

CITY OF ALAMO HEIGHTS
CITY COUNCIL
January 23, 2023

A regular meeting of the City Council of the City of Alamo Heights, Texas was held at the Council Chamber, located at 6116 Broadway, San Antonio, Texas, at 5:30 p.m. on Monday, January 23, 2023. A teleconference was held via Zoom; staff and meeting attendees were welcomed in the Council Chamber.

Composing a quorum were:
Mayor Bobby Rosenthal
Mayor Pro Tem Lawson Jessee
Councilmember Wes Sharples
Councilmember Blake M. Bonner
Councilmember Lynda Billa Burke
Councilmember John Savage

Also attending were:
City Manager Buddy Kuhn
City Attorney Richard Lindner
Assistant City Manager Phil Laney
Assistant to City Manager Jennifer Reyna – Via Zoom
City Secretary Elsa T. Robles
Director of Finance Robert Galindo
Community Development Services Director Lety Hernandez
Police Chief Rick Pruitt
Fire Chief Michael Gdovin
Deputy Police Chief Cindy Pruitt
Public Works Director Pat Sullivan

Absent:
Human Resources Manager Brenda Jimenez

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

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Item # 1 Announcements

Mayor Rosenthal read the following caption.

a. Candidate Filing Period

City Secretary Elsa T. Robles provided a reminder regarding the candidate filing period for the May 6, 2023 General Election. The period started Wednesday, January 18, 2023 and will run through Friday, February 17, 2023. Interested candidates can apply to serve a two-year term for Mayor, Councilmember Place 1, and Councilmember Place 2. To qualify, the candidate should be a resident of the City of Alamo Heights for at least one year and be a registered voter. She stated applications, along with a \$100.00 filing fee should be turned in by 5:00 p.m. on February 17, 2023. Additional information is available on the City's website/kiosk and candidate packets are available at City Hall or on the website.

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Item # 2 Citizens to be heard

No comments made.

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Items for Individual Consideration

Item # 3 Mayor Rosenthal read the following caption.

Public Hearing – concerning an ordinance amending Chapter 5, Building and Building Regulations, Article IV. – Permit Regulations of the City’s Code of Ordinances

Mayor Rosenthal opened the public hearing at 5:33 p.m. With no one to speak on the item, Mayor Rosenthal closed the public hearing at 5:34 p.m.

Item # 4 Mayor Rosenthal read the following caption.

ORDINANCE NO. 2196

AN ORDINANCE AMENDING CHAPTER 5 – BUILDINGS AND BUILDING REGULATIONS, ARTICLE IV – PERMIT REGULATIONS TO INCLUDE ADDITIONAL REQUIREMENTS FOR PERMITTING AND CONTRACTOR REGISTRATION TO FACILITATE UNIFORM ENFORCEMENT OF THE CHAPTER; CREATNG A PENALTY; PROVIDING REPEALER AND SAVINGS CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

Assistant City Manager Phil Laney stated the item is an amendment to Chapter 5 of the City Code to adopt additional contractor registration requirements to improve contractor compliance and strengthen residential neighborhoods in the city. He added the proposed amendment is related to a staff report on the same topic of contractor compliance measures presented at the January 9, 2023 Council meeting. Council requested staff bring an item for consideration amending the code and incorporating the changes discussed.

Mr. Laney noted the proposed amendment provides additional requirements for permitting and contractor registration to address issues associated with residential construction projects. These proposed requirements are in response to issues created by a limited number of projects which are taking too long or are abandoned, negatively impacting neighborhoods. He added the purpose of this amendment is to adopt policies that encourage the timely completion of projects and limit the impact of non-performing or under-performing contractors.

A few neighborhoods have experienced abandoned construction projects or projects progressing too slowly. There is concern with these projects due to progress stalling or stopping. Partially built projects may pose health and safety hazards and cause public nuisance. Currently the building code is limited in how to address issues or prevent them from occurring in future.

Mr. Laney stated the intent of this amendment would be to encourage timely completion of residential projects, enhance enforcement efforts relating to residential construction in the City, and limit beginning other major residential construction if a previous project(s) is considered a public nuisance. He advised the changes under consideration would amend Ch. 5 – Building and Building Regulations – of the City Code of Ordinances. This chapter includes adopted building code standards adopted by Council in 2021 and the building-related requirements involving contractors, permits and inspections.

The proposed amendment involves additional contractor and permitting registration requirements: insurance requirements for contractors, affidavit submitted in permit application, and proof of contractor registration on site. It also proposes changes involving additional enforcement tools. The ability to suspend permits or contractor’s registration for set time period. A person or entity may become ineligible to receive new residential construction permits.

Mr. Laney outlined enforcement tools listing situations a contractor may become ineligible for any new permit relating to residential construction until the situation is remedied. He reminded Council they had recommended a few changes during the previous Council meeting.

First, was to lower the stop work orders or notices of violation from three (3) to two (2) within the past twenty-four (24) months. Second, open or unresolved permits condition have been split into two categories. General contractor permits qualify if three (3) or more open permits are recorded, and tradesman permits qualify if six (6) or more permits are open and unresolved. The number of open permits is much higher for tradesman permits, so a different threshold is being proposed for this contractor type. A condition was added if contractor creates a public nuisance or substandard/dangerous structure, this would cause an entity to be ineligible for new permits until its remedied.

Mr. Laney stated the proposed ordinance does create an appeal process if a contractor or permit is subject to enforcement action. Impacted contractor/permit holder may appeal enforcement action to the Board of Adjustment, their decision is final. The potential changes are not intended to prevent permits for minor construction, to make project/residence safe or secure, or abate a nuisance. He stated the intent is to safeguard the public’s health, safety, and general welfare by updating registration requirements. Enforcement tools strengthen the City’s ability to mitigate the likelihood of construction-related issues.

The proposed changes have been discussed and reviewed by Mayor Rosenthal, Mayor Pro Tem Jessee, City Manager, City Attorney and the Community Development Director. The amendment to Chapter 5 – Building and Building regulations has no fiscal impact to the City.

After some discussion, Councilmember Lynda Billa Burke moved to approve Ordinance No. 2196 as presented. The motion was seconded by Councilmember John Savage and passed by unanimous vote.

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Mayor Rosenthal requested Item # 7 be discussed next

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Staff Reports

Item # 7 Mayor Rosenthal read the following caption.

Staff report on Interlocal agreement between COSA and Alamo Heights to add sidewalk between Castano and Claywell on western side of N. New Braunfels

Mr. Laney stated he was presenting a staff report on an upcoming proposal for an Interlocal Agreement with the City of San Antonio (COSA) for sidewalk installation on a portion of N. New Braunfels. The presentation will describe a plan developed with COSA to add sidewalks to western side of N. New Braunfels between Claywell to the north and Castano to the south. If approved, COSA will install sidewalks and curbs on their right-of-way (ROW) on the City of Alamo Heights' (COAH) side of N. New Braunfels. An Interlocal Agreement will be developed with a 50/50 split funding of project between the two cities.

Mr. Laney noted the proposed project will be on the N. New Braunfels boundary between COAH and COSA from Austin Hwy to Claywell, approximately 1.2 miles. COSA maintains and controls this ROW. Currently, there are sidewalks on the eastern (COSA) side, but no sidewalks on the western side at Claywell going south into Alamo Heights.

The City has received multiple citizen requests over past several years for sidewalks on the western side of N. New Braunfels concerning safety concerns for children walking from AH Junior School and AH High School. Additionally, pedestrian and Americans With Disabilities Act (ADA) accessibility is limited to the eastern side of N. New Braunfels.

Mr. Laney stated the proposed project scope would add improvements on western side of N. New Braunfels from Claywell to the north and Castano to the south. The project will include: new sidewalks, curbs, retaining walls, wheel chair ramps, and approaches for driveways and alleys. COSA Public Works will oversee construction management and engineering of the project. He reviewed pictures of current conditions and noted the project extends pedestrian access and ADA accessibility an additional 0.4 miles. There will be continuous sidewalks from AH Junior School to Castano and AH High School.

Mr. Laney reviewed the projected costs for the proposed project as developed by COSA's Public Works Department. As of September 2022, the estimated projected cost is \$232,000. The estimate includes contingency; final cost is subject to change. COSA Council District 10 agreed to a 50/50 split of final project costs. The COAH's portion is currently unbudgeted; however, there are available funds identified if Council elects to proceed.

If Council is in favor of this project, the next steps are to accept an interlocal agreement for funding transfer between COSA and COAH. Council approval is needed from both cities to proceed. Council would need to appropriate funds for the City's portion of the project cost.

City Manager Buddy Kuhn thanked Mr. Laney for his work on this item and stated this was in response to residents' concerns with lack of sidewalks in the area. He stated the 50/50 split was fair, but wanted to get Council's thoughts on the project.

Ms. Maggie Houston, resident, stated she was very proud of the City for considering to participate in this project with COSA for the safety of the children.

Mr. Kuhn stated if Council decides to proceed, staff will bring it back for consideration at a future meeting. He added the project is slated to be completed this fiscal year.

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Items for Individual Consideration

Item # 5 Mayor Rosenthal read the following caption.

Public Hearing – concerning an ordinance amending Chapter 5, Building and Building Regulations, by adding Article XI. – Substandard Buildings to the City’s Code of Ordinances

Mayor Rosenthal opened the public hearing at 6:01 p.m. With no one to speak on the item, Mayor Rosenthal closed the public hearing at 6:02 p.m.

Item # 6 Mayor Rosenthal read the following caption.

ORDINANCE NO. 2197

AN ORDINANCE OF THE CITY OF ALAMO HEIGHTS, TEXAS, AMENDING CHAPTER 5 BUILDINGS AND BUILDING REGULATIONS BY ADDING ARTICLE XI SUBSTANDARD BUILDINGS TO ENACT REGULATIONS FOR SUBSTANDARD, UNSECURED AND DANGEROUS BUILDINGS OR STRUCTURES; PROVIDING FOR REPEALER AND SAVINGS; PROVIDING A PENALTY; ESTABLISHING AN EFFECTIVE DATE.

Mr. Laney stated this item is another amendment to Chapter 5 of the City Code to add enforcement tools not currently available in the city code. Since this is adding additional tools and processes not currently in the city code, staff is bringing this as a separate ordinance for consideration, separate from the contractor compliance ordinance just approved.

Earlier this month staff provided a report regarding an amendment to enact regulations for substandard, unsecured and dangerous structures/buildings and policies to enhance the City’s ability to identify/address structures posing a threat to public health and safety.

In Nov 2021, Council adopted the most recent series of the building-related and fire codes which establish the minimum standards for safe use of all structures from the International Code standards. Included in the building code and city codes are tools currently in place to address minimum standards issues. Additional tools may be needed for substandard, dangerous structures posing risk to public health, safety and welfare.

Mr. Laney stated the proposed amendment to be added to the Chapter 5 – Building & Building Regulations includes: adopted building code standards, building-related requirements involving contractors, and permits & inspections. In addition to local codes, state law allows cities to adopt measures to address substandard structures and creates the process and tools necessary to remedy these types of issues. TX Local Government Code section 214 authorizes cities to regulate substandard structures and process/tools to remedy such issues.

The amendment under consideration incorporates authority state law gives cities to address substandard & dangerous structures by identifying dangerous structures. It outlines enforcement orders (repair, removal, demolition, securing, etc.), authorizes the city to carry out orders, and creates a process for declaration, orders, appeals & carrying out enforcement action.

Mr. Laney stated the item relates to the contractor compliance ordinance Council just approved. The tools it creates could be used to address the issue of abandoned or partially built residential construction project, which under this ordinance may declare these abandoned structures as a public nuisance and a substandard structure.

Mr. Laney outlined some factors to consider when reviewing this item. State law authorizes cities to adopt provisions to address structures that threaten public health, safety & welfare. Incorporating identification process & enforcement tools provides options to city when dangerous structures encountered. These amendments will help safeguard public's health, safety and general welfare when these cases appear.

As before, Mr. Laney noted staff developed this ordinance with the help of Mayor Pro Tem Jessee, City Manager, and the City Attorney.

In terms of fiscal impact, there are no direct costs associated with adopting this ordinance; however, there is a potential for future City expenses if certain provisions are executed or the City deems a structure is a public nuisance. The City may assume costs for enforcement action (i.e. demolition, securing, etc.), or file lien/lawsuit against property or property owner to recover taxpayer funds.

Councilmember Wes Sharples requested clarification on what would be considered a “public nuisance” and how it would be addressed. City Attorney Richard Lindner advised if there is a structure in question, Fire Marshals, Building Officials, and Engineers would determine if the structure is unsafe, unsecured, or if vagrants are present. To start due process, potential owners would be notified. Mr. Lindner explained Council would act as the jury and the City's Municipal Judge would be the hearing officer/judge. The witnesses; Fire Marshals, Building Officials, Engineers, and the property owner(s), would present their case. Council would decide to issue an order addressing the structure and making it safe/secure for the public.

Mayor Pro Tem Jessee moved to approve Ordinance No. 2197 as presented. The motion was seconded by Councilmember Blake M. Bonner and passed by unanimous vote.

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Closed Session

Item # 8 Mayor Rosenthal read the following caption.

Executive Session per Section 551.071 (consultation with attorney) to discuss Broadway Infrastructure construction.

Item # 9 Mayor Rosenthal read the following caption.

Executive Session as authorized by the Texas Government Code Section 551.071 (consultation with attorney) to discuss pending or contemplated litigation: Cause No. 2020-CI-04375; Gillespie Real Estate, Inc, et al v. Lead Funding, LLC.

Item # 10 Mayor Rosenthal read the following caption.

Executive Session as authorized by the Texas Government Code Section 551.071 (consultation with attorney) to discuss the terms and conditions of Interlocal Agreement for EMS Services and Emergency Dispatch Services.

The City Council of the City of Alamo Heights convened into Executive Session at 6:11 p.m. and reconvened in Open Session at 7:24 p.m. in accordance with the Texas Open Meetings Act, Texas Government Code, Section §551.071 (Consultation with Attorney).

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Open Session

Item # 11 Mayor Rosenthal read the following caption.

Discussion and possible action resulting from Executive Session

No action taken.

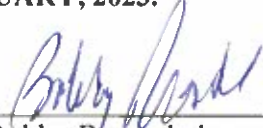
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With no further business to consider, Councilmember Bonner moved to adjourn the meeting at 7:25 p.m. The motion was seconded by Mayor Pro Tem Jessee and passed by unanimous vote.

PASSED AND APPROVED THIS 13rd DAY OF FEBRUARY, 2023.


Elsa T. Robles, TRMC
City Secretary




Bobby Rosenthal
Mayor