

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



**FINAL
Meeting Minutes
City Council B Session**

City Hall Complex
105 Main Plaza
San Antonio, Texas 78205

Wednesday, December 6, 2017

2:00 PM

Municipal Plaza Building

The City Council of San Antonio convened in the "B" Room of the Municipal Plaza Building. City Clerk Leticia Vacek took the Roll Call with the following Councilmembers present:

PRESENT: 11 - Mayor Nirenberg, Treviño, Shaw, Viagran, Saldaña, Gonzales, Brockhouse, Sandoval, Pelaez, Courage, and Perry

1. A Briefing by the San Antonio Metropolitan Health District on Tobacco 21 and proposed changes to Chapter 36 of City Code. [Erik Walsh, Deputy City Manager; Colleen M. Bridger, MPH, PhD, Director, Health]

Dr. Colleen Bridger stated that tobacco is the leading cause of preventable disease, disability, and death in the United States that leads to half a million premature death in the U.S. annually. She noted that 3,800 youth daily smoke their first cigarette and 2,100 people under the age of 21 become regular smokers. She recommended increasing the legal age of sale of tobacco to 21, an initiative known as Tobacco 21 (T21), because most adult smokers begin smoking before that age and many occasional smokers transition to regular use between ages 18 and 21. She stated that electronic cigarettes were the most popular tobacco product among youth smokers. She noted that tobacco had a negative impact on the military and troop readiness, and military leaders wished to reduce tobacco use. She stated that T21 had been implemented in over 270 cities and counties across 18 states. She presented the results

of a local survey conducted by the Metropolitan Health Department finding that 77.5% of the 5,447 respondents agreed that the tobacco sale age should be raised to 21. She highlighted the agencies of the San Antonio Tobacco 21 Coalition and their support for education during the proposed implementation period for T21.

Dr. Bridger provided an overview of current State Law and noted that it allowed the city to enact stricter standards than those already codified. She stated that there were two main focus points for the Ordinance: (1) Tobacco Retailers; and (2) Youth. The portion directed toward retailers would revise the age restriction to 21 and enact penalties for violations of the illegal sale of tobacco products as misdemeanor crimes, punishable by a maximum fine of \$500. The portion directed toward youth would address purchase, use, and possession (PUP) and could follow one of three options: (1) No enforcement; (2) Mandatory smoking cessation classes; or (3) Fines up to \$250. Dr. Bridger recommended the second option of mandatory classes. She stated that from January to November 2017; the San Antonio Police Department had issued one citation for underage tobacco use and 30 citations for underage possession of tobacco. She provided an overview of the proposed Implementation Plan to include a six-month grace period, collaboration with partners to provide education to youth and families, education for retailers and staff, and provisions of updated signage, checklists, and employee forms for tobacco retailers. She noted that Metro Health would lead enforcement efforts rather than SAPD and unannounced compliance checks would be based on predictive analytics. She stated that the Implementation Philosophy was based on education to achieve voluntary retailer compliance, teach youth about tobacco addiction dangers, and raise youth awareness regarding tobacco education and cessation classes. She provided an overview of the proposed timeline with possible presentation at the City Council A Session on December 14, 2017, pending the outcome of the current session. She added that if passed; the six-month implementation period would last from January to June of 2018 with the age of sale officially raised to 21 in July.

Mayor Nirenberg thanked Dr. Bridger and her team for their work on health-related issues in San Antonio. He asked of the projected reduction in smoking as a result of T21. Dr. Bridger replied that according to the Institute of Medicine, implementation would result in a 12% decrease in smokers in the United States. Mayor Nirenberg asked of the proportion of local tobacco sales attributed to 18 to 21 year-olds. Dr. Bridger replied that the strongest national study indicated a purchase percentage of 2% and other cities who implemented T21 showed ranges of 1% to 4%. Mayor Nirenberg asked of laws regarding purchase of tobacco on military bases. Dr. Bridger replied that federal law would allow 18 to 21 year-olds to purchase tobacco on bases, regardless of a Local Ordinance.

Councilmember Gonzales asked if it was more typical for T21 to be enacted at the local level rather than the state level. Dr. Bridger replied that initial action was concentrated on the local level but had expanded to state level enactment. Councilmember Gonzales

expressed concern regarding disproportionate enforcement actions on certain communities. Dr. Bridger stated that SAPD would not oversee enforcement on retailers and SAPD activity regarding underage tobacco was not a priority as evidenced by the low number of citations. Councilmember Gonzales asked if a strong education campaign could be as effective in reducing smoking as enacting an Ordinance. Dr. Bridger replied that educational initiatives alone were unlikely to be effective due to the billions of dollars that tobacco companies invest in advertising.

Councilmember Sandoval remarked that reduction in smoking would have a compound benefit with other health issues that contributed to mortality rates. She expressed her support for modifying regulations in light of updated medical research.

Councilmember Pelaez acknowledged the strength of scientific evidence regarding the detriments of tobacco use but expressed concern that T21 would negatively impact certain populations within the city if predictive analytics were used improperly. He noted the potential for racial profiling and stated that his support for T21 was contingent on a guarantee that its focus would be on education rather than on punitive measures. He asked of SAPD's involvement in enforcement. Dr. Bridger replied that Metro Health would conduct checks for training, signage, and sales compliance. Furthermore, SAPD would only be responsible for training Sanitarians on the proper way to conduct compliance checks to ensure defensibility in court.

Councilmember Viagran asked if the current level of citations for underage tobacco use or possession were commensurate with previous years. Dr. Bridger replied that it was. Councilmember Viagran asked how local tobacco use compared to national rates. Dr. Bridger replied that a survey of high school students indicated that smoking rates and use of electronic cigarettes in Bexar County were higher than the national average. Councilmember Viagran asked of the budgetary impact and potential staff needs. Dr. Bridger replied that compliance checks would add five minutes to current procedures; and therefore, additional Sanitarians would not be needed. She added that SAPD's grant-funded retailer checks for the previous year resulted in few findings so compliance was not an issue to necessitate the addition of staff. Councilmember Viagran expressed concern that certain communities would be targeted and asked if the Office of Equity had performed any research regarding smoking in San Antonio. Dr. Bridger replied that the Office of Equity had not been involved but public health research indicated low-income and minority residents were more likely to use tobacco products. Councilmember Viagran asked of the consequences of non-compliance with a citation. Edward Guzman stated that a summons or warrant would be issued by the Municipal Courts. Councilmember Viagran stated that she was not yet comfortable moving forward with the proposed Ordinance as presented.

Councilmember Courage spoke of the negative health and socioeconomic impacts of tobacco

use and stated that the city's focus should be on bringing businesses into compliance rather than pursuing youth for violations. He stated his support for the Ordinance.

Councilmember Treviño spoke of regulatory changes in the past that were no longer controversial and asked of communication with local school districts regarding the Ordinance. Dr. Bridger stated that multiple school districts had attended a stakeholder meeting in support of T21.

Councilmember Brockhouse expressed concern that the proposed plan was not yet ready for full consideration due to the lack of clarity regarding enforcement. He noted the possibility of profiling due to flawed data analytics. He asked of funding for cessation classes. Dr. Bridger replied that community partners collaborated to compile a list of low-cost or free tobacco cessation education resources. Councilmember Brockhouse explained that adequate community outreach and data gathering had not been performed to push the proposal forward to a City Council A Session.

Councilmember Saldaña expressed support for the Ordinance and citation element.

Councilmember Shaw clarified that citations as proposed would remain on a person's record even if they complied with orders to attend cessation classes or pay a fine. He stated his support for the Ordinance due to the anticipated reduction in mortality and expressed his desire that SAPD remain separate from the enforcement process.

Councilmember Perry stated his opposition to enforcement against underage tobacco users and noted concerns with military members and visitors developing a negative impression of San Antonio. He asked of other cities in Texas that had adopted T21. Dr. Bridger replied that San Antonio would be the first to do so. Councilmember Perry stated that T21 should be pursued at the state level rather than locally so that tobacco was not purchased legally outside of San Antonio and brought in for illegal sale. He asked that formal consideration of the Ordinance be delayed due to concerns with enforcement.

Councilmember Sandoval thanked her colleagues for their comments and stated she would not vote on the issue until it was clear what the enforcement plan would be. She stated that she hoped that the Ordinance would have a positive effect on the health and life expectancy of vulnerable populations and reduce health disparities in San Antonio.

Councilmember Viagran asked if the proposed ordinance would also prohibit the sale of tobacco paraphernalia. Dr. Bridger replied that it would not.

Mayor Nirenberg referenced the enforcement program used when the transition to hands-free driving occurred. He added that an initial one-year warning period prior to

issuance of full citations may be useful to gather data and educate the community.

Councilmember Viagran asked of police enforcement within school districts. Mrs. Sculley replied that the Police Chief would coordinate with school districts to enforce the Ordinance.

Councilmember Brockhouse asked of the formal process to delay consideration of the Ordinance. City Attorney Andy Segovia stated that standard procedure was for the City Mayor and City Manager to set the agenda. Councilmember Brockhouse asked Mayor Nirenberg to delay a vote to clarify Councilmember concerns regarding enforcement.

Councilmember Gonzales stated that retailers needed time to come into compliance and to adjust their business plans to account for the projected loss of sales. She asked if a warning period could be implemented for retailers. Dr. Bridger replied that the Ordinance could include a warning period for both tobacco users and retailers.

Mayor Nirenberg thanked Dr. Bridger for her analysis and Councilmember Sandoval for her leadership on the issue. He stated that there were still questions outstanding and that a vote on the issue would be delayed until after the New Year to gather more information.

2. A Briefing on the City Wide Street Light Program. [Ben Gorzell, Chief Financial Officer]

Mayor Nirenberg stated that due to time constraints, Item 2 would be rescheduled for a later date.

EXECUTIVE SESSION

Mayor Nirenberg recessed the meeting into Executive Session at 4:33 pm to discuss the following:

- 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 State statutes addressing SAPD field recording devices pursuant to Texas Government Code Section 551.071 (consultation with attorney).

- D.** Legal issues related to litigation styled *Abdo v. City of San Antonio* pursuant to Texas Government Code Section 551.071 (consultation with attorney).

RECONVENED

Mayor Nirenberg reconvened the meeting at 5:58 pm and announced that no action was taken in Executive Session. He addressed the Ceremonial Items.

CEREMONIALS

Mayor Nirenberg presented a Citation to Fatima Aguillon of Harlandale Independent School District for winning the 4th International Video Production Competition in the 14-17 year-old age group at the 14th World Congress of the Organization of World Heritage Cities (OWHC) held in Gyeongju, Republic of Korea. It was noted that Ms. Aguillon produced a three-minute film on the subject of “My City, Our World Heritage” to showcase San Antonio and its World Heritage Sites. Councilmember Viagran presented Honorary Certificates to Ms. Aguillon and Mayor Nirenberg on behalf of the OWHC for the accomplishment.

Mayor Nirenberg invited Mike Etienne, Director of EastPoint, to introduce 45 graduates of the 3rd Neighborhood Leadership Academy and presented them with Certificates of Congratulations. It was noted that 25 graduates came from the East Side and 20 were from the World Heritage Area. It was also noted that the program would be transferred under the purview of the Department of Neighborhood and Housing Services and offered citywide in 2018.

Mayor Nirenberg excused himself from the meeting and Mayor Pro Tem Saldaña presided.

CITIZENS TO BE HEARD

Mayor Pro Tem Saldaña called upon the citizens registered to speak.

Abigail Moore spoke of underage smoking and nicotine addiction in San Antonio. She asked the City Council to pass T21 to prevent youth from obtaining cigarettes.

Mayor Nirenberg re-entered the meeting at this time and presided.

Kayleigh Stubbs spoke in support of T21 to reduce underage access to tobacco in schools and lower rates of preventable disease.

Tracy Talavera spoke of health disparities due to tobacco use among minority and low-income populations and asked the City Council to vote in support of T21.

Noah Rodriguez spoke in support of T21 to protect youth from the negative effects of tobacco.

Betsy Jones spoke of the targeting of minorities and low-income populations by the tobacco industry and asked the City Council to support T21.

Boyd Baxter recounted the negative effects of tobacco on his family and asked the City Council to support T21 to reduce the prevalence of tobacco use in youth.

Dr. Carlos Jaen stated that teenagers were more susceptible to addiction than adults and asked the City Council to support T21 to reduce smoking rates and improve public health.

Daniel Deane spoke of the dangers of secondhand smoke exposure and asked the City Council to vote in support of T21 to reduce the rate of tobacco use among youth.

Dr. Leah Jacobson spoke in support of T21 as a result of her experience seeing the negative health impacts of nicotine use.

Dr. Robert Ferrer spoke of the health risks of tobacco use and noted his support for T21 due to the teenage brain's susceptibility to addiction.

Brian Hayden noted the negative health implications tobacco use had on his life and spoke in support of T21 to discourage youth from becoming tobacco users.

Briauna Barrera spoke in opposition to the proposed SAWS rate increases due to the burden they would place on residents and asked the City Council not to move forward with the Vista Ridge Pipeline Project.

Cayla Wilson spoke in support of T21 to discourage youth from smoking and sharing tobacco products.

Antonio Diaz spoke against the proposed SAWS rate increases and the Vista Ridge Pipeline Project. He expressed concern that minorities would be targeted by SAPD if T21 was passed.

Greg Harman spoke in opposition to the Vista Ridge Pipeline Project because of its negative effects on the environment. He noted concerns that the proposed rate structure was inequitable.

Gilbert Martinez asked the City Council to vote against the proposed SAWS rate hikes due

to their inequitable structure and the lack of transparency regarding allocation of funds.

Beto De Leon spoke against the proposed SAWS rate increases and the Vista Ridge Pipeline Project due to inaccuracy and incompleteness of data provided to the public.

Bill Maxey spoke in opposition to T21 for limiting access to e-cigarettes for those who wanted to quit smoking cigarettes. He noted the negative impact it would have on store owner revenues.

Mohammad Rana spoke against T21 due to the negative impact on business owners. He advocated for personal responsibility in making healthy choices.

Amandeep Sandhu spoke in opposition to T21 because 18 year-olds were considered adults for many other decisions. He stated that changes to the law should be enacted at the state or federal level.

Victoria Garcia invited the City Council to the P.E.A.C.E. Initiative Fundraiser to end domestic violence in San Antonio and described the fundraiser's creative activities.

Anwar Tahir thanked Councilmember Pelaez for his assistance regarding SAPD incidents resulting in citations for business owners. He expressed concern that T21 would lead to the profiling of minority store owners and significant reduction in business.

Will McLeod stated that changes regarding the age for sale of tobacco should be made at the state level and noted his concern that City Council was following a path of over-regulation.

Husseinali Ismael spoke against T21 due to the loss of revenue to San Antonio business owners and suggested that City Council focus on improved education to reduce youth smoking rates.

Dr. Landon Wellford spoke of the negative health impacts of smoking on the population of San Antonio and asked the City Council to support T21.

Claudia Rodas spoke of the tobacco industry's efforts to target low-income and minority populations and asked the City Council to vote in support of T21.

Claudia Sanchez spoke in opposition to the proposed SAWS rate increases due to their negative impact on communities in poverty.

Ana Ramon spoke of the health dangers and financial impact of healthcare costs due to tobacco use. She asked the City Council to vote in support of T21 to save lives.

Dr. Joel Reyes spoke of his pediatric patients who suffered or died as a result of secondhand smoke and noted support of T21 to restrict access to tobacco products.

Jerry Saavedra spoke in support of T21 to reduce youth access to tobacco products.

Tiffany Rumbo spoke of her experience as the owner of cigar shops and expressed opposition to T21 because of the disproportionately negative impact on small business owners.

ADJOURNMENT

There being no further discussion, Mayor Nirenberg adjourned the meeting at 8:00 pm.

APPROVED

RON NIRENBERG
MAYOR

ATTEST:

LETICIA M. VACEK, TRMC/CMC/MMC
CITY CLERK