

AN ORDINANCE 2012-11-15-0908

APPROVING THE CITY OF SAN ANTONIO'S LEGISLATIVE PROGRAM FOR THE 83RD REGULAR SESSION OF THE TEXAS STATE LEGISLATURE, WHICH CONVENES ON JANUARY 8, 2013.

* * * * *

WHEREAS, prior to the convening of each biennial State legislative session, the City of San Antonio identifies policy priorities that it would like the Texas Legislature to address and in May 2012, the City's Intergovernmental Relations Department began working with City departments to identify issues for the upcoming session; and

WHEREAS, the result of this work is the pending State Legislative Program ("Program"), containing legislative initiatives, joint community initiatives, matters related to the protection of municipal interests and legislative endorsements; and

WHEREAS, the City Council Intergovernmental Relations Committee considered the Program on October 10 and October 31, 2012 and is now recommending the Program for consideration by the full Council and the City Council was briefed on the Program in B Session on November 7, 2012; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council approves the City of San Antonio's State Legislative Program for the 83rd Legislative Session. A copy of the proposed Program is attached to this Ordinance as Exhibit I.

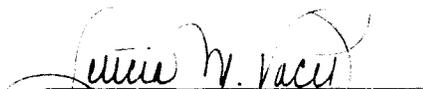
SECTION 2. Staff is directed to inform the Bexar County Legislative Delegation of the Program and to undertake such steps as are reasonably necessary to obtain passage of the City's various initiatives during the upcoming 83rd Legislative Session.

SECTION 3. This Ordinance shall take effect immediately upon the receipt of eight affirmative votes; otherwise it shall be effective ten days after its passage.

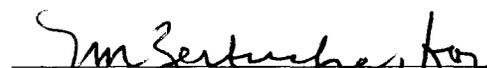
PASSED AND APPROVED this 15th day of November, 2012.

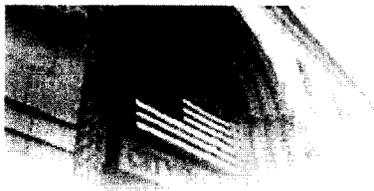

M A Y O R
Julián Castro

ATTEST:


Leticia M. Vacek, City Clerk

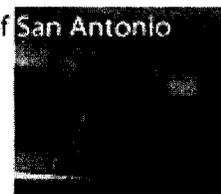
APPROVED AS TO FORM:


Michael D. Bernard, City Attorney



Request for
COUNCIL
ACTION

City of San Antonio



Agenda Voting Results - 25

Name:	6, 7, 8, 9, 10, 13A, 13B, 14A, 14B, 14C, 17, 19, 20, 21, 22, 23, 24, 25						
Date:	11/15/2012						
Time:	09:56:02 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance approving the City's 2013 State Legislative Program for the 83rd State Legislative Session. [Carlos Contreras, Director, Intergovernmental Relations]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x			x	
Ivy R. Taylor	District 2	x					
Leticia Ozuna	District 3		x				
Rey Saldaña	District 4		x				
David Medina Jr.	District 5		x				x
Ray Lopez	District 6		x				
Cris Medina	District 7	x					
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				



**CITY OF SAN ANTONIO
2013 STATE LEGISLATIVE PROGRAM
83rd LEGISLATURE**

Julián Castro
Mayor

Diego M. Bernal*
Ivy R. Taylor
Leticia Ozuna
Rey Saldana
David Medina, Jr.

Ray Lopez⁺
Cris Medina*
W. Reed Williams
Elisa Chan*
Carlton Soules*

Sheryl L. Sculley
City Manager

Michael Bernard
City Attorney

Carlos J. Contreras III
Intergovernmental Relations Director

⁺ IGR Council Committee Chair

* IGR Council Committee Member

Adopted on November 15, 2012

Executive Summary

The 83rd State Legislative Session is scheduled to begin on January 8, 2013. The 83rd State Legislature will include an unprecedented number of new members.

Although the State Comptroller recently reported an improved outlook on the Texas economy due to an increase in sales tax receipts and Rainy Day Fund exceeding budgeted expectations, the Governor reiterated his pledge to support legislation that shrinks government spending. As such, the City's legislative efforts are focused on SA 2020 priorities and preservation of municipal interests. Initiatives/issues which have significant fiscal impact to the state or which require an increase in taxes have not been included.

The program is organized into sections entitled: COSA Initiatives, Joint Community Initiatives, Endorsements and Protection of Municipal Interests.

Proposed Initiatives

An Initiative is San Antonio specific or addresses an issue where San Antonio is significantly affected. Additionally, an Initiative is identified as an issue which saves City resources, has significant city-wide impact and/or promotes or protects economic development opportunities. These will be actively supported through the drafting of legislation, finding a bill sponsor, filing, providing testimony and active pursuit of the bill's passage.

Joint Community Initiatives

A Joint Community Initiative is a priority shared by the City and community stakeholders. The City will work in partnership with community stakeholders to actively support legislative efforts that are priorities of the community.

Endorsements

An Endorsement is an issue in which the City will not be the primary advocate. Instead, the City will collaborate with other interested parties and communicate its support, especially on those issues having a direct impact on or benefit to the City.

Protection of Municipal Interests

This section addresses issues which may impact our City's municipal authority. There have been many attempts over the past several sessions to erode the authority of home-rule cities. The City of San Antonio will oppose such efforts and support legislation which recognizes and maintains municipal home-rule authority.

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I. CITY INITIATIVES

Hemisfair Redevelopment

PROPOSAL

Propose amendment to Local Government Code to facilitate City Council flexibility in dedicating park land and other uses within Hemisfair Park.

BACKGROUND

In September 2009, the City of San Antonio Council voted to establish a Local Government Corporation, Hemisfair Park Area Redevelopment Corporation (HPARC), for the purposes of acquiring property, planning, developing, constructing, managing, maintaining, and financing projects within Hemisfair and adjacent areas. Hemisfair's redevelopment includes a series of big ideas that when executed, will transform downtown. These ideas are further outlined in the Hemisfair's Master Plan, which was approved by City Council in February 2012.

The Master Plan outlines a strategy for balancing public open space and vertical development within Hemisfair towards the goal of making this area active. As conceived, Hemisfair will comprise over 100 acres of prime downtown property, including the Henry B. Gonzalez Convention Center (HBGCC) and the Tower of the Americas, with direct access to the Riverwalk. One of the big ideas for Hemisfair is to remove the western edge of the existing HBGCC in connection with the planned expansion of the HBGCC to the east. The area vacated by the HBGCC would then be the location for a large civic park that is envisioned as a central gathering point for all San Antonians. Located at one of the busiest pedestrian intersections in the city – South Alamo and Market Streets – this public space will also serve as the main gateway into the Convention Center and the rest of Hemisfair, which will include linear parks, community open spaces, play areas, and pocket parks.

In order to fulfill the Master Plan's vision, there needs to be clarity regarding what portions of Hemisfair are designated as parkland. As currently configured, there is a total of 14.97 acres of dedicated parkland within Hemisfair. Some of this area is currently occupied by the HBGCC, parking lots and the Tower of Americas. The total usable green space within this area measures only 6.5 acres. In addition to this dedicated parkland, there are other areas within Hemisfair that may (or may not) have some legal status as parkland due to usage or perception. Under Chapter 253 of the Texas Local Government Code, land that is "owned, held, or claimed as a public square or park" may not be sold (or likely leased on a long-term basis) without the approval of the voters at a citywide election. This creates unique problems in Hemisfair because of the lack of clarity outside of the formally dedicated parkland regarding what is or is not "owned, held, or claimed as a public square or park." Although the Master Plan calls for over 20 acres of usable, first class public parks and plazas, this lack of clarity could substantially impede the City's ability to fulfill the vision of the Master Plan and its carefully designed balance of public open space and development within Hemisfair. Uncertainty regarding parkland status will make it challenging or even impossible to attract partners and financing for the public-private partnerships that are essential to revitalizing Hemisfair.

Under the proposed legislation, certain areas within Hemisfair will remain subject to Section 253.001(b), the intention being to clarify that these and other areas would become dedicated parkland and always remain as such.

IMPACT

This legislation would allow the City of San Antonio to fulfill the vision set forth in the Hemisfair Master Plan by clearly defining those areas that are and are not subject to the legal requirements applicable to land that is “owned, held, or claimed as a public square or park.”

Land Bank Amendments

PROPOSAL

Amend Local Government Code for the purpose of establishing a Land Bank Program for the City of San Antonio.

BACKGROUND

Chapter 374 of the Texas Local Government Code is entitled “Urban Renewal in Municipalities”, and this statute identified the need to address slum and blighted areas that exist in municipalities in Texas. On September 1, 2007, the Texas State Legislature created Chapter 379E, entitled the “Urban Land Bank Program” as an amendment to Title 12 (“Planning and Development”) of the Texas Local Government Code. Chapter 379 addresses the development of land banks in certain municipalities.

The City Council of the City of San Antonio approved Ordinance 2010-02-04-0084 on February 4, 2010, which established the Inner City Reinvestment / Infill Policy; this policy outlined a goal to establish a “Land Bank” for the City of San Antonio. The creation of the Land Bank would allow for the identification, acquisition, management, and disposition of real property.

For the San Antonio Land Bank to function as planned by the City, amendments to the existing Land Bank Program Law (under Chapter 379E of the Local Government Code) are needed to:

- Allow the land bank to acquire all available properties including those with existing structures;
- Expand the disposition use of acquired properties to both affordable housing as well as commercial properties to be used for commercial purposes;
- Reduce the time required to begin foreclosure proceedings from 5 years to 2;
- Allow other governmental entities the ability to convey property it owns directly to the land bank without having to provide prior public notification;
- Allow the land bank to extinguish specific tax and non-tax liens pursuant to agreements with other affected entities;
- Allow the land bank to recover a percentage of the “after disposition” property tax revenues pursuant to agreements with other taxing entities;
- Grant a municipality the ability to appoint the local Urban Renewal Agency to serve as the land bank and perform the functions as described in both statutes (as noted in both Chapters 374 and 379E);
 - Control of the land banking efforts within the Urban Renewal Agency would be through Board appointments by the Mayor with consent of the Council;
 - All funds would be appropriated by the City Council via a Memorandum of Understanding which would outline the purpose and intent of all funds; and

- All land bank activities and functions would be managed through the Center City Development Office (CCDO), which would provide briefings to and receive direction from City Council.

IMPACT

The collective result of these revisions will allow the City of San Antonio to centralize and simplify the land banking process. This, in turn, will promote the efficient acquisition of unproductive, underutilized, or otherwise deteriorating properties in targeted areas in an ongoing effort to create safe, healthy and sustainable commercial and residential neighborhoods.

Illegal Fill Violations

PROPOSAL

Amend the Texas Local Government Code Section 54.012 to specifically include an additional subsection allowing a civil action for enforcement of an ordinance for the preservation of public safety, relating to limitations on development of properties located within a designated floodplain, including the prohibition of placing structures, dirt, debris or other fill within the flood plain.

Amend the Texas Local Government Code Section 54.017 to specifically include an action to compel compliance with floodplain ordinance by an order to remove the illegal fill and to file a notice of lis pendens if necessary.

BACKGROUND

The City of San Antonio is currently challenged with enforcing compliance with the current floodplain ordinances, particularly related to removal of illegal fill in the floodplain. The number of illegal fill violations to date is well over 200. Currently, the City's Municipal Code, to include the UDC/Floodplain Ordinances, are administrative in nature, with the only remedy provided in the form of monetary penalties. Often landowners or developers find that paying the monetary penalty is significantly cheaper than paying the remediation costs for removing the illegal fill. Thus, the problem, adverse impact of the floodplain, is not addressed.

IMPACT

With this initiative and additional clarity in the statute, we could then seek a civil injunction ordering land owners to remove the fill, or allowing the City to remove the fill at the landowners' expense. This initiative will provide the City a means of effectively enforcing its floodplain ordinances beyond merely assessing fines. By allowing injunctive relief to compel removal of illegal fill, the City will be able to better undertake its duty to protect the floodplain, thereby increasing the safety of its citizens and decreasing costs associated with storm water projects which have become necessary due to these illegal fills.

Furthermore, by implementing this initiative, the City will see a decrease in capital improvement projects needed to mitigate illegal fill violation impacts. The estimated cost savings of this initiative ranges from \$1.5M - \$150M which is based on previous capital improvement project costs.

Fire Department Eligibility List

PROPOSAL

Increase the maximum length of time an eligibility list for beginning positions in the Fire Department can remain in effect from twelve (12) months to twenty-four (24) months.

BACKGROUND

Section 143.025 (h), Entrance Examinations, currently requires the Commission to establish an eligibility list that is effective for a period of not less than six (6) months or not more than twelve (12) months. This limitation causes both operational and administrative inefficiencies for the Fire Department.

The San Antonio Firefighters' and Police Officers Civil Service Commission have historically established an eligibility list for twelve months. The first component of the hiring process, after written examination, is the physical ability test. The Fire Department uses the Candidates Physical Ability Test (CPAT) to determine the physical conditioning level of applicants, and tests up to 600 applicants per year. The CPAT requires 8-12 weeks of workshops to allow applicants the opportunity to prepare for the test, followed by 3 weeks of actual testing. Once CPAT testing has concluded, the Department is left with approximately 9 months with which it can process applicants for hire.

In addition, the Fire Department has historically only been able to process applicants who receive a grade in the low to mid 90's before the expiration of the list (approximately 200 to 400 out of 2,000). Data shows that extending the list from twelve (12) months to twenty-four (24) months will provide opportunities for other well qualified applicants and will have a particularly positive impact on our minority recruiting efforts.

IMPACT

This legislation will enable the Fire Department to select from a larger group of qualified candidates when filling beginning positions. It will enhance diversity in the San Antonio Fire Department without compromising minimum standards. It will also provide more time for the thorough processing of candidates.

Replat Without Vacating Preceding Plat

PROPOSAL

Propose legislation to allow property owners to remove a platted restriction (such as an access easement or an abandoned utility easement) without having to request written permission from the property owners within the same platted development.

BACKGROUND

Currently, the Local Government Code requires an owner of property to vacate a plat in order to remove a platted restriction, such as building setback lines or an unutilized utility easement. Vacating a plat requires written permission from all of the current property owners with lots that were platted in the original subdivision. For example, if a property owner is installing a swimming pool in an unused utility easement, it requires authorization of all of the property owners in the subdivision to remove the easement.

In 2001, the City of San Antonio ("COSA") adopted the current Unified Development Code ("UDC") which included revisions to the required zoning setback regulations. As a result, most lots platted prior to 2001 include platted building setback lines that are not consistent with the zoning setbacks required by the zoning district. For this reason, many property owners are now required to remove the building setback line on the plat in order to facilitate development of the lot.

Because the state law is somewhat ambiguous, COSA has adopted a policy, which allows the removal of a platted restriction through the re-plat process without vacation. COSA recognizes the conflict with state law. However, if COSA were to strictly enforce this provision of state law, there would be a significant change to the current development process, and a negative impact on the development community and individual property owners, particularly inner city projects.

The proposed amendment will involve consideration of the replat through a streamlined public hearing process, in which written notification will be sent to all property owners within the originally platted subdivision. Should twenty percent (20%) or more of property owners object to the request, the affirmative vote of at least three-fourths ($\frac{3}{4}$) of the Planning Commission members will be required. Failure to obtain the required minimum number of votes will result in the denial of the application. The applicant will have the option to withdraw the request and submit a new application.

If approved by the State Legislature, COSA staff will draft amendments to the UDC that define the proposed replat process, establishing review procedures to ensure no essential restrictions or easements are removed from a plat. In addition, the UDC requires all replats be reviewed and approved by the COSA and other applicable governmental agencies for compliance with state and local regulations. For those replats deemed unable to comply, relief may be sought from the Planning Commission in the form of a Variance.

IMPACT

The proposed changes will allow property owners to continue to adhere to COSA's existing business process. If the proposed legislation is not implemented, property owners may be faced with challenges and hardships to (re)develop their property. Should the proposed amendment fail, COSA may potentially be forced to eliminate its existing business process to comply with State Law, resulting in an adverse impact on redevelopment within its municipal boundaries, particularly its inner city.

Regulation of Boarding Homes

PROPOSAL

Propose legislation to authorize DADS to enforce the one-half mile separation requirement.

BACKGROUND

The Texas Department of Aging and Disability Services (DADS) which grants licenses for Assisted living facilities, is not specifically authorized to carry out the requirements of Section 123.008:

- Section 123.008 of the Texas Human Resources Code provides that a Community Home (which includes an assisted living facility) may not be established within one-half mile of an existing community home.
- Section 123.010 authorizes the Texas Department of Mental Health and Mental Retardation to enforce Section 123.008.

II. JOINT COMMUNITY INITIATIVES

Transportation

***(Pending):** Joint policy initiative to be submitted in collaboration with community stakeholders and transportation partners.*

Recommendation may include support of revenue enhancement options to provide adequate and sustained funding for maintenance and expansion of our highway and road infrastructure, including transit and/or rail relocation.

III. ENDORSEMENTS

DWI Checkpoints

POLICY POSITION

Endorse legislation to authorize sobriety checkpoints (DWI checkpoints) in metropolitan areas in support of the Texas Major Cities Police Chiefs' legislative agenda.

BACKGROUND

Texas is ranked 3rd in the nation for the highest percentage of alcohol related fatalities and driving while intoxicated (DWI) is a pervasive problem in San Antonio and Bexar County. Each year the problem continues and citizens of San Antonio are struck with devastating tragedies as the numbers continue to grow. The impact to the community is significant and more needs to be done to combat the issue through enhanced penalties.

During the 82nd Legislative Session, San Antonio City Council endorsed support of HB 439, legislation filed by Representative Todd Smith, which would have allowed cities with a population of more than 500,000 the use of temporary sobriety checkpoints on a highway or street.

The City seeks to endorse legislation which will reduce the negative impact of fatalities and injuries resulting from drunken driving related crashes. DWI checkpoints serve as an additional tool for law enforcement officers to use in enforcing DWI laws.

Economic Development

POLICY POSITION

Endorse legislation which promotes, renews, re-authorizes and expands economic development funds and statutes that enhance economic development opportunities.

BACKGROUND

The City of San Antonio is active in efforts to retain the existing employment base and attract new, high paying jobs and capital investment. Numerous City initiatives are geared toward ensuring that the city has a qualified workforce and provides a competitive economic development package to qualified businesses.

Economic development incentives such as tax abatements, tax incentives and special grants are not the primary factor in attracting new jobs and capital investment, but they are a necessary component of a successful economic development program. San Antonio has benefited from several economic development programs that were put in place by the Texas Legislature over the past few years.

Each legislative year several programs, including the Texas Enterprise Fund, the Emerging Technology Fund and the Skills Development Fund, require efforts to secure renewed appropriations. Other programs require fine tuning or re-authorization or new legislation to promote or enhance economic development opportunities.

San Antonio benefits from the economic development tools provided by the state to assist with economic development projects, including but not limited to Toyota, Kohl's, InCube Laboratories, Medtronic Inc., Allstate Insurance, and Nationwide Mutual Insurance. Companies and research entities in San Antonio have received grants from the Emerging Technology Fund.

The City seeks continued support for programs which foster an environment to support innovative, cutting edge research in San Antonio. This assistance has helped the City attract and retain businesses that make the City more competitive on a national scale.

Education

I. Public Education

Endorse legislation to fully support public education funding.

II. Higher Education

Alamo Colleges

- Endorse biennium formula funding of \$140M for instructional costs.
- Endorse exceptional funding of \$6.5M (\$4M for First Responders Fire Training, \$1M to expand Workforce Academies, and \$1.5M to support non-traditional learning).
- Endorse efforts to increase number of associate degrees awarded by calling for adoption of a common course numbering system applicable to public community colleges and universities.
- Endorse efforts to offer a Bachelor's of Applied Technology in Nursing and Fire Science.

Texas A&M-San Antonio

- Endorse \$70M tuition revenue bonds for second phase construction of general academic building (STEM education emphasis) and \$16.5M for infrastructure development construction of Central Plant.
- Endorse \$11M exceptional funding for downward expansion to four year university through development of freshman and sophomore curriculum.
- Endorse \$8M for student access, retention and re-integration program for wounded warriors and veterans.
- Endorse \$2M exceptional funding for Partnership for advancement of First Generation and Underserved Students. Endorse restoration of 25% special item Transition Funding Support of \$3.8M and continued biennium debt service funding of \$5.3M/year.

University of Texas Health Science Center (UTHSC)

- Endorse restoration and increase of formula funding for 2014-2015 for health related institutions and Graduate Medical Education programs.
- Endorse exceptional funding of \$4M for San Antonio Life Sciences Institute (SALSI).
- Endorse exceptional funding of \$4M and tuition revenue bonds of \$8M for Barshop Institute for Longevity and Aging Studies.

University of Texas at San Antonio (UTSA)

- Endorse tuition revenue bonds of \$92M for Experimental Science Instructional Building.
- Endorse exceptional funding of \$4M for San Antonio Life Sciences Institute (SALSI), collective request in collaboration with UTHSC.
- Endorsed continued funding of \$50 million for TRIP (Texas Research Incentive Program).
- Endorse \$2.03M/year funding for Institutional Enhancement and Downtown Campus Support.
- Endorse continuation of TEXAS Grant program which serves first-generation, low income students.

Homelessness Program Funding

POLICY POSITION

Endorse legislation to reauthorize and restore funding to levels appropriated by the 81st Legislature for homeless housing services and programs.

BACKGROUND

San Antonio has experienced a great housing shortage for those in need of public, affordable housing. The current estimated wait time for a homeless individual to obtain some form of permanent housing is between 6-18 months.

During the 81st Legislative Session, the Legislature appropriated \$20 million over the biennium to be administered by the Texas Department of Housing and Community Affairs (TDHCA) to fund Homeless Housing Services Program (HHSP). The funds were allocated among the eight largest cities in Texas. The City of San Antonio's final allocation was \$3.4 million. The City appointed Haven for Hope as sole direct designee.

Haven for Hope is approximately a \$100 million construction project. Haven for Hope is composed of 15 buildings, with about 500,000 square feet under roof on 37 acres of land in San Antonio and is located in one of the lowest per capita income neighborhoods in Texas.

Haven for Hope, Inc. requested HHSP funds for the construction of a portion of the Haven for Hope Homeless Campus. HHSP funds were invested in all three of the Residential Facilities (Men, Women, and Families) on the Haven for Hope Campus. Overall, the three residential buildings house roughly 1,000 individuals at any given time. The Haven for Hope campus was completed in the second quarter of 2010, and is the largest and most comprehensive homeless "Transformational Campus" in the United States. The campus offers services to treat the root causes of homelessness and addresses the housing, workforce training, medical, mental health, and substance abuse needs of the homeless population. Haven for Hope of Bexar County has partnered with 74 non-profit and government agencies that provide over 145 different services to homeless and near homeless individuals. On any given night, 1,200 to 1,500 homeless individuals will be living on the campus and receiving valuable and necessary services.

However, in 2011, the 82nd Legislature cut \$20 million in general revenue allocated to support HHSP, which started in 2009. Because of this reduction in funding, state funding for Haven for Hope was reduced from \$3.4M to \$1.6M. Any further cuts would make it difficult for many state-wide service providers, including Haven for Hope, to continue offering the same level of resources, programs and services necessary to combat the homelessness population in San Antonio and throughout Texas.

Reauthorization of the HHSP funds and restoration of funds at levels appropriated by the 81st Legislature would help support Haven for Hope's programs to continue to provide comprehensive housing and services to the homeless population in San Antonio.

Reduction of Teen and Unplanned Pregnancies

POLICY POSITION

Endorse legislative agenda of the Healthy Futures Alliance which is focused on prevention of teen and unplanned pregnancies across the state, specifically in San Antonio.

BACKGROUND

Healthy Futures Alliance seeks to improve access to preventive care and preventative health services. This endorsement would complement the Metro Health endorsement of school health policies that promote health and wellness of students, but would also include additional endorsements of policies and funding in the areas of family planning and preventive health services for the community.

- Texas has the nation's third highest teen birth rate (64.2 births per thousand females age 15 to 19 in 2007). Texas also has the highest rate in the U.S. of repeat teen births at 24%.
- The public costs to Texas of teen childbearing are estimated to be at least \$1 billion annually, the highest of any state.
- Social and health issues associated with teen pregnancy include school dropouts, child abuse, low birth weight infants, infant mortality and incarceration.
- In Texas, 71% of pregnancies among single young adults are unplanned, and these carry high risks of late prenatal care, low birth weight, poor child physical and mental health, low educational achievement, family violence, relationship stress, etc.
- Unplanned Medicaid births cost the state over \$1.2 billion in 2007.

Reduction of teen and unplanned pregnancies can bring economic, social, and health benefits to women, children, families and the community as a whole. Investment in evidence-based programs and preventive health services can translate to a reduction in teen and unplanned pregnancy rates.

Sales Tax Exemption

POLICY POSITION

Endorse legislation and efforts by community partners to attract datacenters to Texas by offering sales tax exemption on eligible data center computer equipment.

BACKGROUND

Datacenters and cloud computing companies are a part of a fast growing trend in which companies opt to outsource their information technology infrastructure and data storage to an outside company. Under Texas' current tax structure, cloud computing companies pay the business franchise tax based on where their data centers are located rather than where the customers are located. As a result, Texas imposes the highest effective tax rate on cloud computing and data center companies than any other state in the nation. Cloud computing and datacenter companies are the type of companies Texas should attract to the state. San Antonio is particularly attractive to these companies because of our low cost of electricity, fiber optic capabilities, and for the security industry, we are Military City USA.

In order to make Texas more attractive and competitive with other states to recruit companies, the Legislature should consider changes to sales tax.

IV. PROTECTION OF MUNICIPAL INTERESTS

Appraisal and Revenue Caps

POLICY POSITION

Oppose legislation that would impose revenue or appraisal caps which would limit the City to raise and collect revenue necessary to provide services for the protection, safety and welfare of our citizens.

BACKGROUND

Under the Texas Constitution (Article 8), property taxation must be equal and uniform, and must be administered locally. Section 23.23 of the Property Tax Code currently limits the maximum annual percentage increase in the appraised value of a residence homestead for ad valorem tax purposes to the lesser of the market value of the property or the sum of ten percent (10%) of the appraised value of the property in the last year it was appraised times the number of years since it was last appraised. One of the options considered during the special sessions on school finance reform in 2006 was the possibility of limiting residential property appraisals to an increase of no more than 3-5% per year. A number of bills have been filed in previous sessions attempting to impose such restrictions. The City expects the Legislature to address property appraisals during the upcoming legislative session.

Likewise, limiting the amount of revenue that may be raised from property taxes year to year may have a negative impact. Recent legislation regarding revenue caps would limit the amount of revenue cities may raise from property taxes to the amount raised the previous year plus an inflation and population growth factor based on CPI. However, revenue caps ignore the real cost of city services because municipal inflation frequently exceeds consumer inflation. Cities have no control over the cost of gas for vehicles, healthcare for employees or homeland security mandates and other unfunded mandates.

Any reduction in the current ten percent maximum annual increase in the appraised value of a residence homestead may challenge the City's ability to provide the current level of basic services in future years. Because Texas cities receive little aid from the state, revenue caps could significantly alter city finances. Revenue caps would restrict the ability of local governments to respond to the needs and priorities of its citizens.

Broadband Network

POLICY POSITION

Oppose legislative efforts to prohibit or restrict the City of San Antonio and other governmental entities from collaborating on joint broadband network projects regardless of the technology used for connectivity.

BACKGROUND

The City of San Antonio is currently formulating a policy proposal to advance the proposed San Antonio Area Broadband Network (SAABN) between the City and other governmental entities by expanding broadband connectivity. The term *broadband* refers to the high-speed bandwidth characteristics of data transmissions over coax, optical fiber, copper, or wireless. State law permits for the creation of multi-agency broadband networks that include governmental entities other than the city. The SAABN proposal will allow participating governmental entities to expand their broadband footprint throughout the city; exchange information faster and more efficiently; increase data communication capabilities to each agencies' internal and external constituents; and establish a platform for new market-based applications that will enhance the delivery of core services to the public.

The City of San Antonio and CPS Energy have the opportunity to leverage their broadband infrastructure to benefit other governmental anchor institutions in the community. The goal of the SAABN project is to expand the City's governmental, educational, technological, and economic development opportunities.

Franchise and Municipal Right-of-Way Fees

POLICY POSITION

Oppose legislation limiting the City's authority to charge and collect franchise fee payments for use of the public Right of Way (ROW).

BACKGROUND

In 1999, the Texas Legislature passed Chapter 283 of the Local Government Code which altered the way in which cities receive compensation for the use of local rights-of-way (ROW) by telephone companies. The change in the law eliminated the authority of cities to issue municipal franchise agreements under which cities received compensation based on a percentage of gross revenue. Chapter 283 introduced a new compensation methodology based on "access line" counts. The legislation gave the Texas Public Utility Commission (PUC) the authority to define the term "access line" and set access line rates for every city in the state with the purpose of making cities whole based on pre-1999 franchise revenues. The PUC was also authorized to review the definition of "access line" every three years. In every review since the PUC issued its regulations, the question has been raised as to whether Voice over Internet Protocol (VoIP) telephone service should be included in the definition of "access line." In 2005, the Texas Legislature amended Chapter 283 by altering the definition of "voice service" to include "Internet protocol technology," and expanded the scope of providers beyond certificated telecommunications providers to include any "person that provides voice service."

In 2009, PUC staff presented a proposed rulemaking to the PUC at an open meeting describing access line fees and other franchise fees as taxes. The PUC voted to publish for comment a proposed rule that would make certain changes to the various categories of access lines. Though no rules have been adopted, the City is concerned about any efforts to limit or reduce the amount of revenue to cities from the collection of fees. The PUC does not have the legal authority to limit the amount of compensation cities receive from telephone carriers in access line fees, but it can make legislative recommendations to limit compensation.

PUC is likely to propose to the Texas Legislature that municipal right-of-way compensation be based on the cost of maintenance methodology. Such action could result in rental fees at a fraction of the fair market value method that has prevailed in Texas for over 100 years.

Pay Day & Auto Title Lending

POLICY POSITION

Support comprehensive statewide legislation consistent with San Antonio Ordinance 2012-09-20-0739, adopted by City Council on September 20, 2012 and/or oppose legislation which preempts enforcement of city ordinances in the absence of statewide legislation.

BACKGROUND

In San Antonio, there are at least 210 credit access businesses registered with the Texas Office of Consumer Credit Commissioner. These entities charge annual percentage rates of up to and over 500%. Payday and auto title borrowers often pay high fees without paying off their loans. Reports show that the average Texan pays \$840 for a \$300 payday loan and \$1,604 for a \$700 auto title loan. This can drastically affect the borrower's means of transportation for work and other essential household functions.

During the 2011 Texas Regular Legislative Session, the Legislature enacted two bills, effective January 1, 2012, regulating "credit access business" specifying the notice that must be posted and provided to a consumer at the time a loan is obtained from one of these entities, and requires that credit access businesses be licensed by the Texas Office of Consumer Credit Commissioner. Although this legislation provides that there cannot be a prepayment penalty, no restrictions are imposed on the amounts of the loans, or on any fees or interest rates charged. This ordinance establishes regulations not addressed by the State legislature and follows the City of Dallas, Texas and the City of Austin, Texas in efforts to protect members of our community from becoming trapped in a cycle of debt.

On September 20, 2012, San Antonio City Council voted unanimously to approve an ordinance which will provide protection for members of our community from being trapped in a cycle of debt.

Public Utilities

POLICY POSITION

Oppose legislation with detrimental impact on SAWS and CPS Energy including legislation which impacts the City's ability to maintain local control of its municipally-owned utilities (MOUs).

BACKGROUND

In 1999 (76th Session), the Texas Legislature passed Senate Bill 7, which provided the framework for restructuring the retail electric utility industry in Texas. SB 7 provides municipally-owned utilities the ability to choose when to opt-in to the competitive market. This decision is vital for municipally-owned utilities within the state. The legislation also includes various protections to maintain the financial integrity of municipally-owned utilities, and provides appropriate customer protections for the citizens of San Antonio. Priorities for the upcoming legislative session include maintaining the basic SB 7 framework that currently governs the electric utility industry, maintaining local control for municipally-owned utilities, preserving the Competitive Matters Resolution that is applicable to municipally-owned utilities as set forth in SB 7, participating in the Sunset Advisory Commission's agency review process of the Public Utility Commission (PUC), the Electric Reliability Council of Texas (ERCOT), the Railroad Commission (RRC) and the Texas Commission on Environmental Quality (TCEQ).

Significant changes to SB 7, specifically Chapter 40 affecting municipally owned utilities, could result in a loss of municipal control over rates, terms, revenues and policies, and consequently have an adverse impact on municipal finances, and CPS Energy customers.

Tree Preservation

POLICY POSITION

Oppose legislation which undermines the City's ability to adopt and/or enforce development ordinances, including tree preservation, in the City's ETJ.

BACKGROUND

Currently, the City of San Antonio covers approximately 467 square miles. The City's ETJ extends five (5) miles from its municipal boundary, covering an additional 640 square miles. To promote sound development and public health, safety and welfare within its municipal and ETJ boundaries, the City adopted a Master Plan in accordance with Chapter 213 of the Local Government Code, which has been in effect since 1997.

In accordance with Section 212.010 of the Local Government Code, all subdivision plats must conform to the City's Master Plan. Land use, density, bulk, height and building size cannot be regulated by the City in the ETJ. Bexar County chose to adopt the City's subdivision requirements through an interlocal agreement in May 2003. This was accomplished as a result of House Bill 1445 requiring uniform regulations in cities/counties. Subdivision standards are infrastructure related requirements associated with the division of properties.

Trees are a part of the infrastructure. Trees contribute to storm water management, stabilize soil, and reduce urban heat island effects. Without the tree ordinance, large tracts of land may be cleared and graded. The clearing of tree increases the risk of storm water runoff and mudflows, scars the Hill Country appearance, and may adversely impact the City's economic growth. In addition, trees remove air pollutants and contribute to the City's air quality status. Potentially being classified as a "nonattainment area" by the Environmental Protection Agency (EPA) is a risk to be avoided. Should the City be classified as a nonattainment area, the cost of doing business in San Antonio will increase due to the requirements for scrubbers, and additional emissions testing, fees and permitting requirements. This obstacle could be a corporate decision factor in locating in another region.

The City of San Antonio tree ordinance provides allowance for the removal of up to 65% of protected trees without mitigation. Where mitigation is required, property owners have multiple options, including preserving additional (unprotected) trees, tree clusters, naturally vegetated areas, or environmentally sensitive areas such as floodplains or steep slopes.

Current City records show that half of new subdivisions are located within the ETJ. Because of this, the City sees undeveloped tracts of land in the ETJ as the best opportunity to guide growth consistent with the City's Master Plan. It is important to note that the City of San Antonio tree requirements do not affect established single-family homes or new single-family homes after the builder resells properties to individual buyers. The tree preservation ordinance only applies to builders and developers of property during the development stage.

Unfunded Mandates

POLICY POSITION

Oppose legislation that would impose or result in unfunded mandates.

BACKGROUND

Unfunded mandates are financial burdens placed upon local governments by State actions, often resulting in increased property taxes at the local level. Such State actions include:

- Directives to cities without providing the necessary funding to carry out the directives;
- Withdrawal of or cuts in state funding to carry out existing directives; and
- Changes in state operations that inadvertently result in city expenses and inefficiencies.

Unfunded mandates impose costs on Texas cities and their taxpayers exceeding millions of dollars statewide and have resulted in significant financial burden for many cities, forcing them to sacrifice their own programs and priorities in order to comply with standards set by the State.

Vested Rights

POLICY POSITION

Oppose legislation which undermines the City's ability to adopt and enforce vested rights ordinances.

BACKGROUND

Municipalities may adopt development standards, regulations and policies to promote public health, safety and welfare, and to encourage sound development within its municipal and extraterritorial jurisdiction (ETJ) boundaries. Existing and projected development patterns, changes in economy and culture, and the desire to continue to improve quality of life are major factors for determining development regulations and policies. As a community evolves, policies are amended to meet the needs and demands of its residents and accomplish a City's vision and goals. Nonetheless, the City of San Antonio understands and acknowledges a property owner's right to continue and complete their development project based on the regulations in effect at the time the project was initiated.

The 76th Texas Legislature in its Regular Session of 1999 enacted HB 1704, which re-enacted the law prohibiting the application of new regulations to existing projects. The statute, codified as Chapter 245 of the Local Government Code, states that the right to develop a project under the regulations in effect when the project was initiated accrues at the time the first permit application is filed for that project. During the 79th Legislature, Regular Session of 2005, SB 848 was enacted to clarify the intent of Chapter 245, in which rights vest upon filing an application that gave a regulatory agency fair notice of the project and the nature of the permit sought.

In 2006, the City of San Antonio amended its Unified Development Code (UDC) to include these provisions and to define what "fair notice" of the project constitutes. Recently, the City of San Antonio amended its policy on how the requirements of "fair notice" may be met. This includes acknowledgement that the City may be notified through information and supporting documentation submitted with a required permit or on its own merit through the use of the more simplified Fair Notice Form. This amendment in policy provides the property owner methods to document their project details and a better format with which to begin accruing rights. In addition, it highlights the importance of notifying the City of the proposed project. Proper notification and continuing activity will ensure that the project as defined reaches completion.

The City of San Antonio is interested in assisting investment and development, specifically completion of projects that have begun. As market research clarifies what the customer prefers in a consumer environment, the development community and municipalities must cooperate to promote successful economic and social growth. The City of San Antonio wishes to ensure that no development will adversely impact its community, including a reduction in the number of incomplete and abandoned projects that contribute to a City's downturn, while moving forward to accomplish its vision and goals.

Omnibus Policy

POLICY POSITION

The City Council supports legislation that would benefit the City and oppose legislation that would be detrimental to the City's interests.

BACKGROUND

Historically, a relatively small part of the City's legislative efforts have been devoted to passing beneficial bills that would enable cities to better perform their function. A far greater effort has been expended on preventing passage of detrimental bills. In many cases, these detrimental bills are attempts to change the fundamental authority granted to municipalities.

Due to the large quantity of bills introduced during the legislative session, it is not always feasible for the City Council to consider and adopt formal policy statements of on each piece of proposed legislation. Therefore, the City of San Antonio will endorse legislation that would clearly benefit the City and oppose bills that meet one or more of the following criteria:

- Undermine the principles of self-government;
- Mandate increased cost to cities, including environmental mandates;
- Result in the loss of revenue to cities or negatively impacts the authority of the City to generate revenues; and,
- Result in diminishing the fundamental authority of cities to operate in a manner consistent with the best interest of the health, safety and welfare of the general public.

The adverse impact of each detrimental bill must be determined separately. This policy will assist the City's governmental affairs team in expediting measures to defeat detrimental legislation and play a proactive role in passing beneficial legislation.

IMPACT

This policy will assist the City staff and government affairs consultants in expediting measures to defeat detrimental legislation and play a proactive role in passing favorable legislation.