

**State of Texas
County of Bexar
City of San Antonio**



**Meeting Minutes
City Council A Session**

City Hall Complex
105 Main Plaza
San Antonio, Texas 78205

Thursday, May 21, 2020

9:00 AM

Municipal Plaza Building

ROLL CALL

The City Council convened in a Regular Meeting. Acting City Clerk Tina J. Flores took the Roll Call noting a quorum with the following Councilmembers present:

PRESENT: 11 - Mayor Nirenberg, Treviño, Andrews-Sullivan, Viagran, Rocha Garcia, Gonzales, Cabello Havrda, Sandoval, Pelaez, Courage, and Perry

Mayor Nirenberg led the meeting with a moment of silence as the bells of the San Fernando Cathedral rang in honor of those struggling around the world with COVID-19, to include the many very talented and essential public health workers, nurses, doctors, front line workers, emergency personnel, and family members who kept vigil over loved ones fighting the disease, and for all that have lost their lives.

1. The Invocation was delivered by Jesse Cardin, Roshi, Buddhist Priest, and Senior Teacher at the Pacific Zen School of San Antonio, guest of Councilmember Treviño, District 1.
2. Mayor Nirenberg led the Pledge of Allegiance to the Flag of the United States of America.
3. Approval of Minutes from the City Council Meeting of April 7, 2020.

Councilmember Perry moved to approve the Minutes of April 7, 2020. Councilmember Courage seconded the motion. The motion prevailed by the following vote:

AYE: 11 - Mayor Nirenberg, Treviño, Andrews-Sullivan, Viagran, Rocha Garcia, Gonzales, Cabello Havrda, Sandoval, Pelaez, Courage, and Perry

CONSENT AGENDA ITEMS

Item 11 was pulled for Individual Consideration.

Mayor Nirenberg called upon individuals registered to speak on the Consent Agenda.

Jack M. Finger spoke in opposition of Item 15 regarding the approval of a settlement agreement for a traffic accident. He stated that individuals should not be compensated for accidents.

Mayor Nirenberg highlighted Item 17 regarding a proposed Ordinance to waive fees for late payments to CPS Energy during the COVID-19 Pandemic. He thanked CPS Energy for their continued compassion and support for those needing help paying their utility bill.

Councilmember Sandoval noted that San Antonio Water System (SAWS) waived fees for late payments. She highlighted Item 9 regarding a proposed Ordinance that would approve 2020-2021 non-service alley construction, repairs, and maintenance related to storm water improvements citywide. She noted that drainage was a problem across all Council Districts. She stated she was grateful for the improved quality of life and improved property values that this project would bring.

Councilmember Pelaez moved to approve the remaining Consent Agenda Items. Councilmember Viagran seconded the motion. The motion prevailed by the following vote:

AYE: 11 - Mayor Nirenberg, Treviño, Andrews-Sullivan, Viagran, Rocha Garcia, Gonzales, Cabello Havrda, Sandoval, Pelaez, Courage, and Perry

2020-05-21-0331

5. Ordinance approving a contract with Meridian Medical Technologies, Inc., for the purchase of 7,200 DuoDote Antidote Treatment Auto-Injectors, for a total cost of \$411,552.00 for the San Antonio Police Department. Funding is available from the FY 2020 General Fund Budget. [Ben Gorzell, Chief Financial Officer; Troy Elliott, Deputy Chief Financial Officer, Finance]

2020-05-21-0332

6. Ordinance approving a contract with Grande Truck Center to provide the Animal Care Services Department with two animal transport vans for a total cost of \$133,416.00. Funding for this purchase is available from the FY 2020 Equipment Renewal and Replacement Fund. [Ben Gorzell, Chief Financial Officer; Troy Elliott, Deputy Chief Financial Officer]

2020-05-21-0333

7. Ordinance approving the following contracts establishing unit prices for goods and services for an estimated annual cost of \$92,000.00, included in the respective department's FY 2020

Adopted Budget:

(A) Galaxie Body Works, Inc., for collision body repair services for EMS vehicles; and
(B) NCH Corporation, dba Chemsearch FE, for biological delivery and deodorizing systems to maintain drain lines, grease interceptors, and sanitary lift stations. [Ben Gorzell, Chief Financial Officer; Troy Elliott, Deputy Chief Financial Officer, Finance]

2020-05-21-0334

8. Ordinance approving a deductive change order to the construction contract with SpawGlass Civil Construction, Inc. in the amount of \$137,676.99 to change the pavement base course for the Airfield Improvements Package 6 Project at the San Antonio International Airport. [Carlos Contreras, Assistant City Manager; Jesus Saenz, Director, Aviation]

2020-05-21-0335

9. Ordinance approving a 2020-2021 Non-Service Alley Improvements Task Order Contract with ACE CO in an amount not to exceed \$1,795,961.75 for the construction, repair and maintenance of non-service alleys and related storm water improvements located citywide. [Roderick Sanchez, Assistant City Manager; Razi Hosseini, Director, Public Works]

2020-05-21-0336

10. Ordinance approving a construction contract including two alternates to E-Z Bel Construction, LLC in an amount not to exceed \$9,487,813.19 of which \$2,729,466.00 will be reimbursed by San Antonio Water System and \$493,736.00 will be reimbursed by CPS Energy for the West Military Drive & Westmar Drive Area project, a 2017 Bond funded project. Funding is available from the 2017 General Obligation Bond Program and is included in the FY 2020 – FY 2025 Capital Improvements Program. [Roderick Sanchez, Assistant City Manager; Razi Hosseini, Director, Public Works]

2020-05-21-0337

12. Ordinance approving a lease agreement with HH Aviation, LLC for a leasehold located at 10226 John Cape Rd, comprised of a hangar building and ground space. The lease agreement will generate \$132,934.84 in revenue annually. [Carlos Contreras, Assistant City Manager; Jesus Saenz, Director, Aviation]

2020-05-21-0338

13. Ordinance approving the renewal of a Lease Agreement with Subway Real Estate, LLC for the Subway restaurant located in the Houston Street Parking Garage at 240 E. Houston, generating revenue to the City of approximately \$238,069.66 over five years. All funds collected in association with this lease will be deposited into the Parking Fund. [Lori Houston, Assistant City Manager; John Jacks, Director, Center City Development and Operations]
14. Approving the following Board, Commission and Committee appointments for the remainder of unexpired terms to expire May 31, 2021 or for the terms shown below. [Tina Flores, Acting City Clerk]
- A) Reappointing Mary Hoyt (Representative) to the Tax Increment Reinvestment Zone No. 12 – Plaza Fortuna Board of Directors.

- B) Reappointing Mary Hoyt (Representative) to the Tax Increment Reinvestment Zone No. 17 - Mission Creek Board of Directors.
- C) Appointing Jay Johnson (Representative) to the Tax Increment Reinvestment Zone No. 11 – Inner City Board of Directors.

2020-05-21-0339

- 15. Ordinance approving the settlement of a lawsuit styled Tanya Walker vs. City of San Antonio et. al, Cause No. 2018-CI-23121 Bexar County District Court, for an amount up to \$67,500.00 payable from the Self-Insurance Liability Fund. [Andy Segovia, City Attorney]

2020-05-21-0340

- 16. Ordinance approving \$250,000.00 from the Economic Development Incentive Fund (EDIF) to determine preliminary alignment and feasibility for an east/west connector between Pleasanton Road and Highway 281 South. [Carlos Contreras, Assistant City Manager; Alejandra Lopez, Director, Economic Development]

2020-05-21-0341

- 17. Ordinance authorizing and ratifying the waiver of late payment fees in current CPS Energy tariffs for customers participating in deferred payment plans during the COVID-19 pandemic. [Paula Gold Williams, CPS Energy President and CEO]

2020-05-21-0342

- 18. Ordinance approving a contract amendment with Frost Bank to extend the term of the contract for Depository Banking and Lockbox Services for an additional two years from July 1, 2020 through June 30, 2022 under the same terms and conditions. There is no fiscal impact to the City's FY 2020 Adopted Budget. [Ben Gorzell, Jr., Chief Financial Officer; Troy Elliott, Deputy Chief Financial Officer]

2020-05-21-0343

- 19. Ordinance approving a contract amendment with JPMorgan Chase Bank, N.A. and Paymentech, LLC to extend the term of the merchant banking (credit card) services contract for an additional two-year term, commencing on July 1, 2020, and ending on June 30, 2022 under the same terms and conditions. Funding for credit card transactions under this contract is available and included in each department's FY 2020 Adopted Budget. [Ben Gorzell, Chief Financial Officer; Troy Elliott, Deputy Chief Financial Officer]

2020-05-21-0344

- 20. Ordinance approving a one year contract with FMLASource, Inc. to provide FMLA administration services for the City's Human Resources Department with renewal options, subject to and contingent upon funding by City Council, with total compensation not to exceed \$634,760.00. The estimated annual expense is approximately \$126,952.00. [Ben Gorzell, Chief Financial Officer; Lori Steward, Director, Human Resources]

CONSENT ITEMS CONCLUDED

ITEMS PULLED FOR INDIVIDUAL CONSIDERATION

Acting City Clerk Flores read the caption for Item 4.

2020-05-21-0330

4. Ordinance extending the current Declaration of Public Health Emergency issued by Mayor Ron Nirenberg to continue active preparedness and response for COVID-19 contingencies.

City Attorney Andy Segovia provided a presentation on the Declaration of Public Health Emergency regarding COVID-19. He reported that on Tuesday, May 19, 2020, Mayor Nirenberg issued a 7th Declaration of Public Health Emergency and Bexar County issued an Executive Order. He added that both Orders aligned with Governor Abbott's Executive Order GA-23 that was issued on June 3, 2020. City Attorney Segovia highlighted areas of the Orders as follows:

- The public was encouraged to stay home as much as possible
- Covered Services were included
- Gatherings were still limited to members of the household
- Order Enforcement – up to \$1,000 in fines for violations
- Visits to nursing homes/long-term care facilities were not allowed, except to provide critical assistance as determined by the Department of Health and Human Services Commission
- Reporting requirements for COVID-19 testing were still in place
- Support of the Bexar County Order for moratoriums on evictions and foreclosures
- Community alerts concerning COVID-19 antibody testing
- All other elements of the previous Order, including enforcement, remained in place
 - Measures (except face coverings provision) and the ordinance adopting them, upon conviction, is punishable by a fine up to \$1,000 per incident

City Attorney Segovia reported that face coverings were strongly encouraged for all persons 10 years and older to wear when social distancing could not be maintained. He added that employers were strongly encouraged to provide masks and training if social distancing could not be maintained. He noted that there would be no civil or criminal penalties for such violations which was consistent with Executive Order GA-23.

City Attorney Segovia reported that gatherings were still limited to those members of the household and the public was asked to stay at home, unless delivering or receiving covered services. He stated that the term "Covered Services" under the Governor's Order was identified in three categories: 1) CISA Essential; 2) Religious Services and Houses of Worship; and 3) Additional services defined within GA-23.

City Attorney Segovia reviewed businesses that were currently open: Golf courses, cosmetology salons, hair salons, barber shops, nail salons, and tanning salons. He noted that six feet must be maintained between workstations. He reviewed businesses that were allowed to open at a 25% occupancy level: Restaurants, retail stores, movie theaters, shopping malls, swimming pools, gyms, and non-CISA manufacturing facilities.

City Attorney Segovia identified personal care businesses that were allowed to open with restrictions as outlined in the healthcare protocols: Tattoo studios, massage parlors, and hair removal services. He

noted most importantly that childcare services would resume for the general public which were previously available only for essential workers under previous Orders.

City Attorney Segovia stated that effective May 22, 2020, dine-in restaurants could operate at a 50% occupancy level. He reviewed businesses that would be permitted to open at a 25% occupancy level: Bars, aquariums, natural caverns, bowling alleys, bingo halls, simulcast racing, skating rinks, rodeos and equestrian events. He noted that the Order allowed for drive-in concerts where customers would remain in their cars to listen to music from the stage. He stated that concert venues were not allowed under the Governor's Order. He added that amateur sporting events would be allowed to resume effective May 22, 2020.

City Attorney Segovia reported that effective May 29, 2020, the outdoor areas of Zoos could operate at a 25% capacity.

City Attorney Segovia reported that effective May 31, 2020, professional sports with no spectators in attendance could resume such as basketball, baseball, softball, golf, tennis, football, and car racing events. He added that protocols would be managed between the leagues and State officials.

City Attorney Segovia reported that youth camps, daytime summer camps, overnight summer camps, and youth practice sessions could resume operations on May 31, 2020. He emphasized that games and competitions could not start until June 15, 2020. He noted that the protocols for covered services and approved start dates were identified in the Governor's Reopening Texas Pamphlet.

City Attorney Segovia reported that all covered services were addressed by the terms of their operations. He explained that the number of staff members did not apply to businesses permitted to open at a certain occupancy level. He added that occupancy limits did not apply to outdoor areas; therefore, restaurants with outdoor areas would need to focus on the separation between tables and separation between individuals and other hygiene requirements identified in the Governor's Order or Health Protocols. He stated that valet services were not allowed except for the purpose of assisting disabled individuals.

City Attorney Segovia described the compliance standard from the Governor's Order as the minimal expectation that businesses exercise good faith efforts using their available resources to comply, and that the minimum standard was the substantial compliance with health protocols. He added that businesses could allow additional measures such as wearing a face covering, which was consistent with and allowed under Governor Abbott's Order.

City Attorney Segovia identified businesses that remained closed under the Governor's Order: Video arcades, amusement parks, and water parks. He added that child play areas, interactive exhibits and displays, mall food courts, gym locker rooms, and shower facilities were closed even though their respective covered businesses were allowed to open.

City Attorney Segovia reported that under the Governor's Order, there were protocols in place to address areas in Texas that experienced spikes and Governor Abbott had the discretion to impose restrictions. He added that effective June 1, 2020, public schools could offer in-person classroom instructional activities and learning options such as summer school programs and individualized tutoring, under protocols and guidance issued by the Texas Education Agency (TEA).

City Attorney Segovia stated that Governor Abbott's Order GA-23 was extended to June 3, 2020. He added that City Council was considering the extension of the Mayor's Order to June 4, 2020.

Mayor Nirenberg called upon the individuals registered to speak.

Jack M. Finger spoke about freedom of speech and civil liberties established by the Constitution. He stated that the COVID-19 curve was not flattening.

Councilmember Viagran asked for an explanation of antibody testing. City Manager Walsh reported that there were numerous antibody products and tests on the market nationwide. He added that the Emergency Order warned against the untested and unproven antibody tests. Councilmember Viagran urged the public to perform due diligence to choose an antibody test with FDA approval.

Councilmember Viagran asked about little league baseball teams that played at City parks and used City facilities and requested guidance regarding protocols. City Manager Walsh reported that the Parks Department would work with leagues to follow the social distancing requirements identified in Governor Abbott's Order and would place proper signage and requirements at City parks.

Councilmember Pelaez stated that the City would follow the rules and guidelines set out by Governor Abbott and recommended by the Texas Department of Health Services. He asked if agreeing to follow the Governor's Order encroached on an individual's rights to be free of unreasonable searches and seizures or the right to a jury or speedy trial. City Attorney Segovia replied that it would not.

Councilmember Pelaez reported that he reviewed the Amendments to the Order and confirmed the Amendments did not strip anyone of their citizenship or their right to vote. Councilmember Pelaez requested that the City continue to operate under Emergency Protocols and provide City Manager Walsh and staff the continued authority to operate under those protocols and do whatever is necessary to maintain the general welfare of the City; that all previous orders be superseded; that the City continue to follow the Governor's Orders; and to the greatest extent possible, explain to the public that nothing in the Local Order should ever contradict State law, to include the extension of the Mayor's Declaration until June 4, 2020.

Councilmember Perry asked if the Local Order was in alignment with Governor Abbott's Order. City Attorney Segovia reported that the Local Order was consistent with the Governor's Order and supplemented by additional items such as testing and language that alerted the public about antibody testing.

Councilmember Perry asked of the plan to re-open local libraries. City Manager Walsh reported that City staff was working on a Facility and Operations Plan for a staged re-opening of all libraries. He added that staff was also working on a phased plan to open public facing services, such as the Passport Division of Office of the City Clerk.

Councilmember Perry stated that the name of the Emergency Order confused the public and noted that some referred to it as the "Stay-at-Home Order," among other names. He suggested renaming the Order to "Greater Safer Together." City Attorney Segovia reported that the Mayor could consider

changing the title of the Order, but stressed that the City was following operative language consistent with Governor Abbott's Order. City Attorney Segovia quoted Governor Abbott's Order: "Every person in Texas shall, except where necessary to provide or obtain covered services, minimize social gatherings and minimize in-person contact with people who are not in the same household".

Mayor Nirenberg acknowledged the problem with the nomenclature related to Emergency Orders in general. He added that some people referred to the Order as "Shelter-in- Place," which was a term only used for extreme weather events or active shooter situations. Mayor Nirenberg stated that he collaborated with other city leaders and that it was collectively decided to call it "Stay Home/Work Safe." He noted that not everyone was required to stay home if they were engaged in an essential activity, or in a covered service.

Councilmember Courage noted that Councilmember Pelaez did a great job explaining the constitutionality of city government regarding COVID-19. He stated that there was confusion regarding the Governor's Order and how to open the economy while protecting the livelihoods and health of the public. He added that people must go out for haircuts or buy clothes for a new job. He suggested that telling people to remain at home or remain safe was a reminder, and not an order.

Councilmember Sandoval suggested asking Governor Abbott to clarify why he was referred to one plan as "Open Texas," when his Order was referred to as "Stay Home."

Councilmember Pelaez moved to approve Item 4. Councilmember Courage seconded the motion. The motion prevailed by the following vote:

AYE: 11 - Mayor Nirenberg, Treviño, Andrews-Sullivan, Viagran, Rocha Garcia, Gonzales, Cabello Havrda, Sandoval, Pelaez, Courage, and Perry

Acting City Clerk Flores read the caption for Item 11.

Continued to June 4, 2020

- 11.** Ordinance, on behalf of SAWS, authorizing the acquisition through negotiation or condemnation, for project purpose of privately-owned real property located in County Block 4006 and declaring the project to be a public use project and a public necessity for the acquisition to construct a water treatment facility (wetlands) related to the Mitchell Lake Wetlands Water Quality Treatment Project located south of Mitchell Lake and east of Pleasanton Road in Council District 3. [Roderick Sanchez, Assistant City Manager; Razi Hosseini, Public Works]

Councilmember Viagran moved to continue Item 11. Councilmember Cabello Havrda seconded the motion. The motion prevailed by the following vote:

AYE: 11 - Mayor Nirenberg, Treviño, Andrews-Sullivan, Viagran, Rocha Garcia, Gonzales, Cabello Havrda, Sandoval, Pelaez, Courage, and Perry

CITY MANAGER'S REPORT

21. City Manager's Report

City Manager Erik Walsh highlighted City Employees that maintained trails and trail stewards that provided information, basic first aid, contacted public safety, provided directions, and served as ambassadors along the City's Trail Systems. He noted that their workload had increased during COVID-19. He stated that the City employed 33 Trail Stewards that covered approximately 20 miles per shift. City Manager Walsh provided a video of the San Antonio Greenways and the Trail Stewards. He reported of an off-duty employee named Sandra that heard of a missing young autistic woman who had become lost on the trails. He stated that Sandra knew the trail system better than most and went looking for the missing woman on her own, even though she was off duty. City Manager Walsh reported that Sandra found the missing woman and was able to reunite her with the San Antonio Police Department. He reported that Sandra was recognized through the Core Values Leadership Program.

Councilmember Sandoval expressed her appreciation to Sandra and all Parks and Recreation Staff. She noted that her office continually received compliments from the public that enjoyed the use of the trails. She asked if libraries could be used as cooling centers during high temperature days or when the City was experiencing a heat advisory. City Manager Walsh reported that providing cooling centers during COVID-19 was one of the challenges staff was working on. He added that Senior Nutrition Centers were critical to many residents, but were not likely to re-open until the last phase. He noted the need to maintain a balance between financial wherewithal and the safe re-opening of public facilities.

Councilmember Gonzales thanked City Manager Walsh for highlighting the West Side Creeks which were prominently displayed during the presentation. She requested SAWS to expedite completion of the section of the Trail System that had been under construction for approximately four years. She added that the section under construction was in close proximity to Our Lady of the Lake University on the near westside and connected the westside creeks to the Mission Reach.

Councilmember Viagran stated that she assisted with food distribution at senior centers and noted that the team did a great job to ensure the commodities were received by the seniors. City Manager Walsh reported that several redeployed employees were assigned to food distribution and acknowledged the pride exhibited in those redeployed employees.

Councilmember Rocha Garcia thanked City Manager Walsh for highlighting the Trail System City Staff and noted that the trails were well maintained. She stated that she was happy to see trash and recycle bins on the trails. She reminded everyone that last week was Public Safety Week and expressed her appreciation for all the public safety officers taking care of San Antonio residents to ensure safety. She noted that this week was National EMS Week and expressed her appreciation for the Fire Department Staff for their service. She added that today was National Stop the Bleed Day and encouraged all to take the training.

EXECUTIVE SESSION

Mayor Nirenberg recessed the meeting at 10:32 am to discuss the following items.

- A. Economic development negotiations pursuant to Texas Government Code Section 551.087 (economic development).

- B.** The purchase, exchange, lease or value of real property pursuant to Texas Government Code Section 551.072 (real property).
- C.** Legal issues related to collective bargaining pursuant to Texas Government Code Section 551.071 (consultation with attorney).
- D.** Legal issues related to litigation involving the City pursuant to Texas Government Code Section 551.071 (consultation with attorney).
- E.** Discuss legal issues relating to COVID-19 preparedness pursuant to Texas Government Code Section 551.071 (consultation with attorney)].

Mayor Nirenberg reconvened the meeting at 11:44 am and announced that no action was taken.

ADJOURNMENT

There being no further discussion, Mayor Nirenberg adjourned the meeting at 11:44 am.

APPROVED

RON NIRENBERG

Mayor

Attest:

TINA J. FLORES

Acting City Clerk