Each home share rental registrant shall provide in the premises at least at least one working smoke detector and alarm and one working carbon monoxide detector and alarm per bedroom, and one working fire extinguisher. The premises shall, otherwise be in compliance with applicable building and fire codes adopted under Chapter 14 of the City’s Code of Ordinances.

Sec. 34.821.5. Registration Term, Renewal.

(a) All registrations approved under this Division shall be valid for a period of one year from the date of their issuance.

(b) If the registrant has received notice of violation of any law or regulation including enforcement-action, the application for renewal shall include a copy of the notice.

(c) Upon receipt of an application for renewal of the registration, the director may deny the renewal if there is reasonable cause to believe that:

1. The registrant has violated any ordinance of the City, or any State, or Federal law on the premises or has permitted such a violation on the premises by any other person; or

2. There are grounds for suspension, revocation, or other registration sanction as provided in this Article.

DIVISION 5. FEE SCHEDULE OFFENSES AND ENFORCEMENT

Sec. 34.822. Offenses.

Sec. 34.823. Registrant/landlord offenses.

A registrant, owner or landlord commits an offense if they:

1. Allow operation of a rental unit that is not registered with the City of San Marcos in violation of section 34.818 Article;

2. Fails to renew registration;

3. Registers past deadline of required registration; or

4. Omits or provides false or incorrect information on application.
Sec. 34.824. Failure to comply with requirements of code.

A violation of this Article is a Class C misdemeanor offense. Any persons, firm, corporation or any others acting on behalf of said person, persons, firm or corporation violating or failing to comply with any of the provisions of this Code Article is subject to payment of a fine not to exceed $2,000.00 plus court costs. Each act of violation and each day upon which such violation occurs constitutes a separate offense. Additionally, this Article authorizes cumulative enforcement action against repeated or multiple violations under this Article.

Sec. 34.825. Electronic communication notice.

Electronically transmitting a copy of the notice, acknowledgment of receipt requested, to the last known electronic address of the registrant, owner, or landlord shall serve as an accepted legal standard of contact and notice under this provision.

Sec. 34.826. Suspension.

The code official may suspend a residential rental property registration or a home share rental registration for a rental property if the code official determines that:

1. The property is declared a substandard or dangerous building by the building department, the code official, or a court of competent jurisdiction;

2. Registrant fails to comply with a notice of violation;

3. Registrant fails to comply with applicable requirements of this chapter Article.

For purposes of this section the code official must serve notice of intent to suspend suspension of a registration by mail, electronic notification, or posting of on the subject property. The suspension is effective immediately until the requirements of this chapter are met or for the duration of the suspension set forth in the notice, or if no duration is listed in the notice, until such time as the code official lifts the suspension.

Sec. 34.827. Revocation.

(a) A court of competent jurisdiction may revoke a residential rental property registration or a home share rental registration that has been suspended pursuant to section 34.826 if the court determines that during the suspension the registrant did not comply with the requirements of this chapter, abate a notice of violation for which the suspension was ordered, or failed to comply with a court order. A suspension need not be in place in order to revoke a registration.
(b) The code official may revoke a home share rental registration that has been suspended pursuant to section 34.826 if the Director determines that during the suspension the registrant did not comply with the requirements of this chapter or abate a notice of violation for which the suspension was ordered.

Sec. 34.828. Other remedies.

Nothing in this article prevents the city from seeking injunctive relief or other civil action required to enforce this chapter including suspension of utility services, placement of liens, and posting of notices prohibiting occupancy or use.

Sec. 34.829. Rental prohibited.

Any person, landlord or registrant may not operate, lease, occupy, or otherwise allow another person to occupy a rental property without a residential rental property registration or a home share rental registration required by this chapter or, if the property is under a suspension or revocation notice or order.

DIVISION 5 6. FEE SCHEDULE

Sec. 34.830. Fee schedule.

Sec. 34.8310. Time line for fees.
All fees are based on a calendar year. Prorated fees will not be allowed.

Sec. 34.8321. Fees schedule.

The registrant of a rental property, including a home share rental, shall annually pay the city a fee to offset the city's cost of administration and registration. The amount of the fee is set by the City Council in the passage of an annual Fee Schedule. The registrant shall also pay a technology fee of ten dollars ($10.00) per rental unit.

Sec. 34.8332. Late fee schedule.

Annual registration or renewals received after the expiration date shall be assessed a double fee. Nothing in this section prohibits legal action for operation of a premise without a registration or operational permit.

Sec. 34.833. Sunset Review – Home Share Rental Provisions.

The provisions of this Chapter pertaining to home share rentals shall be reviewed by the city council within one year of the adoption of Ordinance No. 2017-37. Those provisions are subject to amendment or repeal upon such review or at any other time. The adoption of the home share rental provisions of this Chapter shall not be construed to create any enforceable right to the continuation of home share rentals or any right to compensation for loss, damages, costs, or expenses
alleged to have been incurred in reliance upon its adoption or suffered as a result of its repeal.

Secs. 34.834—34.840. Reserved.

SECTION 4. Chapter 4 of Subpart B, the Land Development Code, is hereby amended as set forth in Exhibit “A,” attached hereto and made a part hereof for all purposes.

SECTION 5. In codifying the changes authorized by this ordinance, paragraphs, sections and subsections may be renumbered and reformatted as appropriate consistent with the numbering and formatting of the San Marcos City Code.

SECTION 6. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 7. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 8. This ordinance will take effect after its passage, approval and adoption on second reading.

PASSED AND APPROVED on first reading on July 18, 2017.

PASSED, APPROVED AND ADOPTED on second reading on August 1, 2017.

John Thomaides
Mayor

Attest: Approved:

Jamie Lee Case Michael J. Cosentino
City Clerk City Attorney
EXHIBIT A

4.3.1.2 Land Use Matrix

| PD | MR | SP | SP-E | SF-12 | SF-4.5 | D | DR | PIV | PV-I | MF-12 | MF-18 | MF-14 | MA | AL | ML | LR | RB | GC | DP | CC | SC | HC | CRB | SJ | SI |
|----|----|----|------|-------|--------|----|----|-----|-----|------|-------|-------|------|----|----|----|----|----|----|----|----|----|----|----|----|----|

4.3.4.8 Home Share Rentals

(a) **Defined.** Home Share Rental means a primary residence having fewer than five bedrooms, or portion thereof, or an accessory dwelling on premises with a primary residence that is offered for use or is used for accommodations or lodging of guests for a period of less than thirty consecutive dates. A home share rental does not include a bed and breakfast inn as defined in the City’s Land Development Code, Subpart B of the City’s Code of Ordinances.

(b) **Purpose.** The purpose of these standards is to establish regulations for the registration and use of home share rentals and to ensure, among other things, that habitation of such units is safe, hotel occupancy taxes are paid to the City in a timely fashion and to provide for the general welfare of neighborhoods, residents and visitors.

(c) **Special Provisions for Home Share Rentals.** All home share rentals shall:

1. Be clearly incidental and customary to and commonly associated with the operation of the primary residential household living use;
2. Be operated by the person or persons maintaining the dwelling unit as their primary residence. For purposes of this provision, “person or persons” shall not include any corporation, limited liability company, partnership, firm, association, joint venture, or other similar legal entity. For purposes of this section 4.3.4.8, the term “primary residence” shall have the meaning prescribed thereto in Chapter 34 of the City Code of Ordinances;
3. Hold a valid home share rental registration with the City pursuant to Chapter 34, Article 7 of the City Code and pay the fee identified in the City Fee Schedule;
4. Not include rentals where the length of stay of any individual is 30 or more consecutive days during the calendar year; and
5. Not permit more than two adult guests per bedroom offered for accommodation or lodging of guests plus an additional 2 adults.

(d) **Related Provisions.** Use of property for home share rentals as an accessory use is subject to compliance with provisions governing licensing and regulation of such uses under Chapter 34 of the City Code of Ordinances and may be suspended or revoked for non-compliance.

(e) **Sunset Review—Home Share Rental Provisions.** The provisions of this Chapter pertaining to home share rentals, including the provisions in Section 4.3.1.2, shall be reviewed by the city council within one year of the adoption of Ordinance No. 2017- 37. Those provisions are subject to amendment or repeal upon such review or at any other time. The adoption of the home share rental provisions of this Chapter shall not be construed to create any enforceable right to the continuation of home share rentals or any right to compensation for loss, damages, costs, or expenses alleged to have been incurred in reliance upon its adoption or suffered as a result of its repeal.
Home Share Rentals

Tuesday, July 18, 2017
Background

July 2016:
Discussion Begins

Dec. 13:
P&Z recommends approval

Feb. 2017:
Council sub-committee

Feb-Current:
Four sub-committee mtgs.

June 27, 2017:
P&Z recommends approval of proposed ordinance with modifications
Sub-committee Direction:

Create a home-share rental ordinance that:

- **PROHIBITS** the primary use of a residence as a short-term rental

- **PERMITS** a permanent resident (home owner or renter) to rent:
  - A portion of their home or property while they are present; or
  - The entire home while they are on vacation

- **CREATES** a home share registration process to monitor, enforce and further regulate the short term rental of an individual’s HOME.
Where does the Home Share Rentals Ordinance Apply?

Home share rentals must be registered and meet all requirements of the ordinance when located in any residential district.

Short-term rentals are permitted without registering in the SmartCode area and other commercial zoning districts.
How does the City verify residency?

Only a permanent resident can register a Home Share Rental. The following documentation is required when registering a home share to prove residency:

1. Proof of possession of the property including:
   - Warranty deed
   - Valid lease (with property owner approval)

2. Proof that the premises is the primary residence including at least two of the following documents:
   - Motor Vehicle registration
   - Driver’s license
   - Texas State ID card
   - Voter Registration
   - Tax Documents
   - Utility Bill
What Standards Apply to Home Share Rentals?

1. Payment of Hotel Occupancy Taxes
2. Publication of the City registration number on any advertisements
3. No more than 1 home share per applicant or property owner
4. Maximum of 2 adult guests per bedroom plus an additional 2 adults
5. A brochure including emergency information, and relevant neighborhood information
6. Contact information for a local responsible party when permanent resident is out of town.
How will the Ordinance be enforced?

Enforcement will be primarily based on complaints.

The Director of Neighborhood Services has authority to:

- Deny renewal of a registration;
- Suspend a current registration; or
- Revoke a registration

If the standards of the home share ordinance or any other Federal, State, or Local law are violated.
Planning and Zoning Recommendation:

Approve the home share ordinance as proposed with the following amendments:

- Add short-term rentals as a separate use in the land use matrix.
- Define short-term rentals as the primary use on a property where no individual lives on a permanent basis.
- Allow short-term rentals as a conditional use only in residential areas.
- Expand the restriction of only one registration being permitted per person to both home share and short-term rentals.
AGENDA CAPTION:
7:00PM Receive a Staff presentation and hold the first of two Public Hearings to receive comments for or against PSA-16-02, a request by Hermann Vigil, Vigil and Associates, on behalf of Robert McDonald III, Whisper Master Community Limited Partnership, for a Preferred Scenario Amendment from Area of Stability to Employment Center for approximately 100 acres out of the Joel Minor Survey, located at the southwest corner of Yarrington Road and Harris Hill Road (Whisper).
Meeting date: July 18, 2017

Department: Planning and Development Services

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL: Beautify and Enhance the Quality of Place, Economic Development

COMPREHENSIVE PLAN ELEMENT(s):
ED Goal 4: An enhanced and diverse local economic environment that is prosperous, efficient and provides improved opportunities to residents.
PPSF Goal 1: Well-maintained public facilities that meet the needs of our community.

BACKGROUND:

This request is for an approximately 100 acre tract of land located at the southwest corner of Yarrington Road and Harris Hill, which is currently in the City’s Extraterritorial Jurisdiction (ETJ). The request to amend the preferred scenario designation from Area of Stability to Employment Center is accompanied by a request for annexation, as well as a request for a Planned Development District (PDD) zoning overlay for the approximately 700 acre Whisper Texas project.

This request was submitted during the Fall 2016 PSA cycle and was postponed until the completion of the PDD document. The request was reviewed and is consistent with the Public Improvement District which was approved by City Council in 2014. The request also meets the intent of the comprehensive plan for employment centers.

Staff Recommends Approval of the Request as Submitted.
At their regular meeting on June 27, 2017, the Planning and Zoning Commission Recommended Approval with a unanimous vote of 6-0.
Item #17-481
Hold a public hearing and discuss a request by Hermann Vigil, Vigil and Associates, on behalf of Robert McDonald III, Whisper Master Community Limited Partnership, for a Preferred Scenario Amendment from Area of Stability to Employment Center for approximately 100 acres out of the Joel Minor Survey, located at the southwest corner of Yarrington Road and Harris Hill Road. (Whisper)

Tuesday, July 18, 2017
# Preferred Scenario Amendment (PSA) Process

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<td>Reconsideration by Council</td>
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## Land Development Code Zoning Classifications :: Vision San Marcos Comprehensive Plan Intensity Zone / Development Pairs

### TRANSLATION TABLE

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<th>Zoning Abbreviation</th>
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<td>✓</td>
</tr>
</tbody>
</table>

*OA is generally intended where shown on the Preferred Scenario Map

**Abbreviations:**
- LS - Low Intensity and Areas of Stability
- M - Medium Intensity
- H - High Intensity
- PC - Neighborhood Area Protection /Conservation
- RI - Redevelopment / Infill
- ND - New Development
- EC - Employment Center
- OA - Open Space / Agricultural
SAANMARCOS

PSA-16-02
Whisper—Aerial View
Map Date: 6/9/2017

PSA-16-02
Whisper—Proposed Zoning
Map Date: 6/9/2017

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-theground survey and represents only the approximate relative location of property boundaries.

Site Location
- PSA-16-02 Site
- Parcels
- City Limit

0 0.25 0.5 0.75 1 Miles

Proposed Zoning
- PSA-16-02 Site
- VMU
- HC
- MU

0 0.25 0.5 0.75 1 Miles

Imagery Date: 2017
PSA-16-02
Whisper—TDM Existing Daily
Map Date: 6/9/2017
TDM data update anticipated
Current model based on 2013 data

PSA-16-02
Whisper—TDM Existing Peak
Map Date: 6/9/2017
TDM data update anticipated
Current model based on 2013 data

Travel Demand Model

Site Location

Parcels

City Limit

Traffic Demand Model

Site Location

Parcels

City Limit

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Project proposes a mix of uses, ranging from Single Family to Industrial / Business Park

PSA request is aligned with the Public Improvement District (PID) Approved by City Council in 2014

PID provides funding for specific public improvements within the district and provides standards for the required speculative building
At their regular meeting on June 27, 2017 the Planning and Zoning Commission considered this item during a Public Hearing.

**Public Notification:**

*Courtesy notice sent on October 28, 2016 with updates at Planning & Zoning Commission on November 8; City Council on November 15; and Neighborhood Commission November 16;*

*Personal notice sent and signs posted on June 16 for the Public Hearing at the June 27, 2017 Planning & Zoning Commission meeting.*

*Notice for the July 18, 2017 City Council Meeting was to be published in the July 2, 2017 issue of the San Marcos Daily Record.*

*Notice for the August 1, 2017 City Council Meeting was to be published in the July 16, 2017 issue of the San Marcos Daily Record.*

**Correspondence:**

*None as of the date of this memo.*

**Public Hearing:**

*For:*

1. Robert McDonald

*Against:*

- None
Planning & Zoning Commission draft meeting minutes:

Hold a public hearing and consider a request by Hermann Vigil, Vigil and Associates, on behalf of Robert McDonald III, Whisper Master Community Limited Partnership, for a Preferred Scenario Amendment from Area of Stability to Employment Center for approximately 100 acres out of the Joel Minor Survey, located at the southwest corner of Yarrington Road and Harris Hill Road (Whisper).

Vice Chair Kelsey opened the public hearing.

Amanda Hernandez, Development Services Manager gave an overview of the request, providing staff recommendation of approval.

A motion was made by Commissioner Dupont, seconded by Commissioner Porterfield, that PSA-16-02 be Approved. The motion carried by the following vote:

For: 6 - Vice Chair Kelsey, Commissioner Dupont, Commissioner Gleason, Commissioner McCarty, Commissioner Porterfield, and Commissioner Rand.

Against: 0

Attachments:

1. Staff Report
2. Comprehensive Plan Checklist
3. Zoning Translation Table
4. Maps & Exhibits
Summary: The applicant is requesting a change from Area of Stability to Employment Center on the Preferred Scenario Map.

Applicant: Herman Vigil
Vigil and Associates
4303 Russell Drive
Austin, TX 78704

Property Owners: Whisper Master Community Limited Partnership
Robert W. McDonald III, Managing Partner
9811 S. IH-35, Building 3, Suite 100
Austin, TX 78744

Notification: Courtesy notice sent on October 28, 2016 with updates at Planning & Zoning Commission on November 8; City Council on November 15; and Neighborhood Commission November 16;
Personal notice sent and signs posted on June 16 for the Public Hearing to be held on June 27, 2017.

Response: At the P&Z meeting on November 8, 2016.
There have been no written questions or comments as of the date of this report.

Subject Property:
Location: Southwest corner of the intersection of Yarrington Road and Harris Hill Road.

Legal Description: 99.8 Acre tract out of the Joel Minor Survey.

Current Zoning: No Zoning; ETJ

Proposed Zoning: PDD with a Heavy Commercial Base Zoning

Current Preferred Scenario Designation: Area of Stability

Proposed Preferred Scenario Designation: Employment Center

Surrounding Area:

<table>
<thead>
<tr>
<th>Surrounded by</th>
<th>Zoning</th>
<th>Existing Land Use</th>
<th>Preferred Scenario</th>
</tr>
</thead>
<tbody>
<tr>
<td>N of Property</td>
<td>ETJ</td>
<td>Agricultural</td>
<td>Area of Stability</td>
</tr>
<tr>
<td>S of Property</td>
<td>FD</td>
<td>Agricultural</td>
<td>Employment Center</td>
</tr>
<tr>
<td>E of Property</td>
<td>ETJ</td>
<td>Agricultural</td>
<td>Area of Stability</td>
</tr>
<tr>
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<td>FD</td>
<td>Agricultural</td>
<td>Employment Center</td>
</tr>
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Preferred Scenario Amendments, Generally:
With the adoption of Vision San Marcos, the City’s comprehensive plan, the Preferred Scenario Map replaced the City’s Future Land Use Map, and the process for requesting changes to the Map was amended. In order for a property to develop, the appropriate zoning must be in place. If a zoning change is necessary, the underlying designation on the Preferred Scenario (Area of Stability, Intensity Zone, or Employment Area) must support the proposed zoning. This determination is made by using the Preferred Scenario Map and Land Use Intensity Matrix from Vision San Marcos, as well as the Zoning Translation Table in the Land Development Code. If the proposed zoning is not permitted based on the Preferred Scenario and Intensity Matrix designation, an applicant may request an amendment to the Preferred Scenario.

The Comprehensive Plan recommends that amendments to the Preferred Scenario Map only be considered twice per year, and this language was adopted as part of the City’s Land Development Code. Preferred Scenario Amendment requests should be carefully examined using the tools provided in Vision San Marcos.

Property Description & Current Conditions:
The subject property is approximately 99.8 acres southwest of the intersection of Yarrington Road and Harris Hill Road and is located outside the City Limits. The property is also located within the Whisper Public Improvement District (PID), approved in September of 2014, which consists of a total of approximately 700 acres south of Yarrington Road extending from IH-35 to Harris Hill Road.

All of the property within the Whisper PID, with exception of the subject property, is within the City Limits, zoned FD, Future Development and is identified on the Preferred Scenario Map as Employment Center. The subject property is outside the City Limits and designated as a Low Intensity/Area of Stability.

The approved Whisper PID agreement contains a concept plan indicating future land uses for the entire project area. The subject property is generally proposed for Industrial and Heavy Commercial uses, but also includes residential uses.

Given that the site is larger than 20 acres, it is considered “New Development” on the Land Use Intensity Matrix. As indicated on the Matrix, a range of residential uses and limited commercial uses are preferred for new development within a Low Intensity/Area of Stability. Also attached is the Zoning Translation Table from the Land Development Code. According to the table, the subject property is currently classified as “LS-ND,” which indicates potential zoning districts for the property consisting of lower intensity residential and commercial zoning districts. Industrial and Heavy Commercial zoning districts are not permitted within areas classified as “LS-ND.”

The applicant is requesting to amend the Preferred Scenario Map and change the subject property from Low Intensity/Area of Stability to Employment Center in order to implement the land use plan approved with the PID and commence development on the property.

The applicant is also requesting concurrent annexation of the subject property, as well as a future zoning classification of Planned Development District (PDD) for the entire PID project area.
**Vision San Marcos Plan Elements:**

**Economic Development (ED)**

The ED chapter of *Vision San Marcos* looks specifically at the strategies of the Core 4 Collaboration moving forward. The three collaborative actions identified by the Core 4 are 1) Preparing the 21st Century Workforce, 2) Competitive Infrastructure and Entrepreneurial Regulation and 3) Creating the Community of Choice. Staff analyzed this request based on the three action items to determine if the request supports, contradicts or is neutral toward the actions and provides the following table of the analysis:

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<td></td>
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<td>Applicant indicates that proposed project will extend infrastructure &amp; provide opportunities for business.</td>
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<td></td>
</tr>
<tr>
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<td>Provides / Encourages safe &amp; stable neighborhoods, quality schools, fair wage jobs, community amenities, distinctive identity</td>
<td>Applicant indicates that proposed project will provide opportunities for jobs and services.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Environment & Resource Protection (ERP)**

The ERP chapter of *Vision San Marcos* provides useful analysis tools. The Land Use Suitability Map considers the constraints as listed in the table below in its creation to determine what areas are most suitable for development. The water quality model provides a watershed-level analysis of the impacts of adding impervious cover for developments.

| ENVIRONMENT & RESOURCE PROTECTION – Land Use Suitability & Development Constraints |
|-----------------------------------------------|-----------------------------------------------|-----------------------------------------------|
| Level of Overall Constraint                  | 1 (least)                                    | 2 (moderate)                                 | 3 (most)                                     | 4                                             | 5                                             |
| Constraint by Class                          |                                               |                                               |                                               |                                               |                                               |
| Cultural                                      | X                                             |                                               |                                               |                                               |                                               |
| Edwards Aquifer                               | X                                             |                                               |                                               |                                               |                                               |
| Endangered Species                            | X                                             |                                               |                                               |                                               |                                               |
| Floodplains                                   | X                                             |                                               |                                               |                                               |                                               |
| Geological                                    | X                                             |                                               |                                               |                                               |                                               |
| Slope                                         | X                                             |                                               |                                               |                                               |                                               |
| Soils                                         | X                                             |                                               |                                               |                                               |                                               |
| Vegetation                                    | X                                             |                                               |                                               |                                               |                                               |
| Watersheds                                    | X                                             | X                                             |                                               | X                                             |                                               |
| Water Quality Zone                            | X                                             |                                               |                                               |                                               |                                               |
ENVIRONMENT & RESOURCE PROTECTION – Water Quality Model Results

Located in Subwatershed: Plum Creek Watershed

<table>
<thead>
<tr>
<th>Modeled Impervious Cover Increase Anticipated for watershed</th>
<th>0-25%</th>
<th>25-50%</th>
<th>50-75%</th>
<th>75-100%</th>
<th>100%+</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes: The Plum Creek Watershed did not account for an increase in impervious cover and was not studied in depth as part of the Comprehensive Plan.

Land Use (LU)

The LU chapter of Vision San Marcos focuses on the Preferred Scenario Map. This site is located in an Area of Stability. A map is attached which shows a detailed view of the preferred scenario zones within and surrounding this property.

<table>
<thead>
<tr>
<th>Does the request meet the intent of the Preferred Scenario Map and the Land Use Intensity Matrix?</th>
<th>YES</th>
<th>NO (map amendment required)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
<td>Employment Center</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Approximately 100 acres are within an Area of Stability PSA-16-02</td>
</tr>
</tbody>
</table>

Neighborhoods & Housing (NH)

The NH chapter of Vision San Marcos focuses on the Neighborhood Character Studies which will be conducted alongside the Code SMTX project, the update to the Land Development Code. The site is not located within a neighborhood but is located in the Northern Neighborhood Character Study Area. The Neighborhood Character Study process would allow citizens the opportunity to tell staff what they would like to see developed in this area. The Neighborhood Character Plans do not currently exist and will be drafted after the adoption of Code SMTX.

Parks, Public Spaces & Facilities (PPSF)

The PPSF chapter of Vision San Marcos discusses the City’s recreational facilities as well as the water, wastewater and other public infrastructure. The table below is an analysis of the facilities in the area. Wastewater and water service is available in the area and both are indicated as low maintenance areas. In addition, Blanco Shoals Park is located within ¼ mile of the property.

<table>
<thead>
<tr>
<th>PARKS, PUBLIC SPACES AND FACILITIES –Availability of parks and infrastructure</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Will Parks and / or Open Space be Provided?</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Will Trails and / or Green Space Connections be Provided?</td>
<td>X</td>
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</tr>
<tr>
<td>Commercial / Industrial development does not require parkland dedication.</td>
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</table>

Maintenance / Repair Density

<table>
<thead>
<tr>
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<th>Low (maintenance)</th>
<th>Medium</th>
<th>High (maintenance)</th>
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<tbody>
<tr>
<td>Wastewater Infrastructure</td>
<td>X</td>
<td></td>
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</tr>
<tr>
<td>Water Infrastructure</td>
<td>X</td>
<td></td>
<td></td>
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</table>

Public Facility Availability

<table>
<thead>
<tr>
<th>Public Facility Availability</th>
<th>YES</th>
<th>NO</th>
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</thead>
<tbody>
<tr>
<td>Parks / Open Space within ¼ mile (walking distance)?</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Wastewater service available?</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Water service available?</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

Water and wastewater infrastructure will be provided as the property develops.
Transportation

A Travel Demand Model (TDM) was created to analyze the traffic impacts of growth in San Marcos. The table below is a summary of the TDM results and other transportation modes surrounding the site. The TDM analyzes the overall transportation network of the existing network and the Preferred Scenario. It is not a measure of the impact of this particular change. The results of the TDM indicate that improvements may be required.

**TRANSPORTATION – Level of Service (LOS), Access to sidewalks, bicycle lanes and public transportation**

<table>
<thead>
<tr>
<th></th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>F</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Existing Daily LOS</strong></td>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Yarrington Road</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Harris Hill Road</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Existing Peak LOS</strong></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yarrington Road</td>
<td></td>
<td></td>
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<td>Harris Hill Road</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Preferred Scenario Daily LOS</strong></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yarrington Road</td>
<td></td>
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<tr>
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<td>X</td>
<td></td>
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<td>Yarrington Road</td>
<td></td>
<td></td>
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<td>Harris Hill Road</td>
<td></td>
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</tbody>
</table>

The travel demand model used for this analysis was completed in 2012. Updated data will be available with the adoption of the Transportation Master Plan.

<table>
<thead>
<tr>
<th>Sidewalk Availability (Required to build.)</th>
<th>N/A</th>
<th>Good</th>
<th>Fair</th>
<th>Poor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sidewalks will be required along all frontages.</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Notes:** This site is not adjacent to bicycle routes or public transportation. However, the cross sections proposed in the PDD typically require bicycle facilities or wider sidewalks.

**Staff Analysis:**

**Planning Department Analysis**

This Preferred Scenario Amendment was requested during the Fall 2016 cycle. The request was postponed by staff in order to negotiate the standards within the Planned Development District and bring the two cases forward for consideration at the same meeting.

The proposed change to the Preferred Scenario Map is consistent with the PID approved by City Council in 2014 and is consistent with surrounding properties. The request also meets the intent of Vision San Marcos.

The **Vision San Marcos Comprehensive Plan** provides the following descriptions of an Employment Center:

- New development such as large scale industrial, manufacturing, office park and intense commercial uses are appropriate in employment centers.
- Businesses that provide long-term sustainable employment opportunities should be encouraged in the employment centers. Typically these uses are located on large sites with access to road and rail transportation and have access to city services such as water, sewer, and electricity.
- Specialized uses such as industry, large office parks, retail malls and commercial recreation will be recommended for the potential employment centers in the preferred scenario.
- The Preferred Scenario is a recommendation from the public, adopted by City Council which supports development in the intensity zones and guides future economic development decisions supporting industrial, office park, and commercial uses in the employment centers.
Recommendations & Options for Action:

Based on the analysis provided in this report, staff recommends approval of the request to change from an Area of Stability to an Employment Center.

Options for the Commission include:
- Approval of the request as submitted
- Alternative recommendation
- Denial of the request

<table>
<thead>
<tr>
<th>Planning Department Recommendation:</th>
</tr>
</thead>
<tbody>
<tr>
<td>☒ Approve as submitted</td>
</tr>
<tr>
<td>☐ Alternative</td>
</tr>
<tr>
<td>☐ Denial</td>
</tr>
</tbody>
</table>

The Commission's Responsibility:

The Code requires the Commission to hold a public hearing and receive public comment regarding the proposed Preferred Scenario Amendment. The Commission’s advisory recommendation to the Council is a discretionary decision. The City Council will ultimately decide whether to approve or deny this request, and will do so through the passage of an ordinance.

After considering the public input, your recommendation should consider whether the amendment is consistent with the following policies of the Comprehensive Plan as stated in section 1.4.1.5 of the Land Development Code:

- Is the request in an area suitable for development as shown on the Land Use Suitability Map and if not what development constraints exist;
- Is the request consistent with the Neighborhood Character Study for the area;
- Is the request near existing parks and public utilities; and,
- Based on the Travel Demand Model, is the request in an area with sufficient roadway capacity.

Prepared by:

Amanda Hernandez, AICP, CNU-a  Development Services Manager  June 21, 2017

Name  Title  Date
**Economic Development (ED)**

The ED chapter of *Vision San Marcos* looks specifically at the strategies of the Core 4 Collaboration moving forward. The three collaborative actions identified by the Core 4 are 1) Preparing the 21st Century Workforce, 2) Competitive Infrastructure and Entrepreneurial Regulation and 3) Creating the Community of Choice. Staff analyzed this request based on the three action items to determine if the request supports, contradicts, or is neutral toward the actions and provides the following table of the analysis:

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<th>4</th>
<th>5 (most)</th>
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<tbody>
<tr>
<td>Constraint by Class</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cultural</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Edwards Aquifer</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Endangered Species</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Floodplains</td>
<td>X</td>
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</table>

### ENVIRONMENT & RESOURCE PROTECTION – Water Quality Model Results

Located in Subwatershed: Plum Creek

<table>
<thead>
<tr>
<th>Modeled Impervious Cover Increase Anticipated for watershed</th>
<th>0-25%</th>
<th>25-50%</th>
<th>50-75%</th>
<th>75-100%</th>
<th>100%+</th>
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<tr>
<td>X</td>
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</table>

Notes: The Plum Creek Watershed did not account for an increase in impervious cover and was not studied in depth as part of the Comprehensive Plan.

Land Use (LU)

The LU chapter of Vision San Marcos focuses on the Preferred Scenario Map. This site is located in an Employment Center and Area of Stability. A Preferred Scenario Amendment is necessary for approximately 100 acres of the development.

<table>
<thead>
<tr>
<th>Does the request meet the intent of the Preferred Scenario Map and the Land Use Intensity Matrix?</th>
<th>YES</th>
<th>NO (map amendment required)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment Center</td>
<td>X</td>
<td>Approximately 100 acres are within an Area of Stability PSA-16-02</td>
</tr>
</tbody>
</table>

Neighborhoods & Housing (NH)

The NH chapter of Vision San Marcos focuses on the Neighborhood Character Studies which are to be conducted after the adoption of Code SMTX, the update to the Land Development Code.
Parks, Public Spaces & Facilities (PPSF)

The PPSF chapter of Vision San Marcos discusses the City's recreational facilities as well as the water, wastewater and other public infrastructure. The table below is an analysis of existing facilities in the area.

PARKS, PUBLIC SPACES AND FACILITIES – Availability of parks and infrastructure

<table>
<thead>
<tr>
<th>Will Parks and / or Open Space be Provided?</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Will Trails and / or Green Space Connections be Provided?</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Commercial / Industrial development does not require parkland dedication</td>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Maintenance / Repair Density</th>
<th>Low (maintenance)</th>
<th>Medium</th>
<th>High (maintenance)</th>
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<tbody>
<tr>
<td>Wastewater Infrastructure</td>
<td>X</td>
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<td>Water Infrastructure</td>
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</table>

Public Facility Availability

<table>
<thead>
<tr>
<th>Parks / Open Space within ¼ mile (walking distance)?</th>
<th>YES</th>
<th>NO</th>
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</thead>
<tbody>
<tr>
<td>Wastewater service available?</td>
<td>X</td>
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<tr>
<td>Water service available?</td>
<td>X</td>
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</table>

Water and wastewater infrastructure will be provided as the property develops.

Transportation

A Travel Demand Model (TDM) was created to analyze the traffic impacts of growth in San Marcos. The table below is a summary of the TDM results and other transportation modes surrounding the site. The TDM analyzes the overall transportation network of the existing network and the Preferred Scenario. It is not a measure of the impact of this particular change. The results of the TDM indicate that improvements may be required.

TRANSPORTATION – Level of Service (LOS), Access to sidewalks, bicycle lanes and public transportation

<table>
<thead>
<tr>
<th>Existing Daily LOS</th>
<th>Yarrington Road</th>
<th>Harris Hill Road</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>F</th>
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<tr>
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<tr>
<td>Existing Peak LOS</td>
<td>Yarrington Road</td>
<td>Harris Hill Road</td>
<td>X</td>
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<td></td>
</tr>
<tr>
<td>Preferred Scenario Daily LOS</td>
<td>Yarrington Road</td>
<td>Harris Hill Road</td>
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<td>X</td>
<td>X</td>
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<tr>
<td>Preferred Scenario Peak LOS</td>
<td>Yarrington Road</td>
<td>Harris Hill Road</td>
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</table>

The travel demand model used for this analysis was completed in 2012. Updated data will be available with the adoption of the Transportation Master Plan.

Sidewalk Availability (Required to build.)

<table>
<thead>
<tr>
<th>Sidewalks will be required along all frontages.</th>
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<tbody>
<tr>
<td>N/A Good Fair Poor</td>
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<td>X</td>
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</table>

Adjacent to existing bicycle lane?

<table>
<thead>
<tr>
<th>Adjacent to existing public transportation route?</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES</td>
</tr>
</tbody>
</table>

| X |

Notes: This site is not adjacent to bicycle routes or public transportation. However, the cross sections proposed in the PDD typically require bicycle facilities or wider sidewalks.
### Land Development Code Zoning Classifications | Vision San Marcos Comprehensive Plan Intensity Zone / Development Pairs

**TRANSLATION TABLE**

<table>
<thead>
<tr>
<th>Zoning Abbreviation</th>
<th>LS-PC</th>
<th>LS-RI</th>
<th>LS-ND</th>
<th>M-PC</th>
<th>M-RI</th>
<th>M-ND</th>
<th>H-PC</th>
<th>H-RI</th>
<th>H-ND</th>
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*OA is generally intended where shown on the Preferred Scenario Map

**Legend:**
- **LS** - Low Intensity and Areas of Stability
- **M** - Medium Intensity
- **H** - High Intensity
- **PC** - Neighborhood Area Protection /Conservation
- **RI** - Redevelopment / Infill
- **ND** - New Development
- **EC** - Employment Center
- **OA** - Open Space / Agricultural

*Current Condition* | *Requested Change*
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.
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PSA-16-02
Whisper—Existing Zoning
Map Date: 6/9/2017

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This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.
PSA-16-02 Whisper—TDM Existing Daily Map Date: 6/9/2017

TDM data update anticipated
Current model based on 2013 data

Travel Demand Model

<table>
<thead>
<tr>
<th>LOS A</th>
<th>LOS B</th>
<th>LOS C</th>
<th>LOS D</th>
<th>LOS F</th>
</tr>
</thead>
</table>

Site Location

PSA-16-02 Site

Parcels

City Limit

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PSA-16-02 Whisper—TDM Existing Peak
Map Date: 6/9/2017

TDM data update anticipated
Current model based on 2013 data

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.
PSA-16-02 Whisper—TDM Preferred Daily Map Date: 6/9/2017

TDM data update anticipated
Current model based on 2013 data

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.
Traffic Demand Model

- LOS A
- LOS B
- LOS C
- LOS D
- LOS F

Site Location

PSA-16-02 Site

Parcels

City Limit

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AGENDA CAPTION:
Consider approval of Resolution 2017-113R, adopting a Governance Policy that establishes a code of conduct and protocols for Council and City Staff interactions and communications; and declaring an effective date.

Meeting date: July 18, 2017

Department: City Manager’s Office

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL:

COMPREHENSIVE PLAN ELEMENT(s):

BACKGROUND:
The City Council held a special meeting on May 15, 2017 to draft a governance policy. The attached document is the result of the work that they completed and the direction that was provided to Staff during that meeting.
RESOLUTION NO. 2017-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS ADOPTING A GOVERNANCE POLICY THAT ESTABLISHES A CODE OF CONDUCT AND PROTOCOLS FOR COUNCIL AND CITY STAFF INTERACTIONS AND COMMUNICATIONS; AND DECLARING AN EFFECTIVE DATE.

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

PART 1. The city council hereby approves a governance policy consisting of the Code of Conduct and Operating Guidelines attached to this resolution as Exhibit “A.”

PART 2. This Resolution shall be in full force and effect immediately from and after its passage.

ADOPTED on July 18, 2017.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
City of San Marcos Mayor and City Council House Rules: Code of Conduct

1. Treat Everyone with Respect, No Personal Attacks on City Staff or Each Other.

2. Address the Present Issue and Let Each Item Stand On Its Own.

3. Be Brief and Concise, Focus Comments for Item under Consideration.

4. Focus on Governing (Policy Making), Not Administration.

5. Support the Validity and Integrity of the Process Even When You Disagree with the Outcome.

6. Listen before Judging or Taking Action; do not Pre-Judge the Motives of your Fellow Council Members.

7. Wait for Recognition from the Mayor before Speaking.

8. Agree to Disagree, No Need to Over-Talk an Issue


10. No Surprises – Share All Information Equally with Each Other and Staff.

11. All Communications will be directed to the City Manager and/or Assistant City Managers.

12. The City Manager and the Mayor set Meeting Agendas. Two Council Members or the Mayor may place items on for discussion. The City Manager may place items on for action.

13. Questions on Agenda Items should be provided to City Manager prior to the meeting so responses can be provided in a timely manner.

14. Questions from the Dais should be directed to the City Manager.

15. The City Manager will provide both, alternatives and possible unintended consequences, on Items.

16. Enforce All the Rules.
Mayor and City Council Protocol
Operating Guidelines

Protocol 1: Simple Information (Easily Available)
Contact: City Manager, Assistant City Manager
Method: Use Email or Phone
Guideline: Give Clear Expectations
Outline Information Desired
State Your Timeframe

Protocol 2: Research a Topic
Contact: City Manager, Assistant City Manager
Guideline: Future Council Agenda Item for Direction to City Mgr.

Protocol 3: Citizen Service Request
A. First Contact
Advise City Manager of the Request
Council Member Notified of City’s Action
Inform Citizen the Request has been forwarded
Information on the Response Goes to All Council
B. Unsatisfactory Contact
Contact City Manager
Information: Contact with Background on Issue
If You Know the Answer, Inform the Citizen

Protocol 4: Council Meeting Agenda
Contact: City Manager, Assistant City Manager
Method: Email or Phone
Guideline: Questions on Agenda Items should be provided to
City Manager prior to the meeting so responses can be
provided in a timely manner.
Result: City Manager or designee will share questions and
answers with Council.
For Discussion Items to be placed on the Agenda it
requires two Council Members or the Mayor.
### Protocol 5: Council Policy Initiative

**Contact:** Contact the Mayor and City Manager for Discussion

### Protocol 6: Communications: Council and Staff

- Communications from City Staff goes to Mayor and all Council Members through City Manager’s Office
- Communications from Mayor and Council to Staff goes to City Manager and not directly to Staff

### Protocol 7: Employee Contact

<table>
<thead>
<tr>
<th>A. Employee Initiated</th>
<th>Send to City Manager</th>
</tr>
</thead>
<tbody>
<tr>
<td>B. Council Initiated</td>
<td>Beware of Legal Violations (State Law)</td>
</tr>
</tbody>
</table>

### Protocol 8: Emails

- If you Respond, Advise City Manager
- If Directed to Mayor & Council, the Mayor will Respond “on behalf of” Mayor & Council
- Each Individual has their Choice on:
  - Whether or Not to Respond
  - Method of the Response

### Protocol 9: Information Contacts vs. Negotiating

- Vendor
- Developer
- Board/Commission
  - Listen
  - Avoid Response
AGENDA CAPTION:
Consider the Public Hearing Dates proposed by Staff regarding the 2017 Property Tax Rate and Fiscal Year 2017-2018 Budget, and provide direction to Staff.

Meeting date: July 18, 2017

Department: Finance, Heather Hurlbert, Finance Director

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL: Sound Finances

BACKGROUND:

Attached is the Fiscal Year 2017-2018 Budget and Tax Rate Calendar prepared by Staff. The first public hearing on the tax rate is proposed for September 5th, the second public hearing on September 15th which is a packet meeting with adoption on September 19th. The public hearing on the budget and any proposed utility rate increases will also be on September 2nd with adoption on September 19th.
### FY 2018 Budget Calendar

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 27</td>
<td>Budget Policy Workshop</td>
</tr>
<tr>
<td>April 12</td>
<td>Departmental Budget Kickoff</td>
</tr>
<tr>
<td>April 15</td>
<td>Estimate of taxable value due</td>
</tr>
<tr>
<td>April 18</td>
<td>Public hearing and adoption of Budget Policy</td>
</tr>
<tr>
<td>May 12</td>
<td>Completed Departmental Budgets Due to Finance</td>
</tr>
<tr>
<td>May 15 – May 31</td>
<td>Department Budget Review Meetings with Finance</td>
</tr>
<tr>
<td>June</td>
<td>Budget Reviewed by City Manager</td>
</tr>
<tr>
<td>July 24</td>
<td>1&lt;sup&gt;st&lt;/sup&gt; Budget review workshop</td>
</tr>
<tr>
<td>July 26</td>
<td>2&lt;sup&gt;nd&lt;/sup&gt; Budget review workshop</td>
</tr>
<tr>
<td>July 18</td>
<td>Set Public Hearing Dates for the budget and tax rate</td>
</tr>
<tr>
<td>July 25</td>
<td>Tax Rolls Certified</td>
</tr>
<tr>
<td>July 31</td>
<td>Proposed Budget Filed with City Clerk and Council</td>
</tr>
<tr>
<td>August 6&lt;sup&gt;th&lt;/sup&gt;</td>
<td>Publish notice for the Budget Public Hearing</td>
</tr>
<tr>
<td>August 15</td>
<td>Record vote to set the proposed maximum tax rate above effective rate; Potential agenda items to discuss any outstanding budget items from workshops.</td>
</tr>
<tr>
<td>August 20</td>
<td>Publish notice of effective tax rate to include the dates of two public hearings and explanation of how the increase will be used no sooner than 30 days before the hearing and later than 10 days. This notice must remain on the City's television channel until the tax rate is adopted.</td>
</tr>
<tr>
<td>September 5</td>
<td>First public hearing on the tax rate; Budget public hearing; 1st reading of utility rates, budget and tax rate ordinances.</td>
</tr>
<tr>
<td>September 15</td>
<td>Second public hearing on tax rate (Packet Meeting)</td>
</tr>
<tr>
<td>September 19</td>
<td>2nd Reading of Utility Rates ordinance; record vote to adopt budget on second reading; ratification of the tax rate reflected in the budget; Tax Rate adoption on second reading (requires an affirmative vote of five if tax rate is increasing).</td>
</tr>
</tbody>
</table>
AGENDA CAPTION:
Discuss proposed amendments to the San Marcos City Charter; and provide direction to Staff.
Meeting date: July 5, 2017

Department: City Attorney’s Office

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL:

COMPREHENSIVE PLAN ELEMENT(s): N/A

BACKGROUND:
The 2017 Charter Review Commission held a series of eleven meetings to consider possible amendments to the San Marcos City Charter. The Commission concluded its work on May 25, 2017 and approved the attached report. The report contains a list of recommended charter amendments with a purpose statement for each recommendation and a redline copy of the charter showing the text of each amendment. The minutes of the Commission’s meetings are also included in the report.

Council received a presentation from the Commission on June 6, 2017. Council discussed proposed charter amendments and provided direction to staff at its regular meetings on June 6th and June 20th regarding propositions to be included in an ordinance calling a special charter amendment election in November of 2017.

This is a continuation of discussion on the proposed amendments. The attached Cumulative List of Proposed Charter Amendments and redlined copy of the charter have been revised to reflect the direction given by council at its two prior meetings.
May 25, 2017

Mayor Thomaides and City Council Members:

The 2017 Charter Review Commission held a series of 11 meetings to consider possible amendments to the San Marcos City Charter. The Commission conducted a section-by-section review and also considered provisions recommended by individual council members. We have concluded our work, and we present this report to you with recommendations for amendments to the City Charter to be submitted to City voters for consideration at the November 7, 2017 election.

We studied the charter with the following purposes in mind:

- To keep the charter current with state law – no changes were needed
- To update terminology, clarify language, improve syntax and punctuation
- To create added efficiency and transparency
- To maintain and allow for consistency in policy
- To encourage broader participation of the citizenry
- To promote integrity in public service and ethics in city government

Attached is a list describing each proposed amendment, with a purpose statement, and a redlined copy of the charter showing each text amendment using underlining to indicate language proposed to be added and overstrike indicating language proposed to be deleted. Minutes of our meetings are also attached.

We appreciate the opportunity to serve you and the citizens of our community through the Charter review process.

Respectfully submitted,

Paul Mayhew, Chair
Charter Review Commission
Cumulative List of Recommended City Charter Amendments*

1. Change all references to “municipal government” to “city government.” [Sections 1.01 and 1.02]

   **Purpose:** To provide clarity and consistency throughout the City Charter

2. Amend Section 1.03, Statement of Goals, to provide that the city government should:
   - promote high quality affordable housing
   - include protection of the San Marcos River, its springs, aquifer, and tributaries

   **Purposes:** To explicitly include high-quality affordable housing with the existing enumeration of the characteristic of a high quality of life already included in the City Charter. To emphasize the particular importance of protecting the city’s treasured natural features.

3. Allow the address shown on a person’s Texas Identification card to be used, in addition to a current driver’s license, as proof of residence for purposes of qualifying to run for and hold office on the city council. [Section 3.02(a)(2)(A)]

   **Purpose:** To allow additional state documents to be used and accepted as proof of residence to qualify for public elections

4. Amend Section 3.02(a)(6) to require Council members to remain current on all financial obligations to the city in order to continue to hold office. Under the current city charter, only financial obligations arising from the duties of the office are considered. If this amendment is approved, having delinquent city utility accounts or delinquent property taxes would disqualify a council member from continuing to hold office and disqualify an individual with such outstanding debts from filing an application to run for council. See also, Section 5.03 – Filing For Office.

   **Purpose:** To elect council members with sufficient personal financial management skills and avoid possible conflicts of interest due to outstanding city debts

5. Change all references to the position of “mayor pro tempore” to “mayor pro tem.” [Section 3.05]

   **Purpose:** To provide clarity and consistency throughout the City Charter

6. Change all references to the position of “city secretary” to “city clerk” [Sections 3.09 and 6.02]

   **Purpose:** To provide clarity and consistency throughout the City Charter
7. Require the city attorney to approve or file written objections to proposed ordinances prior to consideration by the city council. [Section 3.11(b)]

**Purpose:** Clarifies existing language to make sure council receives legal advice regarding the validity of proposed ordinances before consideration and action by council.

8. Correct a reference in the first sentence of Section 3.12 from “chapter” to “charte”

**Purpose:** To provide clarity and consistency throughout the City Charter.

9. Require the affirmative vote of at least five members of the city council to remove the city manager. [Section 4.01(b)]

**Purpose:** This provision strengthens the operation of San Marcos as a "council-manager government" as defined in the City Charter by insulating the City Manager from political pressures from the council.

10. Allow the city clerk to authenticate ordinances and resolutions by electronic signature. [Section 4.02]

**Purpose:** Allows for efficient and modern operation of city government.

11. Clarify that names of candidates can be listed electronically on the ballot instead of being printed as they would be on paper ballots. [Section 5.04]

**Purpose:** Allows for efficient and modern operation of city elections.

12. Amendments to Section 7.01 – Planning and Zoning Commission – Qualifications:

- Remove all remaining references to the ETJ member

**Purpose:** The ETJ position was removed from the City Charter by voters effective March 15, 2015. The removal of out-of-date ETJ language from section 7.01 makes it easier to understand how current membership in the P&Z commission is determined.

- Eliminate property ownership as a requirement to serve on the P&Z.
- Increase residency requirement from three years to five years to serve on P & Z

**Purpose:** To encourage civic participation and expand the pool of San Marcos citizens eligible for appointment to this public commission, including long-term local residents impacted by decisions made by P&Z, and encourages participation by members with knowledge of the community.

- Prohibit the appointment of more than two professional realtors to the P & Z
Purpose: The Charter presently instructs City Council to appoint a diverse set of P&Z commissioners “which includes geographic, professional, gender, racial, and viewpoint diversity. (Section 7.01)” This provision ensures that a broad range of professions are represented on Planning and Zoning.

13. Amendments to Section 7.02 – Planning and Zoning Commission – Powers and Duties:
- Require the planning staff to follow all city ordinances rules and regulations and consult with the city attorney before making any recommendations to the Planning and Zoning Commission
- Require the Planning and Zoning Commission to follow all city ordinances, rules, and regulations before making any recommendations to the city council

Purpose: This provision makes current city practice a City Charter requirement.

- Require city council decisions on conditional use permit appeals to be based on Texas laws, Federal laws, city ordinances and regulations in addition to the record before the Planning and Zoning Commission

Purpose: This provision allows the City Council to consider all relevant laws and regulations in its public hearings related to conditional use permits.

- Prohibit the assessment of a fee to appeal a decision on conditional use permit to the city council

Purpose: This provision provides citizens of San Marcos free access to their elected officials related to public matters.

14. Require the proposed city budget to be made available at city hall, at the San Marcos Public Library, and on the city’s website. Require the adopted budget and supporting schedules to be published on the city’s website. [Sections 8.02 and 8.05]

Purpose: Promote transparency and public awareness of city government

15. Require proposed ordinances granting a public utility franchise to be made available at the San Marcos Public Library, at city hall, and on the city’s website. [Section 11.04]

Purpose: Promote transparency and public awareness of city government

16. Require updates to annual financial disclosure forms by council members, council appointees, and board and commission members within 30 days of any significant changes. [Section 12.02(a)(2)]

Purpose: Public officials are currently required to file financial disclosure forms every 12 months. This provision assures San Marcos citizens on-going accuracy and transparency regarding public official’s financial disclosures if there is a significant change within that one-year timeframe.
17. Prohibit council members and employees from having a financial interest in the purchase from the city of any land, materials, supplies, or service. [Section 12.02(a)(3)]

**Purpose:** To avoid conflicts of interest and ensure public trust, the City Charter already prohibits current council members and city employees from financial benefit in the *sale* of any land, materials, supplies, or service. This provision increases protection by prohibiting this potential conflict to financial interest the *purchase* of land, materials, supplies, or service as well.

18. Prohibit council members from having a financial interest in the sale to the city of any land, materials, supplies, or service for a period of two years from the date of leaving office; rendering contracts entered into in violation of this provision voidable by city manager or city council. [Section 12.02; add a new subsection (a)(4)]

**Purpose:** Public office is meant for the public good and not for personal enrichment. Currently, only active council members are prevented from having a financial interest in city deals. In contrast, currently both active city employees (Section 12.02) and former employees within two years of employment (San Marcos Ethics Ordinance) are prevented from having a financial interest in city deals. This provision amends the charter to apply the same prohibition to council members for period of two years after leaving office.

19. Correct punctuation errors - Insert a comma, known as the Oxford comma or serial comma, immediately before the coordinating conjunction (usually “and” or “or”) in a series of three or more items – in each instance where this occurs in the city charter

**Purpose:** To provide clarity and consistency throughout the City Charter

20. Amend the powers of the Ethics Review Commission; granting the authority to conduct hearings regarding alleged violations of the city charter, render advisory opinions regarding potential violations of the city charter, and make recommendations regarding such violations. [Section 12.02(c), subparagraphs (2),(3), and (4)]

**Purpose:** This amendment makes clear the importance of public officials to follow the City Charter in addition to existing State conflict of interest laws and the San Marcos Code of Ethics ordinances and provides a process for accepting and hearing complaints regarding charter violations.

21. Amendments to Section 12.03, Nepotism:

- Rename this section to read: “12.03 Nepotism and Conflict of Interest”
- Rephrase the sentence structure of the current provision to make it less cumbersome and to provide greater clarity
- Prohibit direct supervision of an employee by his/her relative, roommate, or sexual partner
• Require supervisors to report relationships with subordinates promptly to the Human Resources Department
• Defining "relative" to include persons related within the third degree by blood or within the second degree by affinity (marriage, including common law marriage)
• Prohibit a "public official" from appointing his or her business associate to a "public board or commission"
• Defining "business associate" and "sexual partner"

Purpose: This provision increases public trust in financial interests of public officials and avoids potential conflicts of interests by public officials and city employees.

22. Amendments to Section 8.02, Preparation and submission of budget:
• Add a provision to require the city council to hold a policy budget workshop on or before February 27th of each year
• Require the council to conduct a public hearing and to formulate the budget policy statement by March 31st of each year instead of April 30th
• Re-letter the subsections of this section to follow the sequential steps in the process for formulating the budget policy statement

Purpose: This provision provides citizens and city staff more time to review proposed city budget goals before the adoption of a city budget. It also promote transparency and public awareness of city government

23. Provide for removal of the mayor or a council member from office, upon the affirmative vote of five members of the council, for substantial violations of the city charter [Section 3.17]

Purpose: This provision makes clear the importance of the Mayor and Council Members to follow the City Charter by providing an option for enforcement of the Charter.

24. Require candidates for mayor or city council to take an oath agreeing to comply with the Code of Fair Campaign Practices set forth in Section 258.004 of the Texas Election Code [Section 5.03]

Purpose: The State Election Code provision encourages campaigns that are decent, honest, and fair to encourage healthy competition and open discussion of issues and candidate qualifications and to discourage practices that cloud the issues or unfairly attack opponents. This provision makes it a City Charter requirement that candidates take an oath to comply with the Code of Fair Campaign Practices to help retain the community culture of San Marcos, to encourage citizens to offer themselves for public service without fear of the politics of personal destruction, and to keep local elections issue oriented.

25. Require the salary of each city position to be published on the city’s website [New Section 4.07]
Purpose: Promote financial transparency and public awareness of city government

26. Require all campaign contributions and reports filed by candidates to be legible. The city clerk shall enforce this provision and retain the records.

Purpose: Promote financial transparency and public awareness in public elections via candidate reports that are clearly and readily understood.

*LIST IS COMPLETE THROUGH MAY 3, 2017 AND INCLUDES PURPOSE STATEMENTS FOR EACH PROPOSED AMENDMENT APPROVED AT THE ERC’S FINAL MEETING*
ARTICLE I. - FORM OF GOVERNMENT AND BOUNDARIES

Sec. 1.01. - Establishment and purposes of Charter.

We the people of San Marcos, do ordain and establish this Charter as the foundation of our city municipal government, a home-rule city with the name "City of San Marcos". We further ordain that the City of San Marcos will exist for the purposes enumerated in this Charter, and will have the organizational structure described in this Charter, and will have the powers, duties, limitations, and immunities statec in this Charter.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(1), 8-15-06/11-7-06)

Sec. 1.02. - Form of government.

The city municipal government provided by this Charter shall be known as the "council-manager government". Pursuant to this Charter and subject only to the limitations imposed by the state constitution, the statutes of the state and by this Charter, all powers of the city shall be vested in an elective council, hereinafter referred to as the "council", which shall in an open and transparent manner, enact local legislation, adopt budgets, determine policies and appoint the city manager, who in turn shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this Charter, or if the manner not be prescribed, then in such manner as may be prescribed by ordinance.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2013-44, Prop. 7, 8-20-13/11-5-13 )


Sec. 1.03. - Statement of goals.

The goals of the city government are to safeguard the health, safety and welfare of the city's residents, provide for a high quality of life including, but not limited to, neighborhood integrity, a clean and abundant water supply, a cost-efficient electricity supply, efficient police and fire departments, educational opportunities, effective road and transportation systems, a healthy business environment, well maintained parkland and recreational opportunities, foster intergovernmental liaison and communication, encourage responsible citizenship, promote sound community and economic development, promote high quality affordable housing, conserve and protect the city's natural resources and environment and, in particular the San Marcos River, its springs, aquifer, and tributaries.

(Ord. No. 1998-7, Prop. 1, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(2), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 8, 8-20-13/11-5-13 )

ARTICLE II. - POWERS OF THE CITY[2]

Footnotes:
Sec. 2.01. - General.

The city shall be a home rule city, with full power of local self-government, including the right to amend this Charter, as provided by the constitution and laws of this state. It shall have and may exercise all the powers granted to home rule cities by the constitution or laws of Texas, as they now exist or are hereafter amended.

(Ord. No. 1992-9, Prop. 1, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00)

Sec. 2.02. - Eminent domain.

(a) The city shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the constitution and laws of the State of Texas. The city may exercise the power of eminent domain in any manner authorized or permitted by the constitution and laws of this state, subject to the right of the owner of the property taken. The city shall have and possess the power of eminent domain for any municipal or public purposes, subject to the provisions of this section.

(b) However, the city shall not use the power of eminent domain to acquire property for transfer, or for lease in substantial part, to a private third party for the purpose of economic development. The term "economic development" means any activity to increase tax revenue, tax base, employment, or the general economic health of the City, when that activity does not result in (1) the transfer of land to public ownership, such as for a road, public utility facility, or municipal building; (2) the transfer of land to a private entity that is a common carrier, such as a utility provider; or (3) the transfer of property to a private entity to remove a harmful use of the land, such as the removal of public nuisances, removal of structures that are beyond repair or that are unfit for human habitation or use, or the acquisition or transfer of abandoned property.

(Ord. No. 1998-7, Prop. 2, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(2), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(3), 8-19-08/11-4-08)

Sec. 2.03. - Extension or detachment of boundaries.

The city council shall have power by ordinance to fix the boundary limits of the City of San Marcos and to provide for the alteration and extension of boundary limits, the detachment of territory and the annexation of additional territory, in accordance with applicable state annexation laws.

(Ord. No. 1984-11, Prop. 1, 1-30-84/4-7-84; Ord. No. 1986-4, Prop. 1, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 1, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 1, 5-9-00/5-6-00)

Sec. 2.04. - Limited purpose annexation.
In addition to the power to annex additional territory for all purposes, the city shall have the power, by ordinance, to fix, alter and extend the corporate boundary limits of the city for the limited purposes of "planning and zoning" and "sanitation and health protection," and to annex for one or both of such limited purposes additional territory lying adjacent to the city; provided, however, that no such territory which lies farther than one mile from the corporate boundary limits enclosing the territory which is a part of the city for all purposes, as those corporate boundary limits are now or may hereafter be established, shall be annexed for any limited purpose or purposes. Wherever the boundary limits of territory annexed for one or both of such limited purposes are not coterminous with the corporate boundary limits enclosing the territory which is a part of the city for all purposes, such boundary limits of the limited territory shall be known as "limited purpose boundary limits". Every ordinance by which territory is to be annexed to the city for one or both of such limited purposes shall state clearly the limited purpose or purposes for which it is being annexed, and shall be published one time, in a newspaper of general circulation in the city and in the form in which it is to be finally adopted, not less than 30 days prior to its final passage.

When any additional territory has been annexed for one or both of the limited purposes, it shall be a part of the city for such limited purpose or purposes only. However, in dealing with the property and inhabitants thereof, the city shall have each and every power which it otherwise possesses and which is reasonable and expedient for the accomplishment of the limited purpose or purposes for which such territory is annexed, and the power of the city to deal with the property and inhabitants of such limited purpose territory shall include the powers enumerated in the next two succeeding sentences but shall not be limited or restricted thereto. With regard to territory annexed for the limited purpose of "planning and zoning," the city shall have the power to control and regulate the use of property and the density of structures, to require compliance with reasonable zoning regulations, to control and regulate the subdivision of property, and to control and regulate the construction of buildings. With regard to territory annexed for the limited purpose of "sanitation and health protection," the city shall have the power to adopt all reasonable regulations pertaining to sanitation and public health and to require compliance with such regulations. Every inhabitant of territory annexed for one or both of the limited purposes, who is otherwise qualified, shall be entitled to vote in city elections on every issue where the question is the election or recall of the mayor or a city council member or the amendment of this Charter, and every such inhabitant shall be deemed to be a citizen of the city in connection with any ordinance, regulation or action which is, or is alleged to be, applicable to him or his property because of such limited purpose annexation, but will not be eligible to run for any office in the City of San Marcos. The city shall have no power to levy any tax for municipal purposes on either the property or the inhabitants of territory annexed for limited purpose or purposes, and no funds of the city shall be spent in such territory except where reasonable and expedient for the accomplishment of the limited purpose or purposes for which the territory is annexed; but the city may collect reasonable charges from property owners and inhabitants of such territory for services rendered by the city in the accomplishment of the limited purpose or purposes for which the territory is annexed.

(Ord. No. 1984-11, Prop. 2, 1-30-84/4-7-84; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 1, 5-9-00/5-6-00)

State Law reference—Annexations for limited purposes, V.T.C.A., Local Government Code, § 43.121 et seq.

ARTICLE III. - THE CITY COUNCIL

Sec. 3.01. - Number, selection and term.
(a) The legislative and governing body of the city shall consist of seven council members and shall be known as the "City Council of San Marcos".

(b) The members of the city council shall be elected from the city at large, and each council member shall be elected to occupy a place on the council, such places being numbered and designated 1, 2, 3, 4, 5, 6 and mayor.

(c) Each council member for places 1, 2, 3, 4, 5 and 6 shall hold office for a period of three years, staggered so that two members shall be elected to a regular term each year. The council member elected to the place of mayor shall hold office for a period of two years.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Res. No. 1979-2R, Prop. 1, 1-8-79/4-7-79; Ord. No. 1984-11, Prop. 3, 1-30-84/4-7-84; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-44, § 1, 8-9-04)

Sec. 3.02. - Qualifications.

(a) Each member of the city council, in addition to having other qualifications prescribed by law:

1. Shall be a qualified voter of the city;

2. Shall have had his or her principal physical residence for at least one year preceding the election within the corporate limits of San Marcos and shall maintain his or her principal physical residence within the corporate limits of San Marcos throughout his or her term of office; for purposes of this subsection, a person must meet all of the following to meet the requirement for a "principal physical residence" in the city:

   A) The person must use the residence address for voter registration, and current driver's license or Texas identification card purposes;

   B) The person must use the residence address as the person's home address on documents such as employment records, resumes, business cards, government forms and loan applications;

   C) The person must not claim a homestead exemption on any property other than the residence;

3. Shall not hold any other office or employment under the city government while a member of the council, except a member of the city council may be appointed by the city council to represent the council on any board, commission, committee, organization or entity in the council's sole discretion so long as that person's service does not extend beyond the person's council term;

4. Shall not be an officer or director of any public service company within the city, or outside the city but serving inhabitants of the city, nor be the owner or proprietor of any public service company in the city. "Public service company" is defined as any company, individual, partnership, corporation or other entity recognized by law that uses any of the city's streets, alleys, highways or other public property to carry out its principal purposes, including but not limited to water, wastewater, gas, electricity and telecommunications utilities, commercial railway or street railway services, public transit services, solid waste collection, and vehicles for hire.

5. Shall not have a financial interest in the sale to the city of any land, materials, supplies or service, outside of the person's position with the city.

6. Shall remain current on all financial obligations to the city relating to the duties of the council member.
(b) The city council shall determine that the qualifications of its own members are continually met. If the council determines that any member of the council has ceased to possess any of these qualifications or has been convicted of a felony, that member shall immediately forfeit office.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1988-15, Props. 2—4, 2-8-88/5-7-88; Ord. No. 1996-6, Prop. 1, 2-12-96/5-4-96; Ord. No. 1998-7, Prop. 3, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 2, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 2, 5-9-00/5-6-00; Ord. No. 2002-12, Prop. 1, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 1, 5-7-02/5-4-02; Ord. No. 2004-10, Prop. 1, 2-23-04/5-15-04; Ord. No. 2006-36, § 2(4), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(4), 8-19-08/11-4-08; Ord. No. 2013-44, Props. 10, 11, 8-20-13/11-5-13.)

Sec. 3.03. - Reserved.

Editor's note— Formerly, § 3.03 pertained to council to judge election qualifications, and derived from Ord. No. 1996-6, Prop. 2, 2-12-96/5-4-96.

Sec. 3.04. - Compensation and reimbursement.

City Council Compensation shall be set in a public forum by ordinance of the city council; and they shall be entitled to all necessary expenses incurred in the performance of their official duties. There shall be provided in each annual city budget an amount for the expenses of the mayor and of each council member. The mayor and the members of the city council shall be reimbursed for the amounts so provided for in the annual city budget for their actual official city business expenses. The city council by resolution or ordinance shall provide for a means of determining what expenses are reimbursable and what requirements must be met for reimbursement.

(Ord. No. 1984-11, Prop. 4, 1-30-84/4-7-84; Ord. No. 1988-15, Prop. 5, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2002-12, Prop. 2, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 2, 5-7-02/5-4-02; Ord. No. 2008-29, § 2(5), 8-19-08/11-4-08)

Sec. 3.05. - Mayor, mayor pro tempore and deputy mayor pro tempore.

The mayor shall preside at all meetings of the council and shall be recognized as head of the city government for all ceremonial purposes, for the purpose of receiving service of civil process, and for emergency management purposes. The mayor, as a member of the council, shall be entitled to vote upon all matters considered by the council but shall have no veto power. At its first meeting following each regular election of council members, the council shall by election designate a mayor pro tempore, and may shall designate a deputy mayor pro tempore, who each shall serve in such capacity for a period of one year; provided, however, that in the event a runoff election is required the city council shall not designate a mayor pro tempore or deputy mayor pro tempore until the runoff election is completed and the duly elected candidates have been officially seated on the council. The mayor pro tempore shall act as mayor during the absence or disability of the mayor, and shall have power to perform every act the mayor could perform if
present. The deputy mayor pro tem shall act as mayor during the absence or disability of the mayor and mayor pro tem, and shall have power to perform every act the mayor could perform if present.

(Res. No. 1974-5R, Prop. 2, 2-18-74/4-2-74; Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Res. No. 1979-2R, Prop. 1, 1-8-79/4-7-79; Ord. No. 1984-11, Prop. 5, 1-30-84/4-7-84; Ord. No. 1996-6, Prop. 3, 2-12-96/5-4-96; Ord. No. 2000-12, Prop. 4, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 4, 5-9-00/5-6-00; Ord. No. 2006-36, § 2(6), 8-15-06/11-7-06)

Sec. 3.06. - Vacancies.

(a) A special election to fill a vacancy shall be called in accordance with state law. In the event the mayor is unable to call a meeting to order the election for any reason, the mayor pro tem or deputy mayor pro tem are authorized and directed to call a meeting to order the election and perform all other required actions incident to the election. In the event of vacancies in the offices of mayor and all members of the city council for any reason, the following persons, in the order prescribed, are authorized and directed to order the election and perform all other required actions incident to the election:

(1) The city manager.

(2) The city clerk.

(3) The city attorney.

(4) The presiding judge of the municipal court.

(b) No such election shall be held sooner than 30 days from the date it is called.

(Ord. No. 1984-11, Prop. 5, 1-30-84/4-7-84; Ord. No. 1986-4, Prop. 2, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 6, 2-8-88/5-7-88; Ord. No. 1990-8, Prop. 1, 2-12-90/5-5-90; Ord. No. 1996-6, Prop. 4, 2-12-96/5-4-96; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2013-44, Prop. 12, 8-20-13/11-5-13.)

Sec. 3.07. - Powers and limitations of the city council.

(a) All powers and authority which are expressly or impliedly conferred on or possessed by the city shall be vested in and exercised by the council.

(b) The council shall have no power to, and shall not:

(1) Sell, convey, lease, mortgage or otherwise alienate any land which is now, or shall hereafter be, dedicated for park purposes, unless the qualified voters of the city shall authorize such act by adopting in a general or special election a proposition submitting the question and setting forth the terms and conditions under which such sale, conveyance, lease, mortgage or other alienation is to be made; provided, that the city council may, after a public hearing, authorize a lease of park property to another governmental entity or to a non-profit corporation or association for a term of up to three years if the council determines that the lease will further the use of the property for park purposes.

(2) Sell, convey, or lease all or any substantial part of the facilities of any municipally owned public utility, provided that the council may lease all or a substantial part of such facilities to any public agency of the State of Texas if the qualified voters of the city authorize such lease by adopting in a
general or special election a proposition submitting the question and setting forth the terms and conditions under which such lease is to be made.

(3) Accept or admit liability in, or pay, any claim for damages asserted against the city, without first obtaining a written opinion from the city attorney regarding the city's liability therein.

(c) The council will have the authority to approve the conveyance of land, right-of-way and easements owned by the city. Any such approval will be in the form of an ordinance, and no such ordinance may be adopted as an emergency measure.

(Ord. No. 1994-16, Prop. 2, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 5, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 5, 5-9-00/5-6-00)

State Law reference—Municipal home rule powers, Texas Const., art. 16, § 5; V.T.C.A., Local Government Code, §§ 26.001 et seq., 51.001, 51.071 et seq.

Sec. 3.08. - City council not to interfere in appointments or removals.

Neither the council nor any of its members shall instruct or request the city manager or any of the city manager's subordinates to appoint or to remove from office or employment any person except with respect to those offices which are to be filled by appointment by the council under the provisions of this Charter. Except as provided for in Section 3.15 of this Charter, the council and its members shall deal with the administrative and management functions of the city solely through the city manager and other council appointees, as appropriate, and shall not give orders to any of their subordinates either publicly or privately.

(Res. No. 1977-7R, Prop. 2, 1-24-77/4-2-77; Ord. No. 1988-15, Prop. 7, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00)

Sec. 3.09. - Meetings of the city council.

The council shall hold at least two regular meetings in each month at a time to be fixed by it for such regular meetings, and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the city and its citizens. All meetings of the city council shall be held within the city, except that the city council may conduct a meeting at a location outside the city after publishing notice of the meeting in one issue of a newspaper in general circulation in the City of San Marcos. All meetings of the city council shall be public; however the council may recess for the purpose of discussing in a closed session any matter permitted to be so discussed by state law, provided that the general subject matter for consideration is expressed in the motion calling for such a session and that final action thereon shall not be taken by the council until the matter is placed on the agenda. Special meetings of the council shall be called by the city secretary clerk upon the written request of the mayor or any three members of the city council.

The city council shall provide by ordinance for procedures to call meetings, set meeting agendas, conduct meetings, provide for reasonable time limits on presentations to the council and any other matters necessary to the efficient and fair conduct of the public's business.

(Res. No. 1977-7R, Prop. 2, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 7, 1-30-84/4-7-84; Ord. No. 1988-15, Prop. 8, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 6, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 6, 5-9-00/5-6-00)
Sec. 3.10. - Rules of procedure.

The city council shall determine by ordinance its own rules of procedure and order of business. Four or more council members shall constitute a quorum, but no action of the council shall be of any force or effect unless it is adopted by the favorable votes of four or more of the council members. Minutes of all meetings of the council, including the vote of "ayes" and "noes" upon the passage of all ordinances and resolutions, shall be taken and recorded, and such minutes shall constitute a permanent record to which any citizen may have access at all reasonable times.

(Res. No. 1977-7R, Prop. 1-1, 1-24-77/4-2-77; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1)

Sec. 3.11. - Procedure for passage of ordinances.

(a) The council shall legislate by ordinance, and the enacting clause of every ordinance shall be: "Be it ordained by the City Council of the City of San Marcos".

(b) The city attorney shall approve the legality of all ordinances adopted prior to consideration by the council, or shall file with the city clerk written legal objections thereto. Evidence of approval by the city attorney may be by notation on the ordinance itself, or by separate instrument.

(c) Every ordinance enacted by the council shall be signed by the mayor, the mayor pro tem, or two council members and shall be filed with and recorded by the city clerk.

(d) All proposed ordinances requiring a public hearing or hearings shall be finally acted upon by the city council within 90 days of the most recent public hearing at which it was considered. If final action does not occur within the 90 day period following the public hearing, then another public hearing shall be held before final action on the ordinance. Unless notice requirements are provided by other law, the city clerk shall publish a notice of each public hearing by the city council on an ordinance in a newspaper of general circulation in the city, city website or local media outlets before the public hearing.

(e) Ordinances shall be presented to council and acted on in open meetings on two separate days, unless:

1. an ordinance is posted and adopted as an emergency measure with only one reading by the favorable vote of five or more council members; or

2. the adoption of an ordinance under a different procedure is expressly authorized by state law.

(f) An ordinance relating to the changing of a future land use map or zoning district designation shall not be adopted as an emergency measure and shall be adopted only upon approval in two separate readings on two separate days no less than seven days apart.

(g) At the time of the first presentation each ordinance shall be read aloud unless it is publicly posted, available at a readily accessible location and filed with the city clerk at least 72 hours prior to the meeting at which it is to be considered, in which event only the caption need be read aloud.

(h) All ordinances shall be effective upon final reading or publication if publication is required by state law.

(Ord. No. 1986-4, Prop. 3, 1-27-86/4-5-86; Ord. No. 1992-9, Prop. 3, 2-10-92/5-2-92; Ord. No. 1998-7, Prop. 4, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(7), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(6), 8-19-08/11-4-08; Ord. No. 2013-44, Props. 13, 14, 8-20-13/11-5-13.)
Sec. 3.12. - Publication of ordinances.

Except as otherwise provided by law or by this Chapter, Charter the city clerk shall give notice of the enactment of every penal ordinance by causing its caption and penalty, to be published at least one time within ten days following the date of final passage thereof in some newspaper of general circulation within the city. The city clerk shall give notice of the enactment of other ordinances by publishing in the newspaper only if publication is required by state law, this Charter, or city ordinance. The city clerk shall give notice of the enactment of all ordinances on the city's website.

The city clerk shall note on every ordinance and on the record thereof the dates and medium of its publication, and such notation shall be prima facie evidence of compliance with the requirements of this section.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2008-29, § 2(7), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 15, 8-20-13/11-5-13.)


Sec. 3.13. - Code of Ordinances.

The council shall cause all general ordinances of the city to be compiled and printed in Code form. Every general ordinance enacted subsequent to such codification shall be enacted as an amendment to the Code. For the purposes of this section general ordinances shall be deemed to be those ordinances of a permanent or continuing nature which affect the residents of the city at large. When adopted by the council, the printed codes of general ordinances contemplated by this section shall be in full force and effect without the necessity of such Code or any part thereof being published in any newspaper. The caption, descriptive clause, and other formal parts of the ordinances of the city may be omitted without affecting the validity of such ordinances when they are published as a Code. Copies of the Code shall be furnished to city officers, placed in libraries and public offices for free public reference and made available through electronic media and for purchase by the public at a reasonable price fixed by the council.

(Ord. No. 1988-15, Prop. 9, 2-8-88/5-7-88; Ord. No. 1998-7, Prop. 5, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00)


Sec. 3.14. - Official bonds for city employees.

The council shall require bonds or insurance of all municipal officers and employees who receive or pay out any monies of the city. The amount of such bonds or insurance shall be determined by the council and the cost thereof shall be borne by the city.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2013-44, Prop. 16, 8-20-13/11-5-13.)

Sec. 3.15. - Investigation by the city council.

The city council shall have power to inquire into the official conduct of any office, department, agency, officer or employee of the city and to make investigations as to municipal affairs, and for that purpose may
subpoena witnesses, administer oaths and compel the production of books, papers, and other evidence material to the inquiry. The council shall provide by ordinance penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers, or other evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance. Any person participating in such an investigation shall have all rights afforded by the Constitution and laws of the United States and the State of Texas.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(8), 8-19-08/11-4-08)

Sec. 3.16. - Audit and examination of city books and accounts.

The city council shall cause an annual audit to be made of the books and accounts of each and every department of the city. At the close of each fiscal year a complete audit shall be made by a certified public accountant, who shall be selected by the city council, and who shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. Such audit shall include a recapitulation of all internal audits made during the course of each fiscal year, and all audit reports shall be filed with the city council, shall be available for public inspection, and shall be made a part of the archives of the city. Such accountant, so selected, shall not maintain or keep any of the city’s accounts or records.

(Ord. No. 2000-12, 2-14-00/5-6-00)

State Law reference—Annual audit required, V.T.C.A., Local Government Code, § 103.001 et seq.

Sec. 3.17. - Expulsion or removal of city officials.

(a) The city council shall have the authority to expel any city council member who is absent three consecutive regular city council meetings unless the council member has secured permission, in advance, from the city council to be absent from at least one of the meetings; provided that any such action for expulsion of a city council member shall require five affirmative votes of city council members. The city council may remove council members including the mayor who are in substantial violation or have substantially violated provisions of this charter; provided that any such action for expulsion of a city council member shall require five affirmative votes of city council members.

(b) The city council shall have the authority to remove any city official appointed by the city council, including members of city boards and commissions established under state law, by this Charter, or by ordinance, and the city manager, city clerk, city attorney and municipal court judge. Any such removal of a city official by the city council shall require a majority vote of the membership of the city council and shall be preceded by adequate notice to the official of the time and location of the meeting, the nature of the charge against the official, and an opportunity for a hearing. At any such hearing, evidence both for and against the city official may be offered for the council's consideration. The council may, by ordinance, provide for further or more detailed procedures pertaining to the removal of city official, not inconsistent with this provision.

(Ord. No. 2000-12, Prop. 7, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 7, 5-9-00/5-6-00; Ord. No. 2004-10, Prop. 2, 2-23-04/5-15-04; Ord. No. 2013-44, Prop. 17, 8-20-13/11-5-13)
ARTICLE IV. - ADMINISTRATIVE SERVICES[3]

Footnotes:
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Sec. 4.01. - City manager.

(a) Appointment and qualifications: The city council shall appoint a city manager who shall be the chief administrative and executive officer of the city, and shall be responsible to the city council for the administration of all the affairs of the city. The manager shall be chosen by the city council on the basis of education, executive and administrative training, experience and ability; and need not, when appointed, have his or her principal physical residence in the City of San Marcos. The manager shall establish his or her principal physical residence in the city, within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office.

(b) Term and salary: The city manager shall not be appointed for a definite term, but may be removed by a vote of the majority five members of the entire council. The action of the city council in suspending or removing the city manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of each suspension or removal in the city council. In case of temporary absence or disability, the city manager may designate by letter filed with the city clerk a qualified administrative officer of the city to perform the duties of the city manager for a period not to exceed 30 days. In the event of failure of the city manager to make such designation, the council may by resolution appoint an officer of the city to perform the duties of the city manager, until the manager shall return or the disability shall cease. The city manager shall receive compensation as may be fixed by the council.

(c) Duties of the city manager:

(1) To appoint and remove all employees of the city, except where such authority is reserved to the city council or otherwise prescribed by this Charter or by state law.

(2) To appoint an assistant or assistants with the approval of the city council, and to supervise, direct and control all administrative units of the city, except those supervised by other appointees of the council.

(3) To prepare and submit the annual budget to the city council in accordance with the requirements of this Charter and state law.

(4) To keep the city council fully advised of the financial condition and needs of the city.

(5) To recommend to the city council for action such administrative measures as the manager deems necessary or expedient.

(6) To perform other duties as provided by this Charter and as prescribed by the city council.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1986-4, Prop. 6, 1-27-86/4-5-86; Ord. No. 1992-9, Prop. 4, 2-10-92/5-2-92; Ord. No. 1994-16, Prop. 3, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2002-12, Prccp. 3, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 3, 5-7-02/5-4-02; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(8), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(9), 8-19-08/11-4-08)

Sec. 4.02. - City clerk.
The city council shall appoint a city clerk, who shall give notice of council meetings, shall keep the minutes of the proceedings of such meetings, shall authenticate by signature or electronic signature all ordinances and resolutions, and shall perform such other duties as city council, shall assign and those elsewhere provided for in this Charter. The city clerk's compensation shall be fixed by the city council. The city clerk may appoint an assistant or assistants with the approval of the council. The city clerk shall establish his or her principal physical residence in the city, within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1981-48, Prop. 1, 6-22-81/8-8-81; Ord. No. 1992-9, Prop. 5, 2-10-92/5-2-92; Ord. No. 1994-16, Prop. 4, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 8, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 8, 5-9-00/5-6-00; Ord. No. 2008-29, § 2(10), 8-19-08/11-4-08)

Sec. 4.03. - Municipal court.

(a) A municipal court is established for the trial of misdemeanor offenses, with jurisdiction, powers and duties as prescribed by ordinance and state laws.

(b) The city council shall appoint a presiding judge for the municipal court and any associate judges as deemed advisable. The presiding judge and each associate judge shall be a competent and duly qualified and licensed attorney authorized to practice law in the State of Texas. The presiding judge shall establish his or her principal physical residence in the city within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office. The compensation of the judges shall be fixed by the city council.

The presiding judge shall appoint a municipal court clerk and any assistants with the approval of the city council.


Sec. 4.04. - City attorney.

The city council shall appoint a city attorney, who shall be a competent and duly qualified and licensed attorney, authorized to practice law in the State of Texas. The city attorney shall establish his or her principal physical residence in the city within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office. The city attorney's compensation shall be fixed by the city council. The city attorney may appoint an assistant or assistants with the approval of the city council. The city attorney, or other attorneys selected by the city attorney with the approval of the city council, shall represent the city in all litigation. The city attorney shall be the legal advisor and counsel for the city and all city officers and administrative units; provided, that the city council may retain special counsel at any time it deems appropriate and necessary. The city attorney shall prepare or review all ordinances and shall prosecute all criminal cases in the municipal court in person or through an assistant.
Sec. 4.05. - City auditor.

The city council may appoint a city internal auditor who shall serve at the pleasure of the city council. The city council shall establish the duties and operating procedures of the city internal auditor by ordinance. The city council may enter into a contract for the duties of an internal auditor to be carried out by an outside firm if the council chooses to do so.

(Ord. No. 2010-44, §§ 2, 3, 8-17-10/11-2-10)

Sec. 4.06. - Other administrative units.

The city council may abolish or consolidate such administrative units as it may deem to be to the best interest of the city, and may divide and subdivide the administration of any such units as it may deem advisable; may create new administrative units, and may discontinue any administrative unit at its discretion, except those specifically established by this Charter.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 4.07. - Publication of salaries

The salary of each city position shall be published on the city website.

ARTICLE V. - NOMINATIONS AND ELECTIONS

Footnotes:
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Sec. 5.01. - Elections.

The regular city election shall be held annually on the first Tuesday after the first Monday in November as provided by state law.

(Res. No. 1977 7R, Prop. 5, 1 24 77/4 2 77; Ord. No. 1988-15, Prop. 11, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(10), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(12), 8-19-08/11-4-08)


Sec. 5.02. - Regulation of elections.

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the city council for the conduct of
elections. The city council shall appoint the election judges and other election officials. Voting precincts shall be established by ordinance and may be altered from time to time in like manner.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 2)

Sec. 5.03. - Filing for office.

Any qualified person as defined in Section 3.02 who desires to become a candidate in a general election to a place on the city council shall file with the city clerk at least 62 days prior to the election day an application for his or her name to appear on the ballot. All candidates shall take the oath of fair campaign practices provided in Section 258.004 of the Texas Election Code. For an election to be held on the date of the general election for state and county officers, the date of the filing deadline is the 70th day before election day. Such application shall clearly designate the place on the council to which the candidate seeks election and shall contain the candidate’s sworn statement of compliance with the qualifications for holding the office sought under the laws of Texas and the provisions of this Charter. All campaign contributions and reports filed by candidates shall be legible.

(Res. No. 1977-7R, Prop. , 1-24-77/4-2-77; Ord. No. 1992-9, Prop. 6, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-10, Prop. 3, 2-23-04/5-15-04; Ord. No. 2008-29, § 2(13), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 20, 8-20-13/11-5-13.)

Sec. 5.04. - The official ballot.

The names of all candidates for office, except such as may have withdrawn, died, or become ineligible, shall be printed included on the official ballots without party designation. The order on the ballot of the names of the candidates for each respective council place shall be determined by lot in a drawing to be held under the supervision of the city clerk, at which drawing each candidate or the candidate’s named representative shall have a right to be present. Incumbent council members seeking reelection must file for the place for which they were originally elected; provided that, however, a council member originally elected to place 1, 2, 3, 4, 5 or 6 may file for the place of mayor and a member holding the place of mayor may file for election as council member place 1, 2, 3, 4, 5 or 6.

(Res. No. 1977-7R, Prop. , 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 5.05. - Election by majority.

At any regular or special municipal election the candidates in each place on the ballot who shall have received the majority of votes cast in such election for such place shall be declared elected. In the event no candidate for a designated place on the city council receives a majority of the votes cast for that place in the regular or special election, a runoff election shall be held between the two candidates who received the greatest number of votes for such place. The runoff election shall be held not earlier than the 20th or later than the 45th day after the date the final canvass of the regular or special election is completed.

(Res. No. 1977-7R, Prop. 5, 1-24-77/4-2-77; Ord. No. 1981-51, Prop. 11, 7-6-81/8-8-81; Ord. No. 1986-4, Prop. 11, 1-27-86/4-5-86; Ord. No. 1994-16, § 1.2, Prop. 7, 3-22-94/5-7-94; Ord. No. 1998-7, Prop. 12, 2-5-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(10), 8-15-06/11-7-06)
Sec. 5.06. - Laws governing city elections.

All city elections shall be governed by the constitution of the State of Texas, general laws of the state, this Charter, and ordinances of the city, in the order named.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 5.07. - Conducting and canvassing elections.

The returns of every municipal election shall be delivered by the election judges to the central counting station immediately after the closing of the polls. Returns of the elections, general and special, shall be presented to the city council on any date permitted by the Texas Election Code at which time the council shall canvass and declare the results of such election.

(Res. No. 1977-7R, Prop. 5, 1-24-77/4-2-77; Ord. No. 1988-15, Prop. 20, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 9, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 9, 5-9-00/5-6-00)

Sec. 5.08. - Oath of office.

Every officer of the city shall take and subscribe to an oath or affirmation similar to that required by the Texas Constitution for state officers, before entering upon the duties of the office. The oath or affirmation shall be in a form provided by the city clerk, shall be given before a person authorized to administer oaths, and shall be filed and kept in the office of the city clerk.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1986-4, Prop. 12, 1-27-86/4-5-86; Ord. No. 1990-8, Prop. 2, 2-12-90/5-5-90; Ord. No. 2000-12, 2-14-00/5-6-00)

State Law reference—Oath Texas Const., art. 16, § 1.

ARTICLE VI. - INITIATIVE, REFERENDUM AND RECALL

Sec. 6.01. - Power of initiative.

The people of the city reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance or repeal any ordinance not in conflict with this Charter, the State Constitution, or the state laws. Any initiated ordinance may be submitted to the council by a petition signed by at least ten per cent of the qualified voters of the city.

(Res. No. 1979-14R, Prop. 11, 2-26-79/4-8-79; Ord. No. 1992-9, Prop. 7, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 10, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 10, 5-9-00/5-6-00)

Sec. 6.02. - Power of referendum.

The people reserve the power to approve or reject at the polls any legislation enacted by the council which is subject to the initiative process under this Charter. Prior to or within thirty days after the effective date of any ordinance which is subject to referendum, a petition by at least ten per cent of the qualified
voters of the city may be filed with the city secretary clerk requesting that any such ordinance be either repealed or submitted to the vote of the people. When such a petition has been certified as sufficient by the city secretary clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided. Notwithstanding the foregoing, no zoning district boundary ordinance shall be subject to the referendum process.

(Res. No. 1979-14R, Prop. 12, 2-26-79/4-7-79; Ord. No. 1986-4, Prop. 13, 1-27-86/4-5-86; Ord. No. 1992-5, Prop. 7, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 10, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 10, 5-9-00/5-6-00)

**Sec. 6.03. - Forms of petitions.**

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. Referendum petition papers shall contain a sufficient description of the ordinance sought to be referred to identify it, or if the ordinance has been passed by the council, the full text of the ordinance sought to be referred shall be included in such papers. Before signatures on any petition paper may be counted, one of the signers of such petition paper, a qualified voter, shall make oath or affirmation before the city clerk or any other officer competent to administer oaths or affirmations, that the statements made therein are true, that each signature to the paper appended is the genuine signature of the person whose name purports to be signed thereto, and that such signatures were placed thereon in that person’s presence.

(Res. No. 1974-5R, Prop. 4, 2-18-74/4-2-74; Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1992-9, Prop. 8, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, §§ 1, 3; Ord. No. 2006-36, § 2(11), 8-15-06/11-7-06)

**Sec. 6.04. - Council consideration and submission to voters.**

(a) When the council receives an authorized initiative petition certified by the city clerk to be sufficient, the council, within 30 days after the date of the certification, shall either:

(1) Pass the initiated ordinance without amendment; or

(2) Call an election on the adoption of the initiated ordinance without amendments, to be held on the next uniform date authorized by state law for municipal elections which is at least 62 days after the date on which the council acts.

At the election, the council may submit the initiated ordinance without amendment, and an alternative ordinance on the same subject proposed by the council; the voters being given the opportunity to accept or reject both. If both are accepted, then the ordinance receiving the greatest number of affirmative votes is adopted, and the other ordinance is deemed rejected. If both are accepted and receive the same number of affirmative votes, both are deemed rejected.

(b) When the council receives an authorized referendum petition, certified by the city clerk to be sufficient the council shall reconsider the referendum ordinance, and within 30 days, shall either repeal the ordinance or call an election on the repeal of the ordinance, to be held on the next uniform date authorized by state law for municipal elections which is at least 45 days from the date on which the council acts.

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(c) Special elections on initiated or referred ordinances shall not be held more frequently than once each six months, and no ordinance on the same subject as an initiated ordinance which has been defeated or on the same subject as a referred ordinance which has been approved at any election may be initiated by the voters within two years from the date of such election.

(Ord. No. 1984-11, Prop. 1-30-84/4-7-84; Ord. No. 1996-6, Prop. 6, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-10, Prop. 4, 2-23-04/5-15-04; Ord. No. 2006-36, § 2(11), 8-15-06/11-7-06)


Sec. 6.05. - Results of elections.

Any number of ordinances may be voted on at the same election in accordance with the provisions of this article. Except as otherwise provided in Section 6.05, if a majority of the legal votes cast is in favor of an initiated ordinance, it shall be effective as an ordinance of the city when the result of the election is declared. An ordinance so adopted may be repealed or amended at any time after the expiration of two years by a vote of three-fourths of the council members qualified and serving. A referred ordinance which is rejected by a majority of the legal votes cast in a referendum election shall be deemed repealed when the result of the election is declared.

(Ord. No. 1996-6, Prop. 6, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

Sec. 6.06. - Power of recall.

(a) The people of the city reserve the power to recall any elected officer of the City of San Marcos and may exercise such power by filing with the city clerk a petition demanding the removal of the officer, signed by at least ten per cent of the qualified voters of the city.

(b) The recall petition shall be on a form approved by the city clerk. Any recall petition form supplied by the city clerk shall be valid for 45 days from the date of its issuance and the expiration date and time shall be noted on the petition form by the city clerk at the time of its issuance. All such forms must be returned to the city clerk before their respective expiration dates in order to be eligible to be verified and certified by the city clerk.

(Ord. No. 1986-4, Props. 5, 16, 1-27-86/4-5-86; Ord. No. 1996-6, Prop. 7, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-10, Prop. 5, 2-23-04/5-15-04; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

Sec. 6.07. - Recall election.

The provisions regulating examination, certification and amendment of initiative petitions shall apply to recall petitions. If the petition is certified by the city clerk to be sufficient, the council shall order and hold an
election to determine whether such officer shall be recalled. The election shall be held on the date next authorized by state law for municipal elections which is at least 62 days after certification of the petition calling for the recall election.

(Res. No. 1974-5R, Prop. 5, 2-18-74/4-2-74; Ord. No. 1984-11, Prop. 11, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-10, Prop. 6, 2-23-04/5-15-04; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

Sec. 6.08. - Results of recall election.

If a majority of the votes cast at a recall election shall be against removal of the council member named on the ballot, that council member shall continue in office. If the majority of the votes cast at such election be for the removal of the council member named on the ballot, the council shall immediately declare that member's office vacant and such vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies. A council member thus removed shall not be a candidate in an election called to fill the vacancy thereby created.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

Sec. 6.09. - Limitation on recall.

No recall petition shall be filed against a council member within six months after taking office, and no council member shall be subjected to more than one recall election during a term of office.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

Sec. 6.10. - Examinations and certification of petitions.

(a) Within 45 days after an initiative, referendum or recall petition is filed, the city clerk shall determine whether the petition is properly signed by the requisite number of qualified voters. The city clerk shall use the standards and procedures described in state law to make this determination.

(b) In examining a petition, the clerk shall clearly note signatures found to be invalid.

(c) After completing examination of a petition, the clerk shall certify the result to the council at its next regular meeting.

(d) If the certificate of the city clerk shows an initiative or referendum petition to be insufficient, the clerk shall comply with the provisions of state law regarding the filing of a supplementary petition, if applicable. Within 45 days after a supplementary petition is filed, the clerk shall examine the petition and certify as to its sufficiency. If the original petition and supplementary petition are found to be insufficient, no further proceedings shall be had with regard to them.

(Ord. No. 2006-36, § 2(11), 8-15-06/11-7-06; Ord. No. 2013-44, Prop. 25, 8-20-13/11-5-13)

Sec. 6.11. - Non-binding ballot propositions.
The council is authorized to call elections on ballot propositions that are non-binding in nature when the council wishes to obtain an informal indication of the position of the city's voters on an issue. The following shall apply to elections on non-binding ballot propositions:

(1) The ballots must clearly label each proposition as non-binding in the heading of the proposition.

(2) The ballot cannot contain an indication of the effect that approval or disapproval of a proposition will have on the position of the city council on any issue.

(3) The ordinance calling the election and the ordinance declaring the result of the election must both contain a clear statement that the non-binding propositions are not binding on the city council.

(4) The city council shall not place a non-binding proposition on a ballot as a substitute or alternative for a binding proposition the council is obligated to place on the same ballot.

(5) A non-binding proposition may be placed on the ballot by the council only when the ballot will contain other matters. The city council shall not call an election at any time solely for the purpose of placing one or more non-binding propositions before the voters of the city.

(Ord. No. 2002-12, Prop. 4, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 4, 5-7-02/5-4-02)

ARTICLE VII. - MUNICIPAL PLANNING AND ZONING[5]

Footnotes:
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State Law reference—Planning and zoning, V.T.C.A., Local Government Code, § 211.001 et seq.

Sec. 7.01. - Planning and zoning commission.

(a) A city planning and zoning commission is established. The commission shall consist of nine members appointed for staggered three-year terms. Commission members shall be appointed by the council and serve without compensation.

(b) To be eligible for appointment to the commission, all eight of the commission members must have resided and owned real property in the city for a period of three (five) years before the date of appointment, and the remaining member must have resided and owned real property in the city's extraterritorial jurisdiction for a period of three years before the date of appointment. To be eligible for continued service on the commission, the commission members appointed as city residents must maintain residence and property ownership in the city, and the commission member appointed as an extraterritorial jurisdiction resident must maintain residence and property ownership in the extraterritorial jurisdiction. Effective March 1, 2015 the EJU member of the commission shall be deleted and a qualified city resident member shall be appointed.

(c) To be eligible for election and continued service as chair of the commission, a commission member must reside in the city.

d) The council shall establish, by ordinance, the month in which appointments are made, and the month in which terms of office commence. The council may prescribe, by ordinance, educational requirements to be met after persons are appointed to the commission.

(e) In making appointments to the commission, council shall seek to ensure broad citizen representation which includes geographic, professional, gender, racial, and viewpoint diversity. No more than two
professional realtors may be appointed to the commission. The commission shall establish bylaws to govern rules of procedure and the annual election of officers. All meetings of the commission shall be open to the public.

(Ord. No. 1981-51, Prop. 14, 7-6-81/8-8-81; Ord. No. 1990-8, Prop. 3, 2-12-90/5-5-90; Ord. No. 1994-16, Prop. 8, 3-22-94/5-7-94; Ord. No. 1998-7, Prop. 7, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 11, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 11, 5-9-00/5-6-00; Ord. No. 2004-10, Prop. 7, 2-23-04/5-15-04; Ord. No. 2008-29, § 2(22), 8-19-08/11-4-08; Ord. No. 2013-44, Props. 2—4, 25, 8-20-13/11-5-13)

Sec. 7.02. - Powers and duties of the commission.

The commission shall have the power and be required to:

(1) Be responsible to and act as an advisory body to the council on all matters related to the physical growth and development of the city. The Planning and Zoning staff shall follow all city ordinances, rules, and regulations and confer with the city attorney before making any recommendations to the Planning and Zoning Commission. The Planning and Zoning Commission shall follow all city ordinances, rules, and regulations before making any recommendations to the City Council.

(2) Review and be the final approval authority for the subdivision and platting of land within the city and its extraterritorial jurisdiction. The council or the commission may expressly delegate authority to approve certain minor subdivision plats to the director of the planning and development services department in accordance with the provisions of state law.

(3) Hold a public hearing and recommend to the city council the approval or disapproval of any proposed change to the city’s official zoning map.

(4) Hold public hearings and approve or deny conditional use permit applications made under the city’s zoning ordinances, subject to an appeal of such decisions to the city council. The council, on appeal, may uphold, modify, or reverse the decision of the commission. The council may reverse a decision of the commission to deny a permit only by a three-fourths vote of the council. Appeals to the council on conditional use permit applications will be based on the record before the Planning and Zoning Commission, Texas and Federal laws, San Marcos city ordinances and regulations. The decision on appeals before city council and will be governed by the substantial evidence rule. Decisions of the commission to revoke or suspend conditional use permits will be final and may not be appealed to the council. No filing fees shall be assessed for appeals to the city council.

(5) Submit annually to the city council, not less than one hundred and twenty days prior to the beginning of the fiscal year, a list of recommended capital improvements found necessary or desirable.

(6) Hold an annual public hearing on the Land Development Code and recommend any necessary or desirable changes to the council.

(7) Perform an ongoing review of the city’s comprehensive plan to include:

(a) Holding an annual public hearing on the plan and recommend any necessary or desirable changes to the council;

(b) Holding public hearings and making recommendations to the council regarding updates to the land use and transportation elements of the plan at least once every three years; and
(c) Holding public hearings and making recommendations to the council regarding the update of the entire comprehensive plan document at least once every five years.

(8) Perform such other duties and be vested with such other powers as the council may prescribe in accordance with state law.

(9) Require information from the administrative units of city government in relation to the duties of the commission listed under this section.

(Ord. No. 1981-51, Prop. 14, 7-6-81/8-8-81; Ord. No. 1984-11, Prop. 12, 1-30-84/4-7-84; Ord. No. 1986-4, Prop. 17, 1-27-86/4-5-86; Ord. No. 1990-8, Prop. 4, 2-12-90/5-5-90; Ord. No. 1994-16, Prop. 8, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 11, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 11, 5-9-00/5-6-00; Ord. No. 2002-12, Prop. 5, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 5, 5-7-02/5-4-02; Ord. No. 2006-36, § 2(12), 8-15-06/11-7-06; Ord. No. 2013-44, Props. 5, 6, 8-20-13/11-5-13.)

Editor’s note—The amendment adopted in Ordinance Number 1994-16 created a planning and zoning commission and established this section which repealed sections 7.05 through 7.07 which contained the power and duties of both a planning commission and zoning commission.

Sec. 7.03. - The comprehensive plan.

(a) The comprehensive plan for the City of San Marcos shall be used to guide the growth and development of the city. The comprehensive plan shall be adopted by ordinance. The city council will endeavor to ensure that city ordinances governing growth and development are consistent with the goals and policies contained in the comprehensive plan; however, land use maps and descriptions contained in the comprehensive plan do not constitute zoning, and do not entitle any property owner to any change in zoning.

(b) The commission shall conduct an ongoing review of the plan in accordance with Section 7.02. The commission may recommend amendments to the comprehensive plan after at least one public hearing on the proposed action. The council may amend the comprehensive plan after at least one public hearing on the proposed action. The council shall not act on any amendment affecting the comprehensive plan unless and until a recommendation on the amendment is received from the commission.

(Ord. No. 1984-11, Prop. 14, 1-30-84/4-7-84; Ord. No. 1986-4, Prop. 18, 1-27-86/4-5-86; Ord. No. 1994-16, Prop. 8, 3-22-94/5-7-94; Ord. No. 1998-7, Prop. 8, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 11, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 11, 5-9-00/5-6-00; Ord. No. 2002-12, Prop. 6, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 6, 5-7-02/5-4-02; Ord. No. 2013-44, Prop. 6, 8-20-13/11-5-13.)

Editor’s note—The amendment adopted in Ordinance Number 1994-16 reenacted this section which was formerly Charter § 7.08.

Sec. 7.04. - Organization.

The commission shall elect a chair from its membership annually, and shall establish rules of procedure which shall include the following:

(1) A quorum shall consist of a majority of the membership.

(2) The chair shall be entitled to vote upon any question.
(3) All meetings shall be open to the public.


ARTICLE VIII. - FINANCIAL PROCEDURE

Footnotes:
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Sec. 8.01. - Fiscal year.

The fiscal year of the City of San Marcos shall begin on the first day of October and shall end on the last day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year.

(Ord. No. 2000-12, 2-14-00/5-6-00)


Sec. 8.02. - Preparation and submission of budget.

(a)(c) The city manager, not less than 30 days prior to the time the city council makes its tax levy for the current fiscal year, shall file with the city clerk a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain a budget message explaining the budget, containing an outline of the proposed financial policies of the city for the ensuing fiscal year, setting forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and explaining any major changes in financial policy. Copies of the proposed budget shall be made available at the San Marcos Public Library, at City Hall, and on the city's website.

(b) By April 30 March 31st of each year, after a public hearing, the city council shall formulate a policy statement to be used by the city manager as direction during the preparation of the proposed budget.

(e)(a) By February 27th of each year the city council shall hold a policy budget workshop.

(Res. No. 1977-7R, Prop. 6, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 15, 1-30-84/4-7-84; Ord. No. 1998-7, Prop. 9, 2-9-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2002-12, Prop. 7, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 7, 5-7-02/5-4-02; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06)

State Law reference— Budgets, V.T.C.A., Local Government Code, § 102.001 et seq.

Sec. 8.03. - Anticipated revenues compared with other years in budget.

In preparing the budget, the city manager shall place in parallel columns opposite the several items of revenue: the actual amount of each item for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.
Sec. 8.04. - Proposed expenditures compared with other years.

The city manager in the preparation of the budget shall place in parallel columns opposite the various items of expenditures: the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year and the proposed amount for the ensuing fiscal year.

Sec. 8.05. - Budget a public record.

The budget and all supporting schedules shall be filed with the city clerk, submitted to the city council and shall be a public record. The city manager shall provide copies for distribution to all interested persons. The budget and all supporting schedules shall be published on the city's website.

Sec. 8.06. - Notice of public hearing on budget.

Not less than 30 days before the date the city council adopts the budget, the city council shall fix the time and place of public hearing on the budget and shall cause to be published in a newspaper of general circulation in the City of San Marcos, and through electronic media, a general summary of the proposed budget and a notice of the hearing setting forth the time and place thereof, the time for which publication shall be in accordance with applicable law.

Sec. 8.07. - Public hearing on budget.

At the time and place set forth in the notice required by Section 8.06, or at any time and place to which such public hearing shall from time to time be adjourned, the city council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained. Copies of the proposed budget shall be available at the San Marcos Public Library, at City Hall, and on the city's website.

Sec. 8.08. - Proceedings on budget after public hearing.

As a result of such public hearing, the city council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law, but where it shall increase the total of proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such proposed expenditures.
Sec. 8.09. - Adoption after public hearing.

The budget and the tax rate shall be adopted, after public hearings, in compliance with State law. Copies of the budget shall be available at the San Marcos Public Library, at City Hall, and on the city's website.

(Res. No. 1979-2R, Prop. 6, 1-8-79/4-7-79; Ord. No. 1992-9, Prop. 11, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(14), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 22, 8-20-13/11-5-13.)

Sec. 8.10. - Date of final adoption.

The budget and the tax rate shall be finally adopted not later than the expiration of the fiscal year.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(14), 8-19-08/11-4-08)

Sec. 8.11. - Effective date of budget; certification; copies made available.

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the city clerk and such other officials as may be designated by law. The final budget shall be printed or otherwise reproduced and copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations.

(Ord. No. 1992-9, Prop. 10, 2-10-92/5-2-92; Ord. No. 1998-7, Prop. 10, 2-9-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.12. - Budget establishes appropriations.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.13. - Budget establishes amount to be raised by property tax.

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute the amount of the levy for the purposes of the city in the corresponding tax year; provided, that such levy shall not exceed the legal limit provided by the laws and constitution of the State of Texas.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(14), 8-19-08/11-4-08)

Sec. 8.14. - Contingent appropriation.

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in amount not more than three per centum of the total budget, to be used in case of unforeseen items of expenditure. Such contingent appropriation shall be under the control of and distributed by the city manager after approval of the city council. Expenditures from this appropriation shall be made
only in case of established emergencies and a detailed account of such expenditures shall be recorded and reported.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1)

Sec. 8.15. - Estimated expenditures shall not exceed estimated resources.

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Governmental Accounting or some other nationally accepted classification.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.16. - Other necessary appropriations.

The city budget may be amended and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the city council.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.17. - Purchase procedure.

No contract or order shall be binding upon the city unless and until the city manager or the manager's designated representative certifies that there is to the credit of such administrative unit a sufficient unencumbered appropriation and an allotment balance to pay for the supplies, materials, equipment, or contractual services, for which the contract or order is to be issued. Before the city makes any purchase or contract for supplies, materials, equipment, or contractual services, opportunity shall be given for competition. The council may by ordinance convey upon the city manager general authority to contract for expenditures without further approval of the council for all budgeted items not requiring competitive bidding or proposals under state law. All purchases shall be made in accordance with applicable ordinances and state law. When required, notice of solicitation for competitive purchases of goods and services shall appear on the city's website and on an internet site for governmental procurements and may also be published in a newspaper of general circulation in the city.

(Res. No. 1977-7R, Props. 1, 7, 1-24-77/4-2-77; Ord. No. 1981-51, Prop. 13, 7-6-81/8-8-81; Ord. No. 1984-11, Prop. 16, 1-30-84/4-7-84; Ord. No. 1986-4, Props. 19—21, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 12, 2-8-88/5-7-88; Ord. No. 1992-9, Prop. 12, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(15), 8-19-08/11-4-08)

ARTICLE IX. - BORROWING FOR CAPITAL IMPROVEMENTS

Footnotes:
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Sec. 9.01. - Power to borrow.

The City of San Marcos shall have the right and power to borrow money on the credit of the city for permanent public improvements or for any other public purpose not prohibited by the constitution or statutes of the State of Texas. The city shall also have the power to borrow money against the revenues of any municipally owned utility and to mortgage the physical properties of such utilities in payment of such debt. In no event, however, shall revenue bonds be considered a general indebtedness of the city nor repaid with funds secured by taxation.

(Ord. No. 1996-6, Prop. 9, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 9.02. - Bond record.

The city manager or the manager’s designated representative shall prepare, maintain and cause to be filed in the city manager’s office a complete bond record, showing all bonds and certificates of obligation, the date and amount thereof, the rate of interest, a schedule of maturity dates and a record of all bonds and all other transactions of the city council having reference to the refunding of any indebtedness of the City of San Marcos. A copy of the bond record shall be available at the San Marcos Public Library, at City Hall, and on the city’s website.

(Ord. No. 1992-9, Prop. 13, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(14), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(16), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 23, 8-20-13/11-5-13)

Sec. 9.03. - Misapplication of bond funds.

Any officer or employee of the City of San Marcos who shall willfully or knowingly divert or use any funds arising from the issuance of any bond or sinking fund for any other purpose than that for which the fund is created or as herein otherwise authorized, shall be subject to prosecution as provided by the laws of the State of Texas on the diversion and conversion of funds belonging to any of the municipalities of the State of Texas.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 4)

ARTICLE X. - TAX ADMINISTRATION[8]

Footnotes:
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State Law reference—Authority, Texas Const., art. 11, §§ 4, 5; local taxation, V.T.C.A., Tax Code, § 302.001 et seq.

Sec. 10.01. - Tax administration.
The city council shall provide for the administration and collection of property taxes in accordance with state law. This may be accomplished through interlocal agreement with another taxing unit whose taxing jurisdiction overlaps all or part of the city's taxing jurisdiction.

(Ord. No. 1981-51, Prop. 6, 7-6-81/8-8-81; Ord. No. 1992-9, Prop. 14, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2004-44, § 3, 8-9-04)

Sec. 10.02. - Power to tax.

The City Council of the City of San Marcos shall have the power, and is hereby authorized to levy, assess and collect annual taxes not to exceed the maximum limits set by the constitution and laws of the State of Texas as they now exist or as they may be amended on each $100.00 assessed valuation of all real and personal property within the corporate limits of the City of San Marcos and not exempt from taxation by the constitution and laws of the State of Texas; however, provisions must be made annually to assess and collect a sum sufficient to pay the interest on any debts of the city and to create a sinking fund of at least two percent of such debt.

(Res. No. 1977-7R, Prop. 8, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2008-29, § 2(17), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 25, 8-20-13/11-5-13)

Sec. 10.03. - Property subject to tax, methods of assessment.

All real and tangible personal property that the State of Texas has jurisdiction to tax, shall be subject to annual taxation by the City of San Marcos unless exempted by state law if the real property is located within the corporate limits of the City of San Marcos on January 1 and the tangible personal property is:

1. Located in the City of San Marcos on January 1 for more than a temporary period;

2. Normally located in the City of San Marcos, even though it is outside the city on January 1, if it is outside the city only temporarily;

3. Normally returned to the City of San Marcos between uses elsewhere and is not located in any one place for more than a temporary period; or

4. That in which the owner resides (for property not used for business purposes) or maintains his principal place of business in Texas (for property used for business purposes) in the City of San Marcos and the property is taxable in Texas but does not have a taxable situs pursuant to (1)—(3) above.

All procedures and actions relating to property taxation shall be conducted pursuant to the requirements of the Texas Property Tax Code. Each person, partnership, corporation, association or other legal entity so owning property within the limits of the City of San Marcos, shall render said property as required by the Texas Property Tax Code and the chief appraiser of the Hays County Appraisal District.

(Res. No. 1977-7R, Prop. 3, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 17, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 10.04. - Reserved.
Editor's note—A Charter amendment adopted April 7, 1984, deleted § 10.04, pertaining to the board of equalization. The section derived unamended from the city's Home Rule Charter as adopted Feb. 24, 1967, and has been reserved for future use.

Sec. 10.05. - Taxes; when due and payable.

All taxes due the City of San Marcos shall be payable at the office of the city assessor-collector and may be paid at any time after October 1. Unless otherwise provided by State law, taxes for each tax year shall be paid before February 1 of the following year, and all such taxes not paid prior to such date shall be deemed delinquent and shall be subject to penalty and interest at the maximum percentage permitted by law.

(Ord. No. 1981-51, Prop. 7, 7-6-81/8-8-81; Ord. No. 1984-11, Prop. 19, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(18), 8-19-08/11-4-08)

Sec. 10.06. - Seizure and sale of personal property.

Personal property is subject to seizure for the payment of a delinquent tax, penalty and interest owed the City of San Marcos. Personal property is subject to seizure for the payment of a tax imposed by the City of San Marcos on property before the tax becomes delinquent as provided by the Texas Property Tax Code. Sale of such seized property shall be pursuant to the federal and state constitution and the Texas Property Tax Code.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 20, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 10.07. - Tax liens.

(a) The tax levied by the city is hereby declared to be a lien, charge, or encumbrance upon the property upon which the tax is due, which lien, charge or encumbrance the city is entitled to enforce and foreclose in any court having jurisdiction over the same and the lien, charge or encumbrance on the property in favor of the city, for the amount of the taxes due on such property is such as to give the state courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this state or person whose residence is unknown, but also as against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction. The city's tax lien shall exist from January 1, in each year until the taxes are paid.

(b) Personal property may not be seized and a suit may not be filed:

   (1) To collect a tax on personal property that has been delinquent more than four years; or
   (2) To collect a tax on real property that has been delinquent more than 20 years.

(c) A tax delinquent for more than the limitation period prescribed by this section and any penalty and interest on the tax is presumed paid unless a suit to collect the tax is pending.

(d) The city's tax lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien. All persons or corporations owning or holding personal property or real estate in the City of San Marcos on the first day of January of each year shall
be liable for all municipal taxes levied thereon for such year. The City of San Marcos is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both.

(Ord. No. 1984-11, Prop. 21, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-44, § 4, 8-9-04)

**Sec. 10.08. - Tax remissions, discount, and compromises.**

The city council or any other official of the city shall never extend the time for payment of taxes or remit, discount or compromise any tax legally due the city or waive the penalty and interest that may be due thereon to any person, firms or corporations owing taxes to the city for such year or years except as permitted by state law; provided, however, that this provision shall not prevent the compromise of any tax suit.

(Ord. No. 1988-15, Prop. 13, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00)

**ARTICLE XI. - FRANCHISES AND PUBLIC SERVICE COMPANIES**

Footnotes:
--- (9) ---

**Sec. 11.01. - Definitions; powers of the city council.**

(a) In this article:

(1) "Public service company" means any company, individual, partnership, corporation or other entity recognized by law that uses the city's streets, alleys, highways or other public property to carry out its principal purposes, including but not limited to public utilities, commercial railway or street railway services, public transit services, solid waste collection, and vehicles for hire.

(2) "Public utility" means any water, wastewater, gas, electricity or telecommunications utility that operates or offers service in the city.

(3) "Telecommunications utility" includes any company that provides or offers to provide telephone, cable television or other similar services for the transmission of voice, data or video information.

(b) The city council has the following powers regarding public service companies of every character operating in the city:

(1) To buy, condemn, construct, lease, **maintain**, and operate public utility systems in the city;

(2) To sell, **manufacture**, and distribute the services and output of city public utility systems;

(3) To prohibit the use of city streets, alleys, easements or other grounds by a public service company unless the company first obtains a franchise, permit, certificate or other authorization in accordance with this article and applicable ordinances; and

(4) To regulate public service companies in the interest of public health, **welfare**, and safety.

(c) The authority of the council under this article is subject to federal and state laws regarding public utilities. The provisions of this article will be disregarded to the extent of any conflict between them and federal and state laws.
Sec. 11.02. - Power to grant franchise.

The council shall have the power, by ordinance, to grant, renew, extend, and amend all franchises of all public utilities of every character operating within the city. No franchise shall be for an indeterminate period, and no franchise shall be granted for a term of more than five years from the date of the grant, renewal or extension.

Sec. 11.03. - Reserved.


Sec. 11.04. - Ordinance granting franchise; public hearing.

All ordinances granting, renewing, extending or amending a public utility franchise shall be read at three separate regular meetings of the council, and shall not be finally passed until 30 days after the first reading; and no such ordinance shall take effect until 30 days after its final passage. The council shall conduct a public hearing on any such franchise ordinance before the first reading of the ordinance. Notice of the public hearing, including the full text of the ordinance shall be published once before the first reading, in a newspaper of general circulation in the city, and shall be made available at the San Marcos Public Library at City Hall and on the city's website, and the expense of such publication shall be borne by the applicant for the franchise.

Sec. 11.05. - Transfer of franchise.

No public utility franchise shall be assigned or transferred except with the approval of the council expressed by ordinance. The term "assigned or transferred" includes a transfer of a controlling interest in stock, and an assignment or transfer to an affiliated or subsidiary person or company, but the term does not include the pledging of a franchise as security for a valid debt or mortgage.

Sec. 11.06. - Franchise value not to be allowed.
No value shall be assigned to any franchise granted by the city in fixing reasonable rates and charges for utility service within the city, or in determining the just compensation to be paid by the city for public utility property which it may acquire by condemnation or otherwise.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

Sec. 11.07. - Right of regulation.

Every grant, renewal, extension or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the council:

1. To forfeit any such franchise by ordinance at any time for the failure of holder thereof to comply with the terms of the franchise, such power to be exercised only after notice and hearing, and an opportunity to correct the default.

2. To require such expansion and extension of plant and facilities as are necessary to provide adequate service to the public and maintain plant and fixtures at the highest reasonable standard of efficiency.

3. To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.

4. To impose regulations to ensure safe, efficient and continuous service to the public.

5. To collect from every franchise holder its fair and just proportion of the expense of maintaining areas of public property occupied by the franchise holder, or to compel the franchise holder to perform its fair and just share of the work of maintaining areas of public property occupied by the franchise holder at its own expense.

6. To examine and audit at any time during regular business hours the accounts and records of any such utility which are relevant to the city's right of regulation.

7. To prescribe the form of accounts kept by such utility.

8. To require such compensation and rental as may be permitted by federal or state law.

(Ord. No. 1996-6, Prop. 10, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

Sec. 11.08. - Public service companies to file annual reports.

The city council by ordinance shall require each public service company operating within the corporate limits of the city to file a sworn annual report of the receipts from the operation of the company for the current year, how expended, how much thereof for betterments or improvements, the rate of tolls or charges for services rendered to the public, and any other facts or information that the council may deem pertinent for its use in intelligently passing upon any questions that may arise between the city and the public service company. These reports shall be filed with the city clerk, and preserved for the use of the city council. The reports may be reviewed periodically by the council to determine the propriety of the rates being charged and will be available at the San Marcos Public Library, at City Hall, and on the city's website.

(Ord. No. 1996-6, Prop. 10, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00; Ord. No. 2006-36, § 2(15), 8-15-06/11-7-06; Ord. No. 2013-44, Prop. 24, 8-20-13/11-5-13)
Sec. 11.09. - Regulation of rates.

The council shall have the power to:

(1) Regulate by ordinance the rates of every public service company operating in the city, provided that no such ordinance shall be passed as an emergency measure;

(2) Employ expert advice and assistance in determining a rate and equitable profit to the public service company; and shall have the power to require, as a condition precedent to any hearing concerning rates and service of a company, that the company pay the cost of such expert advice and assistance as chosen and deemed necessary by the council.

(Ord. No. 1988-15, Prop. 15, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

Sec. 11.10. - Municipally owned utilities.

Accounts shall be kept for each public utility owned or operated by the city, in such manner as to show the true and complete financial results of such city ownership and operation, including all assets and all liabilities, appropriately subdivided by classes, depreciation reserve, other reserves and surplus; also revenues, operating expenses including depreciation, interest payments, rental and other disposition of annual income. The accounts shall show actual capital cost to the city of each utility owned. The accounts shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any city department. The council shall cause an annual report to be made by a certified public accountant and shall publish such report showing the financial results of such city ownership and operation, giving the information specified in this section and such other data as the council shall require.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

Sec. 11.11. - Regulation of city owned public utilities.

The council has authority to supervise and regulate the operations of city owned public utilities, including the following:

(1) To establish the rates, terms and conditions for the sale of utility services.

(2) To prescribe rules and standards for the construction, extension, maintenance and operation of production, transmission and distribution facilities.

The council may exercise this authority itself, or it may delegate all or part of the authority to a board of citizens to oversee one or more of the city's public utilities.

(Ord. No. 1996-6, Prop. 1, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

ARTICLE XII. - GENERAL PROVISIONS
Sec. 12.01. - Public access to records.

All information collected, assembled or maintained by the city pursuant to law or ordinance or in connection with the transaction of official city business is public information and available to the public during normal business hours of the city under the terms and conditions provided in the Texas Public Information Act as amended.

(Ord. No. 1988-15, Prop. 16, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2004-44, § 5, 8-9-04)


Sec. 12.02. - Personal interest and code of ethics.

(a) (1) All elected and appointed officers of the city shall comply with applicable requirements of state law and city ordinances pertaining to conflicts of interest of local government officials.

(2) The code of ethics adopted by the city council under subsection (b) of this section shall require annual disclosure by members of the city council and city boards and commissions of their relevant interests in business entities and real property as defined under state law and city ordinances. The financial disclosures shall be updated within 30 days of any significant change in the interests of an official - even if such a change is temporary. For this part “significant” means a change in interest that would tend to render the annual financial disclosure misleading or incomplete.

(3) No member of the city council, and no employee of the city shall have a financial interest in the sale to the city or purchase from the city of any land, materials, supplies or service, outside of the person’s position with the city. Any person having such an interest shall be ineligible for election as a city council member or appointment as an employee of the city, and any city council member or employee who acquires such an interest shall forfeit the office or employment. Any violation of this provision with the actual or constructive knowledge of the city council member or employee shall render the contract voidable by the city manager or the city council. These provisions shall not apply to acquisitions of property by the city as a result of eminent domain proceedings or the threat of eminent domain proceedings.

(4) For a period of two years from the date of leaving office a city council member shall not have any financial interest in the sale to the city of any land, materials, supplies, or service. Any violation of this subsection with the actual or constructive knowledge of the former city council member shall render the contract voidable by the city manager or the city council.

(b) It is the policy of the City of San Marcos that all city officials and employees shall act and conduct themselves both inside and outside the city’s service so as to give no occasion for distrust for their integrity, impartiality or of their devotion to the best interest of the City of San Marcos and the public trust which it holds. To this end and to expressly assure its accomplishment, the city council shall establish and maintain an ethics review commission, and shall adopt and maintain a code of ethics for officials and employees of the City of San Marcos in ordinance form. The city council shall appoint an ethics review commission composed of seven citizens of the City of San Marcos to serve three-year staggered terms. A chair shall be elected by a majority of the commission after the annual appointment of members to the commission.
(c) Duties of the ethics review commission:

(1) The ethics review commission shall meet at least once a year to review the code of ethics of the City of San Marcos and make recommendations, if any, to the city council.

(2) Conduct hearings into allegations of violations of the city's code of ethics, or a state conflict of interest law, or the city charter, according to the procedures set forth in the city's ethics ordinance.

(3) Render advisory opinions on potential conflicts of interest, or violation of the city's code of ethics, or the city charter at the request of a public official or employee covered by the code of ethics.

(4) Recommend to appropriate authorities cases for prosecution or other action for violation of the code of ethics, or a state conflict of interest law, or the city charter.

(5) Review and monitor financial reports required by the Texas Election Code with respect to city-sponsored elections.

(Res. No. 1979-2R, Props. 5, 7, 1-8-79/4-7-79; Ord. No. 1986-4, Props. 22—24, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 17, 2-8-88/5-7-88; Ord. No. 1990-8, Prop. 5, 2-12-90/5-5-90; Ord. No. 1998-7, Prop. 11, 2-9-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00; Ord. No. 2006-36, § 2(16), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(20), 8-19-08/11-4-08)

Sec. 12.03. – Nepotism and Conflict of Interest

The members of the city council, and the city manager, city clerk, city attorney and presiding judge of the municipal court are the public officials of the city who are subject to the nepotism prohibitions defined under State law.

(a) Public officials of the City of San Marcos are subject to the nepotism prohibitions defined under State law. For purposes of this section, the following are defined as public officials:

(1) The mayor and members of city council

(2) City Manager

(3) City Clerk

(4) City Attorney

(5) Presiding judge of the municipal court

(b) No city employee shall be regularly directly supervised by a relative, sexual partner, or roommate. City employees will not be transferred or promoted into positions that would cause them to be in a direct supervisor/subordinate relationship with a relative, sexual partner, or roommate. The supervisor involved in the relationship is responsible for promptly reporting the relationship to the city’s Director of Human Resources.

(1) Relatives: Includes the first, second, and third degree of consanguinity (blood or adoption); and the first and second degree of affinity (marriage). Common law marriages as recognized by the State of Texas will also be included for purposes of this section.

(2) Roommates: Individuals who share the same living quarters.
(3) Sexual Partner. Persons in a consensual sexual relationship but are not married to one another.

(c) To avoid the appearance and risk of impropriety a public official shall not appoint his or her business associates to public commissions and boards. Business associate is defined to include:

(1) a public official's outside employer, outside employee, outside supervisor, or inside subordinate

(2) a public official's relative's outside employer, outside employee, outside supervisor, or outside subordinate

(3) the public official's outside client;

(4) the public official's outside business partner, including:

(A) Owning 10 percent or more of a business entity in which the public official also owns 10 percent or more

(B) Owning real property with a fair market value of $2,500 or more in partnership with the public official

(C) In an outside legal contract for business goods or services valued at $2,500 or more with the public official

(Ord. No. 1994-16, Prop. 9, 3-22-94/5-7-94; Ord. No. 2000-12, 2-14-00/5-6-00)


Sec. 12.04. - Provisions relating to assignment, execution and garnishment.

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ or execution or cost bill. The funds belonging to the city, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

(Ord. No. 2000-12, 2-14-C0/5-6-00)


Sec. 12.05. - City not required to give security or execute bond.

It shall not be necessary in any action, suit or proceeding in which the City of San Marcos is a party, for any bond, undertaking, or security to be demanded or executed by or on behalf of said city in any of the state courts, but in all such actions, suits, appeals, or proceedings same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

(Ord. No. 2000-12, 2-14-C0/5-6-00)
Sec. 12.06. - Special provisions covering damage suits.

Before the city shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured or whose property is damaged or someone in that person's behalf shall give the city manager or the person performing the duties of city clerk, notice in writing within 90 days after the occurrence of the alleged injury, or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible. Provided however, that the ninety-day notice requirement of this section may be extended by a court of competent jurisdiction for good cause shown if the injured party has exercised due diligence, if any delay in giving the notice required by this section is not the result of conscious indifference by the party and if there is no substantial harm to the city caused by the delay. No action at law for damages shall be brought against the city for personal injury or damage to property prior to the expiration of 30 days after the notice hereinbefore described has been filed with the city manager or the person performing the duties of city clerk. In case of injuries resulting in death, before the city shall be liable in damages therefor the person or persons claiming such damages shall after the death of the injured person give notice as above required in case of personal injury. Provided, however, that nothing herein contained shall be construed to mean that the City of San Marcos waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, the constitution and general laws of the State of Texas.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1981-51, Prop. 9, 7-6-81/8-8-81; Ord. No. 1988-15, Prop. 18, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1)


Sec. 12.07. - Separability clause.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 12.08. - Effect of this Charter on existing law.

All ordinances, resolutions, rules, and regulations now in force under the city government of San Marcos and not in conflict with the provisions of this Charter, shall remain in force under this Charter until altered, amended or repealed by the council after this Charter takes effect; and all rights of the City of San Marcos under existing franchises and contracts are preserved in full force and effect to the City of San Marcos.

(Ord. No. 2000-12, 2-14-C0/5-6-00)

Sec. 12.09. - Holdover of officers.

All officers of the city, including appointed members of city boards and commissions, shall continue to perform the duties of their offices until their successors are duly qualified.
Sec. 12.10. - Applicability of general laws.

The constitution of the State of Texas, the statutes of said state applicable to home-ruled municipal corporations, as now or hereafter enacted, this Charter and ordinances enacted pursuant hereto shall, in the order mentioned, be applicable to the City of San Marcos. The city shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town or village, not contrary to the provisions of said home-rule statutes, Charter and ordinances, but the exercise of any such powers by the City of San Marcos shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns or villages unless and until by ordinance it adopts same.

Sec. 12.11. - Amending the Charter.

Amendments to this Charter may be framed and submitted to the voters of the city in the manner provided by state law and in compliance with the provisions of this Charter pertaining to the holding of elections, including the requirements in Section 6.03 for verification of signatures on any petition paper that have been continuously in effect since the adoption of the original city charter on February 24, 1967.

Sec. 12.12. - Charter review commission.

Beginning in January 2013 and at least every four years thereafter, the city council shall appoint a Charter review commission of seven citizens of the City of San Marcos.

(a) **Duties of the commission:**

1. Inquire into the operation of the city government under the Charter provisions and determine whether any such provisions require revision. To this end public hearings may be held; and the commission shall have the power to compel the attendance of any officer or employee of the city and to require the submission of any of the city records which it may deem necessary to the conduct of such hearing.

2. Propose any recommendations it may deem desirable to ensure compliance with the provisions of the Charter by the several departments of the city government.

3. Propose, if it deems desirable, amendments to this Charter to improve the effective application of said Charter to current conditions.

4. Report its finding and present its proposed amendments, if any, to the city council.

(b) The city council may take action to amend the Charter in the manner provided by state law.
(c) Term of office: The term of office of such Charter review commission shall be six months, and, if during such term no report is presented to the city council, then all records of the proceedings of such commission shall be filed with the person performing the duties of the city clerk and shall become a public record.

(Ord. No. 1986-4, Props. 25, 26, 1-27-86/4-5-86; Ord. No. 1992-9, Props. 16, 17, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2008-09, § 2(1), 8-19-08/11-4-08)

Sec. 12.13. - Reserved.


Sec. 12.14. - Reserved.

Editor’s note—Former § 12.14 relative to the manner of the original adoption of the Charter by the vote has been deleted by proposition number 27 of the Apr. 5, 1986 Charter amendments.

Sec. 12.15. - Fluoridation of municipal water supply.

The City of San Marcos shall not add, or direct or require its agents to add fluoride in the form of hydrofluorosilicic acid, hexafluorosilicic acid, or sodium silicofluoride to the San Marcos municipal water supply.

(Ord. No. 2015-32, § 2, 8-18-15/11-3-15)
MINUTES OF THE REGULAR MEETING OF THE
CHARTER REVIEW COMMISSION OF THE
CITY OF SAN MARCOS, TEXAS
FEBRUARY 9, 2017

Members Present: Kama Davis
Daniel Guerrero
Paul Mayhew, Chair
Amy Meeks
Perry Moore
Todd Salmi
Shane Scott

City Attorney: Michael Cosentino

Recording Secretary: Tina Moreno

Others Present: Don Eyssen, Forrest Fulkerson, and Tom Wassenich

The meeting was called to order at 5:45 p.m. by Mr. Cosentino.

Ms. Moreno administered the Oaths of Office to newly appointed members.

Mr. Mayhew stated he would like to place his name for consideration as Chair. There were no other nominations. A motion was made by Mr. Scott, seconded by Ms. Davis, that Mr. Mayhew be appointed Chair. The motion carried by the following vote:

For: 5 - Davis, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 1 - Guerrero
Abstain: 1 - Mayhew

Chair Mayhew introduced the nomination of Vice-Chair. Ms. Davis stated she would like to place her name for consideration as Vice-Chair. There were no other nominations. A motion was made by Ms. Davis, seconded by Mr. Moore, that Ms. Davis be appointed Vice-Chair. The motion carried by the following vote:

For: 5 - Mayhew, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 1 - Guerrero
Abstain: 1 - Davis

Chair Mayhew introduced the Citizen Comment Period. Three (3) citizens were present: Mr. Don Eyssen, Mr. Forrest Fulkerson, and Mr. Tom Wassenich. All three declined to speak during the Citizen Comment Period.
Chair Mayhew introduced the next agenda item, “Discuss and consider approval of the meeting schedule and approach to Charter review.” (Mr. Guerrero arrived at 5:52 p.m.) A motion was made by Mr. Guerrero, seconded by Mr. Scott, that the Commission would meet at 5:30 p.m. every Thursday for the next eight (8) weeks, with the exception of Spring Break Week and Holy Week (so February 16th through April 20th). The motion carried by the following vote:

For: 7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

A motion was made by Ms. Meeks, seconded by Mr. Guerrero, that the Commission approach the Charter section by section (beginning at Article I and ending with Article 12) and addressing the requests made by Council and staff when applicable. The motion carried by the following vote:

For: 7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

Chair Mayhew introduced the next agenda item, “Begin section by section review of City Charter.” After reviewing ARTICLE I. – FORM OF GOVERNMENT AND BOUNDARIES, a motion was made by Ms. Davis, seconded by Mr. Guerrero, to strike-through all references of the term “municipal government” and replace with “city government” throughout entire Charter to allow clarity, consistency and utilization of plain language. The motion carried by the following vote:

For: 7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

After reviewing ARTICLE II. – POWERS OF THE CITY, a motion was made by Ms. Davis, seconded by Ms. Meeks, that the term “city” be lower-cased throughout the Charter, according to grammar rules, unless you specify which city is being referenced (i.e., City of San Marcos). The motion carried by the following vote:

For: 7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

A second motion was made by Ms. Davis, seconded by Mr. Guerrero, that correct punctuation be incorporated throughout the Charter (i.e., appropriate usage of colon and semi-colon signs when numbering a list of items). The motion carried by the following vote:
For: 7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

Chair Mayhew introduced the next agenda item, "Questions and Answers from Press and Public." Mr. Eyssen addressed the Commission on whether their action meeting minutes would include notes on dissenting votes. Mr. Salmi responded that the Commission has not made a decision or taken any action on this item. Mr. Cosentino also responded that the action minutes would certainly include the roll call votes. Mr. Fulkerson addressed the Commission regarding web page inconsistencies between departments and boards and commissions. He suggested more uniformity in terms of information provided and how presented. Mr. Salmi responded that some discussion has been made on this item but no action has been taken. Mr. Fulkerson further recommended there be multiple means of media for publication notices, to prevent access limitations. Ms. Davis responded that some discussion has been made on this item and more will be forthcoming. Mr. Fulkerson then addressed the Commission on whether citizens and/or groups are allowed to make presentations to the Commission on items of concern. Mr. Cosentino responded that items of concern can be submitted any time to the Charter staff liaisons and must be agendized for discussion and/or presentation. Mr. Salmi also responded by requesting that the Charter Review Commission web page include information for public input on items of concern.

Ms. Davis moved for adjournment at 7:26 p.m., seconded by Mr. Salmi. The motion passed with the following vote:

For: 7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

[Signature]
Chair
MINUTES OF THE REGULAR MEETING OF THE
CHARTER REVIEW COMMISSION OF THE
CITY OF SAN MARCOS, TEXAS
FEBRUARY 16, 2017

Members Present:  Kama Davis
                  Paul Mayhew, Chair
                  Amy Meeks
                  Perry Moore
                  Todd Salmi
                  Shane Scott

Members Absent:   Daniel Guerrero

City Attorney:    Michael Cosentino

Recording Secretary: Tina Moreno

Others Present:   Tom Wassennich

The meeting was called to order at 5:34 p.m. by Chair Mayhew.

Chair Mayhew introduced the Citizen Comment Period. Mr. Tom Wassennich was present. However, he elected to not sign in to speak during the Citizen Comment Period.

Chair Mayhew introduced the next agenda item, “Discuss and review the usage of the terms: “city” and “municipal” as used in San Marcos’ City Charter. Ms. Moreno identified the terms: “city” and “municipal,” in highlighted-colors throughout the entire charter, as requested, and found no other instances where “municipal government” needed to be changed or addressed.

Chair Mayhew introduced the next agenda item, “Begin section by section review of City Charter, including but not limited to Article 3 – The City Council.” After reviewing Sec. 3.01. – Number, selection, and term, a motion was made by Mr. Scott, seconded by Mr. Moore, to change the term for Mayor from a 2-year term to a 4-year term. The motion failed by the following vote:

For: 2 - Moore and Scott
Against: 4 - Davis, Mayhew, Meeks, and Salmi
Absent: 1 - Guerrero
Abstain: 0

A second motion was made by Mr. Moore, seconded by Mr. Scott, to not change to single-member districts. The motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 1 - Guerrero
Abstain: 0

After reviewing Sec. 3.02. - Qualifications, a motion was made by Mr. Moore, seconded by Ms. Meeks, that the following amendment be made to item (a)(6): “Shall remain current on all financial obligations to the city relating to the duties of the council member.” The motion carried by the following vote:

For: 4 - Mayhew, Meeks, Moore, and Scott
Against: 2 - Davis and Salmi
Absent: 1 - Guerrero
Abstain: 0

Chair Mayhew introduced the next agenda item, “Questions and Answers from Press and Public.” Mr. Wasseneich addressed the Commission on what where the requests from the city council for the commission to review in the charter. Mr. Cosentino provided Mr. Wasseneich a copy of the entire list. Mr. Wasseneich then inquired on whether disclosure of ongoing purchases of property while on council would be addressed by the Commission. Mr. Cosentino responded that the item has been addressed by the Ethics Review Commission and they will be making a proposal to the city council (possibly the second council meeting in March 2017). The proposal would be to amend the financial disclosure form to have the mayor and city council be required to report new interest in real estate within 30 days of purchase. Mr. Wasseneich stated that was good but then inquired on whether this item would also be incorporated into the city charter. Mr. Cosentino responded that it could be.

Chair Mayhew adjourned the meeting at 7:06 p.m.

Chair
[Signature]
The meeting was called to order at 5:35 p.m. by Chair Mayhew.

Chair Mayhew introduced the Citizen Comment Period. None were present.

Chair Mayhew introduced the approval of the minutes of the Regular Meeting of February 9, 2017. A motion was made by Mr. Scott, seconded by Ms. Meeks, to approve the minutes. The motion passed by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Scott.
Against: 0
Absent: 0
Abstain: 2 - Guerrero and Salmi

Chair Mayhew introduced the next agenda item, “Section by section review of City Charter, including but not limited to Article 3 – The City Council and Article 4 – Administrative Services.” After reviewing Section 3.01 - Number, selection, and term, a motion was made by Mr. Guerrero, seconded by Ms. Davis, to maintain current terms for mayor (2-year) and council members (3-year). The motion passed by the following vote:

For: 5 - Davis, Guerrero, Mayhew, Meeks, and Salmi
Against: 2 - Moore and Scott
Absent: 0
Abstain: 0

A second motion was made by Ms. Davis, seconded by Mr. Guerrero, to use the term “mayor pro tem” in place of “mayor pro tempore” and “mayor pro temp” to allow consistency throughout entire charter. The motion carried by the following vote:
For: 7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

After reviewing **Sec. 3.02 - Qualifications**, a motion was made by Mr. Guerrero, seconded by Ms. Davis, that the following amendment be made to item (a)(2)(A): “The person must use the residence address for voter registration, and current driver’s license or Texas identification card purposes;”. The motion carried by the following vote:

For: 6 - Davis, Guerrero, Mayhew, Meeks, Moore, and Scott
Against: 1 - Salmi
Absent: 0
Abstain: 0

After reviewing **Sec. 3.05 - Mayor, mayor pro tempore and deputy mayor pro tempore**, a motion was made by Mr. Salmi, seconded by Ms. Davis, that the following amendment be made to the third sentence: “At its first meeting following each regular election of council members, the council shall by election designate a mayor pro tempore, and **may shall** in addition designate a deputy mayor pro tempore, who each shall serve in such capacity for a period of one year;”. The motion carried by the following vote:

For: 7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

Chair Mayhew introduced the next agenda item, “Questions and Answers from Press and Public.” None were present.

Mr. Scott moved for adjournment at 6:55 p.m., seconded by Ms. Meeks. The motion passed with the following vote:

For: 5 - Guerrero, Mayhew, Meeks, Moore, and Scott
Against: 0
Absent: 1 - Salmi (left at 6:46 p.m.)
Abstain: 1 - Davis

Chair
MINUTES OF THE REGULAR MEETING OF THE
CHARTER REVIEW COMMISSION OF THE
CITY OF SAN MARCOS, TEXAS
MARCH 2, 2017

Members Present: Kama Davis
Daniel Guerrero
Paul Mayhew, Chair
Amy Meeks
Perry Moore
Shane Scott

Members Absent: Todd Salmi

City Attorney: Michael Cosentino

Recording Secretary: Tina Moreno

Others Present: Jamie Lee Case

The meeting was called to order at 5:31 p.m. by Chair Mayhew.

Chair Mayhew introduced the Citizen Comment Period. None were present.

Chair Mayhew introduced the approval of the minutes of the Regular Meeting of February 16, 2017. A motion was made by Mr. Scott, seconded by Mr. Guerrero, to approve the minutes. The motion passed by the following vote:

For: 5 - Guerrero, Mayhew, Meeks, Moore, and Scott
Against: 0
Absent: 2 - Davis (arrived at 5:33 p.m.) and Salmi
Abstain: 0

Chair Mayhew introduced the next agenda item, “Section by section review of City Charter, including but not limited to Article 3 – The City Council, Article 4 – Administrative Services, and Article 5 – Nominations and Elections.” A motion was made by Mr. Guerrero, seconded by Mr. Scott, to amend item (b) of Sec. 3.11. – Procedure for passage of ordinances, to read as follows: “The city attorney shall approve [by written instrument] the legality of all ordinances before they are submitted to the Council, or shall file with the city clerk written legal objections thereto.” Mr. Guerrero amended his motion to strike the words “submitted to” and replace with “considered by,” which was seconded by Mr. Scott. After discussion, Mr. Guerrero made a second amendment to strike the words “by written instrument,” motion was seconded by Mr. Scott. After more discussion, the original motion was withdrawn by Mr. Guerrero and Mr. Scott. Mr. Guerrero made a new motion, seconded by Mr. Scott, to amend item (b) to read as follows: “The city attorney shall approve the legality of all ordinances adopted prior to consideration by the council, or shall file with the city clerk written legal objections thereto.” The motion passed by the following vote:
For: 6 - Davis, Guerrero, Mayhew, Meeks, Moore, and Scott
Against: 0
Absent: 1 - Salmi
Abstain: 0

Mr. Guerrero made a motion, seconded by Mr. Scott, to amend Sec. 4.02 – City clerk to permit usage of electronic signatures. The amendment would read as follows: “The city council shall appoint a city clerk, who shall give notice of council meetings, shall keep the minutes of the proceedings of such meetings, shall authenticate by signature or electronic signature all ordinances and resolutions...”. The motion carried by the following vote:

For: 6 - Davis, Guerrero, Mayhew, Meeks, Moore, and Scott
Against: 0
Absent: 1 - Salmi
Abstain: 0

A motion was made by Mr. Guerrero, seconded by Mr. Scott, to amend Sec. 5.04 – The official ballot to read as follows: “The names of all candidates for office, except such as may have withdrawn, died, or become ineligible, shall be printed included on the official ballots without party designation.” The motion carried by the following vote:

For: 6 - Davis, Guerrero, Mayhew, Meeks, Moore, and Scott
Against: 0
Absent: 1 - Salmi
Abstain: 0

Mr. Guerrero made a motion, seconded by Mr. Scott, that item (b) of Sec. 7.01 – Planning and zoning commission be amended by removing the last sentence to reflect the effect of actions taken March 1, 2015: “Effective March 1, 2015 the ETJ member of the commission shall be deleted and a qualified city resident member shall be appointed.” The motion carried by the following vote:

For: 6 - Davis, Guerrero, Mayhew, Meeks, Moore, and Scott
Against: 0
Absent: 1 - Salmi
Abstain: 0

A motion was made by Mr. Guerrero, seconded by Ms. Davis, that the following language be added to Sec. 3.08 – The City council not to interfere in appointments or removals: “If the mayor or a member of the city council violates Section 3.08 of the city charter the offending party or parties will be subject to an immediate review and censure by the city council.” After some discussion, the motion was withdrawn by Mr. Guerrero and Ms. Davis to allow further study into this item.

Chair Mayhew made a motion, seconded by Mr. Scott, to amend Sec. 3.04 – Compensation and reimbursement by adding the following sentence: “The city clerk shall post all receipts and corresponding paperwork for council reimbursement of travel and business expenses on the city’s
website.” After some discussion, the motion was withdrawn by Chair Mayhew and Mr. Scott to allow further study into this item.

Ms. Davis made a motion, seconded by Mr. Guerrero, to exclude term limits for mayor and city council members and not change the procedures in Sec. 3.01 - Number, selection and term. The motion carried by the following vote:

For: 5 - Davis, Guerrero, Mayhew, Meeks, and Moore
Against: 1 - Scott
Absent: 1 - Salmi
Abstain: 0

Mr. Guerrero made a motion, seconded by Ms. Meeks, that all references of the term “city secretary” be replaced with “city clerk” throughout entire charter. The motion carried by the following vote:

For: 6 - Davis, Guerrero, Mayhew, Meeks, Moore, and Scott
Against: 0
Absent: 1 - Salmi
Abstain: 0

A motion was made by Mr. Scott, seconded by Mr. Guerrero, to amend item (b) of Sec. 4.01 - City Manager and have the first sentence read as follows: “Term and salary: The city manager shall not be appointed for a definite term, but may be removed by a vote of the super majority of the entire council.” After some discussion, the motion was withdrawn by Mr. Scott and Mr. Guerrero. A new motion was made by Mr. Scott, seconded by Mr. Guerrero, for the sentence to read: “Term and salary: The city manager shall not be appointed for a definite term, but may be removed by a vote of the majority five members of the entire city council.” After more discussion, the motion was withdrawn by Mr. Guerrero, for the time being.

Chair Mayhew introduced the next agenda item, “Questions and Answers from Press and Public.” None were present.

Mr. Guerrero moved for adjournment at 8:10 p.m., seconded by Mr. Moore. The motion passed with the following vote:

For: 6 - Davis, Guerrero, Mayhew, Meeks, Moore, and Scott
Against: 0
Absent: 1 - Salmi
Abstain: 0

Chair

[Signature]
MINUTES OF THE REGULAR MEETING OF THE
CHARTER REVIEW COMMISSION OF THE
CITY OF SAN MARCOS, TEXAS
MARCH 9, 2017

Members Present: Kama Davis
                Daniel Guerrero
                Paul Mayhew, Chair
                Amy Meeks
                Perry Moore
                Todd Salmi
                Shane Scott

City Attorney: Michael Cosentino

Recording Secretary: Tina Moreno

Others Present: Brett Thorne

The meeting was called to order at 5:32 p.m. by Chair Mayhew.

Chair Mayhew introduced the Citizen Comment Period. Brett Thorne was present but declined to speak during the Citizen Comment Period.

Chair Mayhew introduced agenda item, “Approve minutes of the previous meeting(s).” A motion was made by Mr. Scott, seconded by Ms. Meeks, to approve minutes of February 23 and March 2, 2017. The motion passed by the following vote:

For: 4 - Mayhew, Meeks, Moore, and Scott
Against: 0
Absent: 2 - Davis and Guerrero (5:40 p.m. arrival for both)
Abstain: 1 - Salmi

Chair Mayhew introduced the next agenda item, “Section by section review of City Charter, including but not limited to Article 6 – Initiative, Referendum and Recall, Article 7 – Municipal Planning and Zoning, and Article 8 – Financial Procedure.” A motion was made by Mr. Scott, seconded by Mr. Guerrero, to amend item (b) of Sec. 4.01. – City manager, to read as follows: “The city manager shall not be appointed for a definite term, but may be removed by a vote of the majority five members of the entire city council.”

For: 4 - Guerrero, Mayhew, Moore, and Scott
Against: 3 - Davis, Meeks, and Salmi
Absent: 0
Abstain: 0
Mr. Salmi made a motion, seconded by Mr. Scott, to amend item (b) of Sec. 7.01 – Planning and zoning commission to remove ETJ residency requirement. The amendment would read as follows: “To be eligible for appointment to the commission, eight of the commission members must have resided and owned real property in the city for a period of three years before the date of appointment, and the remaining member must have resided and owned real property in the city's extraterritorial jurisdiction for a period of three years before the date of appointment. To be eligible for continued service on the commission, the commission members appointed as city residents must maintain residence and property ownership in the city, and the commission member appointed as an extraterritorial jurisdiction resident must maintain residence and property ownership in the extraterritorial jurisdiction.” The motion carried by the following vote:

For: 7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

A motion was made by Mr. Salmi, seconded by Ms. Davis, to amend item (b) of Sec. 7.01 – Planning and zoning commission to eliminate ownership of real property. The amendment would read as follows: “To be eligible for appointment to the commission, eight of the commission members must have resided and owned real property in the city for a period of three years before the date of appointment, and the remaining member must have resided and owned real property in the city's extraterritorial jurisdiction for a period of three years before the date of appointment. To be eligible for continued service on the commission, the commission members appointed as city residents must maintain residence and property ownership in the city, and the commission member appointed as an extraterritorial jurisdiction resident must maintain residence and property ownership in the extraterritorial jurisdiction.” After some discussion, an amendment to the main motion was made by Mr. Moore, seconded by Ms. Davis, to extend the residency requirement from three years to five years. The amendment would read as follows: “To be eligible for appointment to the commission, eight of the commission members must have resided and owned real property in the city for a period of five years before the date of appointment, and the remaining member must have resided and owned real property in the city's extraterritorial jurisdiction for a period of three five years before the date of appointment. To be eligible for continued service on the commission, the commission members appointed as city residents must maintain residence and property ownership in the city, and the commission member appointed as an extraterritorial jurisdiction resident must maintain residence and property ownership in the extraterritorial jurisdiction.” The motion to amend carried by the following vote:

For: 4 - Davis, Meeks, Moore, and Salmi
Against: 3 - Guerrero, Mayhew, and Scott
Absent: 0
Abstain: 0

And the main motion carried by the following vote:

For: 4 - Davis, Meeks, Moore, and Salmi
Against: 3 - Guerrero, Mayhew, and Scott
Absent: 0
Mr. Salmi made another motion, seconded by Mr. Guerrero, to amend Sec. 7.01 – Planning and zoning commission to provide that the nine members of the commission must be city residents and to remove an additional reference to the ETJ requirement. The amendment would read as follows: “To be eligible for appointment to the commission, the nine eight of the commission members must have resided and owned real property in the city for a period of three five years before the date of appointment, and the remaining member must have resided and owned real property in the city’s extraterritorial jurisdiction for a period of three five years before the date of appointment. To be eligible for continued service on the commission, the commission members appointed as city residents must maintain residence and property ownership in the city, and the commission member appointed as an extraterritorial jurisdiction resident must maintain residence and property ownership in the extraterritorial jurisdiction.” The motion carried by the following vote:

For: 6 - Davis, Guerrero, Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 1 - Scott (on break during the vote)
Abstain: 0

A motion was made by Mr. Salmi, seconded by Mr. Guerrero, that item (c) of Sec. 7.01 – Planning and zoning commission be removed due to irrelevance, and to renumber item (d) to (c) and item (e) to (d):

(e) To be eligible for election and continued service as chair of the commission, a commission member must reside in the city.

(d c) The council shall establish, by ordinance, the month in which...

(e-d) In making appointments to the commission, council shall...

The motion carried by the following vote:

For: 7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

Ms. Davis made a motion, seconded by Ms. Meeks, to amend item (1) of Sec. 7.02 – Powers and duties of the commission by adding the following statement: “The P&Z staff shall follow all city ordinances, rules and regulations and confer with the city attorney before making any recommendations to the P&Z Commission. The P&Z Commission shall follow all city ordinances, rules and regulations before presenting anything to City Council.” After some discussion, the motion was withdrawn by Ms. Davis and Ms. Meeks. Ms. Davis made a new motion, seconded by Ms. Meeks, to amend item (9) of Sec. 7.02 Powers and duties of the commission by adding the following statement: “The Planning & Zoning staff shall follow all city ordinances, rules and regulations and confer with the city attorney before making any recommendations to the Planning & Zoning Commission. The Planning & Zoning Commission shall follow all city ordinances, rules and regulations before presenting anything to City Council.” After more discussion, the motion was withdrawn by Ms. Davis. A new motion was made by Ms. Davis, seconded by Ms. Meeks, to have
the statement read: “The Director of Planning and Development Services and the P&Z staff shall follow all city ordinances, rules and regulations and confer with the city attorney before making any recommendations to the Planning & Zoning Commission. The Planning & Zoning Commission shall follow all city ordinances, rules and regulations before presenting anything to City Council.” The motion failed by the following vote:

For: 3 - Davis, Meeks, and Salmi
Against: 2 - Mayhew and Scott
Absent: 0
Abstain: 2 - Guerrero and Moore

Chair Mayhew introduced the next agenda item, “Questions and Answers from Press and Public.” None were present (Mr. Thorne left early).

Mr. Guerrero moved for adjournment at 7:27 p.m., seconded by Mr. Salmi. The motion passed with the following vote:

For: 7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi and Scott
Against: 0
Absent: 0
Abstain: 0

Chair
MINUTES OF THE REGULAR MEETING OF THE
CHARTER REVIEW COMMISSION OF THE
CITY OF SAN MARCOS, TEXAS
MARCH 23, 2017

Members Present: Kama Davis
                Paul Mayhew, Chair
                Amy Meeks
                Perry Moore
                Todd Salmi
                Shane Scott

Members Absent: Daniel Guerrero

City Attorney: Michael Cosentino

Recording Secretary: Tina Moreno

Others Present: Council Member Lisa Prewitt
                Lisa Marie Coppoletta

The meeting was called to order at 5:31 p.m. by Chair Mayhew.

Chair Mayhew introduced the Citizen Comment Period. None were present during the
Citizen Comment Period. (Council Member Lisa Prewitt arrived at 5:50 p.m. and Lisa Marie
Coppoletta at 7:02 p.m.)

Chair Mayhew introduced agenda item, “Approve minutes of the previous meeting(s).” A
motion was made by Ms. Meeks, seconded by Mr. Salmi, to approve minutes of March 9, 2017.
The motion passed by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 1 - Guerrero & Scott (Scott arrived at 5:37 p.m.)
Abstain: 0

Chair Mayhew introduced the next agenda item, “Section by section review of City Charter,
including but not limited to Article 7 – Municipal Planning and Zoning, Article 8 – Financial
Procedure, and Article 9 – Borrowing for Capital Improvements.” A motion was made by Mr.
Salmi, seconded by Ms. Davis, to amend item (b) of Sec. 7.01. – Planning and zoning
commission, for clarity and consistency. The amendment would read as follows: “To be eligible
for appointment to the commission, all the nine commission members must have resided in the city
for a period of five years before the date of appointment. To be eligible for continued service on the
commission...” The commission members appointed must maintain residence in the city.” The
motion carried by the following vote:
For: 6 - Davis, Mayhew, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 1 - Guerrero
Abstain: 0

Ms. Davis made a motion, seconded by Ms. Meeks, to amend Sec. 7.02 – Powers and duties of the commission by adding the following sentences to the end of item (1): “The Planning and Zoning staff shall follow all city ordinances, rules, and regulations and confer with the city attorney before making any recommendations to the Planning and Zoning Commission. The Planning and Zoning Commission shall follow all city ordinances, rules, and regulations before making any recommendations to City Council.” The motion carried by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 1 - Scott
Absent: 1 - Guerrero
Abstain: 0

A motion was made by Ms. Davis, seconded by Ms. Meeks, to amend a portion of item (4) of Sec. 7.02 – Powers and duties of the commission to read as follows: “Appeals to the council on conditional use permit applications will be based on the record before the Planning and Zoning Commission, Texas and Federal laws, San Marcos city ordinances and regulations, and other relevant material, and—The decision on appeals before city council will be governed by the substantial evidence rule. Decisions of the commission to revoke or suspend conditional use permits will be final and may not be appealed to the council. Citizen appealed to the city council will not cost the appellant any money.” After some discussion, an amendment to the motion was made by Ms. Davis, seconded by Ms. Meeks, to remove the phrase “and other relevant material” from the first sentence and remove the word “Citizen” from the third sentence. The amended motion would read as follows: “Appeals to the council on conditional use permit applications will be based on the record before the Planning and Zoning Commission, Texas and Federal laws, San Marcos city ordinances and regulations, and other relevant material. The decision on appeals before city council will be governed by the substantial evidence rule. Decisions of the commission to revoke or suspend conditional use permits will be final and may not be appealed to the council. Appeals to the city council will not cost the appellant any money.” The amended motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Salmi and Scott
Against: 0
Absent: 1 - Guerrero
Abstain: 0

A second amendment to the main motion was made by Ms. Davis, seconded by Mr. Scott to change the last sentence to read as follows: “No filing fees shall be assessed for appeals to the city council.” The second amendment to the main motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 1 - Guerrero
Abstain: 0
The main motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 1 - Guerrero
Abstain: 0

Ms. Davis made a motion, seconded by Mr. Scott, to amend the end of Sec. 8.05 – Budget a public record by adding the following sentence: “The budget and all supporting schedules shall be published on the city’s website.” The motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 1 - Guerrero
Abstain: 0

A motion was made by Ms. Davis, seconded by Mr. Scott, to amend the end of item (a) of Sec. 8.02 – Preparation and submission of budget by adding the following sentence: “Copies of the proposed budget shall be made available at the San Marcos Public Library, at City Hall, and on the city’s website.” The motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Salmi, and Scott
Against: 0
Absent: 1 - Guerrero
Abstain: 0

Ms. Davis made a motion, seconded by Ms. Meeks, to amend the last sentence of Sec. 8.11 – Effective date of budget; certification; copies made available to have it read as follows: “The final budget shall be printed or otherwise reproduced and copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations and shall be published on the city’s website.” After some discussion, the motion was withdrawn by Ms. Davis.

A motion was made by Ms. Davis, seconded by Mr. Scott, to amend the last sentence of item (b) of Sec. 3.02 Qualifications to read as follows: “The city council shall determine that the qualifications of its own member are continually met. If the council determines that any member of the council has ceased to possess any of these qualifications, has substantially violated the provisions of this charter, or has been convicted of a felony, that member shall immediately forfeit office.” After some discussion, the motion was withdrawn by Ms. Davis.

Ms. Davis made a motion, seconded by Ms. Meeks, to amend Sec. 3.08 – City council not to interfere in appointments or removals to read as follows: “Neither the council nor any of its members shall instruct or request the city manager to any of the city manager’s subordinates to appoint to or remove from office or employment any person except with respect to those offices which are to be filled by appointment by the council under the provisions of this Charter. Employment decisions by the City Manager regarding all employees at the Director level, or above, must be approved by the City Council. Except as provided for in Section 3.15 of this charter, the council and its members shall deal with the administrative and management functions of the city
solely through the city manager and other council appointees, as appropriate, and shall not give orders to any of their subordinates either publicly or privately. Actions taken by the city in response to directions given by council members in violation of this section are voidable either by council, or by a court.” After some discussion, the motion was withdrawn by Ms. Davis.

Chair Mayhew introduced the next agenda item, “Questions and Answers from Press and Public.” Ms. Coppoletta cheerfully stated she was at Concert in the Park and realized Charter Review was also being conducted, so she chose to attend Charter Review instead.

Mr. Scott moved for adjournment at 7:32 p.m., seconded by Ms. Davis. The motion passed with the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Salmi and Scott
Against: 0
Absent: 1 - Guerrero
Abstain: 0

Chair

Paul B. Mayhew
MINUTES OF THE REGULAR MEETING OF THE
CHARTER REVIEW COMMISSION OF THE
CITY OF SAN MARCOS, TEXAS
MARCH 30, 2017

Members Present: Kama Davis
Paul Mayhew, Chair
Amy Meeks
Perry Moore
Todd Salmi

Members Absent: Daniel Guerrero (resigned 3/29/17)
Shane Scott

City Attorney: Michael Cosentino

Recording Secretary: Tina Moreno

Others Present: Council Member Lisa Prewitt
Christine Terrell
Brett Thorne

The meeting was called to order at 5:35 p.m. by Chair Mayhew.

Chair Mayhew introduced the Citizen Comment Period. Brett Thorne was present but declined to speak during the Citizen Comment Period. (Christine Terrell arrived at 5:40 p.m. and Council Member Lisa Prewitt at 7:13 p.m.)

Chair Mayhew introduced agenda item, “Approve minutes of the previous meeting(s).” A motion was made by Mr. Moore, seconded by Ms. Meeks, to approve minutes of March 23, 2017. The motion passed by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 1 - Scott
Abstain: 0

Chair Mayhew introduced the next agenda item, “Section by section review of City Charter, including but not limited to Article 10 – Tax Administration, Article 11 – Franchises and Public Service Companies, and Article 12 – General Provisions.” A motion was made by Ms. Davis, seconded by Ms. Meeks, to make a grammatical correction in item (b)(1) of Sec. 11.01 - Definitions; powers of the city council by inserting a comma after the word “maintain”. The item would read as follows:

(1) To buy, condemn, construct, lease, maintain, and operate public utility systems in the city;
The motion carried by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 1 - Scott
Abstain: 0

A second motion was made by Ms. Davis, seconded by Mr. Salmi, to make a grammatical correction in item (b)(4) of **Sec. 11.01 – Definitions; powers of the city council** by inserting a comma after the word “welfare”. The item would read as follows:

(4) To regulate public service companies in the interest of public health, welfare, and safety.

The motion carried by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 1 - Scott
Abstain: 0

Ms. Davis made another motion, seconded by Mr. Salmi, to make a grammatical correction in item (b)(2) of **Sec. 11.01 – Definitions; powers of the city council** by inserting a comma after the word “manufacture”. The item would read as follows:

(2) To sell, manufacture, and distribute the services and output of city public utility systems;

The motion carried by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 1 - Scott
Abstain: 0

A motion was made by Ms. Davis, seconded by Mr. Salmi, to make a grammatical correction in the first sentence of **Sec. 11.02 – Power to grant franchise** by inserting a comma after the word “extend”. The sentence would read as follows: “The council shall have the power, by ordinance, to grant, renew, extend, and amend all franchises of all public utilities of every character operating within the city.” The motion carried by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 1 - Scott
Abstain: 0

Mr. Salmi made a motion, seconded by Ms. Meeks, to make a grammatical correction in the first sentence of **Sec. 11.04 – Ordinance granting franchise; public hearing** by inserting a comma
after the word “extending”. The sentence would read as follows: “All ordinances granting, renewing, extending, or amending a public utility franchise shall be read at three separate regular meetings of the council...”. After some discussion, the motion was withdrawn by Mr. Salmi, for the time being. Another motion was made by Mr. Salmi, seconded by Ms. Davis, to amend the last sentence of Sec. 11.04 – Ordinance granting franchise; public hearing. The amendment would read as follows: “Notice of public hearing, including the full text of the ordinance shall be published once before the first reading, in a newspaper of general circulation in the city, and shall be made available at the San Marcos Public Library, at City Hall and on the city’s website, and the expense of such publication shall be borne by the applicant for the franchise.” The motion carried by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 1 - Scott
Abstain: 0

A motion was made by Ms. Davis, seconded by Ms. Meeks, to amend the end of item (a)(2) of Sec. 12.02 – Personal interest and code of ethics by adding the following sentence: “The financial disclosures shall be updated within 30 days of any significant change in the interests of an official – even if such a change is temporary. For this part ‘significant’ means a change in interest that would tend to render the annual financial disclosure misleading or incomplete.” The motion carried by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 1 - Scott
Abstain: 0

Ms. Davis made a motion, seconded by Mr. Salmi, to amend the first sentence of item (a)(3) of Sec. 12.02 – Personal interest and code of ethics. The amendment would read as follows: “No member of the city council, and no employee of the city shall have a financial interest in the sale to the city or purchase from the city of any land, materials, supplies or service, outside of the person's position with the city.” The motion carried by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 1 - Scott
Abstain: 0

Another motion was made by Ms. Davis, seconded by Ms. Meeks, to add a sentence prior to the end of item (a)(3) of Sec. 12.02 – Personal interest and code of ethics. The sentence would read as follows: “Nor, for 24 months after serving as an officer of the city, may a person acquire such an interest. If the former employee or official acquires such an interest while employed by the city, or serving as a city official, the city may not take action on any application affecting such an interest for 24 months after the person leaves city employment or office, or for 24 months after the interest is acquired, whichever is longer.” After some discussion, the motion was withdrawn by Ms. Davis, for the time being.
Ms. Davis made one more motion, seconded by Ms. Meeks, to amend item (c)(2) of Sec. 12.02 – Personal interest and code of ethics. The amendment would read as follows: “Conduct hearings into allegations of violations of the city’s code of ethics or a state conflict of interest law, code of fair campaign practices, or violation of this charter according to the procedures set forth in the city’s ethic ordinance.” After some discussion, the motion was withdrawn by Ms. Davis for the time being.

A motion was made by Mr. Salmi, seconded by Ms. Davis, to amend Sec. 1.03 – Statement of goals. The amendment would read as follows: “The goals of the city government are to safeguard the health, safety and welfare of the city's residents, provide for a high quality of life including, but not limited to, neighborhood integrity, a clean and abundant water supply, a cost-efficient electricity supply, efficient police and fire departments, educational opportunities, effective road and transportation systems, a healthy business environment, well maintained parkland and recreational opportunities, foster intergovernmental liaison and communication, encourage responsible citizenship, promote sound community and economic development, promote high quality and affordable housing, conserve and protect the city’s natural resources and environment.” The motion carried by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 1 - Scott
Abstain: 0

Chair Mayhew introduced the next agenda item, “Questions and Answers from Press and Public.” Ms. Terrell addressed the commission on Sec. 12.01 – Public access to records. She stated it lacked information on what the timeframe would be on receiving a response from the city and what the recourse would be for not receiving a timely response or any response at all. Mr. Cosentino responded that a complaint can be filed with the Texas Attorney General’s Office and that the obligation to provide information is to do so within a reasonable time. He also stated additional information can be found in Chapter 552 of the Texas Government Code. Ms. Terrell then asked if there is a policy in regard to having a travel companion on city business trips. Mr. Cosentino responded that the companion would have to pay his/her own way.

Ms. Meeks moved for adjournment at 7:41 p.m., seconded by Ms. Davis. The motion passed with the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 1 - Scott
Abstain: 0

[Signature] Chair
MINUTES OF THE REGULAR MEETING OF THE
CHARTER REVIEW COMMISSION OF THE
CITY OF SAN MARCOS, TEXAS
APRIL 6, 2017

Members Present: Kama Davis
                  Paul Mayhew, Chair
                  Amy Meeks
                  Perry Moore
                  Jude Prather (appointed 4/4/17)
                  Todd Salmi
                  Shane Scott

City Attorney:   Michael Cosentino

Recording Secretary: Tina Moreno

Others Present:  Sam Brannon
                  Forrest Fulkerson
                  Christine Terrell

The meeting was called to order at 5:30 p.m. by Chair Mayhew. Chair Mayhew called a brief recess for the commissioning of new member, Jude Prather. The commission reconvened at 5:32 p.m.

Chair Mayhew introduced the Citizen Comment Period. Sam Brannon and Forrest Fulkerson were present. Mr. Brannon stated he appreciated the work of the commission. He then explained an amendment to the charter to discontinue fluoridation in (city) water was not fully addressed on the 2015 ballot. Although fluoride is no longer an additive in city water, fluoridated water is still being distributed through water acquisitions. Mr. Brannon requested the commission place the fluoride item back on the ballot to prohibit the city from receiving and distributing fluoridated water, as well. He is also willing to address the city council with this issue and/or seek legal representation, if needed. Forrest Fulkerson addressed the commission on behalf of the Ethics Review Commission. He stated the ERC is not allowed to conduct investigations on ethics complaints they receive. Mr. Fulkerson feels it would be beneficial for the ERC to be given this capability. Christine Terrell was also present but declined to speak.

Chair Mayhew introduced agenda item, “Approve minutes of the previous meeting(s).” A motion was made by Mr. Scott, seconded by Ms. Meeks, to approve minutes of March 30, 2017. The motion passed by the following vote:

For: 6 - Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against: 0
Absent: 1 - Davis (arrived at 5:45 p.m.)
Abstain: 0
Chair Mayhew introduced the next agenda item, "Section by section review of City Charter, including but not limited to Article 12 – General Provisions." A motion was made by Mr. Salmi, seconded by Mr. Scott, to amend Sec. 12.03 – Nepotism by omitting the current language and inserting item (a) to read as follows: "The members of the city council, and, the city manager, city clerk, city attorney and presiding judge of the municipal court are the public officials of the city who are subject to the nepotism prohibitions defined under State law."

(a) Public officials of the City of San Marcos are subject to the nepotism prohibitions defined under State law. For the purposes of this section, the following are defined as public officials:

1. The mayor and members of city council
2. City Manager
3. City Attorney
4. Presiding judge of the municipal court

The motion carried by the following vote:

For: 6 - Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 1 - Davis

Mr. Salmi made another motion, seconded by Ms. Davis, to amend Sec. 12.03 – Nepotism by inserting item (b) and have it read as follows:

(b) No city employee shall be regularly directly supervised by a relative, a romantic partner, or roommate. City employees will not be transferred or promoted into positions that would cause them to be in a direct supervisor/subordinate relationship with a relative, romantic partner or roommate.

1. Relatives: Includes, but are not limited to, the first, second and third degree of consanguinity (blood), adoption; and the first and second degree of affinity (marriage). Common Law marriages as recognized by the State of Texas will also be included for purposes of this section.

2. Romantic Partner: Persons in a consensual romantic relationship but are not married to one another.

3. Roommates: Individuals who share the same living quarters.

After some discussion, Mr. Salmi amended his motion, seconded by Ms. Davis, to remove the phrase "but are not limited to" in item (b)(1). The item would read as follows:
(1) Relatives: Includes, but are not limited to, the first, second and third degree of consanguinity (blood), adoption; and the first and second degree of affinity (marriage). Common Law marriages as recognized by the State of Texas will also be included for purposes of this section.

The amendment to the main motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Prather, and Salmi
Against: 1 - Scott
Absent: 0
Abstain: 0

The main motion failed by the following vote:

For: 3 - Davis, Meeks, and Salmi
Against: 4 - Mayhew, Moore, Prather, and Scott
Absent: 0
Abstain: 0

Another motion was made by Mr. Salmi, seconded by Ms. Meeks, to further amend Sec. 12.03 - Nepotism by inserting item (c) and have it read as follows:

(c) To avoid the appearance and risk of impropriety, public officials will not appoint business associates to public commissions and boards. Business associate is defined to include:

(1) Public official’s outside employer, outside employee, outside supervisor, or outside subordinate

(2) Public official’s relative’s outside employer, outside employee, outside supervisor, or outside subordinate (relative as defined in 12.03.b.1)

(3) The public official’s outside client

(4) The public official’s outside business partner, including:
   
a. Owning 10 percent or more of a business entity in which public official also owns 10 percent or more

b. Owning real property with a fair market value of $2,500 or more in partnership with public official

c. In an outside legal contract for business goods or services valued $2,500 or more with public officials
After some discussion, Mr. Salmi amended his motion, seconded by Ms. Meeks, to rephrase item (c) and (c)(4)c to read as follows:

(c) To avoid the appearance and risk of impropriety, a public official will not appoint his or her business associates to public commissions and boards. Business associate...

(4) c. In an outside legal contract for business goods and services valued $2,500 or more with the public officials

The amendment to the main motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Prather, and Salmi
Against: 0
Absent: 0
Abstain: 1 - Scott

The main motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Prather, and Salmi
Against: 0
Absent: 0
Abstain: 1 - Scott

Chair Mayhew made a motion, seconded by Mr. Moore, to amend item (b) of Sec. 12.03 – Nepotism by removing the term “romantic partner” throughout item (b). The amendment would read as follows:

(b) No city employee shall be regularly directly supervised by a relative, a romantic partner, or roommate. City employees will not be transferred or promoted into positions that would cause them to be in a direct supervisor/subordinate relationship with a relative, a romantic partner or roommate.

(1) Relatives: Includes the first, second and third degree of consanguinity (blood), adoption; and the first and second degree of affinity (marriage). Common Law marriages as recognized by the State of Texas will also be included for purposes of this section.

(2) Romantic Partner: Persons in a consensual romantic relationship but are not married to one another.

(32) Roommates: Individuals who share the same living quarters.

The motion carried by the following vote:

For: 7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

A motion was made by Mr. Salmi, seconded by Chair Mayhew, to amend the title of Sec. 12.03 – Nepotism to read: “Sec. 12.03 – Nepotism & Conflict of Interest.” The motion carried by the following vote:

For: 7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

Chair Mayhew made a motion, seconded by Mr. Scott, to amend Sec. 3.17 – Expulsion or removal of city officials by striking item (a) in its entirety:

(a) The city council shall have the authority to expel any city council member who is absent three consecutive regular city council meetings unless the council member has secured permission, in advance, from the city council to be absent from at least one of the meetings; provided that any such action for expulsion of a city council member shall require five affirmative votes of city council members.

After some discussion, the motion was withdrawn by Chair Mayhew and Mr. Scott.

A motion was made by Chair Mayhew, seconded by Mr. Scott, to amend item (b) of Sec. 8.02 – Preparation and submission of budget by striking “April 30” and inserting “March 31” to allow timely budget preparation. The amendment would read as follows:

(b) By April 30-March 31 of each year, after a public hearing, the city council shall formulate a policy statement to be used by the city manager as direction during the preparation of the proposed budget.

The motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Prather, and Scott
Against: 0
Absent: 0
Abstain: 1 - Salmi

Chair Mayhew made a motion, seconded by Ms. Davis, to amend Sec. 8.02 – Preparation and submission of budget by inserting a new item, which would read as follows: “By February 27th of each year the city council shall hold a policy budget workshop.” The motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Prather, and Scott
Against: 0
Absent: 0
Abstain: 1 - Salmi

Another motion was made by Chair Mayhew, seconded by Ms. Davis, to further amend Sec. 8.02 – Preparation and submission of budget by re-lettering the items with the insertion of the newly approved item:

(ae) The city manager, not less than 30 days prior to the time the city council makes its tax levy for the current fiscal year, shall file with the city clerk a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain a budget message explaining the budget, containing an outline of the proposed financial policies of the city for the ensuing fiscal year, setting forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and explaining any major changes in financial policy. Copies of the proposed budget shall be made available at the San Marcos Public Library, at City Hall, and on the city’s website.

(b) By March 31st of each year, after a public hearing, the city council shall formulate a policy statement to be used by the city manager as direction during the preparation of the proposed budget.

(ea) By February 27th of each year the city council shall hold a policy budget workshop.

The motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Prather, and Scott
Against: 0
Absent: 0
Abstain: 1 - Salmi

Ms. Meeks made a motion, seconded by Ms. Davis, to amend Sec. 3.17 – Expulsion or removal of city officials by adding the following sentence to the end of item (a): “The city council may remove council members who are in violation of, or have violated, any provisions of this charter.” After some discussion, the motion was withdrawn by Ms. Meeks.

A motion was made by Ms. Meeks, seconded by Ms. Davis, to amend item (a) of Sec. 3.02 – Qualifications by adding the following sentence and labeling it item (a)(7): “The city council shall not violate any provisions of the charter.” After some discussion, the motion was withdrawn by Ms. Meeks and Ms. Davis.

Mr. Salmi made a motion, seconded by Mr. Moore, to amend Sec. 12.02 subsection (c)(2) pertaining to the duties of the Ethics Review Commission, to read as follows:
(c)(2) Conduct hearings into allegations of violations of the city’s code of ethics, or a state conflict of interest law, or the city charter according to the procedures set forth in the city’s ethics ordinance.

The motion carried by the following vote:

For: 7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

A motion was made by Mr. Salmi, seconded by Mr. Moore, to amend item (c)(3) of Sec. 12.02 – Personal interest and code of ethics to read as follows:

(c)(3) Render advisory opinions on potential conflicts of interest or violation of the city’s code of ethics, or the city charter at the request of a public official or employee covered by the code of ethics.

The motion carried by the following vote:

For: 7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

Mr. Salmi made another motion, seconded by Mr. Moore, to amend item (c)(4) of Sec. 12.02 Personal interest and code of ethics to read as follows:

(c)(4) Recommend to appropriate authorities cases for prosecution or other action for violation of the code of ethics, or a state conflict of interest law, or the city charter.

The motion carried by the following vote:

For: 7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

Chair Mayhew introduced the next agenda item, “Questions and Answers from Press and Public.” Mr. Fulkerson asked the commission what penalties for violations of the charter would the Ethics Commission render if a guilty plea is ruled. Mr. Cosentino stated the remedies would be the ones currently spelled out in the ethics ordinance. Mr. Fulkerson also stated he is interested in determining whether any conflicts of interest occur when board and commission appointments are made and how they are voted on. Mr. Salmi responded that the commission hopes to incorporate language into the charter to address his concern. Ms. Terrell had no questions.
Mr. Scott moved for adjournment at 8:26 p.m., seconded by Ms. Davis. The motion passed with the following vote:

For: 7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

Chair
MINUTES OF THE REGULAR MEETING OF THE
CHARTER REVIEW COMMISSION OF THE
CITY OF SAN MARCOS, TEXAS
APRIL 20, 2017

Members Present: Kama Davis
Paul Mayhew, Chair
Amy Meeks
Perry Moore
Todd Salmi

Members Absent: Jude Prather
Shane Scott

City Attorney: Michael Cosentino

Recording Secretary: Tina Moreno

Others Present: Lisa Marie Coppoletta
Steve Parker, Assistant City Manager/CFO

The meeting was called to order at 5:31 p.m. by Chair Mayhew.

Chair Mayhew introduced the Citizen Comment Period. Steve Parker, Assistant City Manager/CFO addressed the commission on residency requirements currently listed in the charter for municipal judge and the challenges it may impose for future recruitment (of this appointed position). Ms. Lisa Marie Coppoletta stated her concerns on: absences by mayor’s appointees to Charter Review Commission; indebtedness to the city (by city employees); Planning & Zoning Commissioners being required to be property owners; and allowing the Ethics Review Commission more oversight on contractors.

Chair Mayhew introduced agenda item, “Approve minutes of the previous meeting(s).” A motion was made by Ms. Meeks, seconded by Mr. Moore, to approve minutes of April 6, 2017. The motion passed by the following vote:

For: 4 - Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 2 - Prather and Scott
Abstain: 1 - Davis

Chair Mayhew introduced the next agenda item, “Section by section review of City Charter, including but not limited to Article 12 – General Provisions.” A motion was made by Ms. Meeks, seconded by Ms. Davis, to amend Sec. 3.17 – Expulsion or removal of city officials by adding the following sentence to the end of item (a): “The city council may remove council members including the mayor who are in violation of or have violated provisions of this charter.” After some discussion, Ms. Meeks amended her motion, seconded by Ms. Davis to insert the word “substantially”. The
amendment would read as follows: “The city council may remove council members, including the mayor, who are in violation of or who have substantially violated provisions of this charter.” After more discussion, the motion to amend was withdrawn by Ms. Meeks and Ms. Davis. In addition, the main motion was also withdrawn by Ms. Meeks and Ms. Davis. A new motion was made by Ms. Meeks, seconded by Ms. Davis, to amend Sec. 3.17 – Expulsion or removal of city officials by adding the following sentence to the end of item (a): “The city council may remove council members including the mayor who are in substantial violation of or have substantially violated provisions of this charter.” After some discussion, an amendment to the main motion was made by Mr. Salmi, seconded by Mr. Moore, to insert an additional phrase at the very end of item (a). The amendment would read as follows:

(a) The city council may remove council members including the mayor who are in substantial violation of or have substantially violated provisions of this charter; provided that any such action for expulsion of a city council member shall require five affirmative votes of the city council.

The motion to amend carried by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 2 - Prather and Scott
Abstain: 0

And the main motion carried by the following vote:

For: 4 - Davis, Meeks, Moore, and Salmi
Against: 1 - Mayhew
Absent: 2 - Prather and Scott
Abstain: 0

Mr. Salmi made a motion, seconded by Ms. Davis, to amend Sec. 1.03 – Statement of goals to correct the phrase “promote high quality and affordable housing” by striking the word “and”. The phrase would read as follows: “promote high quality and affordable housing”. The motion carried by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 2 - Prather and Scott
Abstain: 0

A motion was made by Mr. Salmi, seconded by Ms. Davis, to amend Sec. 12.03 – Nepotism and Conflict of Interest by adding the following sentence to the end of item (b): “The supervisor involved in the relationship is responsible for promptly reporting the relationship to the city’s Director of Human Resources.” The motion carried by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 0
Mr. Salmi made another motion, seconded by Ms. Davis, to further amend item (b) of Sec. 12.03 — Nepotism and Conflict of Interest by inserting the term and definition of “sexual partner”. The amendment would read as follows:

(b) No city employee shall be regularly directly supervised by a relative, sexual partner, or roommate. City employees will not be transferred or promoted into positions that would cause them to be in a direct supervisor/subordinate relationship with a relative, sexual partner, or roommate. The supervisor involved in the relationship is responsible for promptly reporting the relationship to the city’s Director of Human Resources.

(1) Relatives: Includes the first, second, and third degree of consanguinity (blood or adoption); and the first and second degree of affinity (marriage). Common law marriages as recognized by the State of Texas will also be included in purposes of this section.

(2) Roommates: Individuals who share the same living quarters.

(3) Sexual Partner: Persons in a consensual sexual relationship but are not married to one another.

The motion carried by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 2 - Prather and Scott
Abstain: 0

A motion was made by Ms. Davis, seconded by Ms. Meeks, to amend item (a)(3) of Sec. 12.02 — Personal interest and code of ethics by adding the following sentence: “For 24 months after serving as an officer of the city, no person may acquire a financial interest. If the former employee or official acquires a financial interest while employed by the city or serving as a city official, the city official may not take action on any application affecting such an interest for 24 months after the person leaves city employment or office or for 24 months after the interest is acquired, whichever is longer. The ethics commission and the city council shall enforce the forfeiture of the office, remove the city official, and bar him or her from conducting any further business.” After some discussion, the motion was withdrawn by Ms. Davis and Ms. Meeks.

Mr. Salmi made a motion, seconded by Ms. Meeks, to amend item (a) of Sec. 12.02 — Personal interest and code of ethics by adding a subsection (4), which would read as follows:

(a)(4) For a period of two years from the date of leaving office, a city council member shall not have any financial interest in the sale to the city of any land, materials, supplies, or service.
Any violation of this subsection with the actual or constructive knowledge of the former city council member shall render the contract voidable by the city manager or the city council.

The motion carried by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 2 - Prather and Scott
Abstain: 0

A motion was made by Ms. Davis, seconded by Mr. Salmi, to amend Sec. 12.15 – Fluoridation of municipal water supply to read as follows: “The City of San Marcos shall not may add or direct or require its agents to add fluoride to the San Marcos municipal water supply.” After some discussion, the motion failed by the following vote:

For: 2 - Davis and Salmi
Against: 3 - Mayhew, Meeks, and Moore
Absent: 2 - Prather and Scott
Abstain: 0

Ms. Davis made a motion, seconded by Ms. Meeks, to amend item (a) of Sec. 3.02 – Qualifications by adding a subsection (7), which would read as follows: “Each member of the city council and the mayor take the oath of fair campaign practices before taking office as promulgated by Sec. 258.004 in the Texas Code of Fair Campaign Practices.” After some discussion, the motion was withdrawn by Ms. Davis and Ms. Meeks.

A new motion was made by Ms. Davis, seconded by Ms. Meeks, to amend Sec. 5.03 – Filing for office by adding the following sentence and inserting it after the first sentence: “All candidates shall take the oath of fair campaign practices provided in Section 258.004 of the Texas Election Code.” The motion carried by the following vote:

For: 3 - Davis, Meeks, and Salmi
Against: 2 - Mayhew and Moore
Absent: 2 - Prather and Scott
Abstain: 0

Ms. Davis made a motion, seconded by Ms. Meeks, to amend Sec. 4.02 – City clerk by adding the following sentence at the end of this section: “The city clerk shall assure that state law on record retention be followed.” The motion failed by the following vote:

For: 2 - Davis and Meeks
Against: 2 - Mayhew and Moore
Absent: 3 - Prather, Salmi, and Scott (Salmi left at 8:00 p.m.)
Abstain: 0

A motion was made by Ms. Davis, seconded by Ms. Meeks, to amend Sec. 12.01 – Public access to records by adding the following sentence at the end of this section: “All city council
members, including the mayor, city manager, city attorney, city clerk, and presiding municipal judge have their salaries published on the city website.” After some discussion, the motion was withdrawn by Ms. Davis and Ms. Meeks.

Ms. Davis made another motion, seconded by Ms. Meeks, to amend Sec. 12.02 pertaining to the duties of the Ethics Review Commission, by adding a new subsection and labeling it (d) to allow the ethics commission investigative power and subpoena power. After some discussion, the motion was withdrawn by Ms. Davis.

Chair Mayhew introduced the next agenda item, “Questions and Answers from Press and Public.” None were present.

Ms. Meeks moved for adjournment at 9:06 p.m., seconded by Mr. Moore. The motion passed with the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against: 0
Absent: 3 - Prather, Salmi, and Scott (Salmi left at 8:00 p.m.)
Abstain: 0

Chair
MINUTES OF THE REGULAR MEETING OF THE
CHARTER REVIEW COMMISSION OF THE
CITY OF SAN MARCOS, TEXAS
May 3, 2017

Members Present: Kama Davis
Paul Mayhew, Chair
Amy Meeks
Perry Moore
Jude Prather
Todd Salmi
Shane Scott

City Attorney: Michael Cosentino

Recording Secretary: Tina Moreno

Others Present: Brett Thorne

The meeting was called to order at 5:32 p.m. by Chair Mayhew.

Chair Mayhew introduced the Citizen Comment Period. Brett Thorne was present but declined to speak during the Citizen Comment Period.

Chair Mayhew introduced agenda item, “Approve minutes of the previous meeting(s).” A motion was made by Mr. Scott, seconded by Ms. Meeks, to approve minutes of April 20, 2017. The motion passed by the following vote:

For: 7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

Chair Mayhew introduced the next agenda item, “Section by section review of City Charter, including but not limited to Article 12 – General Provisions.” A motion was made by Ms. Meeks, seconded by Mr. Prather, to amend Sec. 1.03 – Statement of goals to read as follows: “The goals of the city government are to safeguard the health, safety and welfare of the city's residents, provide for a high quality of life including, but not limited to, neighborhood integrity, a clean and abundant water supply, a cost-efficient electricity supply, efficient police and fire departments, educational opportunities, effective road and transportation systems, a healthy business environment, well maintained parkland and recreational opportunities, foster intergovernmental liaison and communication, encourage responsible citizenship, promote sound community and economic development, promote high quality affordable housing, conserve and protect the city's natural resources and environment and, in particular the San Marcos River, its springs, aquifer, and tributaries.” After some discussion, an amendment to the motion was made by Mr. Prather, seconded
by Ms. Davis, to include the Blanco River. After brief discussion, the motion to amend was withdrawn by Mr. Prather. After more discussion, the main motion carried by the following vote:

<table>
<thead>
<tr>
<th>For:</th>
<th>5 - Davis, Mayhew, Meeks, Moore, and Prather</th>
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<tbody>
<tr>
<td>Against:</td>
<td>0</td>
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<td>Absent:</td>
<td>0</td>
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<tr>
<td>Abstain:</td>
<td>2 - Salmi and Scott</td>
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</tbody>
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Ms. Meeks made a motion, seconded by Ms. Davis, to add a sentence to item (d) of Sec. 7.01 – Planning & zoning commission. The amendment would read as follows:

(d) In making appointments to the commission, council shall seek to ensure broad citizen representation which includes geographic, professional, gender, racial, and viewpoint diversity. **A person may not be appointed to the Commission if that person has a substantial interest in, or receives income from, the development or sale of real property.** The commission shall establish bylaws to govern rules of procedure and the annual election of officers. All meetings of the commission shall be open to the public.

After some discussion, the motion was withdrawn by Ms. Meeks. A new motion was made by Ms. Meeks, seconded by Mr. Scott, to amend item (d) of Sec. 7.01 – Planning and zoning commission to read as follows:

(d) In making appointments to the commission, council shall seek to ensure broad citizen representation which includes geographic, professional, gender, racial, and viewpoint diversity. **No more than two professional realtors may be appointed to the commission.** The commission shall establish bylaws to govern rules of procedure and the annual election of officers. All meetings of the commission shall be open to the public.

The motion carried by the following vote:

<table>
<thead>
<tr>
<th>For:</th>
<th>4 - Davis, Meeks, Moore, and Scott</th>
</tr>
</thead>
<tbody>
<tr>
<td>Against:</td>
<td>3 - Mayhew, Prather, and Salmi</td>
</tr>
<tr>
<td>Absent:</td>
<td>0</td>
</tr>
<tr>
<td>Abstain:</td>
<td>0</td>
</tr>
</tbody>
</table>

Ms. Meeks made a motion, seconded by Ms. Davis, to amend Sec. 3.17 – Expulsion or removal of city officials by adding a new item and labeling it item (c), which would read as follow:

(c) No member of city council, including the mayor, shall make any intimation or promise of current or future financial gain, promotion, or other benefit to any employee, public official, or their family members. Nor shall any member of city council, including the mayor, intimidate, or intimate current or future financial loss, job loss, or demotion to any employee, public official, or their family members. Any such action may be grounds for removal.

After some discussion, the motion failed by the following vote:
A motion was made by Ms. Meeks, seconded by Ms. Davis, to create a new section under ARTICLE VII – MUNICIPAL PLANNING AND ZONING, which would read as follows:

Sec. 7.05. – Disqualification from voting.

(1) A member shall disqualify himself or herself from voting whenever he or she finds that he or she has a personal or monetary interest in the property under review, or that he or she will be directly affected by the decision of the Commission.

(2) A member shall disqualify himself or herself from voting whenever any applicant, or the applicant’s agent, has sought to influence the vote of the member on an application, other than in the public hearing.

After discussion, the motion was withdrawn by Ms. Meeks.

Ms. Meeks made another motion, seconded by Ms. Davis, to amend subsection (a) of Sec. 12.02 – Personal interest and code of ethics by creating item (5) and have it read as follows:

(a)(5) No city official may receive loans, contributions, promises of financial support, or any other form of financial gain from another city official.

After brief discussion, an amendment to the motion was made by Ms. Meeks, seconded by Ms. Davis, to replace the first listing of “city official” with “city council member”. The amendment would read as follows:

(a)(5) No city official council member may receive loans, contributions, promises of financial support, or any other form of financial gain from another city official.

After discussion, the amended motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Prather, and Salmi
Against: 0
Absent: 0
Abstain: 1 - Scott

However, the main motion failed by the following vote:

For: 2 - Davis and Meeks
Against: 5 - Mayhew, Moore, Prather, Salmi, and Scott
Absent: 0
Abstain: 0
A motion was made by Ms. Davis, seconded by Ms. Meeks, to amend Sec. 5.03 – Filing for office by adding the following sentences to the end of this section: “All campaign contributions and reports filed by candidates shall be printed electronically, not hand-written, so that they are legible. The City Clerk shall enforce this and retain the records.” After brief discussion, the motion was withdrawn by Ms. Davis. A new motion was made by Mr. Salmi, seconded by Chair Mayhew to amend Sec. 5.03 – Filing for office by adding the following sentence to the end of this section: “All campaign contributions and reports filed by candidates shall be legible.” The motion carried by the following vote:

| For:     | 7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott |
| Against: | 0                                                               |
| Absent:  | 0                                                               |
| Abstain: | 0                                                               |

Ms. Davis made a motion, seconded by Mr. Prather, to create a new section under ARTICLE IV. – ADMINISTRATIVE SERVICES, which would read as follows:

Sec. 4.07 – Publication of appointed public official’s salaries.

The salary of each public official appointed by the city council, which include the city attorney, city manager, city clerk, presiding municipal judge, and city auditor shall be published on the city website.

After some discussion, a motion to amend was made by Ms. Davis, seconded by Mr. Scott, to include all employees. After more discussion, the motion to amend was withdrawn by Ms. Davis and Mr. Scott. The main motion was also withdrawn by Ms. Davis. A new motion was made by Ms. Davis, seconded by Mr. Prather, to have the new section read as follows:

Sec. 4.07 – Publication of appointed public official’s salaries.

The salary of each position shall be published on the city website.

After discussion, the motion was withdrawn by Ms. Davis. Ms. Davis made a new motion, seconded by Mr. Scott, to have the new section read as follows:

Sec. 4.07 – Publication of appointed public official’s salaries.

The salary of each position shall be published on the city website.

After brief discussion, the motion was withdrawn by Ms. Davis. A new motion was made by Ms. Davis, seconded by Mr. Scott, to have the new section read as follows:

Sec. 4.07 – Publication of salaries.

The salary of each city position shall be published on the city website.

The motion carried by the following vote:
Ms. Davis made a motion, seconded by Ms. Meeks, to create a subsection labeled item (1) to Sec. 5.03 – Filing for office and have it read as follows:

(1) City employees, city officials and candidates for office (or businesses in which they have a substantial interest) shall not contribute, either monetarily or in kind, to the campaigns of other candidates for city office.

After some discussion, the motion was withdrawn by Ms. Davis. Another motion was made by Ms. Davis, seconded by Ms. Meeks, to have a new subsection (1) of Sec. 5.03 – Filing for office read as follows:

(1) City employees, city officials and candidates for office (or businesses in which they have a substantial interest) shall not contribute, either monetarily or in kind, to the campaigns of other candidates for city office.

After further discussion, the motion was withdrawn by Ms. Davis. A new motion was made by Ms. Davis, seconded by Ms. Meeks, to create a subsection labeled item (2) to Sec. 5.03 – Filing for office and have it read as follows:

(2) Candidates for city office shall not accept monetary or in kind contributions from any person or entity in excess of $250.

After additional discussion, the motion was withdrawn by Ms. Davis. Another new motion was made by Ms. Davis, seconded by Ms. Meeks, to create a subsection labeled item (1) to Sec. 5.03 – Filing for office and have it read as follows:

(1) Candidates for city office shall not accept monetary or in-kind contributions from any person or entity in excess of $250-$1,000.

After brief discussion, the motion tied by the following vote:

For: 3 - Davis, Meeks, and Scott
Against: 3 - Mayhew, Moore, and Prather
Absent: 0
Abstain: 1 - Salmi

A motion was made by Ms. Davis, seconded by Ms. Meeks, to amend subsection (a)(2) of Sec. 12.02 – Personal interest and code of ethics by adding a sentence to the end of this section, which would read as follows: “Each financial disclosure of outside earnings shall be made to the nearest $100,000 increment. City officials who do not make such disclosures shall have 30 days to conform to this Section of the Charter or shall be subject to review by the Ethics Commission or subject to removal by City Council.” After discussion, the motion was withdrawn by Ms. Davis.
Chair Mayhew introduced the next agenda item, “Consider approval of the 2017 Charter Review Commission’s recommendations and report to City Council.” After some discussion, Chair Mayhew, Mr. Moore, and Mr. Salmi were appointed to a subcommittee to prepare the final report, which will be reviewed and approved at the commission’s next and final meeting (date to be determined).

Chair Mayhew introduced the next agenda item, “Questions and Answers from Press and Public.” None were present (Mr. Thorne left early).

Mr. Scott moved for adjournment at 7:33 p.m., seconded by Ms. Davis. The motion passed with the following vote:

For: 7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against: 0
Absent: 0
Abstain: 0

[Signature]
Chair
Charter Review Requests from City Council and Staff

- Should the Deputy Mayor Pro Tem be added to authorize the calling of a meeting to order the election in the event that the Mayor and Mayor Pro Tem are unable? Sec. 3.06 – Vacancies.

- Should web posting on the city’s website be added as a requirement for meetings of the city council? Sec. 3.09 – Meetings of the city council.

- City Secretary should be corrected to city clerk. Sec. 3.09 – Meetings of the city council.

- Should the city attorney review the legality of all ordinances provided for council consideration? Sec. 3.11 – Procedures for passage of ordinances.

- Should electronic signatures be allowed to authenticate all ordinances and resolutions? Sec. 4.02 City Clerk.

- Should the word “printed” be changed to accommodate the use of electronic voting systems? Sec. 5.04 – The official ballot.

- The ETJ member should be deleted. Effective March 1, 2015 the ETJ member of the commission shall be deleted and qualified city resident member shall be appointed. Sec. 7.01 – Planning and zoning commission.

- Should the nepotism rules be modified? Sec. 12.03 – Nepotism.

- Should the qualifications for council be altered to reference indebtedness to the city? Sec. 3.02 – Qualifications.

- Should Council terms to be extended to 4 years? Sec. 3.01 – Number, selection and term.

- Should the Mayor’s term be extended from 2 years to 3 years? Sec. 3.01 – Number, selection and term.

- Should there be term limits? Sec. 3.01 – Number, selection and term.

- Review the possibility of going to single member districts. Sec. 3.01 – Number, selection and term.

- Review the possibility of going from November elections to May elections. Sec. 5.01 – Elections.

- Review the possibility of going to odd year elections if moving to May elections is not an option. Sec. 5.01 – Elections.

Additional Council Review Requests

- Section 3.01 – Number, selection and term; Section 3.02 – Qualifications; Section 3.03 – reserved; Section 3.05 – Mayor, Mayor Pro Tempore and Deputy Mayor Pro Tempore; Section 3.07 – Powers and limitations of city council; Section 3.08 – City council not to interfere in appointments or removals; Section 3.11 – Procedure for passage of ordinances.

- Section 4.01 – City manager

- Section 5.01 – Elections; Section 5.02 – Regulation of elections; Section 5.06 – Laws governing city elections; Section 5.07 – Conducting and canvassing elections.

Staff

- Should anyone who has a criminal record of a certain seriousness (to be defined by the commission), be deemed ineligible to serve on city council? Sec. 3.02 – Qualifications.
Cumulative List of Recommended City Charter Amendments*

1. Change all references to “municipal government” to “city government.” [Sections 1.01 and 1.02]
   
   **Purpose:** To provide clarity and consistency throughout the City Charter

2. Amend Section 1.03, Statement of Goals, to provide that the city government should:
   - promote high quality affordable housing
   - include protection of the San Marcos River, its springs, aquifer, and tributaries
   
   **Purpose:** To explicitly include high-quality affordable housing with the existing enumeration of the characteristic of a high quality of life already included in the City Charter. To emphasize the particular importance of protecting the city’s treasured natural features.

3. Allow the address shown on a person’s Texas Identification card to be used, in addition to a current driver’s license, as proof of residence for purposes of qualifying to run for and hold office on the city council. [Section 3.02(a)(2)(A)]
   
   **Purpose:** To allow additional state documents to be used and accepted as proof of residence to qualify for public elections

4. Amend Section 3.02(a)(6) to require Council members to remain current on all financial obligations to the city in order to continue to hold office. Under the current city charter, only financial obligations arising from the duties of the office are considered. If this amendment is approved, having delinquent city utility accounts or delinquent property taxes would disqualify a council member from continuing to hold office and disqualify an individual with such outstanding debts from filing an application to run for council. See also, Section 5.03 – Filing For Office.
   
   **Purpose:** To elect council members with sufficient personal financial management skills and avoid possible conflicts of interest due to outstanding city debts

5. Change all references to the position of “mayor pro tempore” to “mayor pro tem.” [Section 3.05]
   
   **Purpose:** To provide clarity and consistency throughout the City Charter

6. Change all references to the position of “city secretary” to “city clerk” [Sections 3.09 and 6.02]
   
   **Purpose:** To provide clarity and consistency throughout the City Charter
7. Require the city attorney to approve or file written objections to proposed ordinances prior to consideration by the city council. [Section 3.11(b)]

**Purpose:** Clarifies existing language to make sure council receives legal advice regarding the validity of proposed ordinances before consideration and action by council

8. Correct a reference in the first sentence of Section 3.12 from “chapter” to “charter”

**Purpose:** To provide clarity and consistency throughout the City Charter

9. Require the affirmative vote of at least five members of the city council to remove the city manager. [Section 4.01(b)]

**Purpose:** This provision strengthens the operation of San Marcos as a "council-manager government" as defined in the City Charter by insulating the City Manager from political pressures from the council.

10. Allow the city clerk to authenticate ordinances and resolutions by electronic signature. [Section 4.02]

**Purpose:** Allows for efficient and modern operation of city government.

11. Clarify that names of candidates can be listed electronically on the ballot instead of being printed as they would be on paper ballots. [Section 5.04]

**Purpose:** Allows for efficient and modern operation of city elections.

12. Amendments to Section 7.01 – Planning and Zoning Commission – Qualifications:

- Remove all remaining references to the ETJ member

**Purpose:** The ETJ position was removed from the City Charter by voters effective March 15, 2015. The removal of out-of-date ETJ language from section 7.01 makes it easier to understand how current membership in the P&Z commission is determined.

- Eliminate property ownership as a requirement to serve on the P&Z
- Increase residency requirement from three years to five years to serve on P & Z

**Purpose:** To encourage civic participation and expand the pool of San Marcos citizens eligible for appointment to this public commission, including long-term local residents impacted by decisions made by P&Z, and encourages participation by members with knowledge of the community.

- Prohibit the appointment of more than two professional realtors to the P & Z
Purpose: The Charter presently instructs City Council to appoint a diverse set of P&Z commissioners “which includes geographic, professional, gender, racial, and viewpoint diversity. [Section 7.01]” This provision ensures that a broad range of professions are represented on Planning and Zoning.

13. Amendments to Section 7.02 – Planning and Zoning Commission – Powers and Duties:
   - Require the planning staff to follow all city ordinances rules and regulations and consult with the city attorney before making any recommendations to the Planning and Zoning Commission
   - Require the Planning and Zoning Commission to follow all city ordinances, rules, and regulations before making any recommendations to the city council

Purpose: This provision makes current city practice a City Charter requirement.

   - Require city council decisions on conditional use permit appeals to be based on Texas laws, Federal laws, city ordinances and regulations in addition to the record before the Planning and Zoning Commission

Purpose: This provision allows the City Council to consider all relevant laws and regulations in its public hearings related to conditional use permits.

   - Prohibit the assessment of a fee to appeal a decision on conditional use permit to the city council

Purpose: This provision provides citizens of San Marcos free access to their elected officials related to public matters

14. Require the proposed city budget to be made available at city hall, at the San Marcos Public Library, and on the city’s website. Require the adopted budget and supporting schedules to be published on the city’s website. [Sections 8.02 and 8.05]

Purpose: Promote transparency and public awareness of city government

15. Require proposed ordinances granting a public utility franchise to be made available at the San Marcos Public Library, at city hall, and on the city’s website. [Section 11.04]

Purpose: Promote transparency and public awareness of city government

16. Require updates to annual financial disclosure forms by council members, council appointees, and board and commission members within 30 days of any significant changes. [Section 12.02(a)(2)]

Purpose: Public officials are currently required to file financial disclosure forms every 12 months. This provision assures San Marcos citizens on-going accuracy and transparency regarding public official’s financial disclosures if there is a significant change within that one-year timeframe.
17. Prohibit council members and employees from having a financial interest in the purchase from the city of any land, materials, supplies, or service. [Section 12.02(a)(3)]

**Purpose:** To avoid conflicts of interest and ensure public trust, the City Charter already prohibits current council members and city employees from financial benefit in the *sale* of any land, materials, supplies, or service. This provision increases protection by prohibiting this potential conflict to financial interest the *purchase* of land, materials, supplies, or service as well.

18. Prohibit council members from having a financial interest in the sale to the city of any land, materials, supplies, or service for a period of two years from the date of leaving office; rendering contracts entered into in violation of this provision voidable by city manager or city council. [Section 12.02; add a new subsection (a)(4)]

**Purpose:** Public office is meant for the public good and not for personal enrichment. Currently, only active councilmembers are prevented from having a financial interest in city deals. In contrast, currently both active city employees (Section 12.02) and former employees within two years of employment (San Marcos Ethics Ordinance) are prevented from having a financial interest in city deals. This provision amends the charter to apply the same prohibition to council members for period of two years after leaving office.

19. Correct punctuation errors - Insert a comma, known as the Oxford comma or serial comma, immediately before the coordinating conjunction (usually “and” or “or”) in a series of three or more items – in each instance where this occurs in the city charter

**Purpose:** To provide clarity and consistency throughout the City Charter

20. Amend the powers of the Ethics Review Commission; granting the authority to conduct hearings regarding alleged violations of the city charter, render advisory opinions regarding potential violations of the city charter, and make recommendations regarding such violations. [Section 12.02(c), subparagraphs (2),(3), and (4)]

**Purpose:** This amendment makes clear the importance of public officials to follow the City Charter in addition to existing State conflict of interest laws and the San Marcos Code of Ethics ordinances and provides a process for accepting and hearing complaints regarding charter violations.

21. Amendments to Section 12.03, Nepotism:

- Rename this section to read: “12.03 Nepotism and Conflict of Interest”
- Rephrase the sentence structure of the current provision to make it less cumbersome and to provide greater clarity
- Prohibit direct supervision of an employee by his/her relative, roommate, or sexual partner
• Require supervisors to report relationships with subordinates promptly to the Human Resources Department
• Defining “relative” to include persons related within the third degree by blood or within the second degree by affinity (marriage, including common law marriage)
• Prohibit a “public official” from appointing his or her business associate to a “public board or commission”
• Defining “business associate” and “sexual partner”

**Purpose:** This provision increases public trust in financial interests of public officials and avoids potential conflicts of interests by public officials and city employees.

22. Amendments to Section 8.02, Preparation and submission of budget:
• Add a provision requiring the city council to hold a visioning workshop by January 31\textsuperscript{st} of each year
• Add a provision to require the city council to hold a policy budget workshop on or before February 27\textsuperscript{th} of each year
• Require the council to conduct a public hearing and to formulate the budget policy statement by March 31\textsuperscript{st} of each year instead of April 30\textsuperscript{th}
• Re-letter the subsections of this section to follow the sequential steps in the process for formulating the budget policy statement

**Purpose:** This provision provides citizens and city staff more time to review proposed city budget goals before the adoption of a city budget. It also promote transparency and public awareness of city government

23. Provide for removal of the mayor or a council member from office, upon the affirmative vote of five members of the council, for substantial violations of the city charter [Section 3.17]

**Purpose:** This provision makes clear the importance of the Mayor and Council Members to follow the City Charter by providing an option for enforcement of the Charter.

24. Require candidates for mayor or city council to take an oath agreeing to comply with the Code of Fair Campaign Practices set forth in Section 258.004 of the Texas Election Code [Section 5.03]

**Purpose:** The State Election Code provision encourages campaigns that are decent, honest, and fair to encourage healthy competition and open discussion of issues and candidate qualifications and to discourage practices that cloud the issues or unfairly attack opponents. This provision makes it a City Charter requirement that candidates take an oath to comply with the Code of Fair Campaign Practices to help retain the community culture of San Marcos, to encourage citizens to offer themselves for public service without fear of the politics of personal destruction, and to keep local elections issue oriented.
25. Require the salary range of each city position to be published on the city’s website [New Section 4.07]

**Purpose:** Promote financial transparency and public awareness of city government

26. Require all campaign contributions and reports filed by candidates to be legible. The city clerk shall enforce this provision and retain the records.

**Purpose:** Promote financial transparency and public awareness in public elections via candidate reports that are clearly and readily understood.

*LIST IS COMPLETE THROUGH MAY 3, 2017 AND INCLUDES PURPOSE STATEMENTS FOR EACH PROPOSED AMENDMENT APPROVED AT THE ERC’S FINAL MEETING*
ARTICLE I. - FORM OF GOVERNMENT AND BOUNDARIES

Sec. 1.01. - Establishment and purposes of Charter.

We the people of San Marcos, do ordain and establish this Charter as the foundation of our city government, a home-rule city with the name "City of San Marcos". We further ordain that the City of San Marcos will exist for the purposes enumerated in this Charter, and will have the organizational structure described in this Charter, and will have the powers, duties, limitations, and immunities stated in this Charter.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(1), 8-15-06/11-7-06)

Sec. 1.02. - Form of government.

The city government provided by this Charter shall be known as the "council-manager government". Pursuant to this Charter and subject only to the limitations imposed by the state constitution, the statutes of the state and by this Charter, all powers of the city shall be vested in an elective council, hereinafter referred to as the "council", which shall in an open and transparent manner, enact local legislation, adopt budgets, determine policies and appoint the city manager, who in turn shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this Charter, or if the manner not be prescribed, then in such manner as may be prescribed by ordinance.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2013-44, Prop. 7, 8-20-13/11-5-13)


Sec. 1.03. - Statement of goals.

The goals of the city government are to safeguard the health, safety and welfare of the city's residents, provide for a high quality of life including, but not limited to, neighborhood integrity, a clean and abundant water supply, a cost-efficient electricity supply, efficient police and fire departments, educational opportunities, effective road and transportation systems, a healthy business environment, well maintained parkland and recreational opportunities, foster intergovernmental liaison and communication, encourage responsible citizenship, promote sound community and economic development, promote high quality affordable housing, conserve and protect the city's natural resources and environment and, in particular the San Marcos River, its springs, aquifer, and tributaries.

(Ord. No. 1998-7, Prop. 1, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(2), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 8, 8-20-13/11-5-13)

ARTICLE II. - POWERS OF THE CITY

Footnotes:
--- (2) ---
Sec. 2.01. - General.

The city shall be a home rule city, with full power of local self-government, including the right to amend this Charter, as provided by the constitution and laws of this state. It shall have and may exercise all the powers granted to home rule cities by the constitution or laws of Texas, as they now exist or are hereafter amended.

(Ord. No. 1992-9, Prop. 1, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00)

Sec. 2.02. - Eminent domain.

(a) The city shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the constitution and laws of the State of Texas. The city may exercise the power of eminent domain in any manner authorized or permitted by the constitution and laws of this state, subject to the right of the owner of the property taken. The city shall have and possess the power of eminent domain for any municipal or public purposes, subject to the provisions of this section.

(b) However, the city shall not use the power of eminent domain to acquire property for transfer, or for lease in substantial part, to a private third party for the purpose of economic development. The term "economic development" means any activity to increase tax revenue, tax base, employment, or the general economic health of the City, when that activity does not result in (1) the transfer of land to public ownership, such as for a road, public utility facility, or municipal building; (2) the transfer of land to a private entity that is a common carrier, such as a utility provider; or (3) the transfer of property to a private entity to remove a harmful use of the land, such as the removal of public nuisances, removal of structures that are beyond repair or that are unfit for human habitation or use, or the acquisition or transfer of abandoned property.

(Ord. No. 1998-7, Prop. 2, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(2), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(3), 8-19-08/11-4-08)

Sec. 2.03. - Extension or detachment of boundaries.

The city council shall have power by ordinance to fix the boundary limits of the City of San Marcos and to provide for the alteration and extension of boundary limits, the detachment of territory and the annexation of additional territory, in accordance with applicable state annexation laws.

(Ord. No. 1984-11, Prop. 1, 1-30-84/4-7-84; Ord. No. 1986-4, Prop. 1, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 1, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 1, 5-9-00/5-6-00)

Sec. 2.04. - Limited purpose annexation.

In addition to the power to annex additional territory for all purposes, the city shall have the power, by ordinance, to fix, alter and extend the corporate boundary limits of the city for the limited purposes of "planning and zoning" and "sanitation and health protection," and to annex for one or both of such limited purposes additional territory lying adjacent to the city; provided, however, that no such territory which lies farther than one mile from the corporate boundary limits enclosing the territory which is a part of the city...
for all purposes, as those corporate boundary limits are now or may hereafter be established, shall be
annexed for any limited purpose or purposes. Wherever the boundary limits of territory annexed for one or
both of such limited purposes are not coterminous with the corporate boundary limits enclosing the territory
which is a part of the city for all purposes, such boundary limits of the limited territory shall be known as
"limited purpose boundary limits". Every ordinance by which territory is to be annexed to the city for one or
both of such limited purposes shall state clearly the limited purpose or purposes for which it is being annexed,
and shall be published one time, in a newspaper of general circulation in the city and in the form in which it
is to be finally adopted, not less than 30 days prior to its final passage.

When any additional territory has been annexed for one or both of the limited purposes, it shall be a
part of the city for such limited purpose or purposes only. However, in dealing with the property and
inhabitants thereof, the city shall have each and every power which it otherwise possesses and which is
reasonable and expedient for the accomplishment of the limited purpose or purposes for which such territory
is annexed, and the power of the city to deal with the property and inhabitants of such limited purpose
territory shall include the powers enumerated in the next two succeeding sentences but shall not be limited
or restricted thereto. With regard to territory annexed for the limited purpose of "planning and zoning," the
city shall have the power to control and regulate the use of property and the density of structures, to require
compliance with reasonable zoning regulations, to control and regulate the subdivision of property, and to
control and regulate the construction of buildings. With regard to territory annexed for the limited purpose
of "sanitation and health protection," the city shall have the power to adopt all reasonable regulations
pertaining to sanitation and public health and to require compliance with such regulations. Every inhabitant
of territory annexed for one or both of the limited purposes, who is otherwise qualified, shall be entitled to
vote in city elections on every issue where the question is the election or recall of the mayor or a city council
member or the amendment of this Charter, and every such inhabitant shall be deemed to be a citizen of the
city in connection with any ordinance, regulation or action which is, or is alleged to be, applicable to him or
his property because of such limited purpose annexation, but will not be eligible to run for any office in the
City of San Marcos. The city shall have no power to levy any tax for municipal purposes on either the property
or the inhabitants of territory annexed for limited purpose or purposes, and no funds of the city shall be spent
in such territory except where reasonable and expedient for the accomplishment of the limited purpose or
purposes for which the territory is annexed; but the city may collect reasonable charges from property
owners and inhabitants of such territory for services rendered by the city in the accomplishment of the
limited purpose or purposes for which the territory is annexed.

(Ord. No. 1984-11, Prop. 2, 1-30-84/4-7-84; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2000-40,
Prop. 1, 5-9-00/5-6-00)

State Law reference—Annexations for limited purposes, V.T.C.A., Local Government Code, § 43.121 et seq.

ARTICLE III. - THE CITY COUNCIL

Sec. 3.01. - Number, selection and term.

(a) The legislative and governing body of the city shall consist of seven council members and shall be known
as the "City Council of San Marcos".
The members of the city council shall be elected from the city at large, and each council member shall be elected to occupy a place on the council, such places being numbered and designated 1, 2, 3, 4, 5, 6 and mayor.

Each council member for places 1, 2, 3, 4, 5 and 6 shall hold office for a period of three years, staggered so that two members shall be elected to a regular term each year. The council member elected to the place of mayor shall hold office for a period of two years.

Sec. 3.02. - Qualifications.

(a) Each member of the city council, in addition to having other qualifications prescribed by law:

(1) Shall be a qualified voter of the city;

(2) Shall have had his or her principal physical residence for at least one year preceding the election within the corporate limits of San Marcos and shall maintain his or her principal physical residence within the corporate limits of San Marcos throughout his or her term of office; for purposes of this subsection, a person must meet all of the following to meet the requirement for a "principal physical residence" in the city:

(A) The person must use the residence address for voter registration, and current driver's license or Texas identification card purposes;

(B) The person must use the residence address as the person's home address on documents such as employment records, resumes, business cards, government forms and loan applications;

(C) The person must not claim a homestead exemption on any property other than the residence;

(3) Shall not hold any other office or employment under the city government while a member of the council, except a member of the city council may be appointed by the city council to represent the council on any board, commission, committee, organization or entity in the council's sole discretion so long as that person's service does not extend beyond the person's council term;

(4) Shall not be an officer or director of any public service company within the city, or outside the city but serving inhabitants of the city, nor be the owner or proprietor of any public service company in the city. "Public service company" is defined as any company, individual, partnership, corporation or other entity recognized by law that uses any of the city’s streets, alleys, highways or other public property to carry out its principal purposes, including but not limited to water, wastewater, gas, electricity and, telecommunications utilities, commercial railway or street railway services, public transit services, solid waste collection, and vehicles for hire.

(5) Shall not have a financial interest in the sale to the city of any land, materials, supplies or service, outside of the person’s position with the city.

(6) Shall remain current on all financial obligations to the city relating to the duties of the council member.
(b) The city council shall determine that the qualifications of its own members are continually met. If the council determines that any member of the council has ceased to possess any of these qualifications or has been convicted of a felony, that member shall immediately forfeit office.

Sec. 3.03. - Reserved.

Editor's note—Formerly, § 3.03 pertained to council to judge election qualifications, and derived from Ord. No. 1996-6, Prop. 2, 2-12-96/5-4-96.

Sec. 3.04. - Compensation and reimbursement.

City Council Compensation shall be set in a public forum by ordinance of the city council; and they shall be entitled to all necessary expenses incurred in the performance of their official duties. There shall be provided in each annual city budget an amount for the expenses of the mayor and of each council member. The mayor and the members of the city council shall be reimbursed for the amounts so provided for in the annual city budget for their actual official business expenses. The city council by resolution or ordinance shall provide for a means of determining what expenses are reimbursable and what requirements must be met for reimbursement.

Sec. 3.05. - Mayor, mayor pro tempore and deputy mayor pro tempore.

The mayor shall preside at all meetings of the council and shall be recognized as head of the city government for all ceremonial purposes, for the purpose of receiving service of civil process, and for emergency management purposes. The mayor, as a member of the council, shall be entitled to vote upon all matters considered by the council but shall have no veto power. At its first meeting following each regular election of council members, the council shall by election designate a mayor pro tempore, and the mayor pro tempore shall act as mayor during the absence or disability of the mayor and shall have power to perform every act the mayor could perform if present. The deputy mayor pro tempore shall act as mayor during the absence or disability of the mayor and shall have power to perform every act the mayor could perform if present.

Sec. 3. Reserved.

Editor's note—Formerly, § 3.03 pertained to council to judge election qualifications, and derived from Ord. No. 1996-6, Prop. 2, 2-12-96/5-4-96.
Sec. 3.06. - Vacancies.

(a) A special election to fill a vacancy shall be called in accordance with state law. In the event the mayor is unable to call a meeting to order the election for any reason, the mayor pro tem or deputy mayor pro tem are authorized and directed to call a meeting to order the election and perform all other required actions incident to the election. In the event of vacancies in the offices of mayor and all members of the city council for any reason, the following persons, in the order prescribed, are authorized and directed to order the election and perform all other required actions incident to the election:

(1) The city manager.
(2) The city clerk.
(3) The city attorney.
(4) The presiding judge of the municipal court.

(b) No such election shall be held sooner than 30 days from the date it is called.

Sec. 3.07. - Powers and limitations of the city council.

(a) All powers and authority which are expressly or impliedly conferred on or possessed by the city shall be vested in and exercised by the council.

(b) The council shall have no power to, and shall not:

(1) Sell, convey, lease, mortgage or otherwise alienate any land which is now, or shall hereafter be, dedicated for park purposes, unless the qualified voters of the city shall authorize such act by adopting in a general or special election a proposition submitting the question and setting forth the terms and conditions under which such sale, conveyance, lease, mortgage or other alienation is to be made; provided, that the city council may, after a public hearing, authorize a lease of park property to another governmental entity or to a non-profit corporation or association for a term of up to three years if the council determines that the lease will further the use of the property for park purposes.

(2) Sell, convey, or lease all or any substantial part of the facilities of any municipally owned public utility, provided that the council may lease all or a substantial part of such facilities to any public agency of the State of Texas if the qualified voters of the city authorize such lease by adopting in a general or special election a proposition submitting the question and setting forth the terms and conditions under which such lease is to be made.

(3) Accept or admit liability in, or pay, any claim for damages asserted against the city, without first obtaining a written opinion from the city attorney regarding the city's liability therein.
Sec. 3.08. - City council not to interfere in appointments or removals.

Neither the council nor any of its members shall instruct or request the city manager or any of the city manager’s subordinates to appoint to or remove from office or employment any person except with respect to those offices which are to be filled by appointment by the council under the provisions of this Charter. Except as provided for in Section 3.15 of this Charter, the council and its members shall deal with the administrative and management functions of the city solely through the city manager and other council appointees, as appropriate, and shall not give orders to any of their subordinates either publicly or privately.

Sec. 3.09. - Meetings of the city council.

The city council shall hold at least two regular meetings in each month at a time to be fixed by it for such regular meetings, and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the city and its citizens. All meetings of the city council shall be held within the city, except that the city council may conduct a meeting at a location outside the city after publishing notice of the meeting in one issue of a newspaper in general circulation in the City of San Marcos. All meetings of the city council shall be public; however the council may recess for the purpose of discussing in a closed session any matter permitted to be so discussed by state law, provided that the general subject matter for consideration is expressed in the motion calling for such a session and that final action thereon shall not be taken by the council until the matter is placed on the agenda. Special meetings of the council shall be called by the city secretary upon the written request of the mayor or any three members of the city council.

The city council shall provide by ordinance for procedures to call meetings, set meeting agendas, conduct meetings, provide for reasonable time limits on presentations to the council and any other matters necessary to the efficient and fair conduct of the public's business.

Sec. 3.10. - Rules of procedure.
The city council shall determine by ordinance its own rules of procedure and order of business. Four or more council members shall constitute a quorum, but no action of the council shall be of any force or effect unless it is adopted by the favorable votes of four or more of the council members. Minutes of all meetings of the council, including the vote of "ayes" and "noes" upon the passage of all ordinances and resolutions, shall be taken and recorded, and such minutes shall constitute a permanent record to which any citizen may have access at all reasonable times.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1)

Sec. 3.11. - Procedure for passage of ordinances.

(a) The council shall legislate by ordinance, and the enacting clause of every ordinance shall be: "Be it ordained by the City Council of the City of San Marcos".

(b) The city attorney shall approve the legality of all ordinances adopted prior to consideration by the council, or shall file with the city clerk written legal objections thereto. Evidence of approval by the city attorney may be by notation on the ordinance itself, or by separate instrument.

(c) Every ordinance enacted by the council shall be signed by the mayor, the mayor pro tem, or two council members and shall be filed with and recorded by the city clerk.

(d) All proposed ordinances requiring a public hearing or hearings shall be finally acted upon by the city council within 90 days of the most recent public hearing at which it was considered. If final action does not occur within the 90 day period following the public hearing, then another public hearing shall be held before final action on the ordinance. Unless notice requirements are provided by other law, the city clerk shall publish a notice of each public hearing by the city council on an ordinance in a newspaper of general circulation in the city, city website or local media outlets before the public hearing.

(e) Ordinances shall be presented to council and acted on in open meetings on two separate days, unless:

(1) an ordinance is posted and adopted as an emergency measure with only one reading by the favorable vote of five or more council members; or

(2) the adoption of an ordinance under a different procedure is expressly authorized by state law.

(f) An ordinance relating to the changing of a future land use map or zoning district designation shall not be adopted as an emergency measure and shall be adopted only upon approval in two separate readings on two separate days no less than seven days apart.

(g) At the time of the first presentation each ordinance shall be read aloud unless it is publicly posted, available at a readily accessible location and filed with the city clerk at least 72 hours prior to the meeting at which it is to be considered, in which event only the caption need be read aloud.

(h) All ordinances shall be effective upon final reading or publication if publication is required by state law.

(Ord. No. 1986-4, Prop. 3, 1-27-86/4-5-86; Ord. No. 1992-9, Prop. 3, 2-10-92/5-2-92; Ord. No. 1998-7, Prop. 4, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(7), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(6), 8-19-08/11-4-08; Ord. No. 2013-44, Props. 13, 14, 8-20-13/11-5-13)

Sec. 3.12. - Publication of ordinances.
Except as otherwise provided by law or by this Chapter, the city clerk shall give notice of the enactment of every penal ordinance by causing its caption and penalty, to be published at least one time within ten days following the date of final passage thereof in some newspaper of general circulation within the city. The city clerk shall give notice of the enactment of other ordinances by publishing in the newspaper only if publication is required by state law, this Charter, or city ordinance. The city clerk shall give notice of the enactment of all ordinances on the city's website.

The city clerk shall note on every ordinance and on the record thereof the dates and medium of its publication, and such notation shall be prima facie evidence of compliance with the requirements of this section.

Sec. 3.13. - Code of Ordinances.

The council shall cause all general ordinances of the city to be compiled and printed in Code form. Every general ordinance enacted subsequent to such codification shall be enacted as an amendment to the Code. For the purposes of this section general ordinances shall be deemed to be those ordinances of a permanent or continuing nature which affect the residents of the city at large. When adopted by the council, the printed codes of general ordinances contemplated by this section shall be in full force and effect without the necessity of such Code or any part thereof being published in any newspaper. The caption, descriptive clause, and other formal parts of the ordinances of the city may be omitted without affecting the validity of such ordinances when they are published as a Code. Copies of the Code shall be furnished to city officers, placed in libraries and public offices for free public reference and made available through electronic media and for purchase by the public at a reasonable price fixed by the council.

Sec. 3.14. - Official bonds for city employees.

The council shall require bonds or insurance of all municipal officers and employees who receive or pay out any monies of the city. The amount of such bonds or insurance shall be determined by the council and the cost thereof shall be borne by the city.

Sec. 3.15. - Investigation by the city council.

The city council shall have power to inquire into the official conduct of any office, department, agency, officer or employee of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, papers, and other evidence material to the inquiry. The council shall provide by ordinance penalties for contempt in failing or refusing to
obey any such subpoena or to produce any such books, papers, or other evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance. Any person participating in such an investigation shall have all rights afforded by the Constitution and laws of the United States and the State of Texas.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(8), 8-19-08/11-4-08)

Sec. 3.16. - Audit and examination of city books and accounts.

The city council shall cause an annual audit to be made of the books and accounts of each and every department of the city. At the close of each fiscal year a complete audit shall be made by a certified public accountant, who shall be selected by the city council, and who shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. Such audit shall include a recapitulation of all internal audits made during the course of each fiscal year, and all audit reports shall be filed with the city council, shall be available for public inspection, and shall be made a part of the archives of the city. Such accountant, so selected, shall not maintain or keep any of the city's accounts or records.

(Ord. No. 2000-12, 2-14-00/5-6-00)

State Law reference— Annual audit required, V.T.C.A., Local Government Code, § 103.001 et seq.

Sec. 3.17. - Expulsion or removal of city officials.

(a) The city council shall have the authority to expel any city council member who is absent three consecutive regular city council meetings unless the council member has secured permission, in advance, from the city council to be absent from at least one of the meetings; provided that any such action for expulsion of a city council member shall require five affirmative votes of city council members.

(b) The city council shall have the authority to remove any city official appointed by the city council, including members of city boards and commissions established under state law, by this Charter, or by ordinance, and the city manager, city clerk, city attorney and municipal court judge. Any such removal of a city official by the city council shall require a majority vote of the membership of the city council and shall be preceded by adequate notice to the official of the time and location of the meeting, the nature of the charge against the official, and an opportunity for a hearing. At any such hearing, evidence both for and against the city official may be offered for the council's consideration. The council may, by ordinance, provide for further or more detailed procedures pertaining to the removal of city official, not inconsistent with this provision.

(Ord. No. 2000-12, Prop. 7, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 7, 5-9-00/5-6-00; Ord. No. 2004-10, Prop. 2, 2-23-04/5-15-04; Ord. No. 2013-44, Prop. 17, 8-20-13/11-5-13 )

ARTICLE IV. - ADMINISTRATIVE SERVICES

Footnotes:
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Sec. 4.01. - City manager.

(a) **Appointment and qualifications:** The city council shall appoint a city manager who shall be the chief administrative and executive officer of the city, and shall be responsible to the city council for the administration of all the affairs of the city. The manager shall be chosen by the city council on the basis of education, executive and administrative training, experience and ability; and need not, when appointed, have his or her principal physical residence in the City of San Marcos. The manager shall establish his or her principal physical residence in the city, within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office.

(b) **Term and salary:** The city manager shall not be appointed for a definite term, but may be removed by a vote of the majority of the entire council. The action of the city council in suspending or removing the city manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of each suspension or removal in the city council. In case of temporary absence or disability, the city manager may designate by letter filed with the city clerk a qualified administrative officer of the city to perform the duties of the city manager for a period not to exceed 30 days. In the event of failure of the city manager to make such designation, the council may by resolution appoint an officer of the city to perform the duties of the city manager, until the manager shall return or the disability shall cease. The city manager shall receive compensation as may be fixed by the council.

(c) **Duties of the city manager:**

1. To appoint and remove all employees of the city, except where such authority is reserved to the city council or otherwise prescribed by this Charter or by state law.

2. To appoint an assistant or assistants with the approval of the city council, and to supervise, direct and control all administrative units of the city, except those supervised by other appointees of the council.

3. To prepare and submit the annual budget to the city council in accordance with the requirements of this Charter and state law.

4. To keep the city council fully advised of the financial condition and needs of the city.

5. To recommend to the city council for action such administrative measures as the manager deems necessary or expedient.

6. To perform other duties as provided by this Charter and as prescribed by the city council.

Sec. 4.02. - City clerk.

The city council shall appoint a city clerk, who shall give notice of council meetings, shall keep the minutes of the proceedings of such meetings, shall authenticate by signature or electronic signature all ordinances and resolutions, and shall perform such other duties as city council, shall assign and those elsewhere provided for in this Charter. The city clerk's compensation shall be fixed by the city council. The city clerk may appoint an assistant or assistants with the approval of the council. The city clerk shall establish
his or her principal physical residence in the city, within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1981-48, Prop. 1, 6-22-81/8-8-81; Ord. No. 1992-9, Prop. 5, 2-10-92/5-2-92; Ord. No. 1994-16, Prop. 4, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 8, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 8, 5-9-00/5-6-00; Ord. No. 2008-29, § 2(10), 8-19-08/11-4-08)

Sec. 4.03. - Municipal court.

(a) A municipal court is established for the trial of misdemeanor offenses, with jurisdiction, powers and duties as prescribed by ordinance and state laws.

(b) The city council shall appoint a presiding judge for the municipal court and any associate judges it deems advisable. The presiding judge and each associate judge shall be a competent and duly qualified and licensed attorney authorized to practice law in the State of Texas. The presiding judge shall establish his or her principal physical residence in the city within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office. The compensation of the judges shall be fixed by the city council.

The presiding judge shall appoint a municipal court clerk and any assistants with the approval of the city council.


Sec. 4.04. - City attorney.

The city council shall appoint a city attorney, who shall be a competent and duly qualified and licensed attorney, authorized to practice law in the State of Texas. The city attorney shall establish his or her principal physical residence in the city within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office. The city attorney’s compensation shall be fixed by the city council. The city attorney may appoint an assistant or assistants with the approval of the city council. The city attorney, or other attorneys selected by the city attorney with the approval of the city council, shall represent the city in all litigation. The city attorney shall be the legal advisor and counsel for the city and all city officers and administrative units; provided, that the city council may retain special counsel at any time it deems same appropriate and necessary. The city attorney shall prepare or review all ordinances and shall prosecute all criminal cases in the municipal court in person or through an assistant.

(Ord. No. 1984-11, Prop. 9, 1-30-84/4-7-84; Ord. No. 1994-16, Prop. 6, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(9), 8-15-06/11-7-06; Ord. No. 2013-44, Prop. 19, 8-20-13/11-5-13)

Sec. 4.05. - City auditor.
The city council may appoint a city internal auditor who shall serve at the pleasure of the city council. The city council shall establish the duties and operating procedures of the city internal auditor by ordinance. The city council may enter into a contract for the duties of an internal auditor to be carried out by an outside firm if the council chooses to do so.

(Ord. No. 2010-44, §§ 2, 3, 8-17-10/11-2-10)

Sec. 4.06. - Other administrative units.

The city council may abolish or consolidate such administrative units as it may deem to be to the best interest of the city, and may divide and subdivide the administration of any such units as it may deem advisable; may create new administrative units, and may discontinue any administrative unit at its discretion, except those specifically established by this Charter.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 4.07. - Publication of salaries

The salary range of each city position shall be published on the city website.

ARTICLE V. - NOMINATIONS AND ELECTIONS[4]

Footnotes:
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Sec. 5.01. - Elections.

The regular city election shall be held annually on the first Tuesday after the first Monday in November as provided by state law.

(Res. No. 1977-7R, Prop. 5, 1-24-77/4-2-77; Ord. No. 1988-15, Prop. 11, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(10), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(12), 8-19-08/11-4-08)


Sec. 5.02. - Regulation of elections.

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the city council for the conduct of elections. The city council shall appoint the election judges and other election officials. Voting precincts shall be established by ordinance and may be altered from time to time in like manner.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 2)

Sec. 5.03. - Filing for office.
Any qualified person as defined in Section 3.02 who desires to become a candidate in a general election to a place on the city council shall file with the city clerk at least 62 days prior to the election day an application for his or her name to appear on the ballot. All candidates shall sign the code of fair campaign practices provided in Section 258.004 of the Texas Election Code. For an election to be held on the date of the general election for state and county officers, the date of the filing deadline is the 70th day before election day. Such application shall clearly designate the place on the council to which the candidate seeks election and shall contain the candidate’s sworn statement of compliance with the qualifications for holding the office sought under the laws of Texas and the provisions of this Charter.

Sec. 5.04. - The official ballot.

The names of all candidates for office, except such as may have withdrawn, died, or become ineligible, shall be printed on the official ballots without party designation. The order on the ballot of the names of the candidates for each respective council place shall be determined by lot in a drawing to be held under the supervision of the city clerk, at which drawing each candidate or the candidate’s named representative shall have a right to be present. Incumbent council members seeking reelection must file for the place for which they were originally elected; provided that, however, a council member originally elected to place 1, 2, 3, 4, 5 or 6 may file for the place of mayor and a member holding the place of mayor may file for election as council member place 1, 2, 3, 4, 5 or 6.

Sec. 5.05. - Election by majority.

At any regular or special municipal election the candidates in each place on the ballot who shall have received the majority of votes cast in such election for such place shall be declared elected. In the event no candidate for a designated place on the city council receives a majority of the votes cast for that place in the regular or special election, a runoff election shall be held between the two candidates who received the greatest number of votes for such place. The runoff election shall be held not earlier than the 20th or later than the 45th day after the date the final canvass of the regular or special election is completed.

Sec. 5.06. - Laws governing city elections.

All city elections shall be governed by the constitution of the State of Texas, general laws of the state, this Charter, and ordinances of the city, in the order named.
Sec. 5.07. - Conducting and canvassing elections.

The returns of every municipal election shall be delivered by the election judges to the central counting station immediately after the closing of the polls. Returns of the elections, general and special, shall be presented to the city council on any date permitted by the Texas Election Code at which time the council shall canvass and declare the results of such election.

(Res. No. 1977-7R, Prop. 5, 1-24-77/4-2-77; Ord. No. 1988-15, Prop. 20, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 9, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 9, 5-9-00/5-6-00)

Sec. 5.08. - Oath of office.

Every officer of the city shall take and subscribe to an oath or affirmation similar to that required by the Texas Constitution for state officers, before entering upon the duties of the office. The oath or affirmation shall be in a form provided by the city clerk, shall be given before a person authorized to administer oaths, and shall be filed and kept in the office of the city clerk.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1986-4, Prop. 12, 1-27-86/4-5-86; Ord. No. 1990-8, Prop. 2, 2-12-90/5-5-90; Ord. No. 2000-12, 2-14-00/5-6-00)

State Law reference — Oath, Texas Const., art. 16, § 1.

ARTICLE VI. - INITIATIVE, REFERENDUM AND RECALL

Sec. 6.01. - Power of initiative.

The people of the city reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance or repeal any ordinance not in conflict with this Charter, the State Constitution, or the state laws. Any initiated ordinance may be submitted to the council by a petition signed by at least ten per cent of the qualified voters of the city.

(Res. No. 1979-14R, Prop. 11, 2-26-79/4-7-79; Ord. No. 1992-8, Prop. 1, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 10, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 10, 5-9-00/5-6-00)

Sec. 6.02. - Power of referendum.

The people reserve the power to approve or reject at the polls any legislation enacted by the council which is subject to the initiative process under this Charter. Prior to or within thirty days after the effective date of any ordinance which is subject to referendum, a petition by at least ten per cent of the qualified voters of the city may be filed with the city secretary clerk requesting that any such ordinance be either repealed or submitted to the vote of the people. When such a petition has been certified as sufficient by the city secretary clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided. Notwithstanding the foregoing, no zoning district boundary ordinance shall be subject to the referendum process.
Sec. 6.03. - Forms of petitions.

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. Referendum petition papers shall contain a sufficient description of the ordinance sought to be referred to identify it, or if the ordinance has been passed by the council, the full text of the ordinance sought to be referred shall be included in such papers. Before signatures on any petition paper may be counted, one of the signers of such petition paper, a qualified voter, shall make oath or affirmation before the city clerk or any other officer competent to administer oaths or affirmations, that the statements made therein are true, that each signature to the paper appended is the genuine signature of the person whose name purports to be signed thereto, and that such signatures were placed thereon in that person’s presence.

Sec. 6.04. - Council consideration and submission to voters.

(a) When the council receives an authorized initiative petition certified by the city clerk to be sufficient, the council, within 30 days after the date of the certification, shall either:

(1) Pass the initiated ordinance without amendment; or

(2) Call an election on the adoption of the initiated ordinance without amendments, to be held on the next uniform date authorized by state law for municipal elections which is at least 62 days after the date on which the council acts.

At the election, the council may submit the initiated ordinance without amendment, and an alternative ordinance on the same subject proposed by the council; the voters being given the opportunity to accept or reject both. If both are accepted, then the ordinance receiving the greatest number of affirmative votes is adopted, and the other ordinance is deemed rejected. If both are accepted and receive the same number of affirmative votes, both are deemed rejected.

(b) When the council receives an authorized referendum petition, certified by the city clerk to be sufficient the council shall reconsider the referendum ordinance, and within 30 days, shall either repeal the ordinance or call an election on the repeal of the ordinance, to be held on the next uniform date authorized by state law for municipal elections which is at least 45 days from the date on which the council acts.

(c) Special elections on initiated or referred ordinances shall not be held more frequently than once each six months, and no ordinance on the same subject as an initiated ordinance which has been defeated or on the same subject as a referred ordinance which has been approved at any election may be initiated by the voters within two years from the date of such election.
Sec. 6.05. - Results of elections.

Any number of ordinances may be voted on at the same election in accordance with the provisions of this article. Except as otherwise provided in Section 6.05, if a majority of the legal votes cast is in favor of an initiated ordinance, it shall be effective as an ordinance of the city when the result of the election is declared. An ordinance so adopted may be repealed or amended at any time after the expiration of two years by a vote of three-fourths of the council members qualified and serving. A referred ordinance which is rejected by a majority of the legal votes cast in a referendum election shall be deemed repealed when the result of the election is declared.

Sec. 6.06. - Power of recall.

(a) The people of the city reserve the power to recall any elected officer of the City of San Marcos and may exercise such power by filing with the city clerk a petition demanding the removal of the officer, signed by at least ten per cent of the qualified voters of the city.

(b) The recall petition shall be on a form approved by the city clerk. Any recall petition form supplied by the city clerk shall be valid for 45 days from the date of its issuance and the expiration date and time shall be noted on the petition form by the city clerk at the time of its issuance. All such forms must be returned to the city clerk before their respective expiration dates in order to be eligible to be verified and certified by the city clerk.

Sec. 6.07. - Recall election.

The provisions regulating examination, certification and amendment of initiative petitions shall apply to recall petitions. If the petition is certified by the city clerk to be sufficient, the council shall order and hold an election to determine whether such officer shall be recalled. The election shall be held on the date next authorized by state law for municipal elections which is at least 62 days after certification of the petition calling for the recall election.
Sec. 6.08. - Results of recall election.

If a majority of the votes cast at a recall election shall be against removal of the council member named on the ballot, that council member shall continue in office. If the majority of the votes cast at such election be for the removal of the council member named on the ballot, the council shall immediately declare that member's office vacant and such vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies. A council member thus removed shall not be a candidate in an election called to fill the vacancy thereby created.

Sec. 6.09. - Limitation on recall.

No recall petition shall be filed against a council member within six months after taking office, and no council member shall be subjected to more than one recall election during a term of office.

Sec. 6.10. - Examinations and certification of petitions.

(a) Within 45 days after an initiative, referendum or recall petition is filed, the city clerk shall determine whether the petition is properly signed by the requisite number of qualified voters. The city clerk shall use the standards and procedures described in state law to make this determination.

(b) In examining a petition, the clerk shall clearly note signatures found to be invalid.

(c) After completing examination of a petition, the clerk shall certify the result to the council at its next regular meeting.

(d) If the certificate of the city clerk shows an initiative or referendum petition to be insufficient, the clerk shall comply with the provisions of state law regarding the filing of a supplementary petition, if applicable. Within 45 days after a supplementary petition is filed, the clerk shall examine the petition and certify as to its sufficiency. If the original petition and supplementary petition are found to be insufficient, no further proceedings shall be had with regard to them.

Sec. 6.11. - Non-binding ballot propositions.

The council is authorized to call elections on ballot propositions that are non-binding in nature when the council wishes to obtain an informal indication of the position of the city's voters on an issue. The following shall apply to elections on non-binding ballot propositions:

(1) The ballots must clearly label each proposition as non-binding in the heading of the proposition.
(2) The ballot cannot contain an indication of the effect that approval or disapproval of a proposition will have on the position of the city council on any issue.

(3) The ordinance calling the election and the ordinance declaring the result of the election must both contain a clear statement that the non-binding propositions are not binding on the city council.

(4) The city council shall not place a non-binding proposition on a ballot as a substitute or alternative for a binding proposition the council is obligated to place on the same ballot.

(5) A non-binding proposition may be placed on the ballot by the council only when the ballot will contain other matters. The city council shall not call an election at any time solely for the purpose of placing one or more non-binding propositions before the voters of the city.

(Ord. No. 2002-12, Prop. 4, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 4, 5-7-02/5-4-02)

ARTICLE VII. - MUNICIPAL PLANNING AND ZONING

Footnotes:
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State Law reference—Planning and zoning, V.T.C.A., Local Government Code, § 211.001 et seq.

Sec. 7.01. - Planning and zoning commission.

(a) A city planning and zoning commission is established. The commission shall consist of nine members appointed for staggered three-year terms. Commission members shall be appointed by the council and serve without compensation.

(b) To be eligible for appointment to the commission, all eight of the commission members must have resided and owned real property in the city for a period of those five years before the date of appointment, and the remaining member must have resided and owned real property in the city’s extraterritorial jurisdiction for a period of three years before the date of appointment. To be eligible for continued service on the commission, the commission members appointed as city residents must maintain residence and property ownership in the city, and the commission member appointed as an extraterritorial jurisdiction resident must maintain residence and property ownership in the extraterritorial jurisdiction. Effective March 1, 2015 the ETJ member of the commission shall be deleted and a qualified city resident member shall be appointed.

(c) To be eligible for election and continued service as chair of the commission, a commission member must reside in the city.

dc] The council shall establish, by ordinance, the month in which appointments are made, and the month in which terms of office commence. The council may prescribe, by ordinance, educational requirements to be met after persons are appointed to the commission.

eid] In making appointments to the commission, council shall seek to ensure broad citizen representation which includes geographic, professional, gender, racial, and viewpoint diversity. The commission shall establish bylaws to govern rules of procedure and the annual election of officers. All meetings of the commission shall be open to the public.

[Ord. No. 1981-51, Prop. 14, 7-6-81/8-8-81; Ord. No. 1990-8, Prop. 3, 2-12-90/5-5-90; Ord. No. 1994-16, Prop. 8, 3-22-94/5-7-94; Ord. No. 1998-7, Prop. 7, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 11, 2-14-00/5-6-
Sec. 7.02. - Powers and duties of the commission.

The commission shall have the power and be required to:

(1) Be responsible to and act as an advisory body to the council on all matters related to the physical growth and development of the city. The Planning and Zoning staff shall follow all city ordinances, rules, and regulations and confer with the city attorney before making any recommendations to the Planning and Zoning Commission. The Planning and Zoning Commission shall follow all city ordinances, rules, and regulations before making any recommendations to the City Council.

(2) Review and be the final approval authority for the subdivision and platting of land within the city and its extraterritorial jurisdiction. The council or the commission may expressly delegate authority to approve certain minor subdivision plats to the director of the planning and development services department in accordance with the provisions of state law.

(3) Hold a public hearing and recommend to the city council the approval or disapproval of any proposed change to the city's official zoning map.

(4) Hold public hearings and approve or deny conditional use permit applications made under the city's zoning ordinances, subject to an appeal of such decisions to the city council. The council, on appeal, may uphold, modify, or reverse the decision of the commission. The council may reverse a decision of the commission to deny a permit only by a three-fourths vote of at least six members of the council in favor of reversal. Appeals to the council on conditional use permit applications will be based on the record before the Planning and Zoning Commission, Texas and Federal laws, San Marcos city ordinances and regulations. The decision on appeals before city council will be governed by the substantial evidence rule. Decisions of the commission to revoke or suspend conditional use permits will be final and may not be appealed to the council.

(5) Submit annually to the city council, not less than one hundred and twenty days prior to the beginning of the fiscal year, a list of recommended capital improvements found necessary or desirable.

(6) Hold an annual public hearing on the Land Development Code and recommend any necessary or desirable changes to the council.

(7) Perform an ongoing review of the city's comprehensive plan to include:
   (a) Holding an annual public hearing on the plan and recommend any necessary or desirable changes to the council;
   (b) Holding public hearings and making recommendations to the council regarding updates to the land use and transportation elements of the plan at least once every three years; and
   (c) Holding public hearings and making recommendations to the council regarding the update of the entire comprehensive plan document at least once every five years.

(8) Perform such other duties and be vested with such other powers as the council may prescribe in accordance with state law.

(9) Require information from the administrative units of city government in relation to the duties of the commission listed under this section.
Editor's note—The amendment adopted in Ordinance Number 1994-16 created a planning and zoning commission and established this section which repealed sections 7.05 through 7.07 which contained the power and duties of both a planning commission and zoning commission.

Sec. 7.03. - The comprehensive plan.

(a) The comprehensive plan for the City of San Marcos shall be used to guide the growth and development of the city. The comprehensive plan shall be adopted by ordinance. The city council will endeavor to ensure that city ordinances governing growth and development are consistent with the goals and policies contained in the comprehensive plan; however, land use maps and descriptions contained in the comprehensive plan do not constitute zoning, and do not entitle any property owner to any change in zoning.

(b) The commission shall conduct an ongoing review of the plan in accordance with Section 7.02. The commission may recommend amendments to the comprehensive plan after at least one public hearing on the proposed action. The council may amend the comprehensive plan after at least one public hearing on the proposed action. The council shall not act on any amendment affecting the comprehensive plan unless and until a recommendation on the amendment is received from the commission.

Editor's note—The amendment adopted in Ordinance Number 1994-16 reenacted this section which was formerly Charter § 7.08.

Sec. 7.04. - Organization.

The commission shall elect a chair from its membership annually, and shall establish rules of procedure which shall include the following:

(1) A quorum shall consist of a majority of the membership.

(2) The chair shall be entitled to vote upon any question.

(3) All meetings shall be open to the public.

Editor's note—The amendment adopted in Ordinance Number 1994-16 created a planning and zoning commission and established this section which repealed sections 7.05 through 7.07 which contained the power and duties of both a planning commission and zoning commission.
ARTICLE VIII. - FINANCIAL PROCEDURE

Footnotes:
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Sec. 8.01. - Fiscal year.

The fiscal year of the City of San Marcos shall begin on the first day of October and shall end on the last day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year.

(Ord. No. 2000-12, 2-14-00/5-6-00)


Sec. 8.02. - Preparation and submission of budget.

(a) The city manager, not less than 30 days prior to the time the city council makes its tax levy for the current fiscal year, shall file with the city clerk a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain a budget message explaining the budget, containing an outline of the proposed financial policies of the city for the ensuing fiscal year, setting forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and explaining any major changes in financial policy. Copies of the proposed budget shall be made available at the San Marcos Public Library, at City Hall, and on the city’s website.

(b) By April 30 of each year, after a public hearing, the city council shall formulate a policy statement to be used by the city manager as direction during the preparation of the proposed budget.

(c) By January 31 of each year, council shall hold a visioning session. By February 27th of each year the city council shall hold a budget policy workshop.

(Res. No. 1977-7R, Prop. 6, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 15, 1-30-84/4-7-84; Ord. No. 1998-7, Prop. 9, 2-9-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2002-12, Prop. 7, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 7, 5-7-02/5-4-02; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06)

State Law reference— Budgets, V.T.C.A., Local Government Code, § 102.001 et seq.

Sec. 8.03. - Anticipated revenues compared with other years in budget.

In preparing the budget, the city manager shall place in parallel columns opposite the several items of revenue: the actual amount of each item for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.04. - Proposed expenditures compared with other years.
The city manager in the preparation of the budget shall place in parallel columns opposite the various items of expenditures: the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year and the proposed amount for the ensuing fiscal year.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.05. - Budget a public record.

The budget and all supporting schedules shall be filed with the city clerk, submitted to the city council and shall be a public record. The city manager shall provide copies for distribution to all interested persons. The budget and all supporting schedules shall be published on the city’s website.

(Ord. No. 1992-9, Prop. 10, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.06. - Notice of public hearing on budget.

Not less than 30 days before the date the city council adopts the budget, the city council shall fix the time and place of public hearing on the budget and shall cause to be published in a newspaper of general circulation in the City of San Marcos, and through electronic media, a general summary of the proposed budget and a notice of the hearing setting forth the time and place thereof, the time for which publication shall be in accordance with applicable law.

(Ord. No. 1981-51, Prop. 5, 7-6-81/8-8-81; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06)

Sec. 8.07. - Public hearing on budget.

At the time and place set forth in the notice required by Section 8.06, or at any time and place to which such public hearing shall from time to time be adjourned, the city council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained. Copies of the proposed budget shall be available at the San Marcos Public Library, at City Hall, and on the city’s website.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2013-44, Prop. 21, 8-20-13/11/5/13)

Sec. 8.08. - Proceedings on budget after public hearing.

As a result of such public hearing, the city council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law, but where it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such proposed expenditures.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.09. - Adoption after public hearing.
The budget and the tax rate shall be adopted, after public hearings, in compliance with State law. Copies of the budget shall be available at the San Marcos Public Library, at City Hall, and on the city’s website.

(Res. No. 1979-2R, Prop. 6, 1-8-79/4-7-79; Ord. No. 1992-9, Prop. 11, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(14), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 22, 8-20-13/11-5-13)

Sec. 8.10. - Date of final adoption.

The budget and the tax rate shall be finally adopted not later than the expiration of the fiscal year.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(14), 8-19-08/11-4-08)

Sec. 8.11. - Effective date of budget; certification; copies made available.

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the city clerk and such other officials as may be designated by law. The final budget shall be printed or otherwise reproduced and copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations.

(Ord. No. 1992-9, Prop. 10, 2-10-92/5-2-92; Ord. No. 1998-7, Prop. 10, 2-9-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.12. - Budget establishes appropriations.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.13. - Budget establishes amount to be raised by property tax.

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute the amount of the levy for the purposes of the city in the corresponding tax year; provided, that such levy shall not exceed the legal limit provided by the laws and constitution of the State of Texas.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(14), 8-19-08/11-4-08)

Sec. 8.14. - Contingent appropriation.

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in amount not more than three per centum of the total budget, to be used in case of unforeseen items of expenditure. Such contingent appropriation shall be under the control of and distributed by the city manager after approval of the city council. Expenditures from this appropriation shall be made
only in case of established emergencies and a detailed account of such expenditures shall be recorded and reported.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1)

Sec. 8.15. - Estimated expenditures shall not exceed estimated resources.

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Governmental Accounting or some other nationally accepted classification.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.16. - Other necessary appropriations.

The city budget may be amended and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the city council.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.17. - Purchase procedure.

No contract or order shall be binding upon the city unless and until the city manager or the manager’s designated representative certifies that there is to the credit of such administrative unit a sufficient unencumbered appropriation and an allotment balance to pay for the supplies, materials, equipment, or contractual services, for which the contract or order is to be issued. Before the city makes any purchase or contract for supplies, materials, equipment, or contractual services, opportunity shall be given for competition. The council may by ordinance convey upon the city manager general authority to contract for expenditures without further approval of the council for all budgeted items not requiring competitive bidding or proposals under state law. All purchases shall be made in accordance with applicable ordinances and state law. When required, notice of solicitation for competitive purchases of goods and services shall appear on the city’s website and on an internet site for governmental procurements and may also be published in a newspaper of general circulation in the city.

(Res. No. 1977-7R, Props. 1, 7, 1-24-77/4-2-77; Ord. No. 1981-51, Prop. 13, 7-6-81/8-8-81; Ord. No. 1984-11, Prop. 16, 1-30-84/4-7-84; Ord. No. 1986-4, Props. 19—21, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 12, 2-8-88/5-7-88; Ord. No. 1992-9, Prop. 12, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(15), 8-19-08/11-4-08)

ARTICLE IX. - BORROWING FOR CAPITAL IMPROVEMENTS

Footnotes:
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Sec. 9.01. - Power to borrow.

The City of San Marcos shall have the right and power to borrow money on the credit of the city for permanent public improvements or for any other public purpose not prohibited by the constitution or statutes of the State of Texas. The city shall also have the power to borrow money against the revenues of any municipally owned utility and to mortgage the physical properties of such utilities in payment of such debt. In no event, however, shall revenue bonds be considered a general indebtedness of the city nor repaid with funds secured by taxation.

(Ord. No. 1996-6, Prop. 9, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 9.02. - Bond record.

The city manager or the manager’s designated representative shall prepare, maintain and cause to be filed in the city manager’s office a complete bond record, showing all bonds and certificates of obligation, the date and amount thereof, the rate of interest, a schedule of maturity dates and a record of all bonds and all other transactions of the city council having reference to the refunding of any indebtedness of the City of San Marcos. A copy of the bond record shall be available at the San Marcos Public Library, at City Hall, and on the city’s website.

(Ord. No. 1992-9, Prop. 13, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(14), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(16), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 23, 8-20-13/11-5-13)

Sec. 9.03. - Misapplication of bond funds.

Any officer or employee of the City of San Marcos who shall willfully or knowingly divert or use any funds arising from the issuance of any bond or sinking fund for any other purpose than that for which the fund is created or as herein otherwise authorized, shall be subject to prosecution as provided by the laws of the State of Texas on the diversion and conversion of funds belonging to any of the municipalities of the State of Texas.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 4)

ARTICLE X. - TAX ADMINISTRATION

Footnotes:
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State Law reference—Authority, Texas Const., art. 11, §§ 4, 5; local taxation, V.T.C.A., Tax Code, § 302.001 et seq.

Sec. 10.01. - Tax administration.
The city council shall provide for the administration and collection of property taxes in accordance with state law. This may be accomplished through interlocal agreement with another taxing unit whose taxing jurisdiction overlaps all or part of the city’s taxing jurisdiction.

(Ord. No. 1981-51, Prop. 6, 7-6-81/8-8-81; Ord. No. 1992-9, Prop. 14, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2004-44, § 3, 8-9-04)

Sec. 10.02. - Power to tax.

The City Council of the City of San Marcos shall have the power, and is hereby authorized to levy, assess and collect annual taxes not to exceed the maximum limits set by the constitution and laws of the State of Texas as they now exist or as they may be amended on each $100.00 assessed valuation of all real and personal property within the corporate limits of the City of San Marcos and not exempt from taxation by the constitution and laws of the State of Texas; however, provisions must be made annually to assess and collect a sum sufficient to pay the interest on any debts of the city and to create a sinking fund of at least two percent of such debt.

(Res. No. 1977-7R, Prop. 8, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2008-29, § 2(17), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 25, 8-20-13/11-5-13)

Sec. 10.03. - Property subject to tax, methods of assessment.

All real and tangible personal property that the State of Texas has jurisdiction to tax, shall be subject to annual taxation by the City of San Marcos unless exempted by state law if the real property is located within the corporate limits of the City of San Marcos on January 1 and the tangible personal property is:

(1) Located in the City of San Marcos on January 1 for more than a temporary period;
(2) Normally located in the City of San Marcos, even though it is outside the city on January 1, if it is outside the city only temporarily;
(3) Normally returned to the City of San Marcos between uses elsewhere and is not located in any one place for more than a temporary period; or
(4) That in which the owner resides (for property not used for business purposes) or maintains his principal place of business in Texas (for property used for business purposes) in the City of San Marcos and the property is taxable in Texas but does not have a taxable situs pursuant to (1)—(3) above.

All procedures and actions relating to property taxation shall be conducted pursuant to the requirements of the Texas Property Tax Code. Each person, partnership, corporation, association or other legal entity so owning property within the limits of the City of San Marcos, shall render said property as required by the Texas Property Tax Code and the chief appraiser of the Hays County Appraisal District.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 17, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 10.04. - Reserved.
Editor's note—A Charter amendment adopted April 7, 1984, deleted § 10.04, pertaining to the board of equalization. The section derived unamended from the city's Home Rule Charter as adopted Feb. 24, 1967, and has been reserved for future use.

Sec. 10.05. - Taxes; when due and payable.

All taxes due the City of San Marcos shall be payable at the office of the city assessor-collector and may be paid at any time after October 1. Unless otherwise provided by State law, taxes for each tax year shall be paid before February 1 of the following year, and all such taxes not paid prior to such date shall be deemed delinquent and shall be subject to penalty and interest at the maximum percentage permitted by law.

(Ord. No. 1981-51, Prop. 7, 7-6-81/8-8-81; Ord. No. 1984-11, Prop. 19, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(18), 8-19-08/11-4-08)

Sec. 10.06. - Seizure and sale of personal property.

Personal property is subject to seizure for the payment of a delinquent tax, penalty and interest owed the City of San Marcos. Personal property is subject to seizure for the payment of a tax imposed by the City of San Marcos on property before the tax becomes delinquent as provided by the Texas Property Tax Code. Sale of such seized property shall be pursuant to the federal and state constitution and the Texas Property Tax Code.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 20, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 10.07. - Tax liens.

(a) The tax levied by the city is hereby declared to be a lien, charge, or encumbrance upon the property upon which the tax is due, which lien, charge or encumbrance the city is entitled to enforce and foreclose in any court having jurisdiction over the same and the lien, charge or encumbrance on the property in favor of the city, for the amount of the taxes due on such property is such as to give the state courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this state or person whose residence is unknown, but also as against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction. The city's tax lien shall exist from January 1, in each year until the taxes are paid.

(b) Personal property may not be seized and a suit may not be filed:

(1) To collect a tax on personal property that has been delinquent more than four years; or

(2) To collect a tax on real property that has been delinquent more than 20 years.

(c) A tax delinquent for more than the limitation period prescribed by this section and any penalty and interest on the tax is presumed paid unless a suit to collect the tax is pending.

(d) The city's tax lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien. All persons or corporations owning or holding personal property or real estate in the City of San Marcos on the first day of January of each year shall
be liable for all municipal taxes levied thereon for such year. The City of San Marcos is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both.

(Ord. No. 1984-11, Prop. 21, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-44, § 4, 8-9-04)

Sec. 10.08. - Tax remissions, discount, and compromises.

The city council or any other official of the city shall never extend the time for payment of taxes or remit, discount or compromise any tax legally due the city or waive the penalty and interest that may be due thereon to any person, firms or corporations owing taxes to the city for such year or years except as permitted by state law; provided, however, that this provision shall not prevent the compromise of any tax suit.

(Ord. No. 1988-15, Prop. 13, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00)

ARTICLE XI. - FRANCHISES AND PUBLIC SERVICE COMPANIES

Footnotes:
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Sec. 11.01. - Definitions; powers of the city council.

(a) In this article:

(1) "Public service company" means any company, individual, partnership, corporation or other entity recognized by law that uses the city’s streets, alleys, highways or other public property to carry out its principal purposes, including but not limited to public utilities, commercial railway or street railway services, public transit services, solid waste collection, and vehicles for hire.

(2) "Public utility" means any water, wastewater, gas, electricity or telecommunications utility that operates or offers service in the city.

(3) "Telecommunications utility" includes any company that provides or offers to provide telephone, cable television or other similar services for the transmission of voice, data or video information.

(b) The city council has the following powers regarding public service companies of every character operating in the city:

(1) To buy, condemn, construct, lease, maintain, and operate public utility systems in the city.

(2) To sell, manufacture, and distribute the services and output of city public utility systems.

(3) To prohibit the use of city streets, alleys, easements or other grounds by a public service company unless the company first obtains a franchise, permit, certificate or other authorization in accordance with this article and applicable ordinances; and

(4) To regulate public service companies in the interest of public health, welfare and safety.

(c) The authority of the council under this article is subject to federal and state laws regarding public utilities. The provisions of this article will be disregarded to the extent of any conflict between them and federal and state laws.
Sec. 11.02. - Power to grant franchise.

The council shall have the power, by ordinance, to grant, renew, extend, and amend all franchises of all public utilities of every character operating within the city. No franchise shall be for an indeterminate period, and no franchise shall be granted for a term of more than five years from the date of the grant, renewal or extension.

Sec. 11.03. - Reserved.


Sec. 11.04. - Ordinance granting franchise; public hearing.

All ordinances granting, renewing, extending or amending a public utility franchise shall be read at three separate regular meetings of the council, and shall not be finally passed until 30 days after the first reading; and no such ordinance shall take effect until 30 days after its final passage. The council shall conduct a public hearing on any such franchise ordinance before the first reading of the ordinance. Notice of the public hearing, including the full text of the ordinance shall be published once before the first reading, in a newspaper of general circulation in the city, and shall be made available at the San Marcos Public Library, at City Hall, and on the city's website, and the expense of such publication shall be borne by the applicant for the franchise.

Sec. 11.05. - Transfer of franchise.

No public utility franchise shall be assigned or transferred except with the approval of the council expressed by ordinance. The term "assigned or transferred" includes a transfer of a controlling interest in stock, and an assignment or transfer to an affiliated or subsidiary person or company, but the term does not include the pledging of a franchise as security for a valid debt or mortgage.

Sec. 11.06. - Franchise value not to be allowed.
No value shall be assigned to any franchise granted by the city in fixing reasonable rates and charges for utility service within the city, or in determining the just compensation to be paid by the city for public utility property which it may acquire by condemnation or otherwise.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

Sec. 11.07. - Right of regulation.

Every grant, renewal, extension or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the council:

(1) To forfeit any such franchise by ordinance at any time for the failure of holder thereof to comply with the terms of the franchise, such power to be exercised only after notice and hearing, and an opportunity to correct the default.

(2) To require such expansion and extension of plant and facilities as are necessary to provide adequate service to the public and maintain plant and fixtures at the highest reasonable standard of efficiency.

(3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.

(4) To impose regulations to ensure safe, efficient and continuous service to the public.

(5) To collect from every franchise holder its fair and just proportion of the expense of maintaining areas of public property occupied by the franchise holder, or to compel the franchise holder to perform its fair and just share of the work of maintaining areas of public property occupied by the franchise holder at its own expense.

(6) To examine and audit at any time during regular business hours the accounts and records of any such utility which are relevant to the city’s right of regulation.

(7) To prescribe the form of accounts kept by such utility.

(8) To require such compensation and rental as may be permitted by federal or state law.

(Ord. No. 1996-6, Prop. 10, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

Sec. 11.08. - Public service companies to file annual reports.

The city council by ordinance shall require each public service company operating within the corporate limits of the city to file a sworn annual report of the receipts from the operation of the company for the current year, how expended, how much thereof for betterments or improvements, the rate of tolls or charges for services rendered to the public, and any other facts or information that the council may deem pertinent for its use in intelligently passing upon any questions that may arise between the city and the public service company. These reports shall be filed with the city clerk, and preserved for the use of the city council. The reports may be reviewed periodically by the council to determine the propriety of the rates being charged and will be available at the San Marcos Public Library, at City Hall, and on the city’s website.

(Ord. No. 1996-6, Prop. 10, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00; Ord. No. 2006-36, § 2(15), 8-15-06/11-7-06; Ord. No. 2013-44, Prop. 24, 8-20-13/11-5-13)
Sec. 11.09. - Regulation of rates.

The council shall have the power to:

(1) Regulate by ordinance the rates of every public service company operating in the city, provided that no such ordinance shall be passed as an emergency measure;

(2) Employ expert advice and assistance in determining a rate and equitable profit to the public service company; and shall have the power to require, as a condition precedent to any hearing concerning rates and service of a company, that the company pay the cost of such expert advice and assistance as chosen and deemed necessary by the council.

(Ord. No. 1988-15, Prop. 15, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

Sec. 11.10. - Municipally owned utilities.

Accounts shall be kept for each public utility owned or operated by the city, in such manner as to show the true and complete financial results of such city ownership and operation, including all assets and all liabilities, appropriately subdivided by classes, depreciation reserve, other reserves and surplus; also revenues, operating expenses including depreciation, interest payments, rental and other disposition of annual income. The accounts shall show actual capital cost to the city of each utility owned. The accounts shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any city department. The council shall cause an annual report to be made by a certified public accountant and shall publish such report showing the financial results of such city ownership and operation, giving the information specified in this section and such other data as the council shall require.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

Sec. 11.11. - Regulation of city owned public utilities.

The council has authority to supervise and regulate the operations of city owned public utilities, including the following:

(1) To establish the rates, terms and conditions for the sale of utility services.

(2) To prescribe rules and standards for the construction, extension, maintenance and operation of production, transmission and distribution facilities.

The council may exercise this authority itself, or it may delegate all or part of the authority to a board of citizens to oversee one or more of the city’s public utilities.

(Ord. No. 1996-6, Prop. 11, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

ARTICLE XII. - GENERAL PROVISIONS
Sec. 12.01. - Public access to records.

All information collected, assembled or maintained by the city pursuant to law or ordinance or in connection with the transaction of official city business is public information and available to the public during normal business hours of the city under the terms and conditions provided in the Texas Public Information Act as amended.

(Ord. No. 1988-15, Prop. 16, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2004-44, § 5, 8-9-04)


Sec. 12.02. - Personal interest and code of ethics.

(a) (1) All elected and appointed officers of the city shall comply with applicable requirements of state law and city ordinances pertaining to conflicts of interest of local government officials.

(2) The code of ethics adopted by the city council under subsection (b) of this section shall require annual disclosure by members of the city council and city boards and commissions of their relevant interests in business entities and real property as defined under state law and city ordinances. The financial disclosures shall be updated within 30 days of any significant change in the interests of an official even if such a change is temporary. For this part “significant” means a change in interest that would tend to render the annual financial disclosure misleading or incomplete.

(3) No member of the city council, and no employee of the city shall have a financial interest in the sale to the city or purchase from the city of any land, materials, supplies or service, outside of the person’s position with the city. Any person having such an interest shall be ineligible for election as a city council member or appointment as an employee of the city, and any city council member or employee who acquires such an interest shall forfeit the office or employment. Any violation of this provision with the actual or constructive knowledge of the city council member or employee shall render the contract voidable by the city manager or the city council. These provisions shall not apply to acquisitions of property by the city as a result of eminent domain proceedings or the threat of eminent domain proceedings. These provisions shall not apply to purchases from the city of land, materials, supplies or services that are made available for purchase to all members of the public.

(4) For a period of two years from the date of leaving office a city council member shall not have any financial interest in the sale to the city of any land, materials, supplies, or service. Any violation of this subsection with the actual or constructive knowledge of the former city council member shall render the contract voidable by the city manager or the city council. These provisions shall not apply to acquisitions of property by the city as a result of eminent domain proceedings or the threat of eminent domain proceedings.

(b) It is the policy of the City of San Marcos that all city officials and employees shall act and conduct themselves both inside and outside the city’s service so as to give no occasion for distrust for their integrity, impartiality or of their devotion to the best interest of the City of San Marcos and the public trust which it holds. To this end and to expressly assure its accomplishment, the city council shall establish and maintain an ethics review commission, and shall adopt and maintain a code of ethics for officials and employees of the City of San Marcos in ordinance form. The city council shall appoint an
ethics review commission composed of seven citizens of the City of San Marcos to serve three-year staggered terms. A chair shall be elected by a majority of the commission after the annual appointment of members to the commission.

(c) Duties of the ethics review commission:

(1) The ethics review commission shall meet at least once a year to review the code of ethics of the City of San Marcos and make recommendations, if any, to the city council.

(2) Conduct hearings into allegations of violations of the city’s code of ethics, or a state conflict of interest law, or the city charter according to the procedures set forth in the city’s ethics ordinance.

(3) Render advisory opinions on potential conflicts of interest, or violation of the city’s code of ethics, or the city charter at the request of a public official or employee covered by the code of ethics.

(4) Recommend to appropriate authorities cases for prosecution or other action for violation of the code of ethics, or a state conflict of interest law, or the city charter.

(5) Review and monitor financial reports required by the Texas Election Code with respect to city-sponsored elections.

Sec. 12.03. – Nepotism and Conflict of Interest

The members of the city council, and, the city manager, city clerk, city attorney and presiding judge of the municipal court are the public officials of the city who are subject to the nepotism prohibitions defined under State law.

(a) Public officials of the City of San Marcos are subject to the nepotism prohibitions defined under State law. For purposes of this section, the following are defined as public officials:

(1) The mayor and members of city council

(2) City Manager

(3) City Clerk

(4) City Attorney

(5) Presiding judge of the municipal court

(b) No city employee shall be regularly directly supervised by a relative, sexual partner, or roommate. City employees will not be transferred or promoted into positions that would cause them to be in a direct supervisor/subordinate relationship with a relative, sexual partner, or roommate. The supervisor involved in the relationship is responsible for promptly reporting the relationship to the city’s Director of Human Resources.

(1) Relatives: Includes the first, second, and third degree of consanguinity (blood or adoption); and the first and second degree of affinity (marriage). Common law marriages as recognized by the State of Texas will also be included for purposes of this section.
(2) Roommates: Individuals who share the same living quarters.
(3) Sexual Partner: Persons in a consensual sexual relationship but are not married to one another.
(c) To avoid the appearance and risk of impropriety a public official shall not nominate or appoint his or her business associates to public commissions and boards. Business associate is defined to include:
(1) a public official’s outside employer, outside employee, outside supervisor, or inside-outside subordinate
(2) a public official’s relative’s outside employer, outside employee, outside supervisor, or outside subordinate
(3) the public official’s outside client;
(4) the public official’s outside business partner, including
   (A) Owning 10 percent or more of a business entity in which the public official also owns 10 percent or more
   (B) Owning real property with a fair market value of $2,500 or more in partnership with the public official
   (C) In an outside legal contract for business goods or services valued at $2,500 or more with the public official

(Ord. No. 1994-16, Prop. 9, 3-22-94/5-7-94; Ord. No. 2000-12, 2-14-00/5-6-00)


Sec. 12.04. - Provisions relating to assignment, execution and garnishment.

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ or execution or cost bill. The funds belonging to the city, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

(Ord. No. 2000-12, 2-14-00/5-6-00)


Sec. 12.05. - City not required to give security or execute bond.

It shall not be necessary in any action, suit or proceeding in which the City of San Marcos is a party, for any bond, undertaking, or security to be demanded or executed by or on behalf of said city in any of the state courts, but in all such actions, suits, appeals, or proceedings same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.
Sec. 12.06. - Special provisions covering damage suits.

Before the city shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured or whose property is damaged or someone in that person's behalf shall give the city manager or the person performing the duties of city clerk, notice in writing within 90 days after the occurrence of the alleged injury, or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible. Provided however, that the ninety-day notice requirement of this section may be extended by a court of competent jurisdiction for good cause shown if the injured party has exercised due diligence, if any delay in giving the notice required by this section is not the result of conscious indifference by the party and if there is no substantial harm to the city caused by the delay. No action at law for damages shall be brought against the city for personal injury or damage to property prior to the expiration of 30 days after the notice hereinbefore described has been filed with the city manager or the person performing the duties of city clerk. In case of injuries resulting in death, before the city shall be liable in damages therefor the person or persons claiming such damages shall after the death of the injured person give notice as above required in case of personal injury. Provided, however, that nothing herein contained shall be construed to mean that the City of San Marcos waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, the constitution and general laws of the State of Texas.

Sec. 12.07. - Separability clause.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Sec. 12.08. - Effect of this Charter on existing law.

All ordinances, resolutions, rules, and regulations now in force under the city government of San Marcos and not in conflict with the provisions of this Charter, shall remain in force under this Charter until altered, amended or repealed by the council after this Charter takes effect; and all rights of the City of San Marcos under existing franchises and contracts are preserved in full force and effect to the City of San Marcos.

Sec. 12.09. - Holdover of officers.
All officers of the city, including appointed members of city boards and commissions, shall continue to perform the duties of their offices until their successors are duly qualified.

(Ord. No. 2002-12, Prop. 8, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 8, 5-7-02/5-4-02)


Sec. 12.10. - Applicability of general laws.

The constitution of the State of Texas, the statutes of said state applicable to home-rulled municipal corporations, as now or hereafter enacted, this Charter and ordinances enacted pursuant hereto shall, in the order mentioned, be applicable to the City of San Marcos. The city shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town or village, not contrary to the provisions of said home-rule statutes, Charter and ordinances, but the exercise of any such powers by the City of San Marcos shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns or villages unless and until by ordinance it adopts same.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(17), 8-19-08/11-4-08)

Sec. 12.11. - Amending the Charter.

Amendments to this Charter may be framed and submitted to the voters of the city in the manner provided by state law and in compliance with the provisions of this Charter pertaining to the holding of elections, including the requirements in Section 6.03 for verification of signatures on any petition paper that have been continuously in effect since the adoption of the original city charter on February 24, 1967.

(Ord. No. 1992-9, Prop. 16, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2015-32, § 2, 8-18-15/11-3-15)

Sec. 12.12. - Charter review commission.

Beginning in January 2013 and at least every four years thereafter, the city council shall appoint a Charter review commission of seven citizens of the City of San Marcos.

(a) Duties of the commission:

(1) Inquire into the operation of the city government under the Charter provisions and determine whether any such provisions require revision. To this end public hearings may be held; and the commission shall have the power to compel the attendance of any officer or employee of the city and to require the submission of any of the city records which it may deem necessary to the conduct of such hearing.

(2) Propose any recommendations it may deem desirable to ensure compliance with the provisions of the Charter by the several departments of the city government.

(3) Propose, if it deems desirable, amendments to this Charter to improve the effective application of said Charter to current conditions.
(4) Report its finding and present its proposed amendments, if any, to the city council.

(b) The city council may take action to amend the Charter in the manner provided by state law.

(c) Term of office: The term of office of such Charter review commission shall be six months, and, if during such term no report is presented to the city council, then all records of the proceedings of such commission shall be filed with the person performing the duties of the city clerk and shall become a public record.

(Ord. No. 1986-4, Props. 25, 26, 1-27-86/4-5-86; Ord. No. 1992-9, Props. 16, 17, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2008-09, § 2(1), 8-19-08/11-4-08)

Sec. 12.13. - Reserved.


Sec. 12.14. - Reserved.

Editor’s note—Former § 12.14 relative to the manner of the original adoption of the Charter by the voters has been deleted by proposition number 27 of the Apr. 5, 1986 Charter amendments.

Sec. 12.15. - Fluoridation of municipal water supply.

The City of San Marcos shall not add, or direct or require its agents to add fluoride in the form of hydrofluorosilicic acid, hexafluorosilicic acid, or sodium silicofluoride to the San Marcos municipal water supply.

(Ord. No. 2015-32, § 2, 8-18-15/11-3-15)
Mayor and Council Members: Based on Council’s request at the June 20, 2017 meeting, here is a summary of Nepotism provisions from a sampling of other Texas Cities

1. Austin - Nepotism not referenced in Charter. It is addressed in the City’s Personnel Policies. “No person related within the second degree by affinity or consanguinity to the Mayor, any member of the City Council, or the City Manager shall be appointed to any office, position, clerkship, or other service of the City. This prohibition shall not apply, however, to any person who shall have been continuously employed by the City for a period of two years prior to the election of the Mayor or Councilman or appointment of the City Manager so related to him. In addition, the City Manager shall not approve the appointment to any supervisor’s work group any person who is related within the second degree by affinity or consanguinity to that supervisor, nor shall the appointment of any member of the immediate family of any Department Director be approved unless the City Manager shall determine the necessity thereof because of the lack of qualified applicants for such position.”

2. San Antonio - Nepotism not referenced in Charter. It is addressed in the City’s Personnel Policies. “It is the City’s policy to fully comply with Municipal Civil Service rule VIII, Section 1 (c), and Section 2-44 (b) of the City’s Ethics Code. No person shall be employed or transferred into any division of the City if a kinsman by blood or marriage of such person is employed in a supervisory position over the employee within the same division.”


4. City of Georgetown - Referenced in Charter. “A person who is related within the second degree by affinity or within the third degree by consanguinity to the Mayor or any member of the City Council or City Manager may not be employed or appointed to any office, position, or clerkship of the City. This prohibition does not apply to any person employed by the City at least one (1) year prior to and at the time of the election of the Mayor or Council members, or appointment of the City Manager. This provision does not apply to any unpaid members of City boards, committees, or commissions.”

5. City of Cedar Park - Referenced in Charter. “No person related, within the second degree by affinity or within the third degree by consanguinity, as defined by the Texas Local Government Code as amended, to an elected City Official or the City Manager shall be employed or appointed to any office, position or clerkship of the City. This prohibition shall not apply, however, to any person who shall have been employed by the City at least one (1) year prior to and at the time of the election or appointment of the officer related in the prohibited degree.”

6. City of Round Rock - Referenced in Charter. “No person related, within the second degree by affinity or within the third degree by consanguinity, to the Mayor or any member of the City Council or City Manager shall be employed or appointed to any office, position or clerkship of the City. This prohibition shall not apply, however, to any person who shall have been employed by the City at least two (2) years prior to and at the time of the election or appointment of the officer related in the prohibited degree.”
7. New Braunfels – Referenced in Charter. “All members of the City Council, and all officers and employees of the City, shall be subject to and shall comply with the provisions of general state law regarding nepotism, including but not limited to Chapter 573 of the Texas Government Code. The City Council shall provide, by ordinance, regulations and procedures for the implementation and enforcement of said Chapter.”

8. City of Seguin – Referenced in Charter. “No person related within the second degree by affinity, or within the third degree by consanguinity to the mayor or any elected officer of the city, shall be employed in any office, position or clerkship or other service of the city. This prohibition shall not apply, however, to any person who shall have been continuously employed by the city for a period of six (6) months prior to the election of any city official so related to him.”
AGENDA CAPTION:
Receive a Staff update and follow-up of the Transportation Master Plan regarding Thoroughfare, Bike and Greenway plans, and street cross-sections; and provide direction to Staff.

Meeting date: July 5, 2017

Department: Engineering & CIP

Funds Required: NA
Account Number: C230
Funds Available: $31,846.79
Account Name: Transportation Master Plan

CITY COUNCIL GOAL:

COMPREHENSIVE PLAN ELEMENT(s):

- Economic Development - Goal 1 - Objective 1: Establish a process to analyze the market impacts of CIP projects from an economic perspective.
- Land Use - Goal 1 - Objective 5: Align infrastructure plans to achieve preferred scenario
- Land Use - Goal 2 - Objective 6: Maintain a current thoroughfare plan in order to preserve necessary right-of-way
- Parks, Public Spaces & Facilities - Goal 2 - Objective 3: Create Greenways Master Plan
- Transportation - Goal 1 - Objective 1: Transportation Plan in 2013 to address transportation issues
- Transportation - Goal 1 - Objective 2: Determine appropriate modes of transportation in and around new developments, subdivisions, site plans, the University and high density residential areas
- Transportation - Goal 1 - Objective 4: Maintain a current travel demand model to be utilized for continued analysis of the transportation network
- Transportation - Goal 2 - Objective 1: Focus on non-vehicular transportation improvements in updated Transportation Master Plan
- Transportation - Goal 2 - Objective 2: Develop a multimodal transportation system that integrates with existing University and proposed regional systems
- Transportation - Goal 2 - Objective 3: Obtain “Bicycle Friendly Community” designation
- Transportation - Goal 2 - Objective 7: Integrate the transportation system by coordinating with all related public entities, including, but not limited to CAMPL, the counties, TxDOT, the University, and the rail district
BACKGROUND:

City staff will provide a follow-up presentation on the tasks completed and next steps required to finalize the Transportation Master Plan; and seek direction from Council Members on concerns raised by general public during the open house, including Craddock Extension as well as North LBJ Extension to the Outer West Loop. Presentation will cover the following:

- Proposed cross sections
- Proposed bike plan
- Proposed greenways plan
- Proposed thoroughfare plan
- Craddock/NW Loop extension
- Council direction
Transportation Master Plan Follow-up

Tonight’s Presentation:

- Proposed Cross Sections
- Proposed Bike Plan
- Proposed Greenways Plan
- Proposed Thoroughfare Plan
- Craddock/NW Loop Extension
- Council Direction
Cross-Section Design Criteria

Cross-sections for the City’s streets were developed based on several criteria.

- Traffic Volumes & Traffic Operations
- Adjacent Land Use
- Average Trip Length
- Anticipated Parking Needs
- Bicycle Connectivity
- Desired Speeds
## Context-Sensitive Design

Cross-sections for the City’s streets were developed based on several criteria.

<table>
<thead>
<tr>
<th>Roadway Classification</th>
<th>No. of Lanes</th>
<th>Anticipated Daily Traffic Volumes</th>
<th>Target Speed (mph)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highway</td>
<td>4</td>
<td>15,000 - 35,000</td>
<td>45</td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>25,000 - 40,000</td>
<td>35</td>
</tr>
<tr>
<td>Boulevard</td>
<td>4</td>
<td>12,000 - 30,000</td>
<td>35</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>6,000 - 15,000</td>
<td>30-35</td>
</tr>
<tr>
<td>Avenue</td>
<td>4</td>
<td>10,000 - 20,000</td>
<td>30-35</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>4,000 - 15,000</td>
<td>30-35</td>
</tr>
<tr>
<td>Commercial Street</td>
<td>2</td>
<td>Less than 10,000</td>
<td>25-30</td>
</tr>
<tr>
<td>Residential Street</td>
<td>2</td>
<td>Less than 1,000</td>
<td>20-25</td>
</tr>
<tr>
<td>Road</td>
<td>2</td>
<td>Less than 1,000</td>
<td>25</td>
</tr>
<tr>
<td>Rear Alley/Lane</td>
<td>1</td>
<td>N/A</td>
<td>15</td>
</tr>
</tbody>
</table>
Boulevards are multi-lane divided roads with landscaped medians. They provide sidewalks and protected or off-street bicycle facilities.
Avenues are multi-lane undivided roads with three or more lanes. They have protected bicycle and pedestrian facilities and roadside trees spaced at regular intervals.

Three Lane Avenue with One-way Cycle Tracks and On-street Parking (AV 100-50)
TMP Cross-Sections – Commercial Streets

Commercial streets front commercial uses. They are characterized by wide sidewalks and on-street parking.

Two-Lane Commercial Street with Diagonal and Parallel Parking and One-way Cycle Tracks (CS 100-50)
## Transportation Master Plan Cross-Sections

<table>
<thead>
<tr>
<th>Roadway Classification</th>
<th>No. of Lanes</th>
<th>Anticipated Daily Traffic Volumes</th>
<th>Target Speed, mph</th>
<th>Lane Widths</th>
<th>On-Street Parking</th>
<th>Median</th>
<th>Right-of-Way</th>
<th>Bike Facility Type</th>
<th>Sidewalk Width</th>
<th>Shared Use Path</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highway</td>
<td>4</td>
<td>15,000 - 35,000</td>
<td>45</td>
<td>12'</td>
<td>No</td>
<td>Yes</td>
<td>150'</td>
<td>Off-Street</td>
<td>12'</td>
<td>Yes</td>
</tr>
<tr>
<td>Boulevard</td>
<td>6</td>
<td>25,000 - 40,000</td>
<td>35</td>
<td>11'-12.5'</td>
<td>No</td>
<td>Yes</td>
<td>125-150'</td>
<td>Off-Street</td>
<td>10.5'-12'</td>
<td>Yes</td>
</tr>
<tr>
<td>Boulevard</td>
<td>4</td>
<td>12,000 - 30,000</td>
<td>35</td>
<td>11'-12.5'</td>
<td>Varies</td>
<td>Yes</td>
<td>100'-125'</td>
<td>Cycle Track/Off-Street</td>
<td>5'-7'</td>
<td>Optional</td>
</tr>
<tr>
<td>Boulevard</td>
<td>2</td>
<td>6,000 - 15,000</td>
<td>30-35</td>
<td>12.5</td>
<td>Yes</td>
<td>Yes</td>
<td>100'</td>
<td>Cycle Track</td>
<td>5'</td>
<td>No</td>
</tr>
<tr>
<td>Avenue</td>
<td>4</td>
<td>10,000 - 20,000</td>
<td>30-35</td>
<td>11'-12.5'</td>
<td>No</td>
<td>No</td>
<td>100'</td>
<td>One-Way CT</td>
<td>6.5'</td>
<td>Optional</td>
</tr>
<tr>
<td>Avenue</td>
<td>3</td>
<td>4,000 - 15,000</td>
<td>30-35</td>
<td>11'-12.5'</td>
<td>Yes</td>
<td>Yes</td>
<td>82'-100'</td>
<td>Cycle Track/Off-Street</td>
<td>6.5'-14.5'</td>
<td>Optional</td>
</tr>
<tr>
<td>Commercial Street</td>
<td>2</td>
<td>Less than 10,000</td>
<td>25-30</td>
<td>10'-13.5'</td>
<td>Yes</td>
<td>No</td>
<td>60'-100'</td>
<td>Cycle Track/Shared Lane</td>
<td>5'-15'</td>
<td>No</td>
</tr>
<tr>
<td>Residential Street</td>
<td>1-2</td>
<td>Less than 1,000</td>
<td>20-25</td>
<td>10'-12'</td>
<td>Yes</td>
<td>No</td>
<td>50'-70'</td>
<td>Off-Street/Shared Lane</td>
<td>4'</td>
<td>No</td>
</tr>
<tr>
<td>Road</td>
<td>1</td>
<td>Less than 1,000</td>
<td>25</td>
<td>18'</td>
<td>No</td>
<td>No</td>
<td>40'-50'</td>
<td>N/A</td>
<td>-</td>
<td>No</td>
</tr>
<tr>
<td>Rear Alley/Lane</td>
<td>1</td>
<td>-</td>
<td>15</td>
<td>15'-24'</td>
<td>No</td>
<td>No</td>
<td>20'-24'</td>
<td>N/A</td>
<td>-</td>
<td>No</td>
</tr>
</tbody>
</table>
TMP Cross Sections Major Changes

- Landscaping strip from BOC to Sidewalk is increased from 3’ to 7’
- Wider sidewalks
- Median width is revised
- Protected/buffered bike lanes for Boulevards and Avenues
- Reduced lane widths (11.5’ min open area for public safety)
- Wider ROW
Bicycle Infrastructure Plan

Definition: Improvements to promote the safe and widespread use of bicycles as an alternative mode of transportation.
Bicycle Facilities

Level of Bicyclist protection based upon volume and speed of traffic

Speed and volume relationship for determining on-street bicycle facilities.

Area A: All modes can be mixed. The only reason to consider bicycle tracks or bicycle lanes is for the sake of continuity of design on connecting bicycle routes.

Area B: In general, a profile without segregation is acceptable, but depending on circumstances bicycle tracks or bicycle lanes can be desirable.

Area C: Some form of separation is needed, but visual separation (bicycle tracks) can be acceptable as well.

Area D: Bicycle tracks are desirable, but as densities are low, a mixed profile is acceptable. However, bicycle lanes are not advisable.

Area E: Speed and/or density of traffic flow make it an absolute necessity to segregate bicycles and motor traffic. Separate bicycle tracks are the only option.

Source: Kryzek, Forseth, Baum, 2009
Types of Bike Facilities

- **Protected Bike Lanes**
  - Physically separated bikeways within the roadway

- **Buffered Bike Lanes**
  - Designated space on roadways
  - Separated from moving traffic

- **Shared Use Path/Greenway along Road**
  - Suitable for recreational and commuter cycling

- **Sharrows**
  - Shared bicycle and automobile space
  - Preferential cycling locations
Proposed 2035 Bike Infrastructure

2035_bike_infrastructure.pdf
**Greenways Plan**

**Definition:** a corridor of protected open space that is maintained for conservation, recreation, and non-motorized transportation
Typical Greenway Sections and Materials

**Design Criteria:** As the primary choice of Greenway throughout San Marcos, the multi-use path and shoulder dimensions allow for a flexible design when dealing with constraining factors and a narrow right-of-way or easement.
**Typical Greenway Sections and Materials**

**SPLIT-USE GREENWAY**

In more urban settings where there is potential for pedestrian/bicycle conflicts.

**Design Criteria:** The Split-Use Greenway reduces conflict between pedestrians and wheeled users by creating a separation of pathways and requires a wide right-of-way or easement. Best for use in the Downtown or University area.
Typical Greenway Sections and Materials

Design Criteria: The choice of Greenway adjacent to an existing or planned roadway that creates a link between or extension of the greenway network.
Typical Greenway Sections and Materials

A DIVERSE RANGE OF MATERIALS
(DEPENDING ON LOCATION & CONDITIONS)

DECOMPOSED GRANITE
- In environmentally sensitive areas where permeability is important and a natural look is desired.
- Locally sourced and cost-effective alternative to decomposed granite.
- Maintenance: requires ongoing re-leveling due to compaction, erosion, and washouts from rain and flooding.

CRUSHED LIMESTONE
- Provides a smooth surface with a lower initial installation cost than concrete.
- Maintenance: prone to cracking and uneven settlement.

ASPHALT
- Locally sourced and cost-effective alternative to decomposed granite.
- Maintenance: requires ongoing re-leveling due to compaction, erosion, and washouts from rain and flooding.

CONCRETE
- Long-lasting surface, appropriate in flood-prone areas or on steep slopes. Suitable for bicycles, wheelchairs, and other users.
- Maintenance: Minimal.
Greenways Prioritization

- Connections to Key Districts and Destinations
- Fulfills Adopted Plans and Policies
- Completes Existing Facilities
- Costs
Greenways Plan Implementation

- Greenways Plan requirement for development in Code SMTX
- Section 3.5.1.2 requires dedication, construction or reservation of the right-of-way required for greenways.
- The designated right-of-way will protect the proposed greenway corridor from development
Proposed Greenways Plan

2035_greenways_plan.pdf
**Definition:** long-range plan that identifies the location and type of roadway facilities that are needed to meet projected long-term growth within the area.
Thoroughfare Plan Identification

- Mobility (traffic model)
- Connectivity
- Environmental

Protects/implements transportation corridors during development

Used for Capital Improvement Plan
Proposed 2035 Thoroughfare Plan

SMTX_ThoroughfarePlan.pdf
Craddock/NW Loop Extensions

- Provides needed connectivity in northwest San Marcos
- Allows regional traffic to bypass San Marcos to travel north on IH 35
- Provides additional transportation capacity
- Reduces congestion through downtown San Marcos
Craddock/NW Loop Extensions

City Streets Impacted:

- Aquarena Springs
- Sessom Drive
- Hopkins Street
- Old Ranch Road 12
- Wonder World Drive
Craddock/ NW Loop Extension

Impact without Extension

- Sessom Dr: +80%
- Old RR 12: +35%
- Wonder World Dr: +15%
- Hopkins St: +18%
- Aquarena Springs: +22%

Vehicles (Daily)

Impact without Extension

2035 Daily
## Impacts of Removing Extensions on Major Roadways

<table>
<thead>
<tr>
<th>Roadway</th>
<th>Section</th>
<th>2017 Traffic Volumes AADT</th>
<th>2035 Traffic Volumes</th>
<th>2035 Traffic Volumes</th>
<th>% Change</th>
<th>Cost Implications ($ Per Year*)</th>
<th>Cost Implications ($) Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>With Craddock AADT</td>
<td>Without Craddock AADT</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aquarena Springs</td>
<td>IH 35 and Sessom Dr</td>
<td>37,931</td>
<td>50,174</td>
<td>61,028</td>
<td>22%</td>
<td>$3,973,020.27</td>
<td>$17,094,169.02</td>
</tr>
<tr>
<td>University Dr</td>
<td>Sessom Dr to Hopkins St</td>
<td>23,724</td>
<td>19,171</td>
<td>22,575</td>
<td>18%</td>
<td>$293,079.26</td>
<td></td>
</tr>
<tr>
<td>Hopkins St</td>
<td>IH 35 to CM Allen</td>
<td>35,245</td>
<td>41,685</td>
<td>49,282</td>
<td>18%</td>
<td>$2,166,969.43</td>
<td></td>
</tr>
<tr>
<td>Hopkins St</td>
<td>CM Allen to Moore St</td>
<td>19,925</td>
<td>25,342</td>
<td>28,155</td>
<td>11%</td>
<td>$587,939.92</td>
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</tr>
<tr>
<td>Hopkins St</td>
<td>Moore St to WW Drive</td>
<td>16,474</td>
<td>21,110</td>
<td>22,047</td>
<td>4%</td>
<td>$387,923.78</td>
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<tr>
<td>Sessom Dr</td>
<td>Aquarena Springs to N LBJ</td>
<td>24,699</td>
<td>32,393</td>
<td>30,748</td>
<td>-5%</td>
<td>-$161,493.26</td>
<td></td>
</tr>
<tr>
<td>Sessom Dr</td>
<td>N LBJ to Academy</td>
<td>4,715</td>
<td>7,312</td>
<td>13,131</td>
<td>80%</td>
<td>$800,488.50</td>
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<tr>
<td>Sessom Dr</td>
<td>Academy to Holland St</td>
<td>7,132</td>
<td>8,624</td>
<td>15,336</td>
<td>78%</td>
<td>$617,664.89</td>
<td></td>
</tr>
<tr>
<td>Old RR 12</td>
<td>Hopkins to Holland St</td>
<td>9,529</td>
<td>13,411</td>
<td>18,169</td>
<td>35%</td>
<td>$1,636,144.36</td>
<td></td>
</tr>
<tr>
<td>Old RR 12</td>
<td>Holland St to Craddock Ave</td>
<td>14,136</td>
<td>18,120</td>
<td>23,879</td>
<td>32%</td>
<td>$1,062,071.22</td>
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</tr>
<tr>
<td>Old RR 12</td>
<td>Craddock Ave to WW Dr</td>
<td>11,216</td>
<td>13,298</td>
<td>17,725</td>
<td>33%</td>
<td>$2,932,030.04</td>
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<tr>
<td>Wonder World Dr</td>
<td>IH 35 to Hunter Rd</td>
<td>16,781</td>
<td>34,904</td>
<td>40,095</td>
<td>15%</td>
<td>$1,868,964.54</td>
<td></td>
</tr>
<tr>
<td>Wonder World Dr</td>
<td>Hunter Rd to Old RR 12</td>
<td>7,489</td>
<td>13,482</td>
<td>15,541</td>
<td>15%</td>
<td>$929,366.09</td>
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</table>

* In 2017 Dollars
City Council Direction

• Council consensus to proceed with **Cross Sections** as proposed?

• Council consensus to proceed with **Bike Infrastructure Plan** as proposed?

• Council consensus to proceed with **Greenways Plan** as proposed?

• Council consensus to proceed with **Thoroughfare Plan** as proposed?
Thank you.
Residential Streets

Residential streets are two lane roads serving residential neighborhoods. They are places where people can enjoy their community.

Two-Lane Residential Street with One Side of Parallel Parking Adjacent to Open Space (RS 50-30C)
Roads and Alleys

Roads are rural, curbless streets without separated sidewalks. Alleys are narrow roadways providing access or service at rear of residential or commercial properties.

One-Way Rear Alley in Residential Neighborhood (RA 20-15)
Public Response: Craddock Extension
Public Response: Craddock Extension

Impact of Craddock Extension

- RM 12: +31%
- US 80: +45%
- Hopkins: +18%
- Aquarena Springs: +28%
Public Response: Thoroughfare Plan

What are your thoughts about the location of proposed alignments

<table>
<thead>
<tr>
<th>Alignment Description</th>
<th>Number of Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remove Craddock Extension</td>
<td>17</td>
</tr>
<tr>
<td>Remove Roadways Over Recharge Zone</td>
<td>5</td>
</tr>
<tr>
<td>Keep Craddock Extension/Western Loop</td>
<td>2</td>
</tr>
<tr>
<td>Consider Environmentally Sensitive Areas while Planning Roadways</td>
<td>5</td>
</tr>
<tr>
<td>Remove Roadway Through Country Estates</td>
<td>2</td>
</tr>
<tr>
<td>Plan More Roadways/Bike Lanes on the East Side of IH35</td>
<td>2</td>
</tr>
</tbody>
</table>
Public Response: Bike Plan

What type of Bicycle Facility(s) would you feel comfortable using

- Off Street Trails: 25
- Protected Bike Lanes: 26
- Bike Lanes: 19
- Sharrows: 12
- None: 2
Public Response: Bike Plan

What are your thoughts on the types of bicycle facilities recommended in the Bike Plan

<table>
<thead>
<tr>
<th>Facility Type</th>
<th>Number of Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Need More Protected Bike Lanes</td>
<td>5</td>
</tr>
<tr>
<td>Too Many Sharrows</td>
<td>2</td>
</tr>
<tr>
<td>Off-Street Trails</td>
<td>4</td>
</tr>
<tr>
<td>Separation of Bike Lanes at Intersections</td>
<td>1</td>
</tr>
<tr>
<td>Bike Route Planning</td>
<td>1</td>
</tr>
</tbody>
</table>
Public Response: Greenways Plan

What do you like about the proposed Greenways Cross-Sections

<table>
<thead>
<tr>
<th>Option</th>
<th>Number of Respondents</th>
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</thead>
<tbody>
<tr>
<td>Split-Use Greenways</td>
<td>8</td>
</tr>
<tr>
<td>Multi-Use Greenways</td>
<td>3</td>
</tr>
<tr>
<td>Greenways along Road</td>
<td>2</td>
</tr>
<tr>
<td>Consider Safety Treatments for Crossings</td>
<td>2</td>
</tr>
<tr>
<td>None</td>
<td>1</td>
</tr>
</tbody>
</table>
Public Response: Greenways Plan

What are your thoughts about the type of material, trails are made of

<table>
<thead>
<tr>
<th>Material</th>
<th>Number of Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decomposed Granite</td>
<td>10</td>
</tr>
<tr>
<td>Crushed Limestone</td>
<td>15</td>
</tr>
<tr>
<td>Asphalt</td>
<td>7</td>
</tr>
<tr>
<td>Concrete</td>
<td>5</td>
</tr>
<tr>
<td>Other</td>
<td>6</td>
</tr>
</tbody>
</table>
Land Use – Protecting Public Investment

Conservation Corridor

**Purpose**
Advancing Regional Mobility while preserving and protecting sensitive environmental regions, existing natural vegetation and scenic beauty

**Regulatory Tools Proposed**
- Setbacks 350’ min
- Limited to no Access Rights
- Requirements for the preservation of existing landscaping and grades
- Limited Building Types to include single family and general commercial only (where zoning allows)
- Limited to Monument Signs
Sensitive Parkway Design Elements

- Stormwater infiltration
- Trees planted in Median
- Trees planted between the Drainage and Sidewalk
- Multi-Use Trail on both sides

**Design Elements**

- Stormwater infiltration
- Trees planted in Median
- Trees planted between the Drainage and Sidewalk
- Multi-Use Trail on both sides

**Description**

A long-distance thoroughfare that traverses an environmentally sensitive area and is designed for high vehicular capacity, very limited access, and should be designed to infiltrate stormwater in medians and landscape strips wherever site conditions allow.

**General**

- Right of Way Width: 158’ min
- Motorist Operating Speed: 45 mph
- Walkway: Multi-Use Path
- Bikeway: Multi-Use Path
- Parking: N/A
- Planting: Tree Lawn

**Travelway**

- Pavement Width: 36’ max
- Median: 28’ min (Planted)
- Paved Shoulder: 6’ min
- Travel Lane: 12’ max

**Streetscape**

- Drainage: 10’ min
- Planter Width: 7’ min
- Tree Spacing: 50’ o.c. avg
- Multi-Use Path: 12’ min
Sensitive Street Design Elements

- Stormwater infiltration
- Trees planted between the drainage and sidewalk
- Sidewalk on both sides

**B. Sensitive Area Residential Street**

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A local thoroughfare of low speed and capacity intended for environmentally sensitive areas and should be designed to infiltrate stormwater where site conditions allow.</td>
</tr>
</tbody>
</table>

**GENERAL**

<table>
<thead>
<tr>
<th>Right of Way Width</th>
<th>70’ min</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motorist Operating Speed</td>
<td>25 mph</td>
</tr>
<tr>
<td>Walkway</td>
<td>Sidewalk</td>
</tr>
<tr>
<td>Bikeway</td>
<td>Shared Travel lane</td>
</tr>
<tr>
<td>Parking</td>
<td>N/A</td>
</tr>
<tr>
<td>Planting</td>
<td>Tree Lawn</td>
</tr>
</tbody>
</table>

**TRAVELWAY**

<table>
<thead>
<tr>
<th>Pavement Width</th>
<th>24’ max</th>
</tr>
</thead>
<tbody>
<tr>
<td>Travel Lane</td>
<td>12’ max</td>
</tr>
</tbody>
</table>

**STREETSCAPE**

| Drainage | 10’ min |
| Planter Width | 7’ min |
| Tree Spacing | 50’ o.c. avg |
| Sidewalk | 6’ min |
Land Use – Protecting Public Investment

Highway Corridor

**Purpose:** Lengthening the time major corridors continue to function without expansion by expediting the free flow of traffic and reducing hazards.

**Tools:** Required Cross Access; Required Driveway Spacing; Parking location standards; Enhanced Pedestrian Access; Enhanced Landscaping; Enhanced Building standards.
Comparison – Parkway & Boulevard

- Lane width, median width and ROW varies for the new cross section
- Landscaping between Edge of Curb and Shared Use Path is increased from 5’ to 7’
- Distance between Edge of Curb and ROW is increased from 19.5’ to 25’.

<table>
<thead>
<tr>
<th>Cross-Section Elements</th>
<th>Existing Cross-Section</th>
<th>Proposed Cross-Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lane Width</td>
<td>12'</td>
<td>11' - 12.5'</td>
</tr>
<tr>
<td>Median</td>
<td>23'</td>
<td>18' - 28'</td>
</tr>
<tr>
<td>ROW</td>
<td>140'</td>
<td>140' - 150'</td>
</tr>
<tr>
<td>Off-Street Bike Lane/Shared Use Path</td>
<td>12'</td>
<td>12'</td>
</tr>
<tr>
<td>Unprotected Bike Lane Adjacent to Travel Lane</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Landscaping Between EOC and Shared Use Path</td>
<td>5'</td>
<td>7'</td>
</tr>
<tr>
<td>Distance between EOC and ROW</td>
<td>19.5'</td>
<td>25'</td>
</tr>
</tbody>
</table>
**Comparison – Major Arterial & Boulevard**

- Landscaping between Edge of Curb and Shared Use Path is increased from 4’ to 7’
- Distance between Edge of Curb and ROW is increased from 18.5’ to 21’.
- Protected Bike lanes and Sidewalks are provided on both sides; for the new cross section

<table>
<thead>
<tr>
<th>Cross-Section Elements</th>
<th>Existing Cross-Section</th>
<th>Proposed Cross-Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major Arterial</td>
<td>11' - 12'</td>
<td>12.5'</td>
</tr>
<tr>
<td>Median/TWLTL</td>
<td>14'</td>
<td>18'</td>
</tr>
<tr>
<td>ROW</td>
<td>100'</td>
<td>110'</td>
</tr>
<tr>
<td>Off-Street Bike Lane/Shared Use Path</td>
<td>12'</td>
<td>NA</td>
</tr>
<tr>
<td>Protected Bike Lane</td>
<td>NA</td>
<td>7'</td>
</tr>
<tr>
<td>Sidewalk</td>
<td>NA</td>
<td>7'</td>
</tr>
<tr>
<td>Unprotected Bike Lane Adjacent to Travel Lane</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Landscaping Between EOC and Shared Use Path</td>
<td>4'</td>
<td>7'</td>
</tr>
<tr>
<td>Distance between EOC and ROW</td>
<td>18.5'</td>
<td>21'</td>
</tr>
</tbody>
</table>
Comparison – Major Arterial & Avenue

- Landscaping between Edge of Curb and Shared Use Path is increased from 4’ to 7’
- Distance between Edge of Curb and ROW is increased from 18.5’ to 26.5’
- Protected Bike lane is provided on both sides; for the new cross section

<table>
<thead>
<tr>
<th>Cross-Section Elements</th>
<th>Existing Cross-Section Major Arterial</th>
<th>Proposed Cross-Section Four Lane Avenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lane Width</td>
<td>11' - 12'</td>
<td>11' - 12.5'</td>
</tr>
<tr>
<td>Median/TWLTL</td>
<td>14'</td>
<td>NA</td>
</tr>
<tr>
<td>ROW</td>
<td>100'</td>
<td>100'</td>
</tr>
<tr>
<td>Off-Street Bike Lane/Shared Use Path</td>
<td>12'</td>
<td>NA</td>
</tr>
<tr>
<td>Protected Bike Lane</td>
<td>NA</td>
<td>7'</td>
</tr>
<tr>
<td>Sidewalk</td>
<td>NA</td>
<td>6.5'</td>
</tr>
<tr>
<td>Unprotected Bike Lane Adjacent to Travel Lane</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Landscaping Between EOC and Shared Use Path</td>
<td>4’</td>
<td>7'</td>
</tr>
<tr>
<td>Distance between EOC and ROW</td>
<td>18.5'</td>
<td>26.5'</td>
</tr>
</tbody>
</table>
Comparison – Minor Arterial & Avenue

- Landscaping between Edge of Curb and Shared Use Path is increased from 3’ to 7’
- Distance between Edge of Curb and ROW is increased from 10.5’ to 15.5’
- Protected Bike lane is provided on both sides; for the new cross section

<table>
<thead>
<tr>
<th>Cross-Section Elements</th>
<th>Existing Cross-Section Minor Arterial</th>
<th>Proposed Cross-Section Three Lane Avenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lane Width</td>
<td>12'</td>
<td>11' - 12.5'</td>
</tr>
<tr>
<td>Median/TWLTL</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>ROW</td>
<td>82'</td>
<td>82'</td>
</tr>
<tr>
<td>Off-Street Bike Lane/Shared Use Path</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Protected Bike Lane</td>
<td>NA</td>
<td>7'</td>
</tr>
<tr>
<td>Sidewalk</td>
<td>5'</td>
<td>5'</td>
</tr>
<tr>
<td>Unprotected Bike Lane Adjacent to Travel Lane</td>
<td>5'</td>
<td>NA</td>
</tr>
<tr>
<td>Landscaping Between EOC and Shared Use Path</td>
<td>3'</td>
<td>7'</td>
</tr>
<tr>
<td>Distance between EOC and ROW</td>
<td>10.5'</td>
<td>15.5'</td>
</tr>
</tbody>
</table>
Comparison – Commercial Street

- TWLTL as well as one travel lane is used to provide diagonal and parallel parking along the proposed commercial street cross section

<table>
<thead>
<tr>
<th>Cross-Section Elements</th>
<th>Existing Cross-Section</th>
<th>Proposed Cross-Section</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Commercial/Multi Family Collector</td>
<td>Two Lane Commercial Street</td>
</tr>
<tr>
<td>Lane Width</td>
<td>12'</td>
<td>12.5' - 13.5'</td>
</tr>
<tr>
<td>Median/TWLTL</td>
<td>14'</td>
<td>NA</td>
</tr>
<tr>
<td>ROW</td>
<td>80'</td>
<td>80'</td>
</tr>
<tr>
<td>Off-Street Bike Lane/Shared Use Path</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Protected Bike Lane</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Sidewalk</td>
<td>6'</td>
<td>7'</td>
</tr>
<tr>
<td>Unprotected Bike Lane Adjacent to Travel Lane</td>
<td>5'</td>
<td>NA</td>
</tr>
<tr>
<td>Landscaping Between EOC and Shared Use Path</td>
<td>6'</td>
<td>7.5'</td>
</tr>
<tr>
<td>Distance between EOC and ROW</td>
<td>14.5'</td>
<td>14.5'</td>
</tr>
</tbody>
</table>

Diagonal & parallel parking provided along proposed cross section
Comparison – Residential Street

- Lane width is reduced from 11’ to 10’. ROW is reduced from 62’ to 60’
- Landscaping between Edge of Curb and Shared Use Path is increased from 3’ to 7’
- Distance between Edge of Curb and ROW is increased from 10.5’ to 12’

<table>
<thead>
<tr>
<th>Cross-Section Elements</th>
<th>Existing Cross-Section Residential Street</th>
<th>Proposed Cross-Section Residential Street</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lane Width</td>
<td>11’</td>
<td>10’</td>
</tr>
<tr>
<td>Parking</td>
<td>8’</td>
<td>8’</td>
</tr>
<tr>
<td>ROW</td>
<td>62’</td>
<td>60’</td>
</tr>
<tr>
<td>Off-Street Bike Lane/Shared Use Path</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Protected Bike Lane</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Sidewalk</td>
<td>5’</td>
<td>5’</td>
</tr>
<tr>
<td>Unprotected Bike Lane Adjacent to Travel Lane</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Landscaping Between EOC and Shared Use Path</td>
<td>3’</td>
<td>7’</td>
</tr>
<tr>
<td>Distance between EOC and ROW</td>
<td>10.5’</td>
<td>12’</td>
</tr>
</tbody>
</table>