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, July 18, 2017 in the City Council Chambers, 630 E. Hopkins, San Marcos, Texas 78666

II. Roll Call

Deputy Mayor Pro Tem Prewitt arrived after roll call at 5:04 p.m.

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

Mayor Thomaides led the assembly in the Pledges of Allegiance.

EXECUTIVE SESSION

1. 5:00PM Executive Session in accordance with Section § 551.072 of the Local Government Code - 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; and in accordance with Section § 551.074 of the Local Government Code; Personnel Matters - to deliberate regarding the selection of a City Manager.

A motion was made by Council Member Gregson, seconded by Council Member Mihalkanin, to enter into Executive Session at 5:06 p.m. 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 adoption or direction to Staff on matters discussed in Executive Session.
The Council reconvened into regular session at 6:18 p.m. A motion was made by Mayor Pro-Tem Hughson, seconded by Deputy Mayor Pro Tem Prewitt, to execute an employment agreement and approve the appointment of Bert Lumbreras as the City Manager. The motion carried by the following vote:

For: 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

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.

Jamie Lee Case, City Clerk, provided a brief presentation and update regarding contracting with the Hays County Elections Administrator for Election Services and a Joint Election agreement with Hays County. Staff will add that the Elections Administrator will use their best efforts to provide the results of the Election as soon as they are available. Council directed Staff to bring the contracts back for further discussion and consideration. Council also directed Staff to bring back a Resolution that recognizes the votes that were not counted during the November 8, 2016 General Election.

6:00 PM

V. 30 Minute Citizen Comment Period

Christine Terrell, spoke in favor of fostering well managed Short Term Rentals. She noted there are concerns, but spoke of the benefits to the local economy. People can live like locals and enjoy San Marcos' retail and restaurants. Please approve Short Term Rentals.

Diane Furry, she and her husband have been renting out small guest house at their residence on San Antonio Street. She stated they greet each guest by name, communicate prior to arrival, and strive to make each stay special. Many letters were provided to P&Z from their neighbors regarding their experience. Please support Short Term Rentals.

Lauren Mikiten, Asked City Council to join in litigation against Senate Bill 4 (Sanctuary City Bill) along with the City of San Antonio, Austin, and other cities. She spoke on the details of SB4 and how it erodes trust of the people and the police that protect them. She said ordinary experiences are increasing the
stress on individuals for fear they may be deported. Sexual Assault victims would be at more risk, they may be deterred from reporting a crime and others may not seek medical attention for fear of deportation. She wants Council to address and act on this now.

Lori McNabb, spoke of her Short Term Rental and the positive benefits she has received. She stated that she and her neighbors are unofficial ambassadors for San Marcos. She states that her home is age restricted and that her home is not open for parties and she inquires about her tenants. She wants flexibility to allow people to continue as short term rental hosts.

Beth Bissett, spoke as a resident of San Marcos for more than 43 years. Ms. Bissett purchased a home on San Antonio Street in 1985 and became neighbors with the Furry's. She is in full support of her neighbors Short Term Rental as she has heard no noise or complaints from the visitors. She stated that the Furry’s and others are filling a void and acting as ambassadors for San Marcos. She believes with excessive taxes, property owners should have the right to use their homes to supplement income and believes their should not be over regulation of personal property by the government.

David Marrs, spoke as a San Antonio Street resident and local business owner and spoke regarding the short term rentals in town. He stated that being able to use this model to raise some additional income is a good thing. He stated that he feels that it could lesson the footprint of some big box places. He likes the uniqueness of it. He spoke about how he has friends that actually help with Short Term Rentals with the make ready and the cleaning.

Lisa Marie Coppoletta, spoke of how she is disappointed in some City Management decisions. She believes election was stolen from her. She spoke with members of OSHA, Texas Insurance Agency, and EEOC. Ms. Coppoletta spoke about the lack of a split screen during council meetings and the distractions made by the dais while citizens speak. She is upset a meeting was never held with Communications Director regarding this split screen issue.

CONSENT AGENDA

A motion was made by Council Member Gregson, seconded by Deputy Mayor Pro Tem Prewitt, to approve the Consent agenda with the exception of item # 4 and #7 which were pulled and considered separately. Council Member Mihalkanin abstained from item #13 to avoid the appearance of impropriety. The motion carried by the following vote:
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

   A motion was made by Mayor Pro-Tem Hughson, seconded by Council Member Gregson, to postpone the approval of the July 5, 2017 minutes to the August 1, 2017 meeting. 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

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.

   A motion was made by Mayor Thomaides, seconded by Council Member Gregson, to amend Resolution 2017-106R, by changing the dollar amount on the contract from $189,855.32 to $180,233.92. 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
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.

Shannon Mattingly provided a brief presentation to council regarding various sections of Subpart B of the Land Development Code to clarify the applicability of Neighborhood Character Studies.

Mayor Thomaides opened the Public Hearing at 9:42 p.m.

There being no comments, Mayor Thomaides closed the Public Hearing at 9:42 p.m.

A motion was made by Council Member Gregson, seconded by Deputy Mayor Pro Tem Prewitt, to approve Ordinance 2017-36, 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

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.

Abigail Gillfillan provided the Council with a presentation regarding the Home Share Rental Ordinance.

Mayor Thomaides, Deputy Mayor Pro Tem Prewitt and Council Member Derrick, spoke about their work on this Ordinance. They unanimously approved their recommendation on all points as long as these properties are in reasonable areas with proper enforceability.

Mayor Thomaides opened the Public Hearing at 8:01 p.m.

Carl Furry, 811 W. San Antonio Street, spoke in favor of this Ordinance and how judging the program off of the epic fail that happened on Burleson Street should not be considered when making a decision on this ordinance. He noted
that most short term rental properties are clean and in good operation to ensure they receive good ratings and return customers. Mr. Furry, asked that council add a rule that requires hosts to state that no parties are allowed, this should be included in the regulations and puts the issue on the host and not the city. Council may also want to collect HOT funds from these properties to fund affordable housing initiatives in the community.

Cathy Mooney, spoke in opposition to the Short Term Rental Ordinance because she feels it discourages the affordable housing community.

Stan Harland, 228 Quail Creek Drive, discussed his concern in learning about the Short Term Rental Ordinance. He stated parties happen in these properties and it will be unmanageable and he finds that people are disrespectful and doesn't feel these can work in stable neighborhoods. The lower end homes in the neighborhood will become the party houses and established neighborhoods will be ruined.

Betty Richards, 127 Riveria, spoke in favor of the Short Term Rental Ordinance. She stated this rental allows her to pay for flood insurance and taxes. She ensures responsible people rent this home and keeps the house in pristine shape. She wants the ability to rent out to save it for her family in the future.

John Mark Slack, 139 Dolly Street, is more concerned with downtown, but spoke of restricting the parties in these properties. He spoke of his travels and the benefits of having a Short Term Rental. Overall these can be great.

Dorothy King, 1001 N. Bishop, spoke of her 40 years in San Marcos and how much. She noted in sections 34.804, 34.808, and 34.823 of the Ordinance the word “primary” is referenced. She bought a new construction home free and clear and this property has a mother in law cottage. This area is primarily rentals and older homes. She enjoys the ability to host people from all over the US but is restrictive in who rents this home. She has a co-host who lives 2 blocks away helps oversee the property and provides her income for this role. She has asked that council consider the owner and length of time of ownership. If not considered she would have to close her Short Term Rental.

There being no further speakers, Mayor Thomaides closed the public hearing at 8:15 p.m.

Council directed Staff to include language in the caption to include the words
"Short Term Rental" on second reading. They directed the City Attorney and Jeff Caldwell, Director of Neighborhood Services to look into the issue that has been raised regarding the potential loop hole in enforcement. Council also asked Staff to provide information regarding fees, and a requirement that all registrants include “no parties or events” on their listings along with a notice that states the person is available 24 hours.

A motion was made by Council Member Gregson, seconded by Council Member Mihalkanin, to approve Ordinance 2017-37, on the first of two readings. The motion carried by the following vote:

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

Against: 0

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).

Shannon Mattingly, Director of Planning and Development Services, provided a brief update on a request 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.

Mayor Thomaides opened the Public Hearing at 9:46 p.m.

Debbie Austin McDonald spoke in favor of this request and said she could answer any questions that Council may have.

There being no further comments, Mayor Thomaides closed the Public Hearing at 9:47 p.m. There was no further action required by the Council at this time.

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.

Main Motion: a motion was made by Council Member Gregson, seconded by
Council Member Derrick, to approve Resolution 2017-113R.

Motion to Amend: a motion was made by Mayor Pro-Tem Hughson, seconded by Council Member Mihalkanin, to amend by resequencing item #4 to #1. 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

Motion to Amend: a motion was made by Council Member Mihalkanin, seconded by Mayor Pro-Tem Hughson, that item #11 be amended to add "City Attorney and City Clerk, as applicable.". 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

Main Motion: to approve Resolution 2017-113R, as amended. 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

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.

A motion was made by Mayor Pro-Tem Hughson, seconded by Council Member Mihalkanin, to approve the Public Hearing Dates of September 5 and September 15 as proposed for the 2017 Property Tax Rate and Fiscal Year 2017-2018 Budget. 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

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

Council provided consensus on the following amendments:

Section 12.02 - Personal Interest and Code of Ethics
(a) (3) Insert “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.”

(a) (4) Remove "material and supplies" 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 or interest in land, or consulting, development or construction services". 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.

(a) (4) 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”

Section 12.03 - Nepotism and Conflict of Interest

The following sentence will be deleted, "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) Remove this section and include contents in the Employee Handbook.

(c) Insert "No business partner or 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 public official shall be employed or appointed to any office, position, board, or commission 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 6 months prior to the election of any city official so related to him/her."
Council provided direction for the City Manager to review the existing nepotism policy in the Personnel Handbook.

Section 3.09 - Meetings of the City Council

Insert: The city council shall hold at least (24) twenty four regular meetings per year 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

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.

Rohit Vij, Senior Engineer provided a presentation and update to Council on the Transportation Master Plan which included proposed cross sections, bike plan, greenway plan, thoroughfare plan, and the Craddock/NW extension.

Mayor Pro Tem Hughson recused herself from discussion on the Craddock Extension.

Council provided consensus to proceed with Cross Sections as proposed. Council provided consensus to proceed with the Bike Infrastructure Plan as proposed. Council provided consensus to proceed with the Greenways Plan as proposed. Staff will include a notification requirement be placed in the design standards of the Transportation Manual to require that signage be placed at the end of trails to alert people that they are about to enter private property. Council provided consensus to proceed with the Thoroughfare Plan as proposed, but the Council would like to see options regarding the Craddock Loop extension.

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 11:20 p.m.