

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



**Meeting Minutes
City Council B Session**
City Hall Complex
San Antonio, Texas 78205

2023 – 2025 Council Members

Mayor Ron Nirenberg
Dr. Sukh Kaur, Dist. 1 | Jalen McKee-Rodriguez, Dist. 2
Phyllis Viagran, Dist. 3 | Dr. Adriana Rocha Garcia, Dist. 4
Teri Castillo, Dist. 5 | Melissa Cabello Havrda, Dist. 6
Marina Alderete Gavito, Dist. 7 | Manny Pelaez, Dist. 8
John Courage, Dist. 9 | Marc Whyte, Dist. 10

Wednesday, August 9, 2023

2:00 PM

Municipal Plaza Building

The City Council convened a regular meeting in the Norma S. Rodriguez Council Chamber in the Municipal Plaza Building beginning at 2:02 PM. City Clerk Debbie Racca-Sittre took the Roll Call noting a quorum with the following Council Members present:

PRESENT: 11 – Nirenberg, Kaur, McKee-Rodriguez, Viagran, Rocha Garcia, Castillo, Cabello Havrda, Alderete Gavito, Pelaez, Courage, Whyte

ABSENT: None

ITEMS

1. Briefing on the 2023 Disparity and Causation Analysis Study (Disparity Study). [Alejandra Lopez, Assistant City Manager; Brenda Hicks-Sorensen, Director, Economic Development Department]

City Manager Erik Walsh introduced the Item and provided background on the Disparity Study conducted by Colette Holt and Associates who was the consultant hired by the Economic Development Department (EDD).

City Manager Walsh introduced Michael Sindon, Small Business Administrator with EDD who presented the purpose and background of the study. Sindon provided information on Colette Holt

and Associates' background and experience developing and implementing disparity studies. Holt explained that in 1989, the US Supreme Court held that race and gender-conscious programs were subject to "strict scrutiny," the highest level of judicial review and noted that programs should be updated on a regular basis with a new disparity study.

Holt's firm reviewed City contracts and vendor records for FY 2014 through FY 2020 for contracts above \$50,000, reviewed Minority/Women Business Enterprise (M/WBE) directories and conducted staff and business partner/stakeholder interviews noting that she had personally interviewed 101 people and received 223 survey responses. Holt reported that the final contract data file reviewed totaled \$887 million for 549 prime contracts and 1,124 subcontracts. The geographic market was identified as the San Antonio Metropolitan Statistical Area (SAMSAs) and the product market was 128 North American Industry Classification System (NAICS) codes.

Holt provided a summary table of the findings which concluded that the City's Small Business Economic Development Advocacy (SBEDA) Program had been very effective in its implementation by the City on its own contracts, however, more focus could be made to increase utilization of Black, Native-American, Asian and non-M/WBEs. She added that for Hispanics and white women, utilization exceeded their availability.

Holt noted that the Census Bureau's American Community Survey indicated that minorities and women formed businesses at a lower rate and earned less compared to white males, the Census Bureau's Annual Business Survey showed M/WBEs experienced disparities in sales receipts compared to non-M/WBEs. She stated that in addition, government and scholarly research and literature indicated that credit practices tended to favor males and non-minorities. She added that anecdotal evidence from the interviews included biased negative perceptions about M/WBEs and that the M/WBE programs were crucial to the success or even survival of many M/WBEs.

Holt recommended that the City continue to implement a narrowly tailored SBEDA Program, review race and gender-neutral measures, develop performance measures for program success, set a new program sunset date and reevaluate data in approximately six years.

Sindon closed out the presentation by providing a timeline of the Disparity Study along with milestone dates, overview of the outreach which included 19 meetings with over 100 attendees, dedicated webpage and SA SpeakUp. Sindon outlined the next steps which would include adoption of the Disparity Study on August 31, 2023 followed by development of amendments to the SBEDA Ordinance by March 2024.

Mayor Nirenberg thanked staff and Holt for their work and asked Holt for recommendations that came from local stakeholders. Holt reported that the procurement process was the most often requested area for improvement and the issue was more related to getting the contract rather than keeping it or getting paid timely. Nirenberg noted the new efforts through Supply SA which encouraged utilization by other government and private agencies in addition to the City. Holt added that many of the firms expressed concern that prime firms did not utilize them if there were no goals.

Nirenberg wondered whether Black, Native-American and Asian firms were underrepresented or

did they simply have trouble competing. However, he supported continuing the program as he had heard the same concerns that without the program, we would take a step backward.

Councilmember Rocha Garcia recommended regular reports from the Small Business Advisory Committee (SBAC) to the Economic and Workforce Development Committee. Councilmember Rocha Garcia asked why we would want to wait six years to perform another study. Holt explained that a disparity study was an expensive and labor intensive process; noting that staff were highly qualified and experienced to provide regular updates. Councilmember Rocha Garcia asked Holt if she recommended something different for American Rescue Plan Act (ARPA) funding. Holt noted that Federal Grants often came with different rules than the SBEDA Program. Sindon reported that staff provided a report to the SBAC just last week and would share their feedback with the City Council.

Councilmember McKee-Rodriguez mentioned that discrimination was rooted in racism and sexism, therefore, it was necessary for the City to have programs like the SBEDA Program. Councilmember McKee-Rodriguez suggested specific strategies to improve participation of Black, Native-American and Asian businesses such as awarding additional points. Holt cautioned that programs giving preference points have not been upheld by a court. Councilmember McKee-Rodriguez noted increasing availability of the firms and entrepreneurial assistance. Sindon stated that Launch SA as well as Mentor-Protégé programs were designed to provide capacity building assistance. Councilmember McKee-Rodriguez mentioned that he had heard that insurance and bonding, complicated procurement, and lack of access to capital were barriers. EDD Director Brenda Hicks-Sorensen stated that they were developing specific performance measures and would share those.

Councilmember Cabello Havrda asked Holt if she had spoken with businesses that had bid for City contracts. Holt stated that she reviewed the utilization data of vendors who had contracts with the City but availability was a broader approach which included bidders, vendor list, certification agency, as well as Hoover and Dunn & Bradstreet (D&B). Councilmember Cabello Havrda asked how a firm could get on the D&B list. Holt reported that D&B listed all firms that had bank accounts, borrowed money, or had ever filed a Schedule C. Councilmember Cabello Havrda asked what City Council could do to get more businesses interested in working for the City.

Councilmember Cabello Havrda mentioned that some local Latina businesses told her they had been overlooked and this issue came up in yesterday's Audit Committee and she requested more information about the definition of High Profile Contracts. Deputy Chief Financial Officer Troy Elliott explained that low bid procurements could not be considered High Profile.

Councilmember Alderete Gavito asked when Supply SA would be brought into the conversation. Assistant EDD Director Ana Bradshaw stated that there had already been discussions and active implementation with Supply SA and noted that a number of measures were already being performed by the City such as an annual procurement forecast; which the City would provide leadership to the other participating organizations. City Manager Walsh noted there were 14 public agencies that were a part of Supply SA and the first step would be to get those agencies to begin the same initiatives that the City was already implementing.

Councilmember Alderete Gavito noted that there were a variety of Middle Eastern and North African restaurants in Council District 7 and asked whether they were included. Holt stated that the results were weighted based upon how the City spent most of its money and the report was dependent on data. Councilmember Alderete Gavito asked about the timeline to implement the recommendations and requested information on the outreach methodology for the surveys. Sindon reported that staff would begin working on the Ordinance with the community as soon as the Study was adopted. Holt provided an overview of the outreach methodology for the survey and suggested that 233 responses were a robust size.

Councilmember Pelaez lauded Holt for her expertise and commented that Women-owned businesses were considered Historically Underutilized Businesses (HUBs). Holt explained that HUB was a term used by the State of Texas and Disadvantaged Business Entity (DBE) was terminology used by the Federal government, but the City had its own terminology and had always included women-owned firms in its programs. Councilmember Pelaez reminded folks that the job of City Council was to be a good steward of taxpayers' dollars and HUBs/DBEs were also taxpaying businesses so we should continue to do what we know works to tear down the barriers.

Councilmember Pelaez noted that Chambers of Commerce were also important, but expressed concern that these programs could be under legal attack. City Attorney Andy Segovia stated that the strongest defense to SBEDA legal challenges was a strong disparity study.

Councilmember Courage commented that the current leadership of the State of Texas was adamantly opposed to Diversity, Equity and Inclusion but he felt better that Holt had performed a sound disparity study. Councilmember Courage expressed concern that HB 2127 (the bill that preempted many local Ordinances and would take effect September 1, 2023) might impact our SBEDA Ordinance and open the City up to litigation related to this program. Segovia noted that it was a possibility but the program was based on Federal constitutional principles.

Councilmember Whyte requested clarification on the utilization and availability table presented that showed a need to provide more tailored programs for Black, Native American and Asian owned firms. Holt agreed that the study concluded that there was underutilization of those firms. Councilmember Whyte characterized utilization of Latino and Women-owned businesses as overutilized. Holt clarified that there was not overutilization of those groups, rather, they were used at greater than their rate in the market and recommended a deep dive into the disaggregated data based on product and NAICS codes.

Councilmember Whyte asked Holt to compare San Antonio to other cities. Holt stated that overall, San Antonio compared very well, however, it was dependent on the population and demographics of the community and the term "doing well" meant the groups were achieving parity. Councilmember Whyte asked about the reevaluation timeline. Holt noted that impacting disparity took a long time. City Manager Walsh reported that the City of San Antonio had historically conducted a Disparity Study every five years. City Attorney Segovia added that affecting change typically took some time.

Councilmember Castillo was pleased that many Council District 5 companies were included in

the study and recommended that the Maestro Center and other non-profits could serve as an accelerator and incubator.

Councilmember Viagran commented that it wasn't until the 1970's that a women could not even get a credit card without a husband or father. She noted that today there were many businesses that were not even allowed to exist 40 and 50 years ago, so while we have come a long way, there was still a long way to go to combat biases and barriers. Councilmember Viagran reported that members of the public and SBAC spoke to the Audit Committee about the need to help local small businesses. Councilmember Viagran was pleased that the City paid its vendors timely, but the City Council needed to concentrate on what we would call "success." Councilmember Viagran recommended more even numbers across the board considering that the City was majority Hispanic and there were many underrepresented Asian and Native American businesses.

Councilmember Kaur asked about assistance with submitting bids as well as bonding programs. Holt stated that programs to help firms increase their bonding capacity were best practices. Sindon reported that EDD had already implemented a bonding assistance program last year and there was a procurement released for a consultant to help map the procurement process which would include a review of submitting bids.

2. Briefing on the City of San Antonio's Growth Management Policy. [Roderick Sanchez, Assistant City Manager; Rudy Niño, Jr., Interim Director, Planning Department]

City Manager Erik Walsh stated that the Growth Management Policy review was initiated in 2019 as a coordinated effort with regional partners to review how the City grows but did not include plans to limit development outside of the City limits. He stated that the review was paused during the COVID-19 Pandemic but was continued 18 months ago.

Rudy Nino, Interim Director of the Planning Department, reported that the update was intended to ensure compliance with current State Law as the current plan was not. Nino provided a map of the City's Extraterritorial Jurisdiction (ETJ) noting that the City's authority for development in the ETJ was limited to subdivision regulations related to the UDC, Aquifer Protection and the Tree Ordinance. Nino stated that the policy would not stop or slow development in the ETJ but was intended to provide an inventory of tools to manage growth.

Nino listed the goals related to growth which were developed using input from the stakeholder and community working groups as follows:

1. Preserve and protect sensitive natural resources.
2. Encourage sustainable, quality development and support the economic health of the City and region.
3. Support and protect military missions and installations.
4. Enhance the coordination process for efficient emergency, utility and service delivery.
5. Continue to foster collaboration with regional partners.
6. Recommend the strategic use of regional growth management tools, with consideration of their fiscal impact.

7. Provide guidance for evaluation of various requests and proposals to the City of San Antonio and use the most appropriate growth-related tool.

Nino outlined the public input process and next steps.

Mayor Nirenberg asked Nino how the community and the City Council would participate. Nino stated that the most common Special Improvement District was a Public Improvement District and this plan would develop guidelines and criteria for approval as well as projected growth to assist regional partners (such as utilities) with their infrastructure planning. Mayor Nirenberg expressed that this was a difficult and politically charged issue and welcomed structure to the growth plan.

Mayor Nirenberg noted that the Comprehensive SA Tomorrow Plan was adopted on three principles: it was important and in everyone's best interest to resist sprawl, facilitate nodal growth in the thirteen live/work/play centers around the city and encourage infill growth through policy and resource planning. Mayor Nirenberg recommended that City Councilmembers study the draft plan and determine where the plan intersects with other community goals. Mayor Nirenberg noted that the City had limited authority and suggested the Growth Plan could guide our future plans to advocate for policy change and urged collaboration with our utility partners and Bexar County.

Councilmember Rocha Garcia expressed concern that individual Councilmembers and County Commissioners might not agree with the policy even if the governing bodies agreed and encouraged more collaboration with those other government entities. City Manager Walsh noted that there were non-annexation agreements that were coming forward soon and would be impacted.

Councilmember Alderete Gavito thanked the Mayor for sharing background on the SA Tomorrow Plan but acknowledged that the growth in the ETJ was exploding so it was timely to have a growth policy and recommended considering transportation and road needs since those residents used our roads. City Manager Walsh noted that the northwest side was mostly Farm to Market (FM) Roads and Bexar County would need to be involved in those discussions.

Councilmember Whyte asked why SAPD or the Bexar County Sheriff were not listed as participants on the presentation. Nino stated that both were involved and included on the detailed list in the report.

Councilmember Cabello Havrda asked about the extension of utility services in the ETJ such as SAWS and CPS. Nino noted that the developers made decisions about the services they would provide and who their utility providers would be. Councilmember Cabello Havrda noted that sometimes there was not a developer, and the landowners built their own water wells and septic tanks but now, after annexation, wanted city utility service. Nino stated that the policy would be most helpful related to Public Improvement District requirements.

Councilmember Cabello Havrda wanted to ensure that San Antonio did not lose its culture and identity. Nino stated that culture and natural resources were considered within the plan and could be a part of the negotiations when an owner petitioned for annexation.

Councilmember Courage lamented that the City had lost its ability to annex and noted that he had learned a lot about development from participating in the Planning Commission. He stated that he was not fond of Public Improvement Districts (PID) because they promoted unbridled growth in the ETJ while those residents commuted to San Antonio every day to live, work and play and did not contribute to our infrastructure. Councilmember Courage recommended negotiating some tax collections in a PID so that the City could recoup some of its costs. Councilmember Courage stated that the first step toward a PID was for a developer to approach SAWS for water and sewer services which allowed developers to build without adequate streets and other infrastructure. Councilmember Courage commented that those ETJ residents and businesses had to rely on ESDs and the Bexar County Sheriff's Office for public safety. Councilmember Courage commented that the Planning Commission sometimes ignored the SA Tomorrow land use plan and he recommended changing the composition of the Planning Commission to make them more representative of the community and noted that City staff represented the City's interest more than the Commission which often sided with developers.

Mayor Nirenberg reminded City Council to stay on topic of the Growth Plan.

Councilmember Viagran requested a meeting with Nino to discuss Council District 3 and wanted to see if current residents could get connected to SAWS sewer and water when a developer came in beyond their properties and were offered those utilities. Councilmember Viagran recommended discussions with Bexar County about the desires of residents to become a part of the City.

Mayor Nirenberg stated that SAWS had a Certificate of Convenience and Necessity (CCN) area which was a statutory obligation to provide services to those areas. He explained that a PID required approval by the City Council and the City could leverage its policies and status to gain community benefit.

EXECUTIVE SESSION

At any time during the meeting, the City Council may recess into executive session in the Presidio Conference Room to consult with the City Attorney's Office (Texas Government Code Section 551.071) and deliberate or discuss any of 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 litigation involving the City pursuant to Texas Government Code Section 551.071 (consultation with attorney).

ADJOURNMENT

There being no further discussion, the meeting was adjourned at 4:09 p.m.

Approved

**Ron Nirenberg
Mayor**

**Debbie Racca-Sittre
City Clerk**