

CITY OF ALAMO HEIGHTS
CITY COUNCIL
February 25, 2019

A regular meeting of the City Council of the City of Alamo Heights, Texas was held at Council Chambers, located at 6116 Broadway, San Antonio, Texas, at 5:30 p.m. on Monday, February 25, 2019.

Present and composing a quorum were:
Mayor Bobby Rosenthal
Mayor Pro Tempore Lynda Billa Burke
Councilmember Lawson Jessee
Councilmember Wes Sharples
Councilmember John Savage

Also attending were:
City Manager Buddy Kuhn
Assistant to the City Manager Marian V. Mendoza
City Attorney Mike Brennan
Finance Director Robert Galindo
Community Development Services Director Nina Shealey
Human Resources Manager Lori Harris
Public Works Director Pat Sullivan
City Secretary Jennifer Reyna
Chief Police Rick Pruitt
Deputy Chief Michael Gdovin

Absent was:
Councilmember Fred Prassel

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Mayor Bobby Rosenthal opened the meeting at 5:30 p.m.

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Item # 1 Approval of Minutes

Mayor Rosenthal asked City Council for any revisions to the minutes of the February 11, 2019, Council Meeting. A motion was made by Councilmember Wes Sharples to approve the minutes of February 11, 2019. The motion was seconded by Mayor Pro Tem Billa Burke and passed by unanimous vote.

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Item # 2 Announcement

a. **30th Annual Alamo Heights Band Association's Run to the Beat 5K, March 2, 2019**

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

Deborah Hepburn, resident, expressed concern on the congested high school parking on W. Fair Oaks and lack of sidewalks. She expressed suspicion of parked vehicles based on a personal experience and asked Council to consider a solution to address congested parking and safety for the elderly walking within her neighborhood.

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Items for Individual Consideration

Item # 4 Mayor Rosenthal read the following caption.

Presentation of Comprehensive Annual Financial Report for the fiscal year ended September 30, 2018 by Mike Del Toro, Audit Partner for ABIP for acceptance by City Council

Finance Director Robert Galindo introduced Audit Partner Mike Del Toro and Audit Manager Jeremy Barbatto with ABIP.

Mr. Del Toro began his PowerPoint presentation of the Comprehensive Annual Financial Report (CAFR) and welcomed questions.

Mr. Del Toro presented the CAFR and briefly explained the independent auditor's report, management discussion & analysis, government-wide financial statements, fund financial statements, notes to the financial statements, required supplemental information, supplemental combining and individual financial statements and schedules, and statistical tables. He said the statements were presented in accordance with Generally Accepted Accounting Principles (GAAP). Auditors issued an "unmodified opinion" on the CAFR which is the best opinion that can be given for an independent audit. He shared Adoption of GASB Statement No. 75 "Accounting and Financial Reporting for Postemployment Benefits Other than Pensions" was added highlighting the liability (life insurance coverage through TMRS) that the City provides categorized as an emphasis of matter.

Mr. Del Toro highlighted financial information. Assets of the City exceeded its liabilities (net position) by \$16.9M (Million) at September 30, 2018. The liabilities were \$7.8M in Governmental Activities and \$9.1M in Business-type Activities. The net position increased by \$1.7M from 2017. He briefly reviewed the governmental/business-type activities' net positions. Mr. Del Toro also highlighted the fund financial statements. At the end of FY 2018, the General Fund's balance was \$4.6M, an increase of \$661,000 from 2017. He stated the combined fund balance for all funds was \$8.9M, an increase by \$2.2M from 2017. He stated there are approximately six months in the operating budget fund reserve. Mr. Del Toro briefly highlighted the Proprietary Fund to

include water fund revenue, net position and unrestricted net position. He summarized the City has a working capital of \$1.5M for the utility operations which is an increase by \$245,000 from prior year's working capital ratio.

Mr. Del Toro briefly explained the letter on conduct of audit to include accounting policies, accounting estimates, difficulties, misstatements, disagreements, management representations, consultations with other independent accountants, and compliance with the Public Funds Investment Act. He stated there are no deficiencies or disagreements. He noted \$300,000 needed to be restated recognizing the liabilities the City has disclosed under the adoption of GASB Statement No. 75. He thanked City Manager Buddy Kuhn and Finance Director Robert Galindo for their support as they conducted the audit.

Mayor Rosenthal thanked Mr. Del Toro and Mr. Barbatto and Mr. Galindo for their efforts and congratulated Mr. Galindo on the achievement of receiving a positive audit.

Item # 5 Mayor Rosenthal read the following caption.

Architectural Review Board Case No. 733F, request of Preston Hill of G.W. Mitchell Construction, applicant, representing MJMD, LTD., owner, for the final design review of proposed exterior modifications to the existing commercial structure located at 5000 Broadway

Community Development Services Department Director Nina Shealey made a PowerPoint presentation that included background information, a photo and renderings.

Ms. Shealey identified the project and stated the project consists of exterior modifications to the existing commercial structure to include exterior stucco and paint, addition of tile accent and replacement of existing awnings. She reports a building permit for interior renovations was granted and construction is in process.

A photo of the current building was presented. Renderings of the project different elevations were presented also. The project's materials include tile accents, cedar canopy, white stucco, fabric awning, and black trim along the iron door. Signage for the commercial structure will be considered separately by the Architectural Review Board (ARB). She stated landscaping will be on the property.

On December 18, 2018, ARB approved the exterior materials and materials and final material selection were reviewed by staff on January 4, 2019. Staff mailed postcards to property owners within a 200-foot radius of the property and appropriate

notice was posted on the City's website. Staff received six responses in support of the project and none in opposition.

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

Item # 6 Mayor Rosenthal read the following caption.

ORDINANCE NO. 2120

AN ORDINANCE DECLARING UNOPPOSED CANDIDATES IN THE MAY 4, 2019 GENERAL ELECTION, ELECTED TO OFFICE; CANCELING THE ELECTION; AND PROVIDING AN EFFECTIVE DATE

City Secretary Jennifer Reyna made a PowerPoint presentation that included background information of the cancellation of the general election.

Ms. Reyna certified the candidates are unopposed, there were no write-in candidates and recommended to cancel the general election. She declared Bobby Rosenthal elected as Mayor, Lawson Jessee as Councilmember, Place 1, and Wes Sharples as Councilmember, Place 2. They will serve a two-year term beginning May 13, 2019. A copy of the cancellation ordinance will be placed at City Hall and any other facility that will host the Alamo Heights Independent School District (AHISD) Board of Trustee Election Place One.

Mayor Rosenthal asked the cost if AHISD conducts an election at City Hall.

Ms. Reyna explained each entity is responsible for conducting their election. The City of Alamo Heights does not have costs since the City's election will be cancelled.

A motion for approval was made by Mayor Pro Tem Billa Burke to cancel the general election. The motion was seconded by Councilmember Savage and passed by unanimous vote.

Item # 7 Mayor Rosenthal read the following caption.

ORDINANCE NO. 2122

AN ORDINANCE REGULATING SHARED ACTIVE TRANSPORTATION COMPANIES THAT PROVIDE MOTOR-ASSISTED SCOTTERS EQUIPPED WITH GPS, ELECTRIC BICYCLES OR BICYCLES EQUIPPED WITH GPS FOR COMPENSATION AND ESTABLISHING PERMIT FEES, PARKING REGULATIONS AND PENALTIES

Police Chief Rick Pruitt made a PowerPoint presentation that included background information and photos.

On January 28, 2019, City Council expressed support of an ordinance to regulate the dock less e-scooters and e-bicycles. City Council identified five requirements to be included in the ordinance. They were: 1) formal written agreement between the City of Alamo Heights (COAH) setting permit fees and a limit to the number of dock less vehicles allowed by the agreement; 2) define acceptable staging (nesting) practices by their company representatives and the method for the timely remediation of improper staging; 3) designate approved staging areas and identify those areas where staging is prohibited; 4) set minimum insurance coverage requirements and the City and its representatives are named insured on their policies; and 5) an indemnification agreement.

Police Chief Pruitt summarized that COAH will follow the City of San Antonio's (COSA) ordinance for smooth transition for operators. He informed Council the potential of six active transportation companies to conduct business and noted there are three companies currently in Alamo Heights: Lime, Bird and Razor deploying 4 to 86 e-scooters in a day.

Police Chief Pruitt briefly highlighted each section within the proposed ordinance. Section 2 states renewable annual permit agreement and Section 3 details the appeal process in the event a permit application is denied, suspended, terminated or revoked. Section 4 provides information about required insurance coverage to include worker's compensation insurance. The indemnification agreement is located in Section 5. Section 6 addresses vehicle operations and parking to include permit holders to educate their customers regarding parking, pedestrians and the timely response to reports of dock less vehicles parked in prohibited areas or other parking violations. Customers and residents having a complaint will be able to call a public telephone number to resolve any complaints regarding scooter or to have them relocated if on private property. He stated the ordinance may be returned to be amended to include any changes made by legislation.

Coordination had been made with City Attorney Mike Brenan and the ordinance will be published in the City's official newspaper, *San Antonio Express-News*. He stated letters will be distributed to all shared active transportation companies currently operating in the San Antonio metroplex.

Photos were presented to highlight the prohibited and designated locations. Designated locations included in front of Central Market, Stewart Center, and the shopping center where Bike World is located at. He commented majority of the e-scooters are staged on Broadway.

Mayor Rosenthal thanked Police Chief Pruitt for the research and encouraged him to follow with Texas Municipal League (TML). He asked Police Chief Pruitt questions regarding mandated insurance by the COSA, process of selection of companies, and state regulations.

Police Chief Pruitt responded COSA has insurance requirements, selection of companies may be considered on a first come first serve basis to operate in Alamo Heights, and there are state regulations within the Texas Transportation Code that addresses operation, equipment requirements and other regulations specific to e-scooters and e-bicycles.

Mayor Pro Tem Lynda Billa Burke asked Ms. Mallory Geis to share her perspective as a business/property owner. Mayor Pro Tem Billa Burke also asked the regulations for the operators of the transportation devices that are under 18 of age. She expressed concern with the lack of presence from the transportation companies and age of operators. She asked what the City implemented for operators that pick up the e-scooters and charge them in their garage.

Ms. Mallory Geis, business/property owner, stated she observed many e-scooters within the City and some are dumped on businesses. She shared her business' maintenance personnel removes the transportation devices which consumes time and on other days it is minimal, good. As a property owner, she asked Council for clarity and direction.

Police Chief Pruitt responded to Ms. Geis that a contact information from the active transportation company is required to be on each e-scooter or e-bicycle. He encouraged to contact the Dispatch Department. He stated the transportation device may be relocated, however, if there are quite a few, the company will be contacted. City Manager Buddy Kuhn added the transportation devices may be impounded if the transportation device is not relocated in a timely manner. Police Chief Pruitt responded to Mayor Pro Tem Billa Burke the suggested age for operators is 16 years old.

City Attorney Brenan responded to Mayor Pro Tem Billa Burke that if the operators are independent contractors and not employees, they are not covered under their insurance. He stated it may not be considered a business but rather as a service.

Joe Deshotel, Manager, Lime, introduced himself and stated was present to answer any questions. He stated COSA's model is good to follow and Lime had not deployed scooters past Burr Road.

Councilmember Jessee informed Mr. Deshotel that Lime's website showed there to be at least thirty scooters in Alamo Heights at that moment.

Mayor Pro Tem Billa Burke asked why Lime deployed transportation devices without providing a notice to government.

Mr. Deshotel apologized as he stated he was unaware there were transportation devices deployed in Alamo Heights. He described the deployment process and commented students pick up e-scooters in San Antonio and leave them within the City. He expressed preference in limiting the number of companies as operators would need to have different apps to operate a transportation device.

Mr. Kuhn reported how many e-scooters were picked up and commented limiting two or three companies to operate within the City may be discriminatory. He responded to Mayor Rosenthal's question that COSA has an aggregate total of 14K transportation devices.

Council took the opportunity to ask Mr. Deshotel questions related to e-scooters.

Mr. Deshotel answered Council's and staff's questions. He shared there is usage information he shares with COSA that informs COSA how many transportation devices are being utilized and may be used in their planning efforts or education. He stated he can provide the same information specifically related to the City of Alamo Heights.

There was a discussion among Council regarding the amount of transportation devices to be allowed within the City, subcontractors be included part of insurance coverage, amount of permit fee and should it be considered at an adjustable rate, and charge the active transportation company accordingly by usage amount rather than a standard permit fee. Mayor Rosenthal suggested 60 as a maximum and consideration 20 per company. Councilmember Lawson Jessee reminded Council this is an amenity and should not be a hindrance for the City. Councilmember Wes Sharples suggested evaluate the number of the capacity of the staging grounds from a safety standpoint to reach the amount of deployed transportation devices. Councilmember Savage stated there is no idea of the amount of usage and commented low usage may be not worth for a company to invest in Alamo Heights.

Council agreed that subcontractors are considered part of the operation and shall furnish insurance.

The following citizens spoke on this matter:

John Joseph, resident, asked the amount of the permit fee and if e-scooters can be operated on streets and/or sidewalks. He expressed concern relocation of e-scooters may consume Police Department's time.

Mr. Kuhn stated the permit is an annual fee of \$500 plus \$10 per e-scooter. He shared the Code Compliance Officer will be monitoring the new mode of transportation. He stated the City does not want to over regulate and under regulate the new trend. Police Chief Pruitt added that an operator is allowed to use streets and/or sidewalks.

Bill Kiel, resident, stated this will be a learning experience. He suggested to provide a maximum number on the amount of transportation devices to be deployed within the City of Alamo Heights.

Brandon Martini, Operations Manager, Razor, commented Razor does not have a lot transportation devices deployed in Alamo Heights. In his opinion, 6 to 8 scooters are viable in the area. He commented 60 is a low number and consideration of 100 transportation devices is better for Razor.

Councilmember Jessee asked if usage will be available to Alamo Heights.

Mr. Martini stated he wasn't sure if Razor is able to provide usage information but will ask someone to provide information to the City, if accessible.

Councilmember Jessee recommended a requirement of the permit process to include daily active user information in a monthly or weekly report to the City.

Council agreed that subcontractors are considered part of the operation and furnish insurance as well and ask active transportation companies to provide monthly usage reports outlined in the permit.

Council briefly discussed the amount of transportation to be allowed within the City. Mayor Pro Tem Billa Burke suggested 100 e-scooters and decrease amount if necessary. Councilmember Sharples expressed concern at the capacity of designated nesting areas. Police Chief Pruitt stated the amount of e-scooters can range as high as 80 e-scooters and noted recently the amount had been low. He reported this morning was 38 and 20 of them will be found docked/parked illegally. Council agreed to allow an aggregate of 75 transportation devices. Mr. Brennan added to require worker's compensation insurance as a requirement for the company and subcontractors.

A motion was made by Councilmember Jessee to include the following: 1) in lieu of 10 e-scooters per device limit instead an overall 75 aggregate limit with no individual limit per company, in addition, modify to include the requirement of insurance requirement passed down to subcontractors of the dock less scooter companies, and the ordinance has the potential to revise permit fees. Councilmember Jessee directed staff to return for review/update on ordinance in May. The motion was seconded by Councilmember Sharples and passed by unanimous vote.

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There being no further business, a motion was made by Councilmember Savage to adjourn the meeting. The motion was seconded by Councilmember Sharples and passed by unanimous vote. Mayor Rosenthal adjourned the meeting at 7:15 p.m.



Bobby Rosenthal
Mayor



Jennifer Reyna
City Secretary