

CITY OF ALAMO HEIGHTS  
CITY COUNCIL  
April 10, 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, April 10, 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 John Savage

Also attending were:

City Manager Buddy Kuhn  
City Attorney Frank J. Garza  
Assistant City Manager Phil Laney  
Assistant to City Manager Jennifer Reyna  
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:

Councilmember Lynda Billa Burke  
Human Resources Manager Brenda Jimenez

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Mayor Bobby Rosenthal opened the meeting at 5:32 p.m.

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Mayor Rosenthal welcomed King Antonio 2023, Clyde Johnson IV who thanked the first responders in the audience. He stated he was a resident of Alamo Heights and was proud to be the 100<sup>th</sup> Texas Cavaliers King Antonio. King Antonio shared the organization is on track to raise 3.4M to help support several charities for children.

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*Item # 1      Approval of Minutes*

Mayor Bobby Rosenthal asked City Council for a motion on the March 27, 2023 City Council Meeting minutes. Councilmember Wes Sharples moved to approve the minutes as presented. The motion was seconded by Mayor Pro Tem Lawson Jessee and passed by 4-0 vote.

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*Item # 2      Announcements*

Mayor Rosenthal read the following captions.

**a. AH09 5K Fun Run & Pet Adoption, April 15, 2023**

Assistant to City Manager Jennifer Reyna invited everyone to the AH09 5K Fun Run & Pet Adoption scheduled for Saturday, April 15th beginning at 8:00 a.m. Registration is \$30.00 thru April 14<sup>th</sup>. Proceeds will go toward the AH Animal Care Services. Each participant will receive a drawstring bag, t-shirt and medal. Ms. Reyna thanked Fun Run & Pet Adoption co-sponsors: Camp Gladiator, Stretch Zone, Nekter Juice Bar, Next Level Urgent Care, Natural Grocers, Pet Supplies Plus, and possibly Fifi & Fidos Pet Boutique.

**b. Fiesta Medals**

Ms. Reyna announced the 2023 Fiesta Medals are now available. Residents are welcome to come by City Hall and get a medal – 1 per resident, 2 per household.

**c. National Prescription Drug Take Back Day, April 22, 2023**

Police Chief Pruitt announced the semi-annual National Drug Take Back day will take place on Saturday, April 22<sup>nd</sup> at the rear entrance of City Hall from 10:00 a.m. to 2:00 p.m. All expired, unused, and unwanted prescription or over the counter drugs will be accepted, no questions asked. He noted syringes, epi-pens or other injectable devices will not accepted.

**d. 24th Annual Pooch Parade, Saturday, April 29th**

Police Chief Pruitt announced the 24<sup>th</sup> Annual Pooch Parade will take place on April 29<sup>th</sup> being sponsored by Therapy Animals of San Antonio. It will begin at 8:00 a.m. at the Alamo Heights Pool parking lot and end at 12:00 p.m. The walk is 2.7 miles and there will be a costume contest.

**e. Fallen Firefighters Memorial Weekend, May 6-7, 2023**

Fire Chief Michael Gdovin announced National Fallen Firefighters Memorial Weekend will take place May 6-7<sup>th</sup>. He encouraged everyone to show their support by replacing their regular light bulbs with red bulbs to honor those firefighters who died in the line of duty during the previous year (honor 145 fallen fire service heroes). The multi-night event begins on May 4<sup>th</sup> in honor of International Firefighters Day - and will keep lights lit thru the evening of May 7<sup>th</sup>. City facilities will also switch to red lighting in recognition of Light the Night for Fallen Firefighters. He offered Council a red light bulb to show their support.

**f. City of Alamo Heights General Election, May 6, 2023**

City Secretary Elsa T. Robles announced the upcoming city General Election on May 6, 2023. She stated early voting will be April 24<sup>th</sup> – May 2<sup>nd</sup>. Nearby early voting polling sites are: the Alamo Heights ISD Admin Bldg (Board Room), Lion’s Field Adult/Senior Center, and the Tobin Library @ Oakwell. She noted on Friday, April 28<sup>th</sup> and Sunday, April 30<sup>th</sup>, the polling sites will be closed. On Election Day, May 6<sup>th</sup>, the City of Alamo Heights Council Chamber will serve as a polling site from 7:00 a.m. – 7:00 p.m. She reminded residents they may vote at any Bexar County Election Day polling site as practiced during Early Voting. For more information residents can visit [www.alamoheightstx.gov](http://www.alamoheightstx.gov) and [www.bexar.org/elections](http://www.bexar.org/elections).

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*Item # 3      Special Announcement*

Mayor Rosenthal read the following caption.

**a. Presentation of the Texas Fire Chief’s Best Practices Accreditation to the Alamo Heights Fire Department**

City Manager Buddy Kuhn stated the Texas Fire Chief’s Best Practices Accreditation TFCA worked closely with progressive fire officers throughout Texas to create a program that defines a pathway to organizational excellence which ultimately enhances firefighter safety, long-term planning, standard operating guidelines, deployment analysis, risk management, and other administrative functions.

The TFCA Best Practices program provides a pathway for a fire department to push its level of service to a status of excellence that is validated by independent experts. This designation will demonstrate to customers of these organizations that their fire department is among the very best in the Texas fire service. The Alamo Heights Fire Department (AHFD) becomes only the 29th department in the entire state to receive this recognition.

Mr. Kuhn stated the AHFD Best Practices accreditation process began in 2017 and examined: *What we do right*, *What we do “less than right”*, and *What we can do better*. The Best Practices program fits with the department’s core beliefs/objectives. The primary objective of a fire office is to enforce the rules and regulations of the department. The secondary objective of a fire office is the duty to act regarding policy revisions to ensure that the firefighters are provided the safest working environment and citizens receive nothing but excellent professional Fire and EMS services.

Mr. Kuhn added this accreditation is truly a team effort and includes all the supporting staff and everyone who plays a role in the organization. He introduced Seguin Fire Chief Dale Skinner who is the South Region President for Texas Fire Chiefs Association and the co-chair for the best practices program.

Fire Chief Dale Skinner stated he was honored to present this achievement to the AHFD. He explained the TFCA developed the best practices program to encourage fire departments in Texas to seek continual improvement in their service delivery to their communities. There are 12 Chapters, which define best practices in typical service areas provided by a fire department. Within those 12 Chapters, there were about 128 standards that are reviewed. The program is

applicable to paid and volunteer fire departments. The TFCA best practices program requires departments to allow a third party to review the department’s policy, practices, and procedures compared to the performance requirements outlined in the program. The organization took an in-depth look at the makings of the AHFD. The best practices program defines a pathway to organizational excellence which ultimately enhances firefighter’s safety, long-term planning, standard operating guidelines, deployment analysis, risk management, and other administrative functions. While most communities believe their local fire department is excellent, elected officials, city managers, fire chiefs and citizens can verify this belief by their fire department attaining the best practices designation.

Fire Chief Skinner stated the Texas Fire Chief’s Best Practices Accreditation designates that the AHFD is the very best in Texas Fire Service and joins only 28 other departments across the state. He presented a plaque to Fire Chief Michael Gdovin in recognition of the accreditation.

Fire Chief Gdovin thanked Fire Chief Skinner, City Council, and Mr. Kuhn. He introduced the fire department members and congratulated them on receiving best practices accreditation.

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*Item # 4      Citizens to be Heard*

Mr. Barry Lacey, resident, provided pictures and shared concerns regarding street parking in and around the Alamo Heights High School affecting Alamo Heights Blvd. He stated from 8:30 a.m. to 4:30 p.m., cars are parked on both sides of the street, almost bumper to bumper from Tuxedo to College Blvd. Mr. Lacey suggested some solutions to resolve the problems: establish a 10ft no parking designation on the both sides of the street, place an electronic speed sign to deter drivers from speeding, have AHPD patrol the street and issue citations to those committing infractions, and speak to the AH Independent School District about building a parking lot.

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*Items for Individual Consideration*

*Item # 5*      Mayor Rosenthal read the following caption.

**ORDINANCE NO. 2203**

**AN ORDINANCE AMENDING THE ADOPTED UTILITY FUND OPERATING BUDGET FISCAL YEAR 2022-2023 BY \$520,052 TO FUND WATER MAIN INSTALLATION ALONG WILDROSE, CLOVERLEAF AND ROSEMARY BETWEEN N. NEW BRAUNFELS AVENUE AND BROADWAY AND SETTING AN EFFECTIVE DATE**

Assistant City Manager Phil Laney stated the item is to seek authorization to approve a contract to install water mains on Wildrose, Cloverleaf and Rosemary, between Broadway to the west and N. New Braunfels to the east. Miller Brothers was selected through the Competitive Sealed Bid Proposal process to perform the work. The mains will be installed via horizontal directional drilling. In addition to the contract, the item includes Council's consideration of an ordinance to amend the FY 2023 Utility Fund budget to meet the bid amount.

Mr. Laney noted the contract under consideration is to install water mains in preparation of eventual relocation of water service. He reiterated the water mains will be installed on Wildrose, Cloverleaf and Rosemary. He added Rosemary was bid as an add-alternate for budget consideration. The project is part of the City's ongoing mandated separation of sanitary sewer and potable water ("4 x 2"). The 4 x 2 minimum separation – 4 ft vertically & 2 ft horizontally – is a requirement by the Texas Commission on Environmental Quality (TCEQ). Water mains will be relocated to the street from current location in City's easement at rear of properties. Sewer service will remain at the rear of the property in the City easement.

Mr. Laney advised the three roads in the project area are quite narrow, around 23 feet wide, compared to 29 feet for Blue Bonnet and 31 feet for Primrose to the north. The narrow roadway widths led to the recommendation to install the water mains via horizontal directional drilling, or HDD. He stated HDD is achieved by digging a pit on either end of where the line will be installed, the line is then installed by boring through the ground and pulling the pipe in place. Since this is potable water that is pressurized in the lines, it's not gravity fed like sanitary sewers or stormwater infrastructure. Mr. Laney commented HDD is overall less intrusive and disruptive to residents than open cut installation. The contract being considered is the first step to relocate the water mains. A future project will install the piping to connect to the newly placed mains to the new meters, and then connect to the residences. He added, once all those steps are completed, the existing water mains in the alleys will be decommissioned.

Mr. Laney explained, due to the potential complexity of boring underground, the City advertised this project as a Competitive Sealed Bid Proposals. The project was advertised on January 25<sup>th</sup> and February 1<sup>st</sup> of this year in the *San Antonio Express-News*. He stated four responding bids were received by the deadline of February 24<sup>th</sup>. The four bids submitted were from: Miller Brothers - \$847,811; Guerra Underground LLC - \$1,075,396; Vaca Underground Utilities, Inc. - \$1,125,530; and Rangeline Utility Services LLC - \$1,230,288. The Competitive Sealed Bid Proposals reviewed according to following criteria (100 points total):

- Proposed contract price – 40 points
- Contractor's approach – 20 points
- Experience & past performance of Bidder – 20 points
- Experience & qualifications of proposed key personnel – 20 points

Mr. Laney stated, the value of the Competitive Sealed Bid Proposals is the ability to weigh other factors in addition to whoever has the lowest submitted bid. He advised the four submitted bids were reviewed by contracted City Engineer Freese & Nichols and Public Works. All reviewers found that the initial submittals were missing key information, namely how much experience they had installing water mains through directional boring. Because of this, additional information was requested from each bidder. They were asked to provide their horizontal directional drilling project history to include any subcontractors working on the project and references. Only one response was received by the deadline of March 29<sup>th</sup> from Miller Brothers.

After an extensive review of the Competitive Sealed Bid Proposals and additional information submitted, staff and Freese & Nichols selected Miller Brothers as the most qualified contractor to perform this work. In addition to the most qualified and responsive of the bidders, Miller Brothers also submitted the lowest bid price, almost \$220K less than the next closest bidder.

Mr. Laney stated authorization will allow the installation of new water mains through horizontal directional drilling as part of City's continued infrastructure improvements and 4 x 2 compliance with Texas Commission on Environmental Quality (TCEQ). He noted this was coordinated with City Engineer Freese and Nichols, the City Attorney, City Manager, and Public Works.

Mr. Laney reviewed the fiscal impact for the project. The cost for the water main improvement project on all three streets by Miller Brothers is \$874,811.00, plus a 5% contingency, and engineering fee for a total amount not to exceed \$970,052.00. If Rosemary was to be delayed for future consideration, the cost for two streets is \$628,000.00, plus a 5% contingency, and engineering fee for a total amount not to exceed \$710,900.00.

The funds for this project in the amount of \$450K are available in the FY 2023 Utility Fund Budget. With a max contract amount of \$970K, that does exceed the \$450K that Council budgeted this year. However, price fluctuations for construction materials and high demand for similar projects drive the bid costs beyond the budgeted amounts. Even with the much higher bid cost than currently budgeted funds, the total contract price could be covered using funds available in the Utility Fund balance.

Mr. Laney noted, if Council decides on the three-street proposal it will authorize a contract with Miller Brothers in an amount not to exceed \$970,052.00 and amend FY 2023 Utility Fund Budget in amount not to exceed \$520,052.00. If Council accepts the two-street proposal (omits Rosemary), it will authorize a contract in amount not to exceed \$710,900.00 and amend FY 2023 Utility Fund Budget in amount not to exceed \$260,900.

Mr. Laney advised if Council wished to proceed with the contract award with Miller Brothers for the three-street water main replacement project and authorize the ordinance to amend this year's Utility Fund Budget, a motion would be needed. He explained, after the main lines are replaced, water meters will be installed via a separate project. Once the project is complete, the streets will be filled in and patched over. They would later be included in the Street Maintenance Program (SMP). The project would take about 60 days to complete. Public Works would do the tie-ins and patch the streets.

Councilmember Blake M. Bonner questioned what would happen if the project wasn't done. Mr. Laney advised this was a state mandate. The City is currently not in compliance with TCEQ regarding potable water and sewer and significant fines would be issued.

Mr. Kuhn agreed and advised TCEQ gave the City 20 years to comply, with the regulation to separate potable water and sewer by 4 feet. He reminded Council Blue Bonnet was brought into compliance a few years ago and stated the City didn't have an option to comply or not comply. Mr. Kuhn acknowledged costs are high, but delaying it, wouldn't be cost effective.

Councilmember Bonner asked if there were any state funded programs to help with these mandates. Mr. Kuhn confirmed the City had applied for the Texas Water Development Board Grant; however, the City scored low because of the tax base. He added the project is being paid from the Utility Fund which is funded by user-fees.

After a brief discussion, Mayor Pro Tem Jessee moved to approve Ordinance No. 2203 to accept the most qualified bid from Miller Brothers for the water main installation project on Wildrose and Cloverleaf, and include the ad-alternate street of Rosemary, in an amount not to exceed \$970,052 and to amend the FY 2023 Utility Fund Budget in the amount of \$520,052. The motion was seconded by Councilmember Savage and passed by a 4-0 vote.

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Staff Reports

Item # 6 Mayor Rosenthal read the following caption.

**88th Legislative Session Update**

Mr. Kuhn presented Council with a legislative update. He stated over 8,100 bills were filed this session and he would be touching on several bills, that if passed, would affect different areas of municipal government. Many bills would further limit local government's ability to enact and enforce rules and ordinances. Local ordinances would be preempted by State Law. He noted many elected officials state wide including AH Mayor and Councilmembers voiced opposition to elected representative Steve Allison. He noted City Attorney Frank Garza serves on the Texas Municipal League (TML) Board of Directors and is looking closely at all the bills possibly affecting cities.

Mr. Kuhn commented there is a big move from legislature for even more preemption and proceeded to review several city related bills. He highlighted bills that were of interest including:

- **HB 866** (Oliverson) and **S.B. 494** (Hughes): City can't impose prerequisites or conditions to file a plan or plat. If there are 30 days with no action, the item gets approved.
- **H.B. 14** (Cody Harris): 3rd party review of plans 15 days after shot clock (Speaker priority).
- **S.B. 560** (Springer) and **H.B. 2532** (Toth): Building permit shot clock from 45 days to 30 days, and elimination of ability to extend shot clock by agreement
- **HB 3921** (Goldman) / **SB 1787** (Bettencourt): Cities in counties over 300,000 pop cannot require lot sizes larger than 1,400 square feet or 20' x 60', or fewer than 31.1 homes per acre, with specifics about setbacks.
- **H.B. 2221** (Harrison): 60% of voters must approve a tax rate higher than the voter-approval tax rate at an election. This is a push to hold all elections in November due to low voter turnout in May.
- **H.B. 2127** (Burrows) and **S.B. 814** (Creighton): Preemption of city/county regulations in a field occupied by Agriculture Code, Finance Code, Insurance Code, Labor Code, Natural Resources Code, and Occupations Code, unless explicitly authorized. Committee Substitute for **H.B. 2127** heard in Senate State Affairs Committee 3/15. – **Home Rule vs General Law**

- **S.B. 149** (Springer): No city ordinances that regulate commercial activity. Heard in Senate Business and Commerce Committee 3/14 – regulation of noise, STRs, Billboards and some health and safety codes.
- **H.B. 1750** (Burns) and **S.B. 1421** (Perry): Both bills limit city regulation of agricultural operations within the city limits and ETJ. **H.B. 1750** heard in House Agriculture Committee 3/15. – Chickens and Rabbits
- **H.B. 2440** (Stucky): No city regulation of health profession if person possesses state occupational license
- **H.B. 187** (Landgraf) and **H.B. 1489** (Tepper) and **S.B. 2490** (Sparks): Certificates of obligation can only be issued in a public emergency, in response to a court order, or to comply with state or federal regulation.
- **H.B. 3002** (Goldman): Eliminates Certificates of Obligation (COs) altogether.
- **S.B. 946** (Sparks): All debt elections must be held in November – 2/3 voters must approve
- **H.B. 2258** (Cain): Expenditure cap on cities and counties to not exceed greater of previous year's expenditures or rate adjusting for population plus inflation growth.
- **S.B. 1110** (Schwertner): City can't transfer revenue from a utility to general fund if transfer would result in rate increase or financial deficit for utility – Approximate \$92K deficit from General Fund for IT
- **H.B. 2789** (Holland): allowing an accessory dwelling unit (ADU) in a single-family zoning or un-zoned areas by right, and prohibit much of a city's ability to regulate an ADU. TML provided **written testimony**.
- **S.B. 2516** (Bettencourt) – **Voter-Approval Rate**: would lower the revenue multiplier in the voter-approval tax rate calculation for a taxing unit other than a special taxing unit from 3.5 percent to 2.5 percent.
- **S.B. 1412** – ADUs: city can't adopt or enforce regulations prohibiting owner from selling or renting an ADU in lots zoned SF or Duplexes from selling or renting an ADU or requiring min. lot size or larger setbacks for ADU, density or regulation of design
- **S.B. 175** – Prohibits a city or county from hiring a lobbyist – may also apply to TML who currently serves the City by providing worker's compensation insurance.
- **H.B. 471** (Patterson) and **S.B. 799** (Springer): Paid sick leave for first responders up to a year, plus disease presumption expansion. **H.B. 471** heard in House B&I Comm. 3/13.
- **H.B. 2034** (Campos): Mental health leave for firefighters who experience traumatic event in the scope of employment, required mental health evaluation as part of annual performance review.
- **H.B. 2455** (King): Fire department must offer an annual occupational medical evaluation to each fire fighter employed by the fire department at no cost to the fire fighter.

Mr. Kuhn noted Mr. Garza is also reviewing these bills daily; however, at this time it's difficult to know which bills will gain traction. Mr. Garza stated legislature is once again proposing bills affecting cities. Legislature's logic is that some cities are surpassing what they should be able to do. This especially affects smaller to medium sized cities.



In conclusion, Mr. Kuhn stated staff will keep Council informed with further developments, but wanted to publicly provide an update at this time.

Item # 7 Mayor Rosenthal read the following caption.

**Stage 4 Water Restrictions**

Mr. Laney provided a staff report on Stage 4 water restrictions. He stated all potable groundwater the City pumps is sourced exclusively from the Edwards Aquifer Authority (EAA). The EAA is a regulatory body that the City contracts with to draw water from and in their regulatory role they enact restrictions when the aquifer's capacity is low due to drought, usage, or a combination of both factors. Currently all EAA communities, including Alamo Heights, are in Stage 3 restrictions, but there is a possibility Stage 4 may be implemented in the near future. If the City enters Stage 4 due to the Edwards' levels, Council may consider additional rules to restrict groundwater use in the City.

The EAA is the exclusive provider of the City's potable groundwater. It provides water to 2.5 million people and includes 8 counties: Uvalde, Medina, and Bexar counties, as well as parts of Atascosa, Caldwell, Guadalupe, Comal and Hays counties, equal to more than 8,000 square miles. The City is mandated to follow EAA guidelines on pumping capacity and when necessary, restrictions.

Mr. Laney stated EAA has critical period/reduction stage for Well J-17 as follows: Stage 1 <660, Stage 2 <650, Stage 3 <640, and Stage 4 <630. He shared recent information. He stated in the last two days, the aquifer has held at 638.5, but the 10-day average is still 636.5. Mr. Laney reviewed a chart identifying stages since 2021 to current. He noted the aquifer is 25 ft less than the previous 2 years at this time. In 2022, Stage 3 was implemented in June, where things mostly remained the rest of the year, except, in August and October where it briefly entered into Stage 4.

Mr. Laney reiterated the City is currently in Stage 3 since June 2022. Stage 3 EAA mandated pumping reductions is 35%. To comply, the City limits the use of sprinkler systems to only once every other week to avoid wasting water, etc. EAA may assess penalties if the City pumps more than is permitted. If EAA enters into Stage 4, the City will be mandated to meet 40% reduction per City code. EAA may assess penalties for over-pumping. To meet 40% reduction, Ch. 19 in the Code allows rules for other stages to remain in effect; however, Council may convene into an emergency session to consider other rules.

To address this, staff proposes to encourage water conservation measures by residents and businesses alike. Staff will continue monitoring EAA levels and the 10-day average. Council and the public will be advised if Stage 4 required. Council and staff will meet to discuss implementation of additional rules.

Council discussed possible enactment of additional rules. Councilmember Bonner advised he was against raising water rates and preferred the issue of citations to deter residents from overusing water. After some discussion, Council agreed it was time to enforce conservation measures. Mr. Kuhn added enforcement would be stepped up if water restrictions reach Stage 4.

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Closed Session

Item # 8 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.**

The City Council of the City of Alamo Heights convened into Closed Executive Session at 6:55 p.m. and reconvened in Open Session at 7:02 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 # 9 Mayor Rosenthal read the following caption.

**Discussion and possible action resulting from Executive Session**

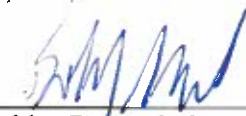
No action taken.

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With no further business to consider, Councilmember Bonner moved to adjourn the meeting at 7:03 p.m. The motion was seconded by Councilmember Sharples and passed by a 4-0 vote.

**PASSED AND APPROVED THIS 24<sup>TH</sup> DAY OF APRIL, 2023.**

  
Elsa T. Robles, TRMC  
City Secretary

  
Bobby Rosenthal  
Mayor

