

CITY OF ALAMO HEIGHTS
CITY COUNCIL
June 13, 2022

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, June 13, 2022. 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 Blake M. Bonner
Councilmember Wes Sharples

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

Absent:
Councilmember Lynda Billa Burke
Councilmember John Savage
Deputy Police Chief Cindy Pruitt

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

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Mayor Rosenthal requested a moment of silence to acknowledge the passing of former City Councilmember and Mayor Elkin McGaughy.

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Item # 1 Approval of Minutes

Mayor Bobby Rosenthal asked City Council for a motion on the May 9, 2022 City Council Meeting minutes. Councilmember Wes Sharples moved to approve the minutes as presented. The motion was seconded by Councilmember Blake M. Bonner and passed by unanimous vote.

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Item # 2 Announcements

Mayor Rosenthal read the following caption.

a. Strategic Action Plan Work Session, June 22, 2022

City Secretary Elsa T. Robles announced Council and staff will hold a Strategic Action Plan work session on Wednesday, June 22nd in the council chamber starting at 8:30 a.m. It is open to the public and will be accessible via zoom and social media.

b. Cancellation of July 11, 2022 Council Meeting

Ms. Robles stated the July 11th Council meeting is cancelled in order for staff to prepare for the upcoming budget workshop on July 13th starting 8:30 a.m. in the council chamber.

c. 52nd Annual 4th of July Parade, Monday, July 4, 2022

Ms. Robles announced the 52nd Annual 4th of July Parade will take place on Monday, July 4th at 10:00 a.m. This is another kick-off event for the City’s Centennial celebration. The parade will start at Estes & Patterson and end at Cathedral Park. The public is welcome to partake in patriotic singing and refreshments. Ms. Robles thanked Daily Bread who will be donating cookies for the event. She stated more information is available on the City’s website and weekly reminders will be sent out through social media.

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Item # 3 Citizens to be heard

Mr. Julian Hall, resident, shared concerns with a water leak on Dick Friedrich Drive.

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Mayor Rosenthal took the opportunity to acknowledge the passing of a long-time resident Mrs. Fayrene Balin who passed away recently. He shared Mrs. Balin had taught for many years in the Alamo Heights ISD and recently celebrated her 101st birthday on Texas Independence Day.

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Items for Individual Consideration

Item # 4 Mayor Rosenthal read the following caption.

Architectural Review Board Case No. 881F, request of Courtney Collins, applicant, representing James and Kathy Collins, owners, for the significance review of the existing main structure located at 423 Evans in order to demolish 100% of the existing single-family residence and accessory structure(s)

Community Development Services Department Director Lety Hernandez stated the Single-Family A zoned property is located at 423 Evans Avenue, on the north side between Woodway and Nacogdoches. The applicant requests approval of a significance review in order to demolish 100% of the existing residence and detached garage.

Ms. Hernandez stated a significance review was required by Architectural Review Board (ARB) due to the request of a full demolition. She reviewed photos of the existing structures and flatwork being removed. In addition, staff found no historical or architectural significance to the existing main structure; however, construction of a new single-family residence would be subject to compatibility review by the ARB and approval by City Council.

On May 17, 2022, the ARB conducted the significance review and voted unanimously to declare the existing main structure as not significant recommending approval of the demolition as requested.

Public notifications were mailed to property owners within a 200-foot radius. Notices were posted on the City’s website and on the property. Staff received six responses in support and none in opposition.

Councilmember Bonner moved to approve ARB Case No. 881F as presented. The motion was seconded by Councilmember Sharples and passed by unanimous vote.

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Mayor Rosenthal announced Items # 5&6 would be moved to the end due to public interest.

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Item # 7 Mayor Rosenthal read the following caption.

Public Hearing – Planning and Zoning Case No. 421. A request to replat the properties identified as CB 4024, BLK 193, LOTS W 27ft of 14 and E 1/2 of 15, also known as 309 Lamont Ave, and CB 4024, BLK 193, LOTS W 1/2 OF 15, 16, and E 1/2 of 17, also known as 317 Lamont Ave.

Mayor Rosenthal opened the public hearing at 5:42 p.m. With no one to speak on the item, Mayor Rosenthal closed the public hearing at 5:44 p.m.

Item # 8 Mayor Rosenthal read the following caption.

Discussion and possible action on Planning and Zoning Case No. 421, a request to replat the properties identified as CB 4024, BLK 193, LOTS W 27ft of 14 and E 1/2 of 15, also known as 309 Lamont Ave, and CB 4024, BLK 193, LOTS W 1/2 OF 15, 16, and E 1/2 of 17, also known as 317 Lamont Ave.

Ms. Hernandez stated the property owner requests to replat and combine two properties into one to reflect historical use. She added the Single-Family A properties are located at 319 & 317 Lamont Avenue between Woodway and Nacogdoches. There are existing single-family residences and accessory structures which will remain.

Ms. Hernandez reviewed existing plats of the properties and proposed replat establishing the properties as one which meets the minimum requirements for lot area and width. She stated CPS, SAWS, and Public Works have given approval of the proposed replat regarding potential impact on utilities. The replat meets technical requirements of Chapter 17 Subdivision Code.

Staff did receive an application for a proposed addition; however, due to a proposed addition, the replat does not meet Chapter 3 Zoning regulations. The connection would result in a nonconforming main structure creating a 14.3ft rear yard setback instead of the minimum 20ft required and a 5.3ft side yard setback instead of the minimum 6ft required per the City's Zoning Code. The applicant is proposing to connect the two main structures with a glass breezeway which is considered a permanent connection.

Ms. Hernandez stated per the City's Zoning Code, Council can approve the replat with non-conformities that would require Board of Adjustment's approval as long as they are noted on the plat as follows:

Required plat notes due to nonconformity:

- Lot 21 does not conform with the minimum required 6ft side yard setback per Section 3-15 of the City's Zoning Code
- Lot 21 does not conform with the minimum required 20ft rear yard setback per Section 3-16 of the City's Zoning Code
- All new construction would be required to adhere to the City's Zoning Code at the time of permitting.

Per Texas Local Government Code Section 212.009(a). The municipal authority responsible for approving plats shall act on a plat within 30 days after the date the plat is filed. A plat is considered approved by the municipal authority unless it is disapproved within that period. The June 06, 2022 Planning & Zoning Commission meeting was canceled due to lack of quorum resulting in approval of the plat by the inaction of the Commission.

Public notifications were mailed to property owners within the 200-foot radius. Notices were posted on the City's website and on the property. A legal notice was published in the *San Antonio Express-News*. Staff received one response in support and none in opposition. Ms. Hernandez noted the properties have historically been used as one residence.

Mayor Pro Tem Lawson Jessee shared concern with the applicant not completing the glass breezeway within the allotted timeframe. City Attorney Richard Lindner recommended Council approve the plat with notes addressing the proposed breezeway.

After some discussion, Councilmember Sharples moved to approve Planning and Zoning Case No. 421 as presented to include plat notes on replat. The motion was seconded by Mayor Pro Tem Jessee and passed by unanimous vote.

Item # 9 Mayor Rosenthal read the following caption.

Public Hearing –Planning and Zoning Case No. 422. A request to replat the properties identified as CB 4024, BLK 136, LOT 15, also known as 317 Normandy Ave, and CB 4024, BLK 136, LOT 16, also known as 321 Normandy Ave.

Mayor Rosenthal opened the public hearing at 5:50 p.m. With no one to speak on the item, Mayor Rosenthal closed the public hearing at 5:51 p.m.

Item # 10 Mayor Rosenthal read the following caption.

Discussion and possible action on Planning and Zoning Case No. 422, a request to replat the properties identified as CB 4024, BLK 136, LOT 15, also known as 317 Normandy Ave, and CB 4024, BLK 136, LOT 16, also known as 321 Normandy Ave.

Ms. Hernandez stated the property owner requests to replat and combine two properties into one. She added the Single-Family A properties are located at 317 & 321 Normandy Avenue between Imlay and Arbutus. The demolition of a main structure located on 317 Normandy was approved by the Architectural Review Board and City Council in April 2022. There is an existing main structure located on 321 Normandy which will remain.

Ms. Hernandez reviewed existing plats of the properties and proposed replat establishing the properties as one, meeting the minimum requirements for lot area and width. She stated CPS, SAWS, and Public Works have given approval of the proposed replat regarding potential impact on utilities. The replat meets technical requirements of Chapter 3 Zoning and 17 Subdivision Code. Demolition of the main structure at 317 Normandy will be required prior to recordation and new improvements will not be allowed until the plat is recorded.

Per Texas Local Government Code Section 212.009(a). The municipal authority responsible for approving plats shall act on a plat within 30 days after the date the plat is filed. A plat is considered approved by the municipal authority unless it is disapproved within that period. The June 06, 2022 Planning & Zoning Commission meeting was canceled due to lack of quorum resulting in approval of the plat by the inaction of the Commission.

Public notifications were mailed to property owners within the 200-foot radius. Notices were posted on the City's website and on the property. A legal notice was published in the *San Antonio Express-News*. Staff received two responses in support and none in opposition.

Mayor Pro Tem Jessee moved to approve Planning and Zoning Case No. 422 as presented. The motion was seconded by Councilmember Bonner and passed by unanimous vote.

Item # 11 Mayor Rosenthal read the following caption.

Public Hearing – Planning and Zoning Case No. 424. A request to replat the properties identified as CB 4050, BLK 63, LOT E 80FT OF 23 and 24, and CB 4050, BLK 63, LOT E IRR 40FT OF 25 & E TRI 12FT OF 26, also known as 516 Circle St, CB 4050, BLK 63, LOT P-100 (PART OF ALLEY), and CB 4050, BLK 63, LOTS 20, 21, & 22, also known as 5936 Broadway St.

Mayor Rosenthal opened the public hearing at 5:54 p.m.

Mr. Julian Hall, resident, stated he lives across from the property and opposes the replat of this property to construct a luxury duplex.

Mayor Rosenthal closed the public hearing at 5:56 p.m.

Item # 12 Mayor Rosenthal read the following caption.

Discussion and possible action on Planning and Zoning Case No. 422, a request to replat the properties identified as CB 4024, BLK 136, LOT 15, also known as 317 Normandy Ave, and CB 4024, BLK 136, LOT 16, also known as 321 Normandy Ave.

Ms. Hernandez stated the property owner requests to replat and combine several properties into one (1) for future development. The properties are zone B-1 and 2F-C and are located on the east side of Broadway, north of Circle. There are no existing structures on properties facing Circle. The existing commercial structure facing Broadway will remain and no improvements are proposed at this time. She stated the replat includes a portion of a 12ft alley that was conveyed by the City in 2004 (0.41 acre = 1,778 sq ft). On May 04, 2022, the Board of Adjustment granted a variance for a front yard setback encroachment pending approval of the rezone and replat requests.

Ms. Hernandez reviewed existing plats of the properties and proposed replat establishing the properties as one, meeting the minimum requirements for lot area and width. She stated the proposed lot area of 516 Circle will increase to a compliant 0.1858-acre (8,093.45 sq ft) tract. The proposed decrease in lot area of 5936 Broadway would result in a compliant 0.1794-acre (7,814.66 sq ft) tract. CPS, SAWS, and Public Works have given approval of the proposed replat regarding potential impact on utilities.

The proposed replat meets technical requirements listed in Chapter 3 Zoning and Chapter 17 Subdivision codes. New construction will be subject to a complete plan review by staff to confirm zoning compliance which has not been conducted yet. The applicant did approach staff for a variance prior to a full plan review. Staff presented this request to Board of Adjustment (BOA) with the understanding that if additional variances are found by staff after a full plan review, they will go back to the BOA for approval. The project will require a compatibility review by the ARB and approval by City Council. The June 06, 2022 Planning & Zoning Commission meeting was canceled due to lack of quorum resulting in approval of the plat by the inaction of the Commission.

Public notifications were mailed to property owners within the 200-foot radius. Notices were posted on the City’s website and on the property. A legal notice was published in the *San Antonio Express-News*. Staff received no responses in support and one in opposition.

After some discussion, Mayor Pro Tem Jessee moved to approve Planning and Zoning Case No. 424 as presented. The motion was seconded by Councilmember Bonner and passed by unanimous vote.

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Mayor Rosenthal announced Items # 5&6 would be considered next.

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Item # 5 Mayor Rosenthal read the following caption.

Public Hearing – Planning and Zoning Case No. 420. A request to replat the property identified as CB5571A, BLK 8, LOTS 24 thru 28, also known as 227 Rosemary Ave.

Mayor Rosenthal opened the public hearing at 6:04 p.m.

Ms. Robbie Flume, resident, referred to the lots on Primrose as legacy lots meant to attract people to the charm of Alamo Heights and opposed two homes be built on the proposed lots.

Mayor Rosenthal closed the public hearing at 6:08 p.m.

Item # 6 Mayor Rosenthal read the following caption.

Discussion and possible action on Planning and Zoning Case No. 420, a request to replat the property identified as CB5571A, BLK 8, LOTS 24 thru 28, also known as 227 Rosemary Ave.

Ms. Hernandez stated the SF-A property is located north side of Rosemary between Wintergreen and Buttercup. The applicant requests to subdivide the property into two (2) properties for future single-family development. It is currently a vacant lot, the demolition of the previous structure was approved by the ARB and City Council in June 2021. A replacement structure(s) had not been proposed at the time of the application; however, plans were received for a single family residence before the meeting.

Ms. Hernandez reviewed existing plats of the properties and proposed replat establishing the properties as one, meeting the minimum requirements for lot area and width. CPS, SAWS, and Public Works have given approval of the proposed replat regarding potential impact on utilities. The replat also meets technical requirements listed in Chapter 3 Zoning and Chapter 17 Subdivision codes. Construction of a new single-family residence would be subject to a

compatibility review by the ARB and approval by City Council. The replat request was approved due to inaction of the Commission with the cancellation of the June 06, 2022 Planning & Zoning Commission meeting.

Public notifications were mailed to property owners within the 200-foot radius. Notices were posted on the City's website and on the property. A legal notice was published in the *San Antonio Express-News*. Staff received no responses in support. Staff received four in opposition residing within the 200-ft radius and three from residents residing outside the 200-ft radius.

Mr. Jack Dabney, applicant, stated it would be a huge expenditure to build one home on a large lot. He stated he is seeking to replat into two lots and build two beautiful homes instead.

Mayor Pro Tem Jessee stated Mr. Dabney was in his legal right to divide the property and build two homes. City Attorney Richard Lindner agreed, Council would have to cite a State law or ordinance to deny the request and advised the State has tightened the cities' discretion in the development process. City Manager Buddy Kuhn added the proposed replat met the technical requirements of the city's Code of Ordinances and State law.

Mayor Pro Tem Jessee requested staff review the subdivision property codes in the city, especially in the Bluebonnet neighborhood, to see if the city can maintain the integrity of its' neighborhoods. Mr. Kuhn stated staff will look into this as long as State law doesn't supersede city code.

Mayor Rosenthal stated Mr. Dabney has been cooperative in meeting with the neighbors to discuss their concerns with new development and appreciated if he continued doing so. He added Council is supportive of residents' concerns and suggested they approach their State representatives to voice their concerns.

After some discussion, Mayor Pro Tem Jessee moved to approve Planning and Zoning Case No. 420 as presented. The motion was seconded by Councilmember Sharples and passed by unanimous vote.

Item # 13 Mayor Rosenthal read the following caption.

Discussion and possible action on revisions to the plan review process for residential, commercial, and multifamily projects

Assistant City Manager Phil Laney stated this item was to address proposed revisions to the plan review process and give property owners additional opportunities during the city's development process.

The plan review is a primary process to review proposed development & redevelopment projects and is overseen by the Community Development Services department. The proposed changes to the plan review process will give results of variances sooner to applicants and is intended to inform design decisions on final plans submitted for review. This will apply to residential, commercial, and multifamily projects.

Mr. Laney advised, currently, any construction or demolition activity requires plan review. Applicants submit construction-ready plans to staff who review and confirm if they required boards and/or commission consideration and City Council approval. Once these steps are completed, a building permit is approved and construction can begin.

The outcome of boards and/or commission may impact final design of proposed project, particularly for the BOA, who rules on variance requests. These include exemptions to the zoning code and other building related codes addressing footprint, density, height, and other project features. If the BOA denies the variance, modified plans showing compliance are required. It in turn requires additional time and expense to the applicant and property owner.

Mr. Laney stated options for Council to consider would be to:

- Accept preliminary documents for BOA review
- Accept applicant-identified variances for BOA consideration prior to staff plan review

After BOA's ruling, staff would conduct a full plan review and full plans would be submitted. This process would apply to residential, commercial, and multifamily projects.

Mr. Laney reviewed proposed administrative options for Council to consider. These included: less expensive anticipated upfront costs, the BOA ruling would be received earlier in development process, a potentially longer time period between initial application and building permit issuance, the possibility a project may go before BOA more than once if the plan review identifies additional variance requests, and the lack of staff knowledge prior to plan review.

If Council should approve the proposed revisions, applicants may choose the existing plan review process or forego plan review and submit their plans directly to BOA for their consideration. The applicant may be subject to preliminary review fees if they chose the new process. The existing timelines for review will remain in effect.

Mr. Laney stated the revisions were coordinated with the City Attorney and City Manager. No fiscal impact is anticipated to the City.

Mayor Rosenthal stated this stemmed from several cases where applicants did a tremendous amount of work and spent lots of money on projects not knowing where it's headed. Mayor Pro Tem Jessee added the proposed process would be more in line with the City of San Antonio's development process.

Councilmember Sharples inquired on the variance process and appeals. Mr. Laney advised it would be the same process as before, with public hearing, public comments, and public notices sent to residents residing within the 200-ft radius. The only difference would be the lack of staff review before going to the BOA. The appeals process to the BOA would remain the same. Mayor Rosenthal noted this would apply to all projects commercial or residential.

Mr. Hernandez shared her concern with the BOA approving variances on a preliminary plan before staff review. She stated it could mislead applicants to think their project is "approved"; however, after review, staff may find additional variances are required. Mr. Lindner suggested staff add language to the application advising applicants of potential additional variances required after staff review.

After a brief discussion, Mayor Pro Tem Jessee moved to approve revisions to the plan review process for residential, commercial, and multifamily projects as presented by staff. The motion was seconded by Councilmember Bonner and passed by unanimous vote.

Councilmember Bonner requested to discuss ideas on how to address State legislature pertaining to city development. Mr. Kuhn proposed to place an agenda item to discuss this during a future Council meeting. Council agreed.

Item # 14 Mayor Rosenthal read the following caption.

Architectural Review Board Case No. 883, an Ordinance amending the actions of the Architectural Review Board by amending the City's Code of Ordinances Chapter 2, Article III, Section 2-48 Architectural Review Board

Mr. Laney stated these are proposed changes amending code of ordinances pertaining to the Architectural Review Board (ARB) addressing the majority vote for ARB recommendation, clarifying the ARB as a recommending body, and clarifying possible City Council action on ARB cases.

Currently, the ARB serves as an advisory board to provide recommendations to City Council and is part of the plan review process. They determine the significance of structures proposed for demolition and promote compatibility of potential developments. The board recommendations require a minimum of four affirmative votes. Four (4) members is considered a quorum. The ARB provides recommendations to Council that a proposed project be approved, disapproved, or approved with modifications.

Mr. Laney stated language amendment options to consider would be: recommendation is issued with majority of ARB members present/voting or ARB makes recommendations to Council regarding design of project. He added when considering the ARB recommendation, Council may approve project recommendation, approve project recommendation with modifications, or disapprove project recommendation. Additionally, Council may choose to refer the application back to ARB only if there is additional information that was not considered by ARB at the time it was presented.

Mr. Laney reviewed procedural options for consideration. Council may approve ARB recommendations via consent agenda under certain conditions, such as, residential cases that receive a unanimous vote from ARB for approval as presented. However, Council would receive a full briefing for ARB cases involving: multifamily, commercial, and residential case where ARB does not approve recommendation, a residential case where ARB adopts recommendation with measures to achieve greater compatibility, and a residential case where the vote for ARB recommendation is not unanimous.

On April 19, 2022, staff presented the proposed revisions to ARB at their meeting. The board voted unanimously to recommend proposed amendments to City Council. Staff coordinated the proposed revisions with the City Attorney and City Manager. The proposed revisions have no fiscal impact to the City.

Mayor Pro Tem Jessee asked for legal clarification on approving an ARB project recommendation with modifications since Council cannot enforce certain aspects of development projects as governed by State law. Mr. Lindner assured Council they (city attorneys) would advise and provide guidance should ARB recommendations be in conflict with current State law.

Councilmember Sharples shared concerns regarding public comment on consent agenda items. Mr. Lindner stated public comments are allowed on consent agenda items. He further clarified any Councilmember can pull an item from the consent agenda for individual consideration.

Mayor Pro Tem Jessee noted the ARB is the final say on signage. Mr. Kuhn stated they are a recommending body on enforcing the code on signage and Council has final say on appeals.

Mayor Pro Tem Jessee moved to approve with clarification: The Architectural Review Board (ARB) is to continue with the current process for signage; the ARB is final say for signage with City Council for final appeal. The motion was seconded by Councilmember Sharples and passed by unanimous vote.

Item # 15 Mayor Rosenthal read the following caption.

Discussion and possible action to authorize the City Manager to renew agreement for legal services on behalf of the City with Frank Garza with Davidson, Troilo, Ream & Garza, P.C. as City Attorney

Mr. Kuhn presented the item to renew the City's legal services agreement with Frank Garza of Davidson, Troilo, Ream & Garza, P.C. (DTR&G) as City Attorney. The firm currently provides legal services for the review/draft of agreements, contracts, deeds, easements, ordinances, and resolutions. They attend City Council meetings and Boards & Commission as needed. Mr. Garza and his team provide legal advice and consultation with Staff on elections, open meetings, and public information.

Mr. Frank J. Garza of DTR&G has served as the COAH attorney since July 08, 2019. The firm stepped in to serve the City on interim basis in April 2019. The City went out for RFQs during this time as recommended by Mr. Garza. DTR&G was selected out of four (4) firms.

Per Chapter 2254.004 of the Texas Local Government Code (professional services), the City is required to select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications and negotiate with that provider a fair and reasonable price.

Mr. Kuhn noted key experience provided by Mr. Garza has been ongoing legal advice in highly complex cases, the support of city staff for all city council meetings, assistance with charter amendments, and has provided employee training on Sexual Harassment.

Mr. Kuhn outlined the proposed contract term to include:

- Three years with a renewal option if mutually agreed to by both parties
- Cancellation 60 days by either party with or without cause
- Fee Schedule – Modest Increase
 - o Partners: \$220 per hour – Prior fee \$200 per hr.
 - o Associates: \$190 per hour – Prior fee \$175 per hr.
 - o Higher fees for court litigation if necessary

Mr. Kuhn advised, funds are included in the City Budget for these services.

Mayor Rosenthal stated the firm had done a good job servicing the City and asked for a motion. Mayor Pro Tem Jesse moved to approve and renew the legal services agreement with Frank J. Garza and DTR&G, P.C. as City Attorney. The motion was seconded by Councilmember Sharples and passed by unanimous vote.

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Closed Session

The City Council of the City of Alamo Heights convened into Executive Session at 6:55 p.m. and reconvened in Open Session at 7:23 p.m. in accordance with the Texas Open Meetings Act, Texas Government Code, Section §551.074 (Personnel Matters) to discuss evaluation, compensation and duties of certain city employees.

No action was taken.


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With no further business to consider, Councilmember Bonner moved to adjourn the meeting at 7:24 p.m. The motion was seconded by Councilmember Sharples and passed by unanimous vote.

PASSED AND APPROVED THIS 27th DAY OF JUNE, 2022.



Elsa T. Robles, TRMC
City Secretary



Bobby Rosenthal
Mayor

