

CITY OF ALAMO HEIGHTS
CITY COUNCIL
October 12, 2015

A regular meeting of the City Council of the City of Alamo Heights, Texas was held at the Council Chambers, located at 6116 Broadway, San Antonio, Texas, at 5:30 p.m. on Monday, October 12, 2015.

Present and composing a quorum were:

Mayor Louis Cooper
Mayor Pro-Tempore Lynda Billa Burke
Councilmember Lawson Jessee
Councilmember Bobby Rosenthal
Councilmember Fred Prassel

Also attending were:

City Manager J. Mark Browne
Fire Chief/Assistant City Manager Buddy Kuhn
Assistant to the City Manager Marian V. Mendoza
City Attorney Mike Brenan
Finance Director Robert Galindo
Community Development Services Department Director Jason Lutz
Human Resource Manager Lori Harris
City Secretary Jennifer Reyna
Chief Police Rick Pruitt
Public Works Director Pat Sullivan

Absent was:

Councilmember John Savage

* * *

Mayor Cooper opened the meeting at 5:30 p.m.

* * *

Item # 1 Approval of Minutes

Mayor Cooper asked City Council for any revisions to the minutes of the September 28, 2015, City Council meeting. A motion was made by Mayor Pro Tem Lynda Billa Burke to approve the minutes of September 28, 2015. The motion was seconded by Councilmember Lawson Jessee and passed by unanimous vote.

* * *

Item # 2 Announcements

Mayor Cooper read the following caption.

a. Howdy Parade, October 14, 2015

Community Development Services Department Director Jason Lutz announced the upcoming annual Howdy parade. It will be held on Wednesday, October 14th beginning at 4:15 p.m. to 5:00 p.m. He displayed the parade route, queuing on Townsend to the Alamo Heights High School.

* * *

Item # 3 Citizens to be heard concerning items not on the agenda

Donald Oroian introduced himself as a candidate running for the Bexar County Director District 3 for the San Antonio River Authority (SARA). He shared of his work experience and professional background.

* * *

Items for Individual Consideration

Item # 4 Mayor Cooper read the following caption.

Planning and Zoning Case No. 378, public hearing, consideration, and action to consider the abandonment of any prescriptive rights for an approximate 0.09 acre paved portion of Ausway Lane located on the northern portions of Lots 16-24, Block 67 of the Alamo Heights Subdivision

Community Development Services Department Director Jason Lutz made a PowerPoint presentation that included background information and a map.

Mr. Lutz stated this item is the closing/abandonment of any prescriptive rights for the remaining portions of Ausway Lane (pavement) that were not previously abandoned. On April 13, 2015, Council held a public hearing and approved the abandonment of the dedicated rights-of-way portions of Ausway Lane as part of an SUP for a multi-family project. Mr. Lutz stated the triangular area at the intersection of Broadway and Austin Highway is owned in fee by Bexar County and declared as future right-of-way for Texas Department of Transportation (TxDOT) improvements. He explained this abandonment/closure of prescriptive rights is required in order for the City of Alamo Heights to take possession of the triangular area at the intersection of Broadway and Austin Highway. Prescriptive easements are required to be released for the remaining portions of Ausway Lane pavement based on the longtime use as a City street. Mr. Lutz explained that an easement by prescription is one that is gained by using another's property over an extended period of time. The requested area was not platted or

dedicated as public right-of-way. A map was presented and noted the yellow area was the area of interest for abandonment.

On October 5, 2015, the Planning and Zoning Commission held a public hearing and recommended approval of the abandonment area. Staff received six responses in support and four in opposition of the request.

Mayor Cooper opened the public hearing at 5:35 p.m. The public hearing closed at 5:37 p.m.

Pruyn Hildebrand, resident, asked why the abandonment is necessary if Bexar County would return the property to us.

Councilmember Rosenthal explained it is part of the process to release prescriptive rights if previously owned.

The public hearing closed at 5:37 p.m.

A motion for approval was made by Mayor Pro Tem Lynda Billa Burke. The motion was seconded by Councilmember Lawson Jessee and passed by unanimous vote.

Item # 5 Mayor Cooper read the following caption.

Planning and Zoning Case No. 379, public hearing, consideration, and action to consider proposed amendments to Chapter 3, Zoning, of the Code of Ordinances concerning Residential Short-term Rental Units

Mr. Lutz made a PowerPoint presentation that included background information and proposed amendments to Chapter 3.

Mr. Lutz reminded Council that short-term rentals (STRs) are similar to Bed and Breakfast facilities that are growing in popularity. Currently, the City's zoning code does not permit Bed and Breakfast facilities within the city limits, but does not specifically address the issue of short-term rentals. He informed Council there are three properties within the city limits identified in one STR website. A map displayed the location of the three STRs.

The proposed amendments were presented for consideration to be included in Chapter 3, Zoning. The first amendment was Article 1, Section 3-2 titled *Definitions* to include the definition of "Residential short-term rental unit". He emphasized that any use described in this definition shall be considered a commercial use of real property. To reference this appropriately, amendment to Chapter 3, Article 1, Section 3-8 titled *Use of Land and Buildings* would be added. The third proposed amendment was additional language in Chapter 3, Article IV, Section 3-23 titled *Residential short-term rental units prohibited* stating the use of any real property in the SF-A and SF-B Dwelling Districts for a residential short-term rental unit is prohibited. The fourth proposed amendment

included additional language in Chapter 3, Article V, Section 3-40 titled *Residential short-term rental units prohibited* stating the use of any real property in the 2F-C Dwelling Districts for a residential short-term rental unit is prohibited. The fifth proposed amendment is additional language in Chapter 3, Article VI, Section 3-51 titled *Residential short-term rental units prohibited* stating the use of any real property in the MF-D Dwelling Districts for a residential short-term rental unit is prohibited.

On October 5, 2015, the Planning and Zoning Commission held a public hearing and recommended approval of the proposed amendments with the recommendation that the definition of short-term rental be changed from 90 days to 45 days. Staff received no responses in support or in opposition of the proposed amendments to the City's Code of Ordinances.

Mayor Cooper opened the public hearing at 5:41 p.m. The following citizens spoke on this matter:

Sylvia Wong, resident, expressed opposition of the ordinance because of the options homeowners may consider to accommodate a sale or renovation of a home. She recommended criminal and credit checks be conducted.

City Attorney Mike Brenan explained the proposed amendment was not intended to be used against individuals that are selling their homes.

Jeff Scheick, Planning and Zoning Commission member, expressed concern of a vacant home that is unfurnished and may become a safety issue. He expressed support of the proposed ordinance and encouraged enforcement and management. He shared his personal experience in a municipality where he previously worked at and is aware of the elevated staff dedication that may be created if not managed appropriately.

Mayor Cooper asked Mr. Scheick his opinion.

Mr. Scheick responded to Mayor Cooper that there was a lively discussion among P&Z and the board members' vote were split. He stated the modification made was a decrease in the short-term rental from 90 days to 45 days. He shared his personal opinion regarding the location of STRs.

Elizabeth Lyons, property owner, expressed opposition of the proposed ordinance. She stated she has rented out a home located on Patterson because there are no nearby hotels which is an inconvenience for families. She shared homeowners have their own rules which are very strict. She commented that residents will spend money in Alamo Heights and appreciate the beauty and charm of the City. Ms. Lyons referenced there are reviews and ratings available on the network's website.

Debra Nason, President, Alamo Heights Neighborhood Association (AHNA), expressed opposition of the proposed ordinance and expressed support in Ms. Lyons' comments. She expressed concern of the residents needing a temporary stay for reasons

such as relocating or remodeling a home. Ms. Nason asked the percentage of homes that are identified as STRs and perhaps Council consider a certain percentage that allows short-term rentals.

Councilmember Bobby Rosenthal stated the ordinance can carve out the temporary circumstances and allow Council for discussion.

Linda Carr, property owner, explained to Council regarding STRS. She stated she has a furnished home offered as a vacation rental and emphasized it is not a bed and breakfast facility. She stated there is parking behind the house that does not contribute to traffic. She stated the demographics of the renters are similiar demographics of Alamo Heights and are productive citizens within the community. She added renters are also military based. She disclosed a list of renters and their reasoning of their stay. She asked Council to reconsider the 45 days. She suggested Council consider exceptions for military, government officials, and Alamo Heights residents.

Pruyn Hildebrand, resident, expressed support of Ms. Carr and requested Council take additional time to reconsider the ordinance. She requested Council wait to make a decision as she expressed in her opinion there is nothing wrong and most residents are not aware of short-term rentals.

Councilmember Fred Prassel asked Mr. Lutz about the bed and breakfast facilities in Fredericksburg.

Mr. Lutz shared that he lives across from a bed in breakfast and stated there are usually no problems; however, his community is different and is not the exact comparison. He added that short-term rentals are approved and there is an increase in sale of homes because of a permitted business. Mr. Lutz informed Council there is also an increase in property value because it is sold as commercial property.

Councilmember Lawson Jessee stated he did research on the STRs and noted there are four properties within the City including an entire house and back rooms. He acknowledged that it is a tax increase. He commented that renters are on social media eating at local restaurants. Councilmember Jessee asked what the concerns are on the number of days a short-term rental should be limited to. Councilmember Jessee stated a concern would be a company purchasing a large amount of houses building short-term rental operations.

City Attorney Mike Brenan explained the short-term rental issues and concerns that may surface. He shared with Council that neighboring cities had received complaints about the turnover every week. He emphasized it is a business and very different from a single family resident concept. The whole concept will need to be changed to allow/permit commercial operations within a residential area. He commented that once it starts, the momentum is popular and Alamo Heights could be a prime location to rent on a weekly basis. Mr. Brenan stated frequency is the concern and breaks up the communities. He referenced a taxing structure for hotel/motel taxes that the City would

need to collect. Mr. Brenan summarized that short-term rentals are disruptive in prestigious communities.

Mayor Cooper stated when homes are rented out, at times, it may present a problem due to increased value. He stated if there were the same rules it would be another circumstance; however, he noted a bed and breakfast has a contact person. He stated there are building standards in the City's codes which do not allow remodeling with intent to rent out.

Mayor Pro Tem Billa Burke recalled that the City of San Antonio (COSA) limited the type of bed and breakfast facilities. She requested additional information to vote on the item respectively.

Council asked questions related to amount of days, what are other neighboring communities are doing, why is it a concern, increased taxes, and registration.

Mr. Brenan replied that 90 days was established by the City of Shavano Park that resulted in litigation. He explained that short-term rentals are a concern because it populates rapidly and currently that City has three within the small community. He commented that most likely property taxes will increase because of the impact short-term rentals have as permitted businesses. Currently, short-term rental properties are registered with STR network and not with the City.

Mr. Brenan stated the City of Austin has been in a continuous fight to control short-term rentals. He referenced Tarrytown and stated the City is zoned differently with limitations designated for a certain percentage use. He stated it does require permits with the City and staff to manage the permits.

Councilmember Rosenthal asked Mr. Lutz P&Z' discussion of the item.

Mr. Lutz reported that P&Z members were split on the decision and preferred 30 days rather than 45 days. He stated the following items would need to be considered if short-term rentals are allowed: registration, specify a limit within a specific radius, manage inspections and develop additional regulations. He stated the worst case scenarios need to be considered and explore what is permissible on SF-A/SF-B. Mr. Browne added staff commitment would need to be considered as well. He stated in his opinion from a policy perspective the ordinance would work.

Don Orion referenced Americans with Disabilities Act (ADA) and informed Council that if the proprietor of the home that is 5 rooms or less does not live there while it is being rented out for less than 30 days that there is registration requirement with the Texas Department of Licensing and Regulation (TDLR) and it becomes a liability. He informed Council that he is a consultant. He shared of the liability City may have not regulating ADA. He suggested perhaps consider the neighborhood seek support of the business and require bond insurance for short-term rentals.

The public hearing closed at 6:25 p.m.

Council agreed to explore neighboring cities and seek a model exception ordinance and consider the staff capacity to regulate what residents' desire.

Mr. Lutz estimated that he may return the item during the beginning of 2016 as he obtains additional information.

Council agreed to table the item for a future Council meeting.

Item # 6 Mayor Cooper read the following caption.

Discussion and possible action concerning the demolition of 213 Henderson and construction of additional parking spaces at City Hall

Fire Chief Buddy Kuhn made a PowerPoint presentation that included background information and a proposed parking area plan.

Fire Chief Kuhn presented information on the demolition of 213 Henderson to accommodate additional parking for city facilities. He informed Council that Overland Partners created a design that would provide 11 additional parking spaces for a total of 52 parking spaces including 4 ADA spaces, not including the parking area along Blue Bonnet Boulevard and for the Public Works Department. He shared the current condition of the house is poor.

A landscape plan had been designed to better shield the neighborhood from the parking lot and facilities. Fire Chief Kuhn stated a resolution had been reached after discussion with the adjacent neighbor.

Pricing had been obtained for demolition, electrical, irrigation, landscaping, concrete work, asphalt, striping and new fencing. He noted 2 legustrom, 1 crepe myrtle, and 1 live oak (non-heritage) to be removed from the site. The excavation and paving are expected to be conducted by the Public Works Department and other remaining work to be contracted out. A drainage study had been completed by Freese and Nichols that resulted in no impact. The demolition is proposed for the last week of October 2015 which may take approximately six to eight weeks to complete. The financial aspect was reviewed highlighting the significant savings with Public Works Department completing site and paving work in-house. Funding is earmarked in the FY2016 budget with funding from CIED account per Council direction.

The proposed parking area plan was presented highlighting landscaping and parking spaces. Primrose jasmin would be planted from south to north that stays green year round. He stated oak trees would be located adjacent to neighbor at the neighbor's request.

Mayor Cooper asked if neighboring business' employees park in city's parking lot.

Fire Chief Kuhn responded no. He stated there are two rotating shifts between the Fire and Police Department and observed the parking lot is full during regular business hours.

Councilmember Jessee asked if this item was presented to the City's Boards and Commission.

Mr. Lutz responded there is no need to send to Boards and Commission and explained that a Specific-Use Permit (SUP) was granted noting that the landscaping changed very slightly. He stated the SUP authorized demolition and to construct additional construction space for a parking lot. However, subsequent research has revealed that the City still needs ARB approval as that was never granted for this part of the project.

A motion for approval was made by Councilmember Rosenthal. The motion was seconded by Mayor Pro Tem Billa Burke and passed by unanimous vote.

Staff Report

Item # 7 Mayor Cooper read the following caption.

Presentation of Financial and Investment Report for the third quarter ending June 20, 2015

Finance Director Robert Galindo made a PowerPoint presentation that summarized the City's financial position. The Financial and Investment Report included General Fund Revenues/Expenditures, Utility Fund Revenues/Expenditures, Capital Projects Fund and an Investment Portfolio Update.

Mr. Galindo presented a graph that displayed taxes, permits and fees, fines and forfeitures, investments, and miscellaneous in regard to General Fund Revenues. He noted miscellaneous revenues include city fees for copies, tax services, wrecker fees, impound and police auction proceeds.

A Budget to Actual graph for property tax collections for the Maintenance & Operations (M&O) and Interest and Sinking (I&S), year to date since 2010 was presented. A graph of the total sales revenues dated 2014-2015 was presented that included street maintenance tax collection. Another graph displayed the increase in sales tax collections compared to 2014.

General fund expenditures were categorized by departments and noted at 72% year to date which is within budget. A graph of general fund expenditures was displayed categorized by departments for actual and budget for the fiscal year. Utility fund revenues & expenditures were presented. Mr. Galindo stated there were transfers budgeted. He stated there were going to be more expenditures than revenues due to

purchase of water. He stated due to water restrictions that a decrease on revenue collection was reflected.

Mr. Galindo reviewed the capital projects fund that included revenue and expenditure balances for the 2012 General Obligation (GO) bonds, and Community Infrastructure and Economic Development (CIED) fund, and transfers from the General Fund.

Mr. Galindo provided an investment portfolio update with a beginning value as of January 1, 2015. He highlighted of the decrease to pool and savings account due to transfers. He shared the purchase of three Federal Home Loan Bank Notes at Frost Bank within the second quarter. He summarized the city's financial position as strong and positive.

* * *

There being no further business, a motion was made by Councilmember Prassel to adjourn the meeting. The motion was seconded by Mayor Pro Tem Billa Burke and passed by unanimous vote. Mayor Cooper adjourned the meeting at 6:56 p.m.



Jennifer Reyna
City Secretary



Louis Cooper
Mayor