

STATE OF TEXAS  
COUNTIES OF POTTER  
AND RANDALL  
CITY OF AMARILLO

On the 20th day of November 2020, the Amarillo City Council met at 3:00 p.m. for a special meeting held via conference and in the Council Chamber located on the third floor of City Hall at 601 South Buchanan Street, with the following members present:

MAYOR GINGER NELSON	MAYOR
ELAINE HAYS	COUNCILMEMBER NO. 1
FREDA POWELL	COUNCILMEMBER NO. 2
EDDY SAUER	COUNCILMEMBER NO. 3
HOWARD SMITH	MAYOR PRO TEM/COUNCILMEMBER NO. 4

Absent were none. Also in attendance were the following administrative officials:

JARED MILLER	CITY MANAGER
KEVIN STARBUCK	DEPUTY CITY MANAGER
FLOYD HARTMAN	ASSISTANT CITY MANAGER
LAURA STORRS	ASSISTANT CITY MANAGER
BRYAN MCWILLIAMS	CITY ATTORNEY
STEPHANIE COGGINS	ASSISTANT TO THE CITY MANAGER
FRANCES HIBBS	CITY SECRETARY

Mayor Nelson established a quorum, called the meeting to order, welcomed those in attendance and the following items of business were conducted:

Mr. Miller stated many people have been asking for something more effective to stop the rising COVID statistics. An internal task force landed on utilizing the Texas Health Code, Section 341.011 to curve or reduce the hospitalization rates.

Anthony Spanel, Environmental Health Director, presented proposed Ordinance No. 7893, which addresses COVID-19 Pandemic Emergency Measures. This ordinance would only be in force when the city is operating in levels orange or red. He stated a warning would be issued and businesses will be allowed to correct any discrepancies, the last step would be enforcement. There has been no enforcement on any of the current protocols. The Environmental Health Department has provided education and on-site training to businesses. GA29 is currently not practicable to enforce. The City of Amarillo has reached out to many cities and the Attorney General to see how they are handling COVID, and the effectiveness of this type of ordinance. This ordinance would only apply to businesses in the City of Amarillo. He stated they are asking for effort and for businesses to try their very best at the minimum standards.

Councilmember Smith inquired if the cities listed gave them the possibility to fine businesses, individuals, or both. Mr. Spanel replied that most municipalities are doing it as a business approach. Councilmember Sauer inquired if Council had the ability to put a timeline in the ordinance. Mr. Miller stated this ordinance would only be enforced when the city is operating in code orange or red. It could also be a date certain. Councilmember Smith inquired if other cities were educating the public. The rate of voluntary compliance has been astronomical. Mayor Nelson inquired why governmental offices were excluded. Mr. Spanel replied this ordinance is based on the Health and Safety Code, and government offices are exempt from state statutes. Mayor Nelson inquired if wearing masks was enforceable. Mr. McWilliams stated in GA29 there are legal hurdles, and operational perimeters that limit the ability to enforce masks wearing.

**NON-CONSENT ITEMS:**

**ITEM 3A:** Mayor Nelson presented the first reading of an ordinance considering an ordinance declaring a site that fails to meet certain minimum standards designed to prevent the transmission of COVID-19 as a public nuisance. This item was presented by Jared Miller, City Manager. Mayor Nelson opened a public hearing. Cheryle Cooper, stated any ordinance against patrons, fines and citations are evil and not enforceable by law. All the Governor's orders are null and void. She stated Council should be ashamed. The COVID guidelines are unconstitutional, unethical and force

healthy people to be spreaders. It impinges people rights to move freely, religions freedoms, natural law and the need to follow in faith and not in fear. Whit Walker, M.D., 4015 Pinehurst Drive, stated he has cared for patients who have died from COVID. This disease is stopped by wearing masks. He compared the rate of deaths to World War II. He encouraged wearing masks and passing this ordinance. Logan Grimm, 6802 Zapata Lane, stated this was a voluntary compliance, and it would be very hard to enforce. This ordinance would issue compliance under threat and that is why they would comply. He stated there needed to be a set of standards for control. Control is not the American way, people's choices should be left to the people. Connie Danner, 1521 South Fannin Street, stated she was a small business owner and enforcement is asking businesses to violate HIPPA. A citation would be unlawful and useless and not fair to any business in town. She encouraged Council to vote no. Mike Fisher, 4410 Van Kriston Drive, stated he was told El Paso COVID patients are being sent to Amarillo. He stated they cannot fine businesses. He also inquired about the definition of enforcement. Claudette Smith, 7606 Cervin Drive, stated that Governor Abbott's orders are not law, and are not constitutional. Private citizens or business owners are being asked to enforce this ordinance. GA32 states a fine cannot exceed \$1,000. This would be a costly resource that the city does not have. It puts the city in a vulnerable position. It is unequal and unfair treatment, and additional lawsuits will be filed. It exposes private businesses. Rosie Powell, 1727 Jennifer Drive, stated she understands each side, but her heart goes out in favor of the ordinance for health reasons. Jennifer Tucker, stated she was against the measure putting business owners against their clients and customers. She further stated each of us has authority and choice. Rick Bickle, stated it was false information and that masks are not working.

Councilmember Sauer asked for clarification on the 5% active cases requiring hospitalization. Councilmember Hays inquired about the patients residences. Ms. Stoughton stated most hospitalized residents are local because the hospitals are full and they not able to do transfers. Councilmember Hays inquired if the hospitals were accepting transfers from El Paso. Ms. Stoughton replied they have not received transfers from El Paso. Councilmember Hays asked for an accurate percentage on patients. Mayor Nelson stated the majority of residents are from Potter and Randall Counties.

Victoria \_\_\_\_\_ stated she was embarrassed and it was an insult to all of us. Josh Knapp, thanked the Council and Mayor. He stated there has been a lot of lives lost in Texas and in the Panhandle. This virus should be taken very seriously. He inquired if Council has considered compliance costs, and asked if businesses would have a choice. Michael Ford, stated this City Council meeting was not posted as a emergency meeting, and therefore the ordinance cannot be approved on first reading. Mr. McWilliams replied the City Charter allows for an ordinance to be passed on an emergency measure. Mr. Ford stated he was upset that he has two minutes to discuss a six page ordinance which was released one hour before the meeting. He further stated the public has been told to wear masks and they are high touch items themselves. April Demil, stated she was against this ordinance because it will hurt small businesses. She stated the people she knows that have had COVID have had very little symptoms. Henry Moses, stated masks are not helping this virus. Dr. Assadourian, supported the Council on mandating wearing masks. He stated this pandemic has a rapid surge and citizens are getting infected in unprecedented numbers. In-patients have been restricted and patients are getting placed on waiting list and some have succumbed while waiting. Overall, the mortality rate will rise and become more evident. While waiting for a vaccine there is a need to stop the loss of life and educate citizens. Dr. Dan Hendicks, stated hospitals are filled to capacity. The education and appeals to individuals have failed as evidenced by the rates. He encouraged Council to vote for this ordinance. Sara Hogan, thanked Council for everything they are doing, for the city, and the healthcare workers. She is wearing a mask and doing what is best for everyone that is around her. Putting this ordinance in place would be helpful. There are a lot of options for people who do not want to wear a mask. Andee Barnett, stated she was a registered nurse who does not currently work in healthcare. She stated her nurse friends are exhausted. James Schenck, 6216 Gainsborough Road stated the need to be careful about an overreach. He stated masks are being worn. Some small businesses have not been able to open. He inquired if GA29 allowed people with disabilities to have to wear masks. Kit Rudd, 6850 Grande Drive, stated his daughter is a nurse in ICU. He stated he doesn't wear a mask. He stated this ordinance crosses the line, and the City will have a hard time taking it back. The virus is very serious but fining businesses that don't enforce the mandate is wrong. Kelsey \_\_\_\_, stated she reiterated what people have all ready said.

The majority of the people are abiding, but it is unconstitutional. She inquired why there was a rise in the number of flu and strep cases. She further stated much like crib deaths, Rebreath disease can be caused from wearing a mask. Wearing masks may cause acne because of the bacteria on the skin, and not wearing them correctly. Christy \_\_\_\_\_, stated it was unconstitutional and she was against mask wearing. She stated it was wrong to be telling people they have to do something. She inquired how people would build immunity. She further asked Council to stop putting extra ordinances on businesses to make them fail. Rebecca \_\_\_\_\_, stated nothing about this ordinance is okay. She stated there have been a lot of illusions about good studies. The ordinance could increase polarization by putting businesses against their patrons. She stated the hospitals were bringing in patients from other cities, the patients are not all from Potter and Randall Counties. Todd S., stated this ordinance would be passing the buck to small businesses to try to get them to enforce mask wearing. He stated he was totally against this ordinance. Hanna Brinson, encouraged Council to do something and to stop waiting on the Governor or President to act. The death toll is too high. Children in school wear masks why not adults, too. Tammy Tabor, stated as a community we have not taken every precaution. The effects on our healthcare are devastating. Frances Montgomery, stated she was a small business owner and would prefer Council vote this ordinance down because it was an over reach and abuse of power. It would be detrimental to the businesses. Randy \_\_\_\_\_, stated the City wants businesses to come to Amarillo, this would discourage people wanting to open and run a business. Wearing masks does not build immunity. He stated he will not shop in Amarillo if this ordinance passes. He also stated he believed kids in schools should not have to wear masks. Ethan \_\_\_\_\_, stated that most people calling in are not licensed medical professionals. This is not political this is a pandemic. This is a matter of life and death. It has already taken too many people's lives. Fritz Danner, commented on Dr. Assadourian's comments. He stated healthcare workers are getting COVID. They are the very workers that should be the most careful and protected. He stated precautions are taken and masks wearing is not preventing the healthcare workers from getting the illness and demonstrates the ineffectiveness of masks. Justin \_\_\_\_\_, stated he practices at a hospital in Spearman. He stated the last 8-9 transfers have been moved to other cities, Dallas, Midland, etc. BSA and NWTN are full, what used to take 10-15 minutes to secure a bed now takes hours. This displaces both patients and families.

Signed up but did not appear: Rachel Basinger, 3517 South Lamar Street, Dan Hendrick, Norma Burney, 1016 South Georgia Street, Deborah Welch, Cara Hendricks, Richard Herman, Smajo Beckanovic, Gracy Taylor, Dallas Arnold, Jimmy Campbell, Shelly Mixon, Shawn Tucker, Reba Russell, and Christie Schrader.

There were further no comments. Mayor Nelson closed the public hearing. Motion was made that the following captioned ordinance be passed on first reading by Councilmember Powell, seconded by Councilmember Sauer:

#### ORDINANCE NO. 7893

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AN ORDINANCE DECLARING A SITE THAT FAILS TO MEET CERTAIN STANDARDS DESIGNED TO PREVENT THE TRANSMISSION OF COVID-19 AS A PUBLIC NUISANCE; AUTHORIZING CIVIL AND CRIMINAL ENFORCEMENT; AND DECLARING AN EMERGENCY MEASURE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR CONTINUATION OF PRIOR LAW; PROVIDING PENALTY; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

Councilmember Sauer would like to discuss the length and timing of this ordinance. He stated setting it at red and orange is too long. He stated a definitive date would be better. Mr. Spanel discussed the contents of the ordinance. Councilmember Hays stated she would be against this ordinance because it was impossible for businesses to control. She further stated this ordinance makes the assumption that people aren't wearing masks, the vast majority are wearing them. Dr. Milton stated he believed with extra precautions more people may feel safer. Mr. McWilliams stated he expected a metric may encapsulate the Council's desires. Ms. Stoughton stated level red is the most critical but at level orange they need to be proactive and not reactive. She stated the need to have protective measures in place so we don't slip back into level red. Mayor Nelson stated hospitals are in a desperate situation and there is no easy option. The only reason this is being considered is because we are breaking records with the number of patients at the hospitals. She would like the ordinance to be as narrow as



possible. Councilmember Sauer stated he liked the 15% metric and he was willing to have this conversation again. He also inquired how this ordinance would be taken out of the books. Mr. McWilliams stated it would not be in our municipal code, it is a temporary thing, to attack the problem in an efficient way. Ms. Stoughton stated as the vaccine is rolled out it will be done in phases. The timelines are between July and October before they are available to the general public. Dr. Milton stated it falls back to public health measures, which is mask wearing and social distancing. Ms. Stoughton stated the hospital workers are exhausted. It is critical to have a bed for someone at the hospital when someone gets sick. Councilmember Hays stated that Council is incredibly appreciative of our healthcare workers.

Motion was amended by Councilmember Powell to reflect the seven-day metric of 15% from orange to 15% hospitalization rate based on the Governor's standards. The motion was seconded by Councilmember Sauer.

Councilmember Powell stated she has listened with her ears and heart. She stated it was her responsibility to think about the majority of the citizens. All citizens have to be responsible, increase compliance, businesses and patrons need to be responsible. The medical professionals know more about this virus. Councilmember Hays spoke about the ordinance being temporary. She stated it was government over reach and has no end in sight. Mayor Nelson stated she feels the burden on the hospitals. She stated it would be short-term. Councilmember Sauer stated when the city sheltered-in-place the numbers went down. Dr. Milton stated the virus is in control, and we need to take measures to get that under control by wearing masks. Councilmember Hays replied this is not a discussion about masks, this ordinance is about putting the responsibility of wearing masks on businesses. Dr. Milton stated our country in 1918 went through a pandemic. Those who kept social distance had less loss of life. Councilmember Smith stated it was a difficult situation. Several people say it would be an infringement on their freedoms, but many freedoms are limited. Ms. Stoughton presented public health measures that have been proven to work. Mayor Nelson inquired about the minimum standards definition. She asked for the language to reflect the Governor's orders. Councilmember Hays thanked Casie Stoughton for the statistics. She stated this ordinance was punishing the business owners and they were being held responsible. She stated she wants to reduce and take the pressure off the hospitals, but she was in a disagreement with the method moving this burden to the businesses. Mayor Nelson thanked the community and everyone who called, texted and posted on Facebook. Our community has been more engaged to face this pandemic together. All the options are bad options, she stated she has been asking for months for people to voluntarily wear masks, increase their immune systems, and the need to continue having those conversations.

Councilmember Smith called the motion. Councilmember Hays stated the ordinance was threatening the businesses with enforcement. She stated it would be unconstitutional, maybe illegal, and she felt there are other methods that have not been utilized.

Voting AYE were Mayor Nelson, Councilmembers Powell, Smith and Sauer; voting NO was Councilmember Hays; the motion carried by a 4:1 vote of the Council.


The first motion as amended was called.

Voting AYE were Mayor Nelson, Councilmembers Powell, Smith and Sauer; voting NO was Councilmember Hays; the motion carried by a 4:1 vote of the Council.

Mayor Nelson closed the meeting.

ATTEST:

  
 Frances Hibbs, City Secretary

  
 Ginger Nelson, Mayor