



City of San Marcos

Work Session Meeting Minutes City Council

Tuesday, August 4, 2020

3:00 PM

Virtual Meeting

This meeting was held using conferencing software due to the COVID-19 rules.

I. Call To Order

With a quorum present, the work session of the San Marcos City Council was called to order by Mayor Hughson at 3:00 p.m. Tuesday, August 4, 2020. The meeting was held virtually.

II. Roll Call

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

PRESENTATIONS

1. Receive a Staff update on the proposed scope of work to be included in the Cape's Dam Study Request for Proposals, and other matters related to the dam, and provide direction to the City Manager.

Bert Lumbreras, City Manager, provided a brief update regarding the scope of work for the proposed Cape's Dam study. He outlined some of the steps that have been taken to this point. He introduced Jamie Lee Case, Assistant Director of Parks and Recreation and she led the presentation.

Mrs. Case outlined the request by Council in previous meetings which included the following:

- Study on flow and level and potential flooding and if it would cause more or less flooding
- Toxicity of the soil below the dam and how much the dam will drop and how that will affect the trees and stability of Thompson Island
- The effect of diverting more water through the mill race during times of drought and the health of the river and what would be best for the river
- Identify if there is a way to get rid of what is causing the sedimentation problem and place something that will allow the river to flow through and while still maintaining the Mill Race at some level, most of the time
- Do not replicate the study previously done by Dr. Hardy

Mrs. Case discussed the Request for Proposal (RFP) Solicitation process and noted that the estimated total duration is 177 days. Mrs. Case outlined the Staff's proposed scope of work. Staff will review previous studies, Council direction and public meeting information, prepare public engagement plan, develop list of community priorities/outcomes/concerns associated with Cape's Dam. Public engagement would include outreach to key stakeholders on both sides of this issue including San Marcos River Foundation, Hays County, Hays County Historical Commission, Texas Historical Commission, Meadows Center for Water and the Environment and others.

Examples include:

- Endangered species habitat**
- History of dam and surrounding area**
- River access for programs serving disabled veterans**
- Flood impacts to adjacent area**
- Condition of mill race – now & future**
- Permitting challenges**

Next a Phase 1 environmental study will be conducted for the channel & mill race to understand permitting and timing considerations for identified project options (remove, re-build, hybrid, repair, no-action)

- Establish evaluation & prioritization tool for Council to be able to understand each alternative's ability to address community priorities/outcomes/concerns**
- Review and obtain direction from Council on evaluation & prioritization tool.**
- Develop additional alternative projects (dependent on available funding)**
- Evaluate and document analysis for all projects**

Evaluation of each criteria for each option will be clearly documented.

- Conduct public engagement on evaluation**
- Identify key unknowns and document process to resolve. This may include additional studies.**
- Prepare project recommendation and implementation plan including funding options, permitting, design and construction time frames.**

Mrs. Case stated there is \$174,628 remaining of the \$250,000 that was originally funded for the Cape's Camp Improvement and Dam Project. To date \$75,372 of the funds have been used to fund previous studies on Cape's Dam and the Mill Race.

The following questions were previously asked and those were addressed: Who owns the dam?

– The City’s acquisition of the 20-acre Woodland property included all property and improvements to the banks of the river. The dam is allowed in the river with the permission of the state.

• If we don’t “own” the dam why are we responsible for it?

– Regardless of ownership, any action concerning the dam will require appropriate state and federal approvals. The City has a stake in the safety risks the dam poses because it is adjacent to city park property. One of the goals of the city government is to safeguard the health, safety and welfare of the city's residents. Thus, it is appropriate for the City to sponsor proposals for consideration and approval by the agencies having jurisdiction over the river and the dam.

• Should we ask the State of Texas to take action?

– Since this is not a dam owned by the State they would place the responsibility back on the “owner”. Since there is no specific “owner” it would then again become our responsibility due to the safety risks posed within the corporate city limits.

Did the city propose, in the Texas Parks & Wildlife Sand and Gravel Permit application, to take any action to acknowledge/honor the historical significance of the dam?

– No, the concerns regarding the historical significance of the dam did not arise until the vetting process of the permit application began.

• Is the permit application still pending?

– Yes, the Sand and Gravel Permit filed for the removal of the dam with Texas Parks and Wildlife (TPWD) is still pending.

• Is there a possible middle ground opportunity that can be explored?

– The study may be able to provide us with that information. Currently staff has proposed the options available as we believe them to be.

Interim Safety Measures

• Installing a buoy system from Cape’s Dam to river bank upstream to designate a safe line of travel around the dam.

• Installing new warning signage similar to exhibit shown here. .

• Parks & Rec Maintenance staff will be installing.

• Total Cost is \$3,300

Council Member Baker inquired about the previous studies and since money has already been spent he asked if there are plans to recreate the findings of these initial studies?

Mayor Hughson stated that none of those studies answered the question she has asked which would answer if there is a way to remove the current sedimentation and install a wier or other structure that would allow the Mill Race to remain. She is not looking for any studies to be re-done. She believes the previous studies did not address these concerns.

Council Member Baker asked his colleagues if there are any concerns with the previous studies.

Dr. Mihalkanin stated that he does not want to prolong this issue and he is in favor of repairing the dam. There will be costs in both repairing or removing the dam. He appreciates all work done by the staff on this topic He is not in favor of doing anything other than repairing the dam.

Council Member Derrick doesn't have an issue with the science and she has been told they only used the river elevation and not the model. She is in favor of the health of the river and the science states that the health of the river depends on the removal of the dam. She wants to know exactly what is council being asked for? Mrs. Case stated that staff is seeking direction from Council about moving forward with the proposed scope. We are not asking for a complete re-creation, but we would need the consultant to review the previous studies. Council Member Derrick asked if hydrology and endangered species would be considered. Mrs. Case stated these would be considered. She stated that a totally new study would take a lot more time and money that plans presented today. For any new student, there would be a city technical committee including engineers working with the consultant. Council Member Derrick asked if public input regarding recreation and history would be considered and how it would be weighted. Mrs. Case stated public input would be considered, but uncertain if a comment period would be set. The more extensive the public engagement the more the cost will be for the study. Council Member Derrick wants to ensure the science is not outweighed by public opinion. Mayor Hughson suggested that would be determined by the City Council.

Council Member Gonzales expressed his concern regarding public safety. He still wants to repair the dam.

Council Member Marquez spoke on the social justice and the connectivity of the East and West in our community. This is a huge issue. Dr. Marquez wanted to dispel claims that she doesn't read the reports provided. She stated as a

scientist and member of the Council she does educate herself in these matters. She stated that science has been used in the past to silence people and she knows the residents need something to do and recreation is important. She is in favor of repairing/rebuilding the dam. She is in favor of a second opinion because it is important to look at different reports and looking at it differently may yield different results.

Deputy Mayor Pro Tem Rockeymoore stated his concern for public safety. There is immediate danger and this needs to be taken into account. He stated it will cost a lot of money to repair the dam but far less to remove it. He stated that the County is no longer looking at the dam as being part of their park system so this is no longer connected to the dam. He stated it does not have to be rebuilt in order for us to have a park. He also stated rebuilding the dam will hinder the historical significance because it would be a whole new structure. He is ready for a decision on this as he is tired of prolonging this discussion.

Council member Derrick is willing to have a second study. She asked Ms. Moyer about the studies that have been done. Ms. Moyer responded that the completed studies have strong science behind them. Another study could be a QC on those studies to respond to questions and missing information, rather than starting from scratch. She stated that some questions may be answered from information in the studies. Mayor Hughson asked if this process could answer the question she has? Ms. Moyer responded that she is unsure because those studies did not look at that. It is possible that one of those studies could be tweaked to see.

Mayor Hughson thanked everyone on the Staff who has worked on this project She also thanked them for their interest in safety and for the improvements that will be installed shortly. We need to make that route as safe as we can. She is concerned about the science and has been trying to blend solving the issued to keep the river healthy while keeping recreational advantage. At this point she is ready to see what the county has to offer, although she thinks it's too complex. One of the beauties of Cape's Dam over the years is its beauty and it's a quiet place for reflection and contemplation and that's what she wants to see rather than a noisy park. She is not interested in diverting more water into the Mill Race and would like to see the leak from the Mill Race back to the river fixed. Anything added to the area is likely to be washed away in the next flood. The county will need to do some studies and she is aware that this will be a multi-year process.

Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, and

Council Member Gonzales would like the City to work with the County on their park proposal and they do not want any future studies.

Deputy Mayor Pro Tem Rockeymoore and Council Member Baker believe the science is clear and feels removing the dam is the best option. They are not interested in working with the County for a park plan and does not want any future studies. Council Member Baker stated if public opinion is the focus and not relying on the science then we should base the decision solely on public input by allowing the citizens to voice their opinion.

Council Member Derrick would like more of a hybrid option. She would like to see someone go over the previous studies and provide additional information on how much it would cost to repair and how much it would cost to remove the dam. She believes the park will be accessible much quicker if we remove the dam.

Since Council consensus is to discuss with the County to ensure they are still interested, Mr. Lumbreras will work with the county and an item will be brought forward at a subsequent meeting to define an Interlocal agreement.

EXECUTIVE SESSION

2. Executive Session in accordance with the following Government Code Sections:
 - A. Section § 551.072 - Real Property: to receive a staff briefing and deliberation regarding the following:
 1. Acquisition of property in Downtown San Marcos for public use
 2. Acquisition of property for the Uhland Road CDBG-DR Project
 - B. Section §551.071 - Consultation with Attorney regarding: Legal considerations regarding the following:
 1. Acquisition of property in Downtown San Marcos for public use
 2. Acquisition of property for the Uhland Road CDBG-DR Project

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockeymoore, to enter into Executive Session at 4:33 p.m. The motion carried by the following vote:

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

Against: 0

III. Adjournment.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Council Member Baker, to adjourn the work session of the City Council on August 4, 2020 at 6:00 p.m.

The motion carried by the following vote:

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

Against: 0

Absent: 3 - Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore and Council Member Gonzales

Tammy K. Cook, Interim City Clerk

Jane Hughson, Mayor