CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
December 5, 2017

RICHARD BOSS, MAYOR
JASON BALDWIN, COMMISSIONER
NADIA SIKES, COMMISSIONER
JENNY TURNBULL, COMMISSIONER
SUSAN PAYNE, COMMISSIONER

AL HERNANDEZ, MAYOR PRO-TEM
ERICA MARTIN, COMMISSIONER
MAGGIE PALUCH, CITY MANAGER
PETRIA SCHREIBER, CITY ATTORNEY
RACHEL HUGHS, CITY CLERK

CALL TO ORDER / ROLL CALL / INVOCATION / PLEDGE OF ALLEGIANCE

Mayor Boss called the meeting to order at 6:30 p.m. Roll Call was taken by the City Clerk. Commissioner Martin was as absent. City Clerk Hughs announced there was a quorum present. Invocation was given by Pastor Dustin Wilhite and the Pledge of Allegiance was led by Commissioner Payne.

APPROVAL OF AGENDA

Commissioner Turnbull moved to approve the agenda.
Commissioner Baldwin seconded the motion. Motion carried with a vote of 6-0-0.

PRESENTATIONS

1. Presentation on the City of Alamogordo's investments. ***(Larry Lundberg, Vice President, Moreton Capital Markets)***

Mr. Lundberg showed a presentation. He gave some background information about his Moreton Capital Markets team. He discussed what is allowed under New Mexico State Statutes for investments. He explained what a bond is and how a bond works. He explained how interest rates affect bonds and also discussed what moves interest rates. He discussed what is happening in the market and said they have heard that next year everyone else is anticipating there will be four more interest rate hikes. He said that is what Goldman Sachs and JP Morgan are calling for and others are calling for about three hikes. He said what that means is, we will start to earn more money on all of our investments here at the City. He showed their investment strategy. He said we want to put ourselves in a position that we constantly have money rolling off for; if the City needs it, and so the City can take advantage of the higher interest rates. He said right now the annual return on the City's investments, which they help with, is just under two percent and that is in either U.S government agencies or FDIC CDs or New Mexico Municipal Bonds. The next interest that they are projecting is going to be about three quarters of a million dollars. (See Blue Book for Power Point).

PUBLIC COMMENT

None.

CITY MANAGER'S REPORT

City Manager Paluch made the following remarks:

1. She announced that one of our City of Alamogordo TV commercials entitled "Let Us Take You to the Moon and Back" for 2017 advertisement campaign was a finalist for the best broadcast for the New Mexico Hospitality Association Top Hat Award. She said the City received a plaque for being a finalist. She showed the commercial. She said this advertisement is running in a lot of different cities, mostly in the Texas area, so it is helping our tourism.
2. She said the Family Fun Center documents will officially be on the Commission meeting on December 19, 2017.

3. She said the No Parking signs have been installed and the stripping has been completed on the east side of Oregon Avenue off of 10th Street. She said hopefully this project will alleviate any of those traffic concerns that we had turning on to Oregon from 10th or vice versa.
4. She said we are adding six handicap parking spaces to City Hall. She said five spaces will in the front parking lot and one in the rear parking lot and the next phase will be the concrete work to the sidewalks.
5. She said staff has begun working on the FY 19 budget. It will be very similar to what you have seen last year with a few exceptions. She said new this year she has asked the Managers not only to provide a detailed explanation for additional personnel that they may be requesting, but also to justify current personnel within their department. Additionally, you will see the formal vehicle replacement program. We will be rolling that out in official format. She said you will see detailed Capital requests for current and future years. We are going to continue to plan ahead so that we don't get into a spot where we are putting out fires.
6. She said the Bonito Lake project is moving forward. She said Smithco has remobilized their remote office and their equipment at the Bonito Lake site. The pit has been excavated, lined and placement of a temporary fueling station is complete. Also, they have cleared and grubbed the area for the Coffer Dam replacement and the diversion pipeline.
7. She said the Public Works department was able to set the new electrical transformer for the permanent stage at Washington Park. They also continued running the conduit and the power to the stage. She said the City will be hanging a huge wreath on the back side of the stage facing First Street. The area is going to be extremely festive for the Christmas tree lighting on December 8, 2017 and the Mayor will be lighting the Christmas tree.
8. She said the Christmas parade is on Saturday December 9, 2017 at 5:00 p.m. she said it will start on Oregon Avenue and travel down 10th Street. This year she is pleased to announce, our Mayor, Police Chief and City Attorney will be judging the floats.
9. She said the resurgence of the adult basketball league has been a huge hit. The first evening of the league was on Wednesday November 29, 2017. There were six teams with approximately 60 players and there were over 70 spectators in attendance at the Recreation center. There is going to be 3 games every Wednesday until December 27, 2017 and the games are from 6:30 to 9:30 p.m. She asked everyone to please come out and see a game.
10. She gave a shout out to the Alamogordo Fire Department. She said they helped City staff decorate the Christmas tree outside the chambers. She thanked Fire Chief LeClair for lending his fire fighters to help decorate.
11. She said one of the reasons she loves living in this community is the holiday spirit is always alive here in Alamogordo. She said the hospital along with the help of Commissioner Hernandez donated turkeys to groups throughout town to help the needy and to provide a turkey dinner for Thanksgiving. She said Alamogordo Police Officers had encountered a homeless veteran from Vietnam, who has very severe dementia. She said he wound up here in the City of Alamogordo and he does not know how he got here, but apparently he is from Big Spring, Texas. Sergeant Scharmack and Lieutenant McColley contacted Love Inc. and Commissioner Payne. She said Love Inc. was able to buy a bus ticket for the homeless Veteran, but because we were worried that he would get off the bus somewhere, Love Inc. also purchased a bus ticket for his wife round trip. They were also put up in a hotel room. Sergeant Scharmack bought them breakfast out of his own pocket. Lieutenant McColley is buying them dinner and the happy story is that they are headed back to Big Spring, Texas. She thanked Gerald Champion Regional Medical Center, Commissioner Hernandez, Love Inc. and Commissioner Payne.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Mayor Pro-Tem Hernandez made the following comments:
He said he always preaches about asking people to come to the meetings. He said two of City Manager Paluch's stories actually have members here in the chambers that relate to them. He said one is Mr. Bob Patillo, who was actually a member of the adult basketball league and played quite often. He said the turkey give away is actually quite struggling when you come against this. He said they had 96 turkeys this year. He said to give them out is easy, but to find homes where people

actually need them is very difficult. He said Mr. Melvin Mills has helped him, pretty much, every year. He thanked Mr. Mills.

CONSENT AGENDA

2. Approve the minutes for the November 21, 2017 Regular meeting. ***(Rachel Hughs, City Clerk)***

3. Approve the statements related to the Executive Session held on November 21, 2017. ***(Rachel Hughs, City Clerk)***

4. Approve Resolution 2017-36 requesting the approval of the Housing Authority Resident Staff Member Occupancy Plan. ***(Evelyn Huff, Housing Authority Manager)*** **(Roll Call Vote Required)**

5. Approve the release of old liens that have passed the four-year statute of limitations on collection. ***(Petria Schreiber, City Attorney)***

City Clerk Hughs announced Commissioner Martin came to the Commission meeting at 6:42 pm.

Mayor Pro-Tem Hernandez moved to approve items 2, 3, 4, 5 of the consent calendar.
Commissioner Baldwin seconded the motion.
Roll call vote was taken.
Motion carried with a vote of 7-0-0.

UNFINISHED BUSINESS

6. Consider and act upon first publication of Ordinance No. 1547. An ordinance repealing Appendix B (Employee Manual) of the City of Alamogordo Code of Ordinances, and replacing it with a new Employee Manual. ***(Katie Josselyn, Human Resources Director and Maggie Paluch, City Manager)*** **(Roll Call Vote Required)**

Human Resources Director Josselyn stated staff is bringing this manual back with a couple of changes. She said we got the idea that there were some uncertain feelings about transferring authority to the City Manager over the manual, so we changed the language back to what it was before where the Commission will have authority over the personnel manual. She said Commissioners Sikes had asked her to do an exercise to estimate what the cost of the new compensation plan would be had this manual been in place over the past year. She said it would have cost approximately $4,180. She said that is going to be subjective depending on what happens each year, if we have promotions, recruitments or whatever.

Mayor Boss said he is surprised we did change that to where it wasn't Human Resources and the City Manager to have discretion over that. He said this Commission has made a promise to the City Manager, not to micromanage, and he personally considers this micromanagement. He believes between Human Resources and the City Manager they have the power to hire and fire. He can't see why the Commission is going to see any details and approve any changes to the personnel manual. He said he does not understand why they are doing that.

City Manager Paluch said Human Resources Director Josselyn did research on what other communities are doing with their personnel manuals. She said we received several emails back. She said we would be the first community, of the communities that did respond that the manual would fall under the City Manager. However, all of the other communities have come across the same situation where the Commission didn't necessarily want to have to go back, for small items, to approve them. She said communities in the State of New Mexico, are also looking at putting this under the City Manager. She said maybe it is something that we do not want to do right now; we can do this later in the future. The main reason she did suggest this is for items that we don't really have control over; the Commission might not want to vote on those. She said to be honest with you; she really has no

heartburn with keeping it with the Commission at all. She said right after the meeting, she just told Human Resources Director Josselyn it's easier to keep it the way it is at this point.

Commissioner Payne said she does not see it as micromanagement, she thinks that is being responsible. She thinks the way we are seeing it right now is that we are not giving City Manager Paluch the authority to change the personnel manual, but that is not really what you are asking us to do. She said what you are asking us to do is to give the City Manager authority to change the personnel manual, and it may not be necessarily be City Manager Paluch. If she was to be here 30 years we would feel real comfortable with it, but we have to keep in mind that it's whoever is there. She said she was very comfortable with her comments when they talked about it last, because she feels like there should be that separation. She said you are right, if there is a way to do it in the future, where we can make those things that are mandated by the State or the Federal government or those things that are automatic, then we can take those other things that fall under discretion or however you want to say it, then she would be all for that, but she thinks that we just need to keep that separated. She is pretty comfortable with that, she does not see that as micromanaging, she just sees that as keeping that separated.

Mayor Boss said maybe he is looking at it as a businessman, because that seems to be operational procedures. He said we are not operational, we are legislative. He thinks the Commission is going over the line when we do that. He said it is not a big deal, but he wanted to make that clear that he believes that the City Manager together with Human Resources should be responsible for that. He asked when the last time it was revised. Human Resources Director Josselyn answered 2004 were the last time they revised the whole book, but she could not recall when the last time it was completely repealed and rewritten. She said the one that was done in 2004 was a version of the one done in 1993. Mayor Boss said that is one reason he has confidence, because the two of you and staff have taken the burden of doing that. He wanted to go on the record to let the City Manager Paluch know that he feels like she could handle that very well.

Human Resources Director Josselyn showed the employee manual from back in 1990. She said we have come a long way. She also said the manual they are proposing will be electronic; there will not be the cumbersome, costly distribution of binders and paper. She thinks it will be much more efficient in keeping employees up to date with the most current version of our policies.

Mayor Pro-Tem Hernandez moved to approve.
Commissioner Martin seconded the motion.
Roll call vote was taken.
Motion carried with a vote of 7-0-0.

NEW BUSINESS

7. Approve the award of RFP 2017-007, On-Call Utility Services, to General Hydronics Utilities, LLC. *(Bob Johnson, Engineering Manager)*

Engineering Manager Johnson said this is an RFP the City had put out to request proposals for a wide variety of on-call utility services such as; valve, pipeline and fire hydrant replacement. He said they advertised the RFP on September 3, 2017 and received one proposal on October 5, 2017 from General Hydronics. He said they reviewed the proposal to ensure compliance with the terms and conditions of the RFP and it was deemed acceptable. He said if approved task orders would be based on an as needed basis. He said quite a few of the tasks within the RFP are pre-priced. He said the standard setup for this RFP is that the City furnishes the bulk of the materials. The scope of this project is primarily for the contractor to provide manpower and equipment.

Mayor Pro-Tem Hernandez asked what the maximum dollar amount on this is. Engineering Manager Johnson answered there is no maximum or minimum. Mayor Boss asked if he heard Engineering Manager Johnson say pricey. Engineering Manager Johnson said yes, the various line items are pre-priced such as how much it costs to install a foot of eight inch pipeline or a water meter of a certain size

or a valve of a certain size. He said the cost per item or unit of issue is fixed, but there is no maximum or guaranteed minimum. Mayor Pro-Tem Hernandez said this goes back to his concerns with the Hopi Court project. He said at what point does it become not an emergency and because there is no maximum on this we could re-pipe a whole neighborhood and does that fall under the emergency basis under this contract. He said he talked to our procurement officer and she ensured him that they were making some changes. He said he did not have time between Friday and tonight, when this was put out, so he does not know what it says. There is not a whole lot of information here so he could not support this tonight, because of that dollar amount. He said again we are probably four months, five months after Hopi Court and he still doesn't know what happened there, dollar wise.

Mayor Boss asked Engineering Manager Johnson if he could come back with this and give a little more information on it. He answered yes. Mayor Boss asked if time was of the essence. Engineering Manager Johnson answered that is correct and said we have no known requirements at this time.

Commissioner Baldwin asked Engineering Manager Johnson if he had what has been the largest expenditure of this process has been to date. Engineering Manager Johnson said it is difficult to say without going back and reviewing the roughly fourteen task orders that we had under the previous contract. He said if he had to guess at this point he would say pipeline. Commissioner Baldwin asked for a dollar amount. Engineering Manager Johnson said he couldn't, right off the bat, tell him. Commissioner Baldwin asked for a ball park figure. Engineering Manager Johnson said $300,000, $400,000 over a three or four year time period. Mayor Boss asked if that was total expenditures. Engineering Manager answered that is total expenditures for pipeline. He said the initial two task orders issued were for fire hydrant replacements, but that was a programmed item and it was budgeted in advance to where the contractor had replaced 50 hydrants on task order one and another 50 hydrants on task order two. There have been some changes made to the scope of this project whereby performance and payment bonds are required if it is over $60,000, wage rates kick in and so on and so forth.

Mayor Pro-Tem Hernandez said his concerns have nothing to do with the contractor or the City, but again you had one proposal that was received. His opinion is that this is kind of an on-call emergency situation and so a lot of the out of town contractors won't bid this. If this was a pipeline or something that was worth their while to come to town, you could possibly get a better price. He said on an emergency basis he doesn't mind setting a fund up, but to go and spend a half of million dollars on a project and it has never gone through the Commission it is difficult for him to spend that kind of money. Mayor Boss asked Mayor Pro-Tem Hernandez if he was not talking specifically about this item, if he was talking about Hopi Trail. He answered just in general and said you are signing a blank check here. What happened with Hopi Trail was there was a loophole that they figured out that they could do it with. There is nothing illegal about it. He said it's just the way it was worded would allow them to do it without having to come through the Commission. Mayor Boss asked if that wasn't more of an emergency situation and said it appeared that way to me. He said we had a pregnant lady that lived there and she had to walk across yards, we had people that couldn't park in their parking lots and we had to clear parking lots for them. He said we had water lines on top of the street and across the yards. It seemed like that was an emergency. Mayor Pro-Tem Hernandez said that is where it's going to differ on who decides who says it's an emergency. We can hold a Special meeting, within two to three days notice, and make those approvals and those things are fine, but this is a blank check. Mayor Boss asked what the average time for a procurement like that is. He asked if we could have got it to a point to stop and then put it out to bid, how long would have that process have been. Engineering Manager Johnson answered between 90 and 120 days. Mayor Pro-Tem Hernandez said you could still use this part here. He said just let us know this is what we are going to do. Engineering Manager Johnson said this item is essentially another tool in the tool box for the staff. He said we had changes in the procurement ordinance that allows the staff to do certain things within certain dollar thresholds. He said this will supplement what City maintenance staff can't get to because of time and cost considerations, if and when it is needed. He said this is not a blank check. We are not going to turn General Hydronics loose on the next five million dollar street maintenance project that is not the purpose of this.

Assistant City Manager Cesar said if it makes the Commission more comfortable, any time that we have used this type of contract in the past, whether it has been General Hydronics or someone on our other on-call contracts, it is not a phone call and go do the work process. He said the City does have to go and meet with the company and layout the scope of work. He said normally we have to purchase materials and etcetera. It is not same day they are out there doing the work. If we use this on-call contract, we can bring this to Commission, but it does cut down on those 45 to 90 days that it takes to put something out to bid. If we had done that on Hopi Court, it would not have been a good thing.

Mayor Pro-Tem Hernandez said he believes the City Manager has a $50,000 threshold or we changed that to $60,000. He doesn't have a problem with something $60,000 below that is what we have given you, but just notification for anything over that. He is not saying we approve it or not approve it, but he thinks we as a Board should know that money is being spent, not just find out because it happened, it become invalid or it was in your report. He thought this is something that we should be notified if that is going out.

City Manager Paluch stated it was in Digest and asked Mayor Pro-Tem Hernandez if he would like this in a public meeting. Mayor Pro-Tem Hernandez said because that digest is more of a private between us, he thinks it should be in a public meeting. He said this is public money and we should be letting people know what we are spending it on. City Manager Paluch said she wanted to make one point clear that for any project, this is budgeted money; it is not coming from fund balance, so anything from fund balance would have to come before the Commission. She said this is money is already budgeted.

Mayor Boss asked Assistant City Manager Cesar if this is the way we have done this with one bid and then asked if this is the first time that we've only had one bid. He answered this is the second time this has gone out to bid. He said we had our initial three or four year term and this is another four year term. Prior to that, if we had something like Hopi Court or Cobblestone Road, we would have to call an Emergency meeting or Special meeting depending on the time frame. The last time that happened it was with the Corps project when we had the failures on White Sands down by the Sonic down to Vision Ford. We had to call, he believes, a Special meeting and brought the Commission in to approve the project. He said this speeds up the process, the Commission does not have to declare urgency or an emergency because we have gone out and followed our procurement process. For notification to the Commission or approval, if the $60,000 limit is what the Commission wants to go with, that is not a problem.

Mayor Pro-Tem Hernandez said he does not want to limit it at $60,000, he just thinks that the Commission should be notified if it goes over the threshold of what her authority is. City Manager Paluch said the purchasing authority, it is not her authority, is what you are saying. She said what happened at Hopi Court did not go against purchasing guidelines. Mayor Pro-Tem Hernandez said he understands that, he has had that conversation. He said it depends on how you look at it and who is looking at it. Assistant City Manager Cesar said we can bring it forward to Commission if the project is over $60,000, we can bring it for your approval or we can bring it just as an informational item.

Commissioner Payne asked if this was brought before the Commission before and when was the last time. She said four years ago, right. She asked if this was setup the same way and requesting the same thing. She asked if this has seemed to have worked except for Hopi Court. Mayor Pro-Tem Hernandez said there have been some changes in the procurement process. Commissioner Payne said she felt it was like kind of pulling teeth to get Hopi Court done, so she sees it differently. She was a little frustrated because she thought it should have been done quicker. She said because it is budgeted money she does not have as big of a problem with it because the Commission did have to approve the budget. Mayor Boss said we are in an unfortunate situation. He said we have to do this, we need this and we only have one bidder and that's the problem. He said staff does recommend that we approve the order.

Commissioner Baldwin moved to approve.
Commissioner Payne seconded the motion.

Motion carried with a vote of 6-1-0. Mayor Pro-Tem Hernandez voted nay.

8. Consider, and act upon, Change Order No. 4, Public Works Bid No. 2017-001, to Smithco Construction, Inc. related to the 1MGD Brackish Water Treatment Facility project, in an amount not to exceed $147,705.01, including NMGRT. *(Bob Johnson, Engineering Manager)*

Engineering Manager Johnson said this change order consist of four items. The first item is additional work due to the conflict with the ROW water line. The conflict was not noted until excavation had begun. The second item is to increase the estimated quantity of bid item four from 18,500 tons to 21,000 tons of solid waste removal based on material removed to date and estimated to be removed as we move forward with the project. There is some additional work due to a substantial depth of 24 inch water line that was initially thought to be three feet deep and ended up being nine feet deep. The fourth item is a City requested item for trenching conduit and transformer pad construction for the primary electrical feed. He said the feed itself will be done by PNM, once the trenching and pad are in place.

Mayor Boss asked what our percentage of completion on that job is. Engineering Manager Johnson answered approximately 52 percent. Mayor Boss said we have spent almost $300,000 on 50 percent of it and asked how much do we have in reserve. Engineering Manager Johnson answered assuming this change order is approved tonight; we will have $178,751 and change remaining in contingency. He said with item two, as far as the buried solid waste removal to 21,000 tons, if this is approved this will give the City $1,100 of contingency. He said there is still some excavation to be done as far as the main water lines, some of the service lines as well as item four for the primary electrical feed. If any of this tonnage is remaining it will be returned to the City. Mayor Boss said his point was that we spent three quarters of our reserve and we are half done.

Mayor Boss asked Assistant City Manager Cesar to explain why more of that contingency was spent up front then otherwise should have been. He said during the design process, the only way to minimize is to really expand the engineering portion. He said in this project for the geotechnical work to identify solid waste, we spent approximately $100,000. He said to better quantify, we would have had to triple the number of borings. He said this would have taken that $100,000 to $300,000 and we still would have had to pay for the same amount of solid waste to be removed and disposed of at a landfill. He said when we look at a project like this or a street maintenance program, we can spend a lot more up front on the engineering trying to reduce those change orders, but there is not always a cost benefit to that. For replacing a utility line on Washington, we could dig up every connection, every service tap, verify line size, where Engineering Manager Johnson talked about the line where our plans say they are three to four feet deep and it turns out to be nine feet deep, that would have been another area that we would have had to have the engineering firm expose and still the cost to do the work is the same. We take somewhat of a risk by not exposing everything, but in minimizing that cost we are able to take that cost and put it into the project and get more work done. He said it does mean that we come to you as a body for the change orders, but in the long run with these projects we have seen that money is better spent on the project itself as opposed to exposing every piece of pipe.

Mayor Pro-Tem Hernandez asked Engineering Manager Johnson what the total increase in calendar days for the project. He answered this particular change order will increase the performance period by 52 days. Mayor Pro-Tem Hernandez said so it's a total of every one of these. Engineering Manager Johnson answered yes sir, there are four items; the buried solid waste is 30 days and the other three items adds another 22 days. Mayor Boss asked if that is considered when you estimated the 52 percent complete. Engineering Manager Johnson answered yes; it is still 52 percent complete as of this morning.

Mayor Pro-Tem Hernandez moved to approve.
Commissioner Turnbull seconded the motion.
Motion carried with a vote of 7-0-0.

9. Consider, and act upon, award of Public Works Bid No. 2017-015 to Western Builders, LLC, related to the Alamogordo WWTP: Effluent Pump Building project, in an amount not to exceed $267,084.00, including NMGRT. ***(Bob Johnson, Engineering Manager)***

Engineering Manager Johnson explained the project. He said we did advertise this project twice on October 15 and 22, 2017 and we opened bids on the 16th with three responsive bidders and Western Builders out of Mesilla Park is the apparent low bidder for both the base bid and both bid alternates.

Commissioner Baldwin asked what led to the deterioration of the current structure. Engineering Manager Johnson answered age. He said it is well out of code and he has no idea how old this building is and it is one of the worst looking pre-engineered metal buildings that he has seen in about 30 years. Assistant City Manager Cesar added that both structures were built in 1991.

Mayor Pro-Tem Hernandez said that is not actually too old, but he knows a lot of this has to do with the chemical and the chemical balance of waste. He asked if that is about what we are looking at life span for the new metal building. Assistant City Manager Cesar answered 25 to 30 years and it is not the age of the building, but exactly what you said. It is an effluent pumping building; it is a waste water treatment plant so you have the gases and the chemicals. Engineering Manager Johnson said there is going to be some grading changes done to minimize any water run off that can affect the lower part of the structure, which he thinks contributed to the problem of the existing structure. Mayor Pro-Tem Hernandez said he was actually on this project when this was put on back then. He said even block buildings or anything else doesn't withstand that crap.

Mayor Pro-Tem Hernandez moved to approve.
Commissioner Baldwin seconded the motion.
Motion carried with a vote of 7-0-0.

10. Consider and act upon first publication of Ordinance 1552, creating a Separate Violation for Failure to Comply with Municipal Court Orders. ***(Molly Kicklighter, Assistant City Attorney)*** **(Roll Call Vote Required)**

Assistant City Attorney Kicklighter said this is an ordinance that would authorize the Municipal Court to issue a criminal complaint summons upon a failure to comply with Court orders. She said don't let this make it seem as if that is exactly is happening right now, they are not actually issuing a complaint and summons when someone fails to comply with a Court Order. She said they move forward with the Courts contempt powers. She said the problem with the court contempt powers is that it can be complicated trying to figure out what is a direct contempt and what is an indirect contempt and it is something that you have to go back and look at every three to four years to figure out if somebody has complied with what the Court has asked them to do. She said our Court has very much been complying with the due process requirements of making sure that people who fail to comply such as: failing to pay their fines or failing to show up when and where they need to be there or failing to do their community service. She said Judge Lee and his staff do a really good job of making sure that people are aware of what is exactly required of them and then before he moves forward and imposes a sanction he gives them an opportunity to respond. She said we do not see that happen all over the State unfortunately. She said the Administrative Office of the Courts and the New Mexico Supreme Court have gotten involved in that and have basically revamped their rules and said before you can impose contempt powers you need to afford better due process. She said the suggestion has been; it would be safer and easier for everybody if we just made this a separate violation of law. She said if you have been in front of the Courts and you have agreed to appear at a certain place and time or you agreed to pay your fines by a certain amount of time or you have agreed to do your community service hours a certain amount of numbers by a certain amount of time and you fail to do so, then the Court will create a new charging document outlining what you have failed to do and you as the defendant will be given the opportunity to understand specifically what it is you have failed to do and answer to that. What this ordinance does is it heightens the due process protections of the citizens; it avoids misunderstandings of the contempt powers of the Courts.

Commissioner Payne asked if this was a petty misdemeanor violation. Assistant City Attorney Kicklighter said it would be that is correct. Commissioner Payne asked what is the sentence or penalty. Assistant City Attorney Kicklighter answered the way it is running right now; generally speaking, let's say it is failure to appear. She said the custom is to impose a $100 bench warrant fee. She said that goes in to the underlying cause, let's say for shoplifting and you came into Court and you plead no contest. She said as part of the penalty you were supposed to do your community service hours within a certain amount of time, you don't do it, so now you have to come back to Court and you are asked how do plead to the failure to do your community service hours and then the Court, assuming we don't need to prove out that this was failed to do, the Court will put about $100 fine. She said what will happen instead now is a new criminal complaint will go out. If someone comes in and pleads guilty or no contest to failing to do community service hours or failing to appear, the Judge has in his discretion, a fine up to $500 and up to 90 days in jail. She said the question Commissioner Payne asked opens up a whole other can of worms. She said realistically speaking does the Court have the authority to put someone in jail for this. She said yes absolutely, they always had it before under contempt; it is just that this clears up the procedure for so doing.

Mayor Pro-Tem Hernandez asked, if with this change could you come back prior to the end date and say that you need an extension because of this. Assistant City Attorney Kicklighter said absolutely, Judge Lee's staff has done a good job of making very clear in their paperwork if you have any trouble, come to us and let us know. The folks this is targeting are basically the people that have done nothing. Mayor Pro-Tem Hernandez said there comes a point where you have to put your foot down.

Mayor Pro-Tem Hernandez moved to approve.
Commissioner Martin seconded the motion.
Roll call vote was taken.
Motion carried with a vote of 7-0-0.

11. Consider and act upon Ordinance No. 1557 approving a local economic development project for secured financial assistance proposed by Precheck, Inc. *(Petria Schreiber, City Attorney)* (Roll Call Vote Required)

City Attorney Schreiber introduced Mr. Espiritu and Mr. Roper. Mr. Espiritu said Precheck has been in our community for about 12 years. He said currently they have about 182 jobs and they are seeking to add another 30 employees to the payroll over the next three years. These jobs will have a payroll of about $810,000 and their capital investment of the project is $250,000. He said the agreement with the State is $100,000 from the State LEDA fund and $50,000 from our fund to help them continue to build out their building to accommodate their people.

Mr. Roper explained how the money will be disbursed and what the money will be used for. He said there will be a final project review. He said this is something new that they started to do at the State of New Mexico Economic Development Department with our LEDA funds. Usually, up front we do an economic impact analysis saying this is the kind of economic impact this is going to have on the community, the schools, the County, and the State. This close out is going to be a way of saying what happened. This is going to give us some really good data to fall back on, as we move forward through the LEDA process.

Mr. Espiritu said there will be a bond that covers security over the project for the next three years and the agreements are already in place through the IGA with the State and the City for your blessing and of course the project participation agreement between Precheck and the City of Alamogordo for the distribution of funds. He said please note that it is a post payment, so it is after they create the jobs when they get reimbursement and not beforehand. Mayor Boss said this seems like the perfect project or fits the guidelines of the economic development fund to a tee.

Commissioner Baldwin moved to approve.
Commissioner Sikes seconded the motion.

Roll call vote was taken.
Motion carried with a vote of 7-0-0.

12. Consider and act upon Resolution No. 2017-37 to contribute the additional $203,600 to OCDEC regarding a PR Task Force Letter. *(Petria Schreiber, City Attorney)* (Roll Call Vote Required)

City Attorney Schreiber announced Mr. Ramsey and Mr. French are here to present this evening. Mr. Ramsey showed a power point presentation. He talked about branding and advertising Alamogordo. He said they are continuing to look for ways to continue to tell the story of Alamogordo. He also said how do we use the story of Alamogordo to make it better known and to make it a destination place for other businesses where they want grow and they can easily attract new bodies to move to Alamogordo. He then talked about the community experience, enhancement project goals, what they have done to date with the money that OCEDC has provided and briefly went over the next steps. (See Blue Book for power point).

Mr. French spoke about the money. He said the Commission has heard a lot of different figures thrown out and there are a couple of reasons for that. He said those different figures had different context. He said when we first started scoping this project out, we came out with a figure of $720,000 over a two or three year period and this was based on our experience of what it would take to accomplish the project. He said the next number is $100,000, which is the amount of money that OCEDC put up in private money to get this project kick started. He said the next number of $384,000, which is the amount of money that HK Advertising came in and scoped out a project for a one year commitment. The next number was $1.3 million dollars and this is when we took the $384,000 for one year and we added to it for things that our creative people are on our task force wanted to accomplish over a three year period. He said now we are back to how do we fund this. We had $100,000 and with the help of City Manager Paluch and City Attorney Schreiber they have identified the $203,000 that can be spent for this first year effort. He said this will bring them a total of about $304,000 that we are going to spend in the first twelve months on this project. He said we will start a conversation on how do we continue this effort so that we can rebrand the City of Alamogordo, overcome those negative stereotypes and bring more economic development opportunities to Alamogordo.

Mayor Boss asked City Manager Paluch to mention, for the public, where that $204,000 is coming from, the excess of the amounts that we could have given to OCEDC over a period of several years. She said you are correct, the money is coming from the difference that the City could have paid OCEDC going back to the inception of when the City started helping OCEDC with funding back in 2001. She said the City can give $50,000 or up to 10 percent of what is greater each year, based on what the GRT collects. She referred to a slide on the presentation of an analysis of the OCEDC payments broken out, based on each year. She said the total is the $203,600.93 is what could have been transferred to OCEDC from the local economic development tax.

Commissioner Payne said it is a little weird to her that the City is going back and basically retro paying money that prior Commissions way before this one voted on a set amount at that time. She said the other thing is that we want to be proactive. She asked if we are just going to revisit this every year or how is that going to work because our designated amount was $70,000. City Manager Paluch said Commissioner Payne brought up a very good point, OCDEC currently has a contract with the City of Alamogordo and that contract says $70,000 or $80,000 a year. She if there is an increase in that GRT tax, than yes there still could be money left on the table. She said it would be up to the Commission to determine if you want to renegotiate the terms of the contract with OCEDC to allow for that up to 10 percent or if you would like to revisit this at a later date. She said it is truly up to the Commission how you would like that contract to be structured and the time to discuss that would be during budget season.

Commissioner Baldwin said he was disappointed, not in staff, but in circumstances that we were not able to give you the $1.3 million. He said Commissioners and the City Manager have heard him say

that he would give you all that is in there if he possibly could. He said to Commissioner Payne's comment, the process for the Commission now, and he believes what was just presented to us was, after this year, they'll probably have one million dollars basically that they are looking to fulfill their commitment and plan. He said it is going to be up to us to brainstorm potential ways for that to happen and City Manager Paluch said we'll revisit this come budget time. He said promotion is one of the things that we don't actually have in our budget and we've never really made it come to fruition yet, but if there is a time to do it in the budget process this is it. Commissioner Payne said it has to be in collaboration with OCEDC, it can't be completely up to the City. Mayor Boss said yes and the plan is to also have the local businesses contribute to this too, like they do to OCEDC now. Participate in this program as it continues on, am I correct.

Mr. Ramsey said he thinks absolutely. He thinks our long term goal for this is get everyone to have skin in the game, we think this works best as it is a public private partnership. To what percentage of that is a public private partnership, He doesn't think we have any of that set in stone, but thinks absolutely for the long term viability of the community, being public private partnership is in the best interest. We have a really great example just a few miles north of us with Los Lunas. A town of 10,000 people that have spent about $150,000 a year over the last few years and we've seen what they have been able to do at Facebook, right. It is pushing a billion dollars in economic infrastructure there in that community and we talked about the gross receipts. That is what we are talking about is how we can allocate money wisely to invest in this beautiful community that we have to tell our story to grow gross receipts. This isn't one of those things where we are trying to necessarily take money away, what we are trying to do is leverage growth to grow the entire pot and then continue to maybe be able to set aside a little bit to continue this process.

Commissioner Payne said she is absolutely in support of this; don't think that she is not. She said we just have to answer to people that are going to ask why are they spending all this money. She wanted to get everything out there and make sure that she can reconcile when she has to answer that. Mr. Ramsey said absolutely, we all have to be good stewards in above approach so we shouldn't be scared of any of those questions. He said a private and public partnership is in all of our ideas, the best way to move forward.

Mayor Pro-Tem Hernandez said he supports this 100 percent. He said this is one of those loopholes that he was talking about earlier. He said these are the things that we do and he does not have a problem with them, as long as it is brought forward and it is put in front of us and we can explain it and cover it. Mayor Boss said don't use the term loophole.

Mr. French said one thing that he left out; is to put this amount of money in context. He said $300,000 is a lot of money, but there are individual businesses in town that spend more than that on marketing every year. He asked what the right number is and said probably as much as we can afford is the right number. He said I would guess $400,000 to $500,000 a year is what we should be looking at as a community moving forward to get this going and to maintain it. He said like Mr. Ramsey said, the benefits will come through economic development.

Mayor Pro-Tem Hernandez said it takes money to make money and it takes a lot of effort from the community and the partners in this to make this happen because basically we are the ones that did this to ourselves and so it is up to us to take us out of it and come back to what we have the ability to do and have the town and the facilities to sell. He said $203,000 is actually cheap money on our part. He said he wished that we had more. Mayor Boss said there is no issue with going back and doing this, and asked if this is totally under our discretion. City Manager Paluch nodded yes.

City Manager Paluch said staff supports this 100 percent and we do recommend approval for it. Mayor Boss said he thinks everyone up here is with you 100 percent.

Mr. Espiritu said the OCEDC Board also supports this project in this manner

Mayor Pro-Tem Hernandez moved to approve.
Commissioner Baldwin seconded the motion.
Roll call vote was taken.
Motion carried with a vote of 6-0-1. Commissioner Martin recused from voting.

13. Consider, and act upon, Resolution No. 2017-38 Declaring that a vacancy exists in the Office of District 6 City Commissioner and calling for a Special Election to fill the vacancy. *(Rachel Hughs, City Clerk)* (Roll Call Vote Required)

Commissioner Martin said for those of you that know me, this did not come as a shock. She said this was not an easy decision but she is making it for her kids. She said that she has watched her business double in the last year and they get pushed to the side consistently. She wanted to thank everybody for being awesome. She said she loves you all. It wasn't easy, but she has to, she is treading water. She said tonight her kid had a basketball game and she got here as soon as she could and it is always like that. She said she is trying but she can't do it all, she is not superwoman. She thanked each and every Commissioner, staff and the community. She said we live in an amazing community and she is honored to have sat on the Commission while she did. Mayor Boss said we understand and we appreciate the time you have given.

Commissioner Sikes said she was really surprised when she heard that Commissioner Martin was leaving. She said she does not know her personally. She said that she sees what Commissioner Martin does and she does think that Commissioner Martin is superwoman. She said she is sorry to see her leave but she certainly understands what Commissioner Martin is doing.

City Manager Paluch said Commissioner Martin is always talking to staff; she is always researching and the amount of time and effort that she has put into this seat. She said if you know her, she does not do anything half way, she is either 100 percent or she doesn't do it at all. She said we are going to miss you.

Commissioner Baldwin moved to approve.
Mayor Pro-Tem Hernandez seconded the motion.
Roll call vote was taken.
Motion carried with a vote of 6-0-1. Commissioner Martin recused from voting.

14. Consider and act upon Resolution No. 2017-35 calling a Regular Election to be held on Tuesday, March 6, 2018 for the purpose of electing a Mayor at Large, two (2) District City Commissioners, and a Municipal Judge. *(Rachel Hughs, City Clerk)* (Roll Call Vote Required)

City Clerk Hughs said this was an election that is held every four years and these Commissioners, the Mayor and the Municipal Judge are due for election. She said the election will be held March 6, 2018.

Mayor Pro-Tem Hernandez moved to approve.
Commissioner Turnbull seconded the motion.
Roll call vote was taken.
Motion carried with a vote of 7-0-0.

15. Appointments to Boards and Committees. (Richard Boss, Mayor)
Mayor Boss said David Gonzales has tendered his resignation as Chairman to the White Sands Beautification Committee, which will be accepted. He appointed Christopher Hayman to Chairman of the White Sands Beautification Committee. No one was opposed.

Mayor Pro-Tem Hernandez moved to adjourn at 8:14 p.m.
Commissioner Baldwin seconded the motion.
Motion carried with a vote of 7-0-0.

ADJOURNMENT

Mayor Richard Boss

ATTEST:

City Clerk Rachel Hughs

(Prepared by Eric Barraza, Deputy Clerk)
Approved at the Regular Meeting held on December 19, 2017.