

CITY OF ALAMO HEIGHTS
CITY COUNCIL
August 28, 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, August 28, 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 Blake M. Bonner
Councilmember Lawson Jessee
Councilmember Karl P. Baker
Councilmember Lynda Billa Burke
Councilmember John Savage

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

Absent:
None

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

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Item # 1 Approval of Minutes

Mayor Rosenthal asked City Council for a motion on the August 14, 2023 City Council Meeting minutes. Councilmember Lynda Billa Burke moved to approve the minutes as presented. The motion was seconded by Councilmember Lawson Jessee and passed by a 3-0 vote.

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Mayor Pro Tem Blake M. Bonner arrived at 5:32 p.m. and Councilmember Karl P. Baker arrived at 5:35 p.m. Both voted for the remainder of the agenda items.

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Item # 2 Citizens to be Heard

Mr. Mike McGlone, resident, wished to address the submission of applications for a building permit and Special Use Permit for the construction and operation of a Major Event Center at 934 Patterson Avenue by the Texas Biomedical Research Institute and their tenant, the Argyle Club. He stated both building plans and the SUP must stop immediately and read a two page letter stating reasons and asked the letter be on record as part of the meeting minutes.

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Public Hearings

Item # 3 Mayor Rosenthal read the following caption.

Public hearing on Proposed FY 2023-2024 Annual Operating Budget

Mayor Rosenthal opened the public hearing at 5:39 p.m. With no one to speak on the item, Mayor Rosenthal closed the public hearing at 5:40 p.m.

Item # 4 Mayor Rosenthal read the following caption.

Public hearing on 2023 Proposed Ad Valorem Tax Rate

Mayor Rosenthal opened the public hearing at 5:40 p.m. With no one to speak on the item, Mayor Rosenthal closed the public hearing at 5:41 p.m.

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Items for Individual Consideration

Item # 5 Mayor Rosenthal read the following caption.

Budget and Tax Ordinances to be considered in the following order:

a. FY 2023-2024 Operating Budget

ORDINANCE NO. 2209

AN ORDINANCE MAKING APPROPRIATIONS FOR THE SUPPORT OF THE CITY OF ALAMO HEIGHTS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023 AND ENDING SEPTEMBER 30, 2024; AND ADOPTING THE ANNUAL BUDGET OF THE CITY OF ALAMO HEIGHTS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023 AND ENDING SEPTEMBER 30, 2024.

b. 2023 Ad Valorem Tax Rate

ORDINANCE NO. 2210

AN ORDINANCE LEVYING AN AD VALOREM TAX AT THE RATE OF \$0.370980 FOR EVERY \$100.00 VALUATION FOR THE SUPPORT OF THE CITY GOVERNMENT OF THE CITY OF ALAMO HEIGHTS, TEXAS, SPECIFYING SEPARATE COMPONENTS OF SUCH RATE FOR MAINTENANCE AND OPERATIONS AND FOR DEBT SERVICE; SAID TAXES BEING LEVIED FOR THE 2023 TAX YEAR; PROVIDING FOR DUE AND DELINQUENT DATES TOGETHER WITH PENALTIES AND INTEREST; PROVIDING FOR COLLECTION AND ORDAINING OTHER RELATED MATTERS; AND SETTING AN EFFECTIVE DATE.

- c. Ratifying the Increase in Property Tax Revenue reflected in the FY 2023-2024 Budget**

ORDINANCE NO. 2211

AN ORDINANCE RATIFYING THE PROPERTY TAX REVENUE INCREASE REFLECTED IN THE FISCAL YEAR 2023-2024 BUDGET.

Finance Director Robert Galindo presented the proposed FY 2023-2024 and the proposed 2023 Tax Rate. The proposed 2023 total tax rate is \$0.370980 per \$100 valuation. Mr. Galindo noted the No New Revenue Tax Rate is \$0.370980 and the Voter Approval Rate is \$0.471021. The tax rate is composed of two components: Maintenance and Operation (M&O) rate of \$0.311741 and Interest and Sinking (I&S) rate of \$0.059239. If Council adopts the proposed tax rate, it will reduce the total tax rate by 4.4%.

Mr. Galindo reviewed the summary of the proposed General Fund Budget for FY 2023-2024. The beginning fund balance is \$8.4M, estimated operating revenues are \$12.4M, departmental allocations total \$12.3M, leaving a positive remaining balance of \$53,394. He reviewed the proposed Utility Fund budget. The beginning fund balance is \$1.6M, the estimated revenues are \$6.124M, estimated operating expenses are \$6.113M, leaving a positive remaining balance of \$10,496.

Other proposed governmental funds for FY 2023-2024 are the Comprehensive Plan Fund with a beginning balance of \$353,890 including a transfer in of \$25,000 from the General Fund and \$50,000 that are allocated for the Community Grant Program. The Street Maintenance Fund revenues are estimated at \$868,811 from dedicated ½ cent sales tax revenue and expenditures are \$1,000,000 for the street maintenance program. The Capital Projects Funds beginning balance is \$14,638,468 which includes the 2021 Taxable bond proceeds of \$13,250,000, a transfer in from the General Fund of \$25,000, and expenditures of \$25,000 allocated for the Olmos Basin Cleanup. The Capital Replacement Fund starting balance is \$613,487 with a transfer in of \$60,000 from the General Fund for the purchase of a future ambulance and expenditures of \$25,816 for body worn camera system first year lease payment.

Mr. Galindo stated the City Charter requires the City Manager to prepare a budget to cover all proposed expenditures of the City for the succeeding year. The budget must be prepared in conformity with state law and a vote to approve is required. A roll call record vote to set the tax rate is required by Chapter 26 of the Tax Code. Local Government Code 102.007 requires a separate vote to ratify the property tax revenue increase in the budget.

Councilmember Jessee moved to approve Ordinance No. 2209 adopting the annual operating budget of the City of Alamo Heights for the fiscal year beginning October 1, 2023 and ending September 30, 2024. The motion was seconded by Councilmember Billa Burke and passed by roll call vote as follows: Ayes – Mayor Pro Tem Bonner, Councilmember Jessee, Councilmember Baker, Councilmember Billa Burke, and Councilmember Savage. Nays – None. Present but not voting – Mayor Rosenthal.

Councilmember Jessee moved to approve Ordinance No. 2210 stating the property tax rate be decreased by the adoption of a tax rate of \$0.370980 per \$100 valuation, which is a decrease of 4.4% in the tax rate with the M&O Rate being \$0.311741 and the I&S Rate being \$0.059239. The motion was seconded by Councilmember Billa Burke and passed by roll call vote as follow: Ayes – Mayor Pro Tem Bonner, Councilmember Jessee, Councilmember Baker, Councilmember Billa Burke, and Councilmember Savage. Nays – None. Present but not voting – Mayor Rosenthal.

Councilmember Jessee moved to approve Ordinance No. 2211 ratifying the increase in Property Tax reflected in the FY 2023-2024 Budget. The motion was seconded by Councilmember Billa Burke and passed by roll call vote as follow: Ayes – Mayor Pro Tem Bonner, Councilmember Jessee, Councilmember Baker, Councilmember Billa Burke, and Councilmember Savage. Nays – None. Present but not voting – Mayor Rosenthal.

Mayor Rosenthal took the opportunity to thank City Manager Buddy Kuhn, Mr. Galindo, and management staff for their hard work in establishing a well balance budget for next fiscal year.

Item # 6 Mayor Rosenthal read the following caption.

Architectural Review Board Case No. 899F, request of Connie & Sandy McNab, owners, represented by Evan Morris, of Lake Flato Architects, applicant, for the compatibility review of the proposed design located at 730 Corona Ave in order to construct a new single-family residence with attached carport

Councilmember Jessee stated he would abstain from discussion and voting on this item.

Community Development Services Department Director Lety Hernandez stated the Single-Family A property is located at 730 Corona Ave on the south side between St. Lukes Lane and Ciruela Street. She stated the property is currently vacant and the applicant requests approval of a compatibility review in order to construct a new single-family residence with attached carport.

Ms. Hernandez noted the significance review for 100% demolition was conducted in 2020 and structure was demolished in January 2021. A compatibility review is required due to the new proposed construction.

Ms. Hernandez reviewed the existing site, proposed site/roof plans and elevations. Applicant is proposing a height of 14ft 6-in. for the main structure and 12ft 2-in. for the carport. The structure siding will be stucco and wood with a standing seam metal roof. She continued to review proposed renderings.

In terms of lot coverage, the applicant requests to decrease from 22.24% (previous structure) to lot coverage of 9.93%. The applicant is allowed a maximum of .47 with bonus of the one-story accessory structure. The floor to area ratio will decrease from .222 to .099.

On August 15, 2023, the Architectural Review Board (ARB) conducted the compatibility review and voted unanimously to recommend approval of the proposed design as compatible. Staff is currently completing the plan review process.

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 one response in support and none in opposition.

Mayor Pro Tem Bonner moved to approve ARB Case No. 899F as presented. The motion was seconded by Councilmember Billa Burke and passed by 4-0-1 vote with Councilmember Jessee abstaining.

Item # 7 Mayor Rosenthal read the following caption.

Architectural Review Board Case No. 901F, request of Jason Moran, applicant, representing Jon and Alisa Butler, owners, for the compatibility review of the proposed design located at 218 E. Edgewood Pl in order to construct a new 2nd story addition above an existing detached accessory

Ms. Hernandez stated the Single-Family A property is located at 218 E. Edgewood Place on the north side of the street east of Vanderhoeven Drive. The applicant requests approval of a compatibility review in order to construct a new 2nd story addition above an existing detached accessory. She stated one-story detached accessory structures are exempt from significance review; however, construction of two-story detached accessory structures are subject to compatibility review.

Ms. Hernandez commented on August 2, 2023, the Board of Adjustment (BOA) reviewed the case and granted two variances for looming encroachment and the overall height of the proposed accessory structure. She reviewed the survey, updated site plan, and original/proposed elevations. The proposed structure height is 20ft 1-in and will be stucco & metal siding with a standing seam metal roof.

In terms of lot coverage, the applicant will maintain the lot coverage of 31.33%. The applicant is allowed a maximum of .49 with bonus for preserving the main structure. The floor to area ratio will increase from .308 to .373.

On August 15, 2023, the ARB conducted the compatibility review and voted unanimously to recommend approval of the proposed design as compatible. Staff has completed the plan review process.

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 two responses in support and one in opposition.

Councilmember Billa Burke moved to approve ARB Case No. 901F as presented. The motion was seconded by Councilmember Savage and passed by 5-0 vote.

Item # 8 Mayor Rosenthal read the following caption.

Architectural Review Board Case No. 900F, request of Rio Bank, owner, represented by Mario Flores, applicant, for the final design review of proposed exterior improvements to the existing Commercial use building located at 5700 Broadway St

Ms. Hernandez stated the Business District (B-1) property is located at 5700 Broadway Street on the east side of Broadway between Circle Street and Ellwood Avenue. The applicant requests approval of the final design review of the proposed exterior improvements to the existing Commercial use building.

Ms. Hernandez reviewed the survey, existing site plan, proposed elevations. She advised they are proposing some demolition, but the footprint will not change.

On August 15, 2023, the ARB considered the request and voted unanimously to recommend approval of the proposed improvements as presented. Staff issued a permit for ongoing interior renovations and repairs to stucco and roof. Staff is also completing the plan review process for the requested exterior improvements which will be subject to Americans with Disabilities Act (ADA) compliance to include sidewalk accessibility.

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 two responses in support and none in opposition.

Councilmember Jessee moved to approve ARB Case No. 903F as presented. The motion was seconded by Mayor Pro Tem Bonner and passed by 5-0 vote.

Item # 9 Mayor Rosenthal read the following caption.

Architectural Review Board Case No. 903F, request of San Antonio Country Club, owner, represented by Marvin Jones, applicant, for the final design review of proposed parking improvements at the property located at 159 Burr Rd

Ms. Hernandez stated the applicant is seeking to expand the current parking area onto the western side of the property. The property serves as off-street parking to the San Antonio Country Club. The property is located at 159 Burr Road on the north side of Burr at the corner of N. New Braunfels.

Ms. Hernandez stated the applicant previously came before the Planning and Zoning Commission and the City Council in February of 2022 and May of 2023 for approval to rezone and replat. Staff issued an address reassignment in June of 2023. The applicant has filed and recorded reassignment.

Ms. Hernandez reviewed the existing conditions and existing/proposed site plans. She noted there are no proposed changes to the parking on the right.

On August 15, 2023, the ARB considered the request and voted unanimously to recommend approval of the proposed improvements as presented. Staff completed the plan review process. Approval of the requested permit is pending City Council action.

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 two responses in support and none in opposition.

Council briefly discussed the existing fence on the property and requested the applicant be sensitive to neighbors and install a barrier to the west of the proposed parking lot to block out car lights as they park. They also suggested applicant maintain/establish landscaping on the property.

Councilmember Billa Burke moved to approve ARB Case No. 903F as presented. The motion was seconded by Councilmember Savage and passed by 5-0 vote.

Item # 10 Mayor Rosenthal read the following caption.

RESOLUTION NO. 2023R - 166

A RESOLUTION AWARDED A THREE YEAR CONTRACT TO TXTOW CORP. DBA TEXAS TOWING FOR VEHICLE TOWING AND STORAGE SERVICE AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID CONTRACT AND HAVING AN EFFECTIVE DATE.

Police Chief Rick Pruitt stated the city's current towing and impound service contract with TxTow Corporation DBA Texas Towing expired on July 30, 2023. Staff advertised for Request for Proposals (RFP) in the *San Antonio Express - News* on May 30, 2023 and June 7, 2023 and was published for fourteen days online. Staff also posted the request on the City website from May 31 - June 30, 2023.

Chief Pruitt stated four requests were received from Creswell Wrecker Service, Ridgeway Towing Services, Pantusa Towing and Reconvert LLC, and TxTow Corporation dba Texas Towing. Staff reviewed the proposals and conducted on-site visits of each facility. Staff also reviewed the required licenses and insurance coverages; reviewed records of training and drug screens; interviewed each tow service provider; compared fee schedules and proposed fee sharing proposals; and contacted provided references.

After review, staff determined Texas Towing was the best qualified tow service provider for the City. The City has experienced over 10 years of excellent service with Texas Towing. They have over sixty tow operators and staff, over forty light/heavy duty tow vehicles, plus, ultra-heavy duty trucks and one rotator truck in their fleet. The tow trucks and operators are on-duty 24 hours a day and on-call operators have take-home trucks.

Police Chief Pruitt stated they have an impound/storage facility located 8 miles from the city at 422 Steves Avenue with capacity to hold more than 1000 vehicles. The facility has a seven foot enclosure, stadium lighting, surveillance camera system, and personnel on-site 24/7/365. They offer three covered evidence processing areas and an enclosed evidence processing/storage is being constructed. There is no public access without escort. Impounded vehicles may be retrieved by owners 24 hours a day. Any dispute resolution or complaints are filed with the Texas Department of Licensing and Regulation. They provide owner rights and complaint procedures to every owner or operator.

Texas Towing currently has agreements with City of San Antonio Parking Enforcement, Bexar County Sheriff's Department, Terrell Hills Police Department, Olmos Park Police Department, and Shavano Park Police Department.

Police Chief Pruitt noted all procedures are required by Texas law for the solicitation of professional services have been followed during this selection process. The City Manager and the City Attorney reviewed the proposed towing and storage contract. The City Attorney prepared the Resolution for a towing contact provider with the City. The Request for Proposal was published in the *San Antonio Express-News* and posted on the COAH website.

Police Chief Pruitt reviewed fees associated with this agreement. Towing, labor and impound fees are within all regulatory guidelines and industry standards. Payments and discounts are 20% for all fees collected for towing and labor charges, \$10 per day for first five days storage, and a \$50 administrative fee on behalf of City. The City would be entitled to 15% of all proceeds in excess of \$1000 for vehicles sold at auction, any charges for City owned vehicles shall be deducted from the agreed percentage of fees collected. There is no charge to tow any City vehicle in Bexar County; however, if outside of Bexar County, there is a "per mile" fee after 15 miles depending on the size of the vehicle. All financial records and documentation reflecting towing/impound operations are available to the City's representatives.

Staff requests authorization of a Resolution awarding a contract to TxTow Corp. dba Texas Towing for vehicle towing and storage service and authorizing the City Manager to execute a three (3) year contract with an extension of up to two (2) years with TxTow Corp. dba Texas Towing for such services upon approval of the City Council.

Councilmember Jessee moved to approve Resolution No. 2023R – 166 as presented. The motion was seconded by Mayor Pro Tem Bonner and passed by 5-0 vote.

Item # 11 Mayor Rosenthal read the following caption.

RESOLUTION NO. 2023R - 167

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH DR. MARK T. OGDEN, DO, PA TO PROVIDE EMERGENCY MEDICAL SERVICES (EMS) DIRECTION FOR THE CITY AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT FOR SUCH SERVICES.

Fire Chief Michael Gdovin stated this item was to authorize the City Manager to execute a new contract for emergency medical services (EMS) direction between Alamo Heights EMS

and Mark T. Ogden, DO, PA. The existing contract with Mark T. Ogden, DO, PA, will expire on September 30, 2023.

Fire Chief Gdovin stated Alamo Heights EMS system desired to maintain its agreement with Dr. Mark Ogden. If adopted, the new agreement term would be from October 1, 2023 through September 30, 2026. The EMS system (paramedics) work under the medical director's license and mal-practice insurance. The purchase of medical supplies including emergency medications are allowed only through MD license.

Dr. Ogden is on call 24/7/365 for on-line medical direction. He also serves as Medical Director for Olmos Park, Terrell Hills and Wilson County. Dr. Odgen is very hands on and assists with calls for service within the tri-city area even though he is not required by contract. He supplements in-house training opportunities for new hires. The City's back-up medical direction is still maintained with Dr. Michael Magoon.

Fire Chief Gdovin noted the Medical Director designation is mandated by the Department of State Health Services (DSHS) and is consistent with prior agreements dating back to the inception of EMS in 1982. The renewal of a 3-year term aligns with the EMS contract expiration. The City Attorney reviewed the proposed contract with Dr. Mark T. Ogden, DO, PA, for proposed adoption. The new contract is fixed at \$9,000 per quarter (\$36,000 annually) through September 2026. The fees are paid by the EMS budget and shared by all communities.

Councilmember Jessee moved to approve Resolution No. 2023R – 167 as presented. The motion was seconded by Councilmember Savage and passed by 5-0 vote.

Item # 12 Mayor Rosenthal read the following caption.

Public Hearing, concerning an ordinance amending Chapter 19, Water and Sewer, Article III. – Conservation of Groundwater of the City's Code of Ordinances to amend the groundwater use reduction program and add groundwater use surcharge fees

Mayor Rosenthal opened the public hearing at 6:15 p.m. With no one to speak on the item, Mayor Rosenthal closed the public hearing at 6:16 p.m.

Item # 13 Mayor Rosenthal read the following caption.

Discussion and possible action concerning an ordinance amending Chapter 19, Water and Sewer, Article III. – Conservation of Groundwater of the City's Code of Ordinances to amend the groundwater use reduction program and add groundwater use surcharge fees

Assistant City Manager Phillip Laney announced the item is an amendment to Chapter 19 – Water & Sewer to update the water use reduction measures and consider the addition of a groundwater use surcharge fee.

The City's sole water source is groundwater exclusively from Edwards Aquifer Authority (EAA). The EAA regulates usage and enacts restrictions when capacity low due to drought or usage. Staff proposes an amendment to City Code to include additional groundwater use restrictions for Stages 4 & 5 and an amendment for new groundwater use surcharge fee.

Mr. Laney reiterated all potable groundwater the City pumps is sourced exclusively from the Edwards Aquifer Authority. The EAA covers over 8,000 square miles and provides water to 2.5 million people and includes 8 counties, including all of Bexar County. The City is mandated to follow EAA guidelines on pumping capacity and restrictions when necessary.

The EAA is a regulatory body 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. All EAA communities – including AH – are in Stage 4 restrictions as of late July, but if current conditions continue, it is possible Stage 5 may be a reality in the near future. Staff proposes amendments for consideration to update City Code to include additional groundwater use restrictions for stages 4 & 5 and implement a new groundwater use surcharge fee.

Mr. Laney reviewed different stages of water restrictions.

Edwards Aquifer Authority critical period / reduction stage (Well J-17)

- Stage 1 <660 – 20% reduction
- Stage 2 <650 – 30% reduction
- Stage 3 <640 – 35% reduction
- Stage 4 <630 – 40% reduction
- Stage 5 <625 – 44% reduction

The City is currently in Stage 4 after spending most of the past 12 months in Stage 3. Since 2000, Stage 4 has been reached 3 times, 2014, and briefly in 2022 and recently since July 21st. The EAA recognizes Stage 5 when the well drops below 625'. It activates a 44% reduction, or allows 66% of our allocated amount. Stage 5 occurs on exceedingly rare occasions. Since 1932, the Edwards dropped below 625' in 3 years – 1956, 1984, and 1990. The 10 day average is still 627.8, almost 3 feet shy of that milestone. Staff proposes to amend the City's code of ordinances to include Stage 5 restrictions.

Mr. Laney shared historical aquifer levels. There was a steep drop experienced in 2022 due to record-low rainfalls. Because of this, the aquifer started the year considerably lower than in recent years, as much as 25' lower, and in Stage 3 restrictions. He stated, currently, levels have continued to drop after the bump in April and May, will levels currently in Stage 4.

Mr. Laney provided information on water allotment for the City. The City water capacity purchased from EAA is 2,822 Acre Feet. This capacity is reduced if pumping restrictions are implemented. An acre feet = 325,851 gallons, or over 16 average size pools (20k gallons). The Alamo Heights pool is conservatively 450K gallons, filling up the Heights pool is about 1.4 AF of water. An Olympic swimming pool is 660 gal, or 0.5 AF (50 yards by 15 yards by 6 yards). He stated if current trends continue, projecting estimated used will be 150 to 200 AF more than revised allotment.

The EAA has been in Stage 4 since July 21st, about 37 days. Any penalties for over-pumping are an unknown at this time. Staff has been in contact with the Edwards to gauge what those penalties may be and how severe they could become. However, at this time, they are also monitoring the situation. In Stage 4, the City is required to meet the 40% reduction target. City Code allows for Council to consider and implement other rules to enhance water conservation. These ideas will be presented as amendments to Chapter 19 of the City Code that oversees

groundwater conservation. Potential amendments include adding a Stage 5 to the existing Stages 1 to 4, adding and amending groundwater use reduction measures and enacting groundwater use surcharge fees during drought periods.

Mr. Laney presented potential Stage 4 reduction measures as discussed during the August 14, 2023 Council meeting.

1. Filling or refilling of pools prohibited with City or EAA water
2. No new irrigation & swimming pool permits
3. No watering exceptions for new lawns or landscaping (requests only to City Council & \$2,000 fee)
4. No applications accepted for new, additional or increased-in-size water service connections, meters or service lines (Exemptions: new construction or \$2,000 fee)
5. Penalties for water violations issued with minimal or no warnings
6. Prohibit water well permits for residential watering
7. Prohibit watering using automatic or manual irrigation systems

Mr. Laney noted, one item that was presented at the last meeting but is not listed has to do with well drilling limits in terms of zoning, lot sizes, setbacks, and fees. Based on Council feedback and discussions with staff, there is a need to study this a little further before bringing anything to Council for consideration.

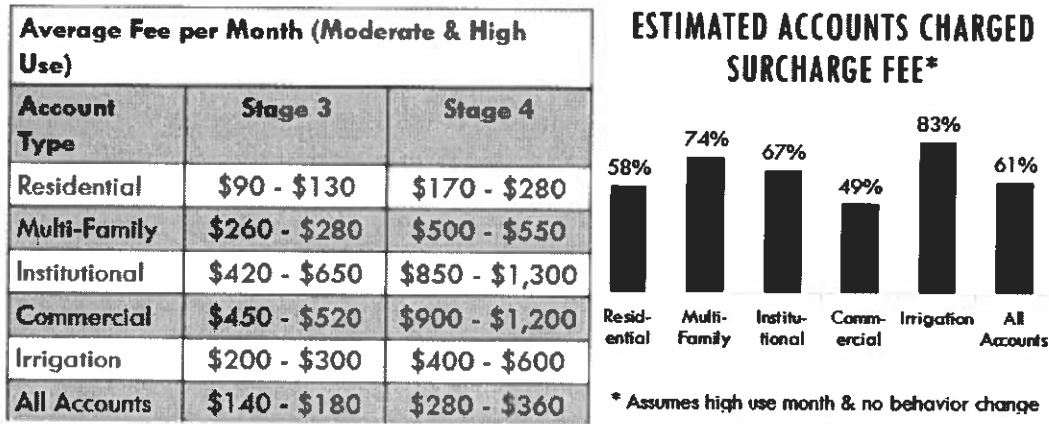
Mr. Laney reviewed potential drought surcharge fees to consider. City Code, Ch. 19, authorizes fees during any reduction stage to deter water use. The proposed fees to be in effect for Stages 1 to 5. He stated there were two options to consider. Option 1 - Customers using 1,001 cubic feet (cf) or more per month charged surcharge fee for any stage (~7,500 gallons). Option 2 – Customers using 2,301cf or more charged surcharge fee for any stage (~17,500 gallons). Each option has two usage tables, one for residential, MF & institutional accounts and one for commercial & dedicated irrigation accounts. Like the standard consumption fees, the rates for commercial users are slightly higher. Because irrigation is one of the largest water uses in terms of volume, irrigation accounts were also included in that higher fee table. He reviewed graphs depicting usage percentages of water consumption by account types.

Mr. Laney presented tables for both options. In Option 1, fees are applied when a customer uses more than 1,000 cf. This chart identified potential fees for residential, multifamily and institutional account holders. Fees increase as a user consumes more and as the drought stage increases. The fee is applied after one goes over the 1000 cf threshold and is then applied to every 100cf of their consumption that month. He added fees range from a \$1.00 if a consumer uses between 1K cf & 2300 cf in Stage 1 to \$8 in Stage 5. The current cost would be \$5 now that we are in Stage 4. For a larger user, fees range from \$2.00 to \$15 per 100cf.

Mr. Laney added without any behavior change, it's estimated that between 40% to 55% of residential users would qualify for the monthly fee. For these users the average fee would range from \$90 to \$130 in Stage 3 or \$170 to \$225 in Stage 4. He reviewed fee options for commercial and irrigation accounts. The fees are slightly higher than the accounts for residents and MF properties. The two-tiered fee structure is consistent with the current consumption charge, which charges Commercial customers slightly more for water usage. Based on the desire to address large watering uses that don't relate to people's daily needs, irrigation accounts were also included in this higher cost category. He noted at most stages, the cost is about \$1 to \$2

more per 100cf than the other fee table for residential and MF and would be assessed if users consume more than 1,000 cf in a month.

Mr. Laney discussed estimated surcharge fee impacts for Option 1.



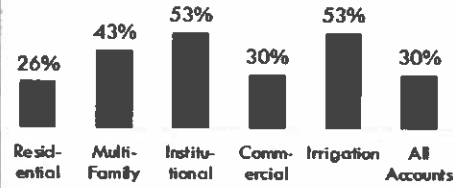
If the surcharge fees under Option 1 were adopted, the table on the left shows a range of what the average surcharge fee amount could be at the two stages experienced over the past year. The data is broken out by customer type. The chart on the left shows how many customers in each category could be assessed a surcharge fee. This is a projection that assumes a high use month (like August) and no change in behavior. Mr. Laney stated, one key consideration, is the idea of balance, especially when proposing a fee that hasn't ever been charged. Balance is attempted where there is a hope that it will elicit some behavior change in the user. The City currently charges a water conservation fee on each monthly bill. The fee is a little over \$0.10 per 100cf. If a consumer use 2,300 cf in a month, the City charges \$2.30 on your bill. This will not change consumption behavior. However, staff proposes fees that may get consumer's attention, by attempting to place an amount that appears to be punitive. Mr. Laney clarified the proposed fees would be assessed on the entire usage when consumption surpasses the 1000 cf threshold.

Mr. Laney reviewed the surcharge fees for Option 2. The second surcharge fee option increases the amount of water a customer consumes before being assessed a surcharge fee. In Option 1, users who consume 1,000 cf or less would not be assessed the fee, but users over 1,000 cf would be. In Option 2, users under 2,300 cf, or again over 17,000 gal in a month, would not be assessed the surcharge fee, but users over that amount would be charged. The fee per 100 cf in Option 1 & 2 for the over 2,300 cf group are the same. Without any behavior change, it would appear that between 13% & 25% of residential users may be assessed the monthly surcharge fee. He noted this is around 300 to 600 customer accounts. For those residential accounts that are charged, the average cost could be between \$190 and \$250 in Stage 3 or \$400 to almost \$500 in Stage 4. Mr. Laney reiterated this is the second option for commercial and irrigation accounts. The fee would be assessed under Option 2 for accounts using over 2,300 cf in a month. The fee for the over 2,300 cf group is the same as in Option 1. Without any behavior change, it's possible that between 30% to 45% of all accounts in this group would be assessed the fee, or 150 to 200 accounts. The average costs in Stage 3 could be \$450 to \$550 and around \$1,000 in Stage 4.

Mr. Laney discussed estimated surcharge fee impacts for Option 2.

Average Fee per Month (Moderate & High Use)		
Account Type	Stage 3	Stage 4
Residential	\$190 - \$240	\$400 - \$500
Multi-Family	\$390 - \$450	\$750 - \$900
Institutional	\$500 - \$800	\$1,100-\$1,600
Commercial	\$700 - \$800	\$1,400-\$1,600
Irrigation	\$350 - \$450	\$700 - \$900
All Accounts	\$300 - \$350	\$600 - \$650

ESTIMATED ACCOUNTS CHARGED SURCHARGE FEE



* Assumes high use month & no behavior change

If the surcharge fees under Option 2 were adopted, the table on the left shows a range of what the average surcharge fee amount could be at the two stages experienced over the past year. The data is broken out by customer type. The chart on the left shows how many customers in each category could be assessed a surcharge fee. This is a projection that assumes a high use month (like August) and no change in behavior. In this option, accounts assessed the fee could range from 26% for residential to around 50% for the other customer types, compared to almost 60% in Option 1 for residential & 70% to 80% for the other customer types.

Mr. Laney stated the proposed ordinance is consistent with City’s agreement with EAA to abide by pumping restrictions during drought periods. Compliance with agreement also demonstrates natural resource stewardship and additionally include consideration for EAA penalties if over-pumping occurs.

Coordination for the proposed amendment includes feedback from Mayor and City Council from the staff report on August 14, 2023. The City Manager and City Attorney reviewed the ordinance. If groundwater surcharge fee is adopted by City Council, public notification would be published in the official newspaper twice, customers will be notified on next water & sewer bill, and fees will be implemented on following billing cycle.

Mr. Laney advised there is no anticipated fiscal impact to City expenditures; however, revenues may be impacted due to delays in issuance of permits (General Fund) and collection of groundwater use surcharge fees (Utility Fund).

City Attorney Richard Lindner stated he had legal communication to discuss with Council before they took any action on this item and recommended Council convene into closed session.

Executive Session as authorized by the Texas Government Code Section 551.071 (consultation with attorney) to discuss possible action concerning an ordinance amending Chapter 19, Water and Sewer, Article III. – Conservation of Groundwater of the City’s Code of Ordinances to amend the groundwater use reduction program and add groundwater use surcharge fees.

The City Council of the City of Alamo Heights convened into Executive Session at 6:45 p.m. and reconvened in Open Session at 6:48 p.m. in accordance with the Texas Open Meetings Act, Texas Government Code, *Section §551.071 (Consultation with Attorney)*. No action was taken.

Mayor Rosenthal suggested Council look at the proposed measures and added he did not want it to seem like the City was taxing the residents or trying to raise more money. The goal is to keep the City from running over the allotted amount of water. Councilmember Billa Burke agreed and stated these measures/variables needed to be better defined in the ordinance.

Councilmember Baker suggested setting a goal for the City to remove the “every other week” watering restriction. He stated in his calculations, if Stage 3 was in place for a year, the City would not have an issue with water shortage and would only need to reduce water usage 11% - 20% from the baseline of 73% (peak year) to meet the EAA requirements. He added the City should take measures for the future to benefit residents. He agreed the City needs to reduce excessive irrigation, but not through draconian measures.

Mayor Pro Tem Bonner shared he did not like the proposed plan and didn't agree with “punishing” everyone across the board. He stated the City shouldn't charge more money for a basic commodity. He didn't understand why the City would start charging penalties since the EAA hadn't provided information on penalties they would access for over usage. He proposed Council table the item until more information was provided. He requested staff email him the data presented.

Councilmember Jessee asked to go down the list of proposed measures. Council discussed enforcement measures.

Mr. Kuhn stated, as he mentioned during the last meeting, there are two or three officers on duty who monitor the six City quadrants at night. He noted it was tough to catch offenders, but residents tend to water a night. In the last two weeks, 176 violations were issued. He reminded Council staff presented reduction measures that have been adopted or are being considered in neighboring communities. Mr. Kuhn stated staff did a lot of research and crunched numbers to bring the best solution to the table. He advised, even though the EAA has not contacted the City regarding over consumption, Council should consider taking some action to implement Stage 5 restrictions and demonstrate the City is taking some initiatives to address over consumption. Many communities are faced with the same issue.

Councilmember Jessee agreed. He stated the City should be proactive instead of waiting for the EAA to issue fines and noted the issue is stopping the excessive user. Mayor Pro Tem Bonner stated he didn't know the legality of identifying the excessive users, but suggested staff send them a notice with their water usage and ask them to cut down due to the drought or face penalties.

Mr. Kuhn stated staff devised both surcharge options because some residents will not care about added fees and will pay, but there will be others who have more than one warning and will take note to cut down. He stated the top 30 excessive water users are 5 residential and 25 commercial properties.

Mayor Pro Tem Bonner commented he realized there are some residents that won't mind paying added fees, but he did not want to penalize the average consumer.

Councilmember Billa Burke suggested educating people on water conservation instead of penalizing them.

Councilmember Baker stated the point is not to penalize people, but to reduce usage. He added it's not about raising revenue it's about changing behavior.

Council agreed surcharges were needed and requested staff to develop progressive surcharges that will apply when water usage hits above the limit and not be retroactive.

Mr. Kuhn advised staff would continue enforcement of water usage. He stated staff would be presenting the Water/Sewer Rate Study at the next Council meeting which may provide additional information and recommendations.

After further discussion, Council tabled the item until the next Council meeting on September 11, 2023.

* * *

Closed Session

Item # 14 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 7:31 p.m. and reconvened in Open Session at 8:17 p.m. in accordance with the Texas Open Meetings Act, Texas Government Code, Section §551.071 (Consultation with Attorney).

* * *

Open Session

Item # 15 Mayor Rosenthal read the following caption.

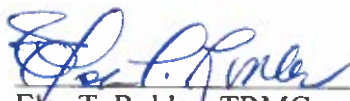
Discussion and possible action resulting from Executive Session

No action taken.

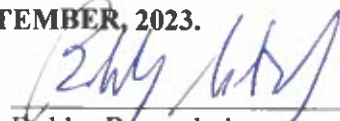
* * *

With no further business to consider, Mayor Pro Tem Bonner moved to adjourn the meeting at 8:18 p.m. The motion was seconded by Councilmember Savage and passed by a 5-0 vote.

PASSED AND APPROVED THIS 11th DAY OF SEPTEMBER, 2023.


Elsa T. Robles, TRMC
City Secretary




Bobby Rosenthal
Mayor

August 28, 2023

I am here this evening to address the submission by the Texas Biomedical Research Institute (TBRI) and their tenant, The Argyle Club, of applications for a building permit and Special Use Permit for the construction and operation of a Major Event Center at 934 Patterson Ave.

I believe that the review of both the building plans and the SUP must stop immediately for the following reasons:

1. TBRI and The Argyle Club have been and continue to operate in violation of the July 6, 1955, Variance and Resolutions granted by the CoAH Board of Adjustment in Appeal Case 134. They have lost their non-conforming rights. This was the original "entitlement" for this commercial operation – then a intimate private dining club – to operate at all in a SF-A zoned neighborhood. This original entitlement has never been amended to allow what's going on there now – a venue for very large weddings, parties luncheons, political fundraisers, and other events of 500-1,500.
2. Previous additions and the proposed Major Event Center were and are prohibited. The expansion of non-conforming rights are not allowed by code.
3. The City of Alamo Heights code of ordinances does not allow for a SUP (Code § 3-8, 3-87) allowing this type of use. The submitted Special Use Permit is an attempt to legitimize violations of adopted ordinances prohibiting commercial uses in a single-family residential district without public input or process. If it proceeds it will set a dangerous precedent, threatening the integrity of every neighborhood in the city.
4. Two pieces of property referenced in the SUP – the northern 150 feet of 401 Torcido and 804 Patterson Ave. - are not currently zoned for commercial use nor as of the date the SUP was filed owned by TBRI. Their inclusion in the SUP is not allowed and is tantamount to "spot" zoning.

I would also demand that the City of Alamo Heights and the City Attorney take the following actions:

1. Inform Texas Biomedical Research Institute in writing that they and their tenant's activities are in violation of the 1955 Variance and Resolutions agreed to by the Southwest Foundation for Research and Education, the predecessor of TBRI.
2. Inform Texas Biomedical institute in writing that their tenant's use of the 820 Patterson Ave. property (current parking lot used for large party tents) for anything other than parking is not allowed per the Special Use Permit granted by Ordinance 1757.
3. Any applications for permits by The Argyle Club, its members, vendors and/or event suppliers that violate the terms and conditions of the 1955 Variance and Resolutions and/or Ordinance 1757 be rejected.
4. Inform the owner of 401 Torcido, the Timothy Dean Word Family Trust, in writing, that the use of their property for parking by The Argyle Club, its members, guests, staff, valet

service(s), vendors and/or suppliers is in violation of the City of Alamo Heights ordinances and must stop immediately.

5. All considerations of the submitted Special Use Permit and/or Interpretations of zoning and building codes related to the SUP or building project requested by Texas Biomedical Research Institute and their tenant, The Argyle Club, must be held in an open, public forum accessible to the citizens of our community.
6. As the mayor and two council members are members of The Argyle Club, and the club has communicated to the members that if the Event Center is not built there may be several undesirable financial costs passed on to the membership, there are obvious conflicts of interests in the Mayor and Council's involvement in these matters, and they should recuse themselves from any and all discussions and deliberations regarding the building project and the SUP.
7. That this document, a copies of which are being provided to the City Attorney, City Manager and City Secretary, be incorporated in the public record as an attachment to the minutes of today's meeting of the City of Alamo Heights City Council.

Thank you for your time and attention this evening.

Respectfully Submitted,

Mike McGlone
732 Patterson Ave.
Alamo Heights, TX 78209-5637