

**NEIGHBORHOODS AND LIVABILITY COUNCIL COMMITTEE  
MEETING MINUTES  
MONDAY, OCTOBER 19, 2015  
1:00 P.M.  
MEDIA BRIEFING ROOM, CITY HALL**

**Members Present:** Councilmember Roberto Treviño, *Chair, District 1*  
Councilmember Alan Warrick, *District 2*  
Councilmember Rey Saldaña, *District 4*  
Councilmember Ray Lopez, *District 6*

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**Members Absent:** Councilmember Cris Medina, *District 7*

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**Staff Present:** Erik Walsh, *Deputy City Manager*; Peter Zanoni, *Deputy City Manager*; Maria Villagomez, *Assistant City Manager*; Hollis Young, *Deputy City Attorney*; Monica Hernandez, *Assistant City Attorney*; Ted Murphree, *Assistant City Attorney*; William McManus, *Police Chief*; John Dugan, *Director, Planning and Community Development*; Vincent Nathan, *Interim Director, Metro Health*; Mike Shannon, *Assistant Director, Development Services Department*; Jim Mery, *Deputy Director, Center City Development & Operations Department*; John Jacks, *Interim Director, Center City Development & Operations Department*; Janet Martin, *Assistant Director, Parks and Recreation Department*; Tom Morgan, *Grants Administrator, Planning and Community Development*; Denice F. Trevino, *Office of the City Clerk*

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**Also Present:** Jane Pamley-Flores, *Executive Director, Main Plaza Conservancy*; William Scanlan Jr., *Chairman, Main Plaza Conservancy*; Richard M. Alles, *Director, Aquifer Guardians*; Scott R. Halty, *Director, SAWS*

**Call to order**

Chairman Treviño called the meeting to order. He stated that the mission of the Neighborhoods & Livability Council Committee was to create and preserve a city by design and the Committee shall endeavor to leverage our unique history and resources to promote diverse, safe and connected neighborhoods.

**INDIVIDUAL BRIEFING**

- 1. Briefing and Possible Action on San Antonio Secondhand/Recycled Mattress Consumer Protection Regulations.** [Erik Walsh, Deputy City Manager; Michael Shannon, Assistant Director, Development Services]

Michael Shannon stated that Councilman Warrick had submitted a Council Consideration Request (CCR) on April 1, 2015, to review and adopt a Consumer Protection Ordinance that would assist in informing and protecting San Antonio Consumers which may be purchasing secondhand or recycled bedding. He noted that the State of Texas repealed the Health and Safety Code, Section 345 (Bedding Laws) effective September 1, 2015. He reported that this briefing was presented to the Governance Committee on May 20, 2015 which recommended that the proposed Ordinance be presented to the Neighborhoods and Livability Council Committee for further review. He reviewed the previous State Requirements which included:

- Two-year license registration through the Department of State Health Services
  - ❖ Germicidal Treatment Permit (\$110)
  - ❖ Wholesaler Permit (\$220-\$1,320)
- Labels: Should clearly indicate “SECONDHAND MATERIAL”, including treatment date/method, permit number of registrant conducting the germicidal treatment
- Records: Shall be kept by Operators for not less than two years and available to the department upon request
- Storage: New and used bedding merchandise must be stored separately, as well as treated versus untreated
- Treatment method: chemical spray, dry heat, steam

Mr. Shannon noted that the State Requirements did not apply to mattresses sold on E-bay, Craigslist, etc. He noted that there were 144 violations in Texas and 14 violations in San Antonio in 2014. He reviewed the most common violations enforced across Texas from August 2014 through August 2015 which resulted in fines of \$125 - \$500. He noted that most violations were for displaying unlabeled mattresses on the sales floor and failure to include the required treatment label. He stated that research performed by City Staff indicated that Commercial Retail Stores sold secondhand mattresses such as:

- Furniture rentals
- Resale Shops
- Thrift Stores
- Children’s Resale Shops

He reviewed the current Federal Guidelines and noted that they focused more on flammability requirements. He stated that there were approximately 30 states which had a Labeling Requirement and a Registration Requirement. He noted that the proposed Ordinance:

- Addressed the concern for the safeguarding the health and well-being of residents properly extends to articles of bedding
- Was developed because Consumers should know that used bedding was free of vermin and filth and that the seller accurately represents the used product
- Requirements:

- ❖ 1. Annual Registration and Permit to sell used mattresses  
Annual Fee: coincides with previous State Fee (\$200 - \$1,300 every two years)
- 2. Annual Registration and Permit to germicidally treat mattresses  
Annual Fee: coincides with previous State Fee (\$110 every two years)
- 3. Labels on treated mattresses
  - Identifying item as a secondhand mattress
  - Documenting that item has been properly treated
- 4. Adequate storage in storefronts to identify that store sells secondhand and/or recycled mattresses
- 5. Signed acknowledgement from customer understanding type of mattress purchased
- 6. Germicidal cleaning of all secondhand furniture or mattresses by approved/registered treatment provider
- 7. Logbook to track treated mattresses

Mr. Shannon reviewed the following options for enforcement:

#### Recommend

- Utilize existing staff to:
  - ❖ Respond to complaints (reactive only)
  - ❖ Prepare enforcement action – both Civil and Criminal Penalties

#### Alternate

- One additional dedicated Health and/or Code Enforcement Investigator to:
  - ❖ Proactively inspect facilities monthly
  - ❖ Respond to customer complaints
  - ❖ Prepare enforcement action – both Civil and Criminal Penalties
  - ❖ \$80,000 annual budget

He stated that staff recommended that existing staff be utilized with a reactive approach at this time. He stated that staff recommended that this item be brought before the full City Council in November 2015 for consideration with an effective date of February 1, 2016. He noted that this would allow time to provide education to businesses.

Councilmember Warrick asked if this would be voluntary or mandatory. Mr. Shannon replied that it would be mandatory. Councilmember Warrick asked of the number of businesses which were expected to register. Mr. Shannon replied that 94 to 100 businesses had registered with the State previously. Councilmember Warrick asked what would be the course of action if bed bugs were found on a mattress. Mr. Shannon replied that if bed bugs were found on a mattress; it would be a civil matter and difficult to prove.

Councilmember Lopez asked if the Ordinance would recognize mattresses which had portions replaced and those which were only treated. Mr. Shannon replied that the proposed Ordinance dealt with only new and used designations for mattresses. Councilmember Lopez asked if the proposed Ordinance designated differing treatments for used mattresses based on their origin. Mr. Shannon replied that the proposed Ordinance did not designate differing treatments for used mattresses based on their origin. He added that staff would investigate adding those options to the proposed Ordinance although it would be difficult to enforce these differences.

Chairman Treviño asked if Flea Market Business would be included in the proposed Ordinance. Mr. Shannon replied that Flea Market Businesses would not be monitored as part of the proposed Ordinance. He added that Garage Sales would not be monitored as part of the proposed Ordinance. He noted that both types of sales could be monitored as part of the proposed Ordinance.

Councilmember Warrick moved to approve and forward the proposed Secondhand/Recycled Mattress Consumer Protection Regulations Ordinance to the full City Council for consideration in November 2015. Councilmember Lopez seconded the motion. Motion carried unanimously by those present.

**2. Briefing and Possible Action on a Request to Amend Chapter 36, Smoking Ordinance, of the City of San Antonio, Texas to Designate Main Plaza and Portal San Fernando and Travis Park Grounds as Smoke-Free Public Spaces.** [Lori Houston, Assistant City Manager and Acting Director, Center City Development & Operations Department]

John Jacks stated that this item was brought before the Committee by the Center City Development and Operations Department. He noted that in 2010, the City of San Antonio (CoSA) amended the existing Smoking Ordinance to ban smoking in outdoor venues such as the San Antonio Zoo, Arenas, Stadiums, Park Playgrounds and Pavilions, Public Transit Stations, and the Fiesta Parade Routes located on the street level and on the Riverwalk. He stated that the Main Plaza Conservancy submitted a letter to the Center City Development and Operations Department requesting that Main Plaza be included in the Smoking Ordinance. He noted increased programming in Main Plaza, Portal San Fernando and Travis Park. He stated that staff recommended amending the Smoking Ordinance to designate Main Plaza and the Portal San Fernando Grounds, as well as the Travis Park Grounds, as smoke free to improve the safety and health of visitors.

William Scanlan noted that smoking was banned in many parks nationwide such as in Central Park in New York City. He cited hazardous secondhand smoke and park maintenance as the major impetus for the request made by the Main Plaza Conservancy.

Councilmember Saldaña asked if Main Plaza was owned by the City. Mr. Shannon replied that Main Plaza was owned by the City.

Councilmember Warrick suggested that as the number of Public Spaces increased which were included in the Smoking Ordinance we may also want to allow private businesses to go in a different direction.

Councilmember Lopez cautioned that the City Council should determine through thoughtful discussions in the future how much regulation should exist.

Chairman Treviño asked if Vaping was included in the proposed Ordinance. Mr. Shannon replied that Vaping was not included in the proposed Ordinance. Chairman Treviño requested further discussion on this subject.

Councilmember Saldaña moved to approve and forward a Request to Amend Chapter 36, Smoking Ordinance, of the City of San Antonio, Texas to Designate Main Plaza and Portal San Fernando and Travis Park Grounds as Smoke-Free Public Spaces to the full City Council for consideration. Councilmember Warrick seconded the motion. Motion carried unanimously by those present.

**3. Briefing and Possible Action on an Interlocal Agreement between the City of San Antonio and the City of Windcrest for Subdivision Platting and the Permitting and Inspection of Construction in Lieu of a Municipal Boundary Adjustment.** [Peter Zaroni, Deputy City Manager; John Dugan, Director of Planning and Community Development]

John Dugan stated that the City of Windcrest petitioned for a Municipal Boundary Adjustment for the City to cede 0.86 of an acre located on the eastside of IH 35 North to the City of Windcrest in May 2015. He noted that the City of Windcrest claimed that this Municipal Boundary Adjustment would enable this area to be located in the City of Windcrest which had provided Municipal Services to said area. He stated that the City of Windcrest claimed that not adjusting the boundary interfered with economic development in the City of Windcrest and caused issues involving dual permitting.

Councilmember Warrick stated that because the Zoning Process for the City of Windcrest does not take as long as that of the City of San Antonio, they are able to attract business to the area noted below. He moved to approve and forward an Interlocal Agreement between the City of San Antonio and the City of Windcrest for Subdivision Platting and the permitting and Inspection of Construction in lieu of a Municipal Boundary Adjustment to the full City Council for consideration in December 2015/January 2016. Councilmember Lopez seconded the motion. Motion carried unanimously by those present.

**4. Briefing and Possible Action Regarding Impervious Cover Regulations for Newly Annexed Territory.** [Peter Zanoni, Deputy City Manager; John Dugan, Director of Planning and Community Development]

John Dugan stated that the Aquifer Quality Ordinance was developed by the Water Quality Task Force and adopted by the City Council on January 12, 1995. He reported that said Ordinance was based on studies showing that minimal pollutants collect on Impervious Cover at or below 15%. He noted that Impervious Cover above 15% required additional Storm Water Runoff Treatment. He presented the following current Imperious Cover Restrictions:

Category 1	Any property having a valid permit prior to January 22,1995, or a Plat or Plat Application prior to September 8,1994 (Vested properties)
Category 2	Within the City of San Antonio Limits: with restrictions on Single Family (30%), Multi-Family (50%), and Commercial (65%)
Category 3	Within San Antonio Extraterritorial Jurisdiction (ETJ) and Edwards Recharge Zone District (ERZD); Single Family, Multi-Family and Commercial at 15% gross Impervious Cover

Mr. Dugan stated that there was a need to address a serious policy concern regarding Impervious Cover, and the potential negative impacts that annexation could cause if dense development were allowed to occur over the Edwards Aquifer. He reviewed several case examples where this could occur. He reported that those projects considered Category 3 with restrictions of development to 15% Impervious Cover would become Category 2 if annexed for limited purposes. He noted that this would allow increased Impervious Cover of 30% for Single Family, 50% for Multi-Family and 65% for Commercial Development. He stated that the City Council could consider including language in the Annexation Regulatory Plan which would not extend Category 2 classification to newly annexed areas for limited purposes which would be adopted with the annexation action. He noted that in addition, the City Council could elect to amend Chapter 34 to provide the same regulation for properties newly annexed for full purposes. He stated that the issue of Vested Rights arose in that Vested Rights aka Permit Rights could expire if not utilized and the loss of Permit Rights would be determined on a case by case basis. He reviewed the current level of development.

Peter Zanoni stated that this item would be brought before the Comprehensive Planning Committee and brought back before this Committee thereafter.

Councilmember Warrick asked how much of the area was in the ERZD and MDP. John Dugan stated that 30,856 acres out of 80,000 acres were undeveloped.

Councilmember Lopez suggested that a dialogue be held to validate the development numbers. John Dugan stated that they had 20 years worth of Texas Commission on Environmental Quality (TECQ) Testing Data for the wells.

Scott Halty stated that TCEQ Testing occurs every three years and the U.S. Geological Survey verified that the water quality was excellent. He noted that very low levels of a pesticide called Atrazine were seen in all five counties in the Edwards Aquifer Recharge Zone.

No action was required for Item 4.

Chairman Treviño asked the Committee if the time of the meeting could be extended from 3:30 p.m. to 4:30 p.m. to 3:30 p.m. to 5:00 p.m. Councilmember Lopez asked if the committee could meet on an alternate day. Chairman Treviño stated that staff would look for an alternate meeting date and advise Committee Members.

### **Adjourn**

There being no further discussion, the meeting was adjourned at 4:39 p.m.

*Respectfully Submitted,*

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*Roberto Treviño, Chair*

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*Denice F. Treviño  
Office of the City Clerk*