

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
November 7, 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. Clerk Hughs announced there was a quorum present. Invocation was given by Pastor David Crispin and the Pledge of Allegiance was led by Commissioner Baldwin.

Mayor Boss announced the Alamogordo Boy's Soccer team won the State Championship. That is an awesome accomplishment.

APPROVAL OF AGENDA

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

PRESENTATIONS

1. Presentation on our recent Public Protection Classification (PPC) survey that was conducted by the Insurance Service Office (ISO). (*Jim LeClair, Fire Chief, & Paul Tooley, owner & consultant of Turbo Design*)

Fire Chief LeClair said on August 28th, 2017 the City of Alamogordo received the results from the Insurance Service Office (ISO) in regards to our Public Protection Classification survey. He announced the Alamogordo Fire Department has lowered their ISO rating from a Class four to Class three. He praised the men and women of the Alamogordo Fire Department. He said we have spent over a year of our time dedicated to preparing for this survey, along with the help from their consultant. Tonight a presentation has been prepared and will be given by Fire Chief Tooley. He is the Fire Chief from the Truth or Consequences Volunteer Fire Department and the developer of Turbo Design. He designed the FSR software that was instrumental in helping us achieve this goal. He introduced Fire Chief Tooley.

Fire Chief Tooley thanked the Alamogordo staff and Fire Fighters for their work. He showed a Power Point presentation. He gave a brief history of ISO and how they came about. He also discussed how the public protection classification survey works and how the grading system is scored. He talked about the allocation of money for each classification. He discussed how they rate the community. He showed the results for the Alamogordo Fire Department and said they were only one point from being a Class two. He then discussed how they can improve on their rating. (See Blue Book for Power Point).

PUBLIC COMMENT

Bill Dennis commented on the following:

Mr. Dennis spoke on the Fire Side Chats. He said once they got a new City Manager it all stopped. He requested they bring it back.

CITY MANAGER'S REPORT

City Manager Maggie Paluch made the following remarks:

1. She congratulated the Alamogordo Fire Department for all their hard work.
2. She said the Desal Project is about 47 percent complete and in the last couple of weeks they completed the evaporation pond and lining. They also completed and poured the grade beams for the building. The contractor is on schedule to start erecting the Reverse Osmosis building in January 2018. The final completion date is September of 2018.
2. She announced the Commission will be having a Special Workshop on November 14, 2017 at Fire Station 5 to meet Mr. Jay Chun and his brother Mr. Moses Chun from Downtown Venture Corp. The evening will begin with a taste testing, by invitation only, for the Commission and Community leaders at 5:15 pm. The menu will give the Commission the type and quality of food that could be available at Basin Lanes. The workshop will begin at 6:00 pm. And Mr. Chun will review his business plan for Basin Lanes and the Commission will have the opportunity to ask questions to Mr. Chun.
3. She said a year ago, the City did a mini update to on the website which basically only changed the cover of the website. Communications and Marketing Administrator Brideaux has been developing a plan to do a complete redesign of the website to make it more user friendly and ADA compliant. After extensive research staff has decided to use website developer Civic Plus. The cost will be approximately \$11,000 a year for four years and this will include the setup, the hosting and the support of the website, then approximately \$5,000 a year afterwards for just hosting and support. Additionally, after four years they have a 100 percent redesign of the website. Currently, the City is paying approximately \$11,000 a year for hosting only and no support. Staff will be able to use funding within the current budget for this contract. The timeline for the project to be completed is six months after the contract is ratified.
4. She said staff was at Basin Lanes today to look at the setup of the laser tag and the progress of the remaining portions of the building. The laser tag arena has been painted and the barriers are being installed this week. Additionally the vinyl tile has been installed in the hall ways, meeting rooms and the office spaces. The wood subfloor is going down for the installation of the bowling lanes. The kitchen has been tiled and the appliances are being installed currently. Additional lighting is being hung over the bar.
5. She said Deputy Chief Ramirez and Lieutenant Stroope from the Alamogordo Fire Department went to Wisconsin to go over the building sheets for the two new Class A engines that are on order. The trucks will tentatively be ready in March 2018, which is much earlier than expected.
6. She said Police Department this week has been going through their voluntarily accreditation which occurs every three years. The New Mexico Municipal League and the New Mexico Self Insurer's Fund developed the program and formed the New Mexico Law Enforcement Professional Standard Council to monitor the testing. The council developed the accreditation process that is specific to the needs of New Mexico Law Enforcement agencies. The goals of this council is for the agencies to do six different things; 1) strength and crime prevention and control capabilities, 2) formulize a central management and administration procedures, 3) establish fair and non discriminatory practices, 4) improve service delivery, 5) solidify inter agency cooperation and coordination, 6) boost citizen and staff confidence in the agency. The accreditation inspectors arrived on Monday and will be in town most of this week. They are going to be reviewing all of APD policies. On Wednesday, management will be at the Otero County Fairgrounds for the static display, where the department sets up stations for all of their programs such as; K9, SWAT and patrol. The inspectors will be able to go around to each station and ask the personnel specific questions about their departments.
7. She reminded everyone to vote for the K-9 Aftermath Grant. Tonight is the very last night and it closes at midnight. The City of Alamogordo is in second place right now.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

None.

CONSENT AGENDA

2. Approve the minutes for the October 24, 2017 Regular meeting. (*Rachel Hughs, City Clerk*)

3. Approve the release of liens that have passed the 4 year statute of limitations. (*Petria Schreiber, City Attorney*)
4. Approve the State Grants-in-Aid award from the New Mexico State Library for local library support. (*Sharon Rowe, Library Manager*)
5. Approve Resolution No. 2017-34 adopting new rates for garbage collection effective January 1, 2018. (*Mark Threadgill, Customer Service Manager*) (Roll Call Vote Required)
6. Approve the Investment Report for the quarter ending September 30, 2017, in accordance with the City of Alamogordo Investment Ordinance. (*Julianne Hall, Finance Director*)
7. Accept the DFA Quarterly Report for the period ending September 30, 2017. (*Julianne Hall, Finance Director*)
8. Consider and act upon final publication of Ordinance No. 1546 amending certain sections of the Code of Ordinances concerning purchasing. (*Petria Schreiber, City Attorney and Barbra Pyeatt, Procurement Manager*) (Roll Call Vote Required)
9. Consider and act upon final publication of Ordinance No. 1548, an ordinance amending Sections 2-14-040 and 2-14-050 of the Alamogordo Code of Ordinances regarding economic development. (*Petria, Schreiber, City Attorney*) (Roll Call Vote Required)
10. Approve Resolution No. 2017-33 requesting written approval from the Local Government Division of the Department of Finance & Administration, State of New Mexico for the revised budget figures computed as of November 7, 2017. (*Kathy Gilsdorf, Budget Analyst*) (Roll Call Vote required)

Mayor Pro-Tem Hernandez asked to remove Item # 3, 5, 8, and 9 from the Consent Calendar.

Mayor Boss asked to remove Item # 4 from the Consent Calendar.

Mayor Pro-Tem Hernandez moved to approve items 2, 6, 7, 10 of the consent calendar.
Commissioner Sikes seconded the motion.
Roll call vote was taken.
Motion carried with a vote of 7-0-0.

ITEMS REMOVED FROM CONSENT AGENDA

3. Approve the release of liens that have passed the 4 year statute of limitations. (*Petria Schreiber, City Attorney*)

City Attorney Schreiber said this represents a large part of the lien book from 2006 and 2007 of water and weed liens. She said the Commission will see these on the next four meetings of this year.

Mayor Pro-Tem Hernandez said the only reason he asked to pull this off is because we have one that is around the four years and we probably need to look at it. It was not a lien it was a charge to the German Air Force for the parking lot at the ball fields. City Attorney Schreiber asked Mayor Pro-Tem Hernandez to provide her with the information so it can be put on the next agenda.

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

4. Approve the State Grants-in-Aid award from the New Mexico State Library for local library support. (Sharon Rowe, Library Manager)

Library Manager Rowe apologized for leaving the staff recommendation off of the agenda book. Mayor Boss said that is why he pulled this item off of the consent calendar. Library Manager Rowe said the staff recommendation is to approve the State Grant-in-Aid. It is important to provide supplemental resources such as: books, videos and databases. This is what we use this money for.

Commissioner Sikes praised Library Manager Rowe and staff for the work they do at the Library and for their contributions to the community. Library Manager Rowe described what the money would be used for.

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

5. Approve Resolution No. 2017-34 adopting new rates for garbage collection effective January 1, 2018. (Mark Threadgill, Customer Service Manager) (Roll Call Vote Required)

Customer Service Manager Threadgill said this is the annual rate adjustment that is in the contract with Southwest Disposal, which provides our residential garbage service in the community. In the contract there is a provision based on CPI increase and/or number two diesel fuel index to increase or decrease prices every year. We did have a decrease in 2016 and this year there is an increase of \$0.1934 on the average residential customer. That's entirely attributed to the CPI increase, fuel costs have remained below the cap that is in the contract

Mayor Pro-Tem Hernandez said he pulled this item off the consent calendar because it is an increase and he does not like to see those roll through without the Commission talking about it. He was concerned with the big containers not being maintained and asked what the city does to make sure these containers are being maintained. He said he has actually had calls from residents when containers are blown into a ditch. He said they will call, but they are told to go down and get them and that is something that we should not be telling our residents.

Customer Service Manager Threadgill said we do have a liaison, in the Public Works office, between the City and Southwest Disposal. He said he cannot answer for Public Works, if they actively go out and survey the containers.

Mayor Pro-Tem Hernandez said sitting in an office is not a way to inspect. Do it random or pick a certain number of cans that you are going to inspect that month. Customer Service Manager said that is in another office, I have no control.

Assistant City Manager Cesar explained the liaisons' responsibilities. He said Southwest Disposal goes out and does inspections. Periodically, the City does go out and inspect areas, but going through and looking at every container in the City, no we do not do that.

Mayor Pro-Tem Hernandez said this past year was better than years before. There for a while some of these cans looked horrible.

**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.**

8. Consider and act upon final publication of Ordinance No. 1546 amending certain sections of the Code of Ordinances concerning purchasing. (Petria Schreiber, City Attorney and Barbara Pyeatt, Procurement Manager) (Roll Call Vote Required)

Procurement Manager Pyeatt said what we are doing is mirroring the State's threshold for our purchasing.

Mayor Pro-Tem Hernandez said he has an issue with some of our procurement stuff not being reported. When we spend a half of million dollars and we don't have any kind of report on how that was spent, I have a problem with it. I don't support this at this time.

Commissioner Martin moved to approve.

Commissioner Turnbull seconded the motion.

Roll call vote was taken.

Motion carried with a vote of 4-3-0. Commissioner Sikes, Mayor Pro-Tem Hernandez and Commissioner Payne voted nay.

9. Consider and act upon final publication of Ordinance No. 1548, an ordinance amending Sections 2-14-040 and 2-14-050 of the Alamogordo Code of Ordinances regarding economic development. (Petria, Schreiber, City Attorney) (Roll Call Vote Required)

City Attorney Schreiber said this amends our Ordinance to be more in line with the State's LEDA Ordinances. It was recommended to us by our State LEDA representative Mr. Roper.

Mayor Pro-Tem Hernandez said he read this agreement over and over it seems like we are kind of going away from what we have in place with our economic development. It allows the city to take over a lot of those items without going through them. It kind of puts us in a position to be a loan company and we are kind of advertising that. He does not agree with that at this time.

City Attorney Schreiber said she is not sure how to respond to that. This is in line with what the State does, so we are not doing anything other than what the State has done. We can leave it how it is, but this is how the State runs their LEDA program. We have not taken anything away or added anything that would make a provision that we could loan any money.

Commissioner Sikes asked City Attorney Schreiber said by deleting a section of this Ordinance is we in compliance with the State Ordinance. She answered, yes. Commissioner Sikes said I get the idea that we are trying to eliminate of our local economic development department in a couple of places. We have a contract with OCEDC, why would we change the verbiage here to choosing to work with; we should be working with them. City Attorney Schreiber said the reason why we changed from contract to choose to work in conjunction with is because the way we were interpreting this is that we had to have a contract every time we did a separate LEDA project with OCEDC to do that project. That is the way it was interpreted up in Albuquerque. We can take out the word choose and make the language more restrictive. It is not the intent to not work with our local chamber or OCEDC. The intent is just that we don't have to have a contract every time we do it. Commissioner Sikes said that what she is getting from this is when we get into a situation where we are working with a company, that we will automatically include OCEDC in any of the information and negotiations. City Attorney Schreiber said that is the policy currently.

Mayor Pro-Tem Hernandez said in this it says that we may choose to, so that gives us the option not to. City Attorney Schreiber said my reading of that would say that previously it said the Commission may contract, so we did not have to previously. My intent of taking the word contract out was just not bind the City to write a written contract. We can take the word may out if the Commission would like and put the word shall work in conjunction with.

Mayor Pro-Tem Hernandez said he would be more comfortable with that. Commissioner Payne said I would too. Commissioner Sikes agreed with Mayor Pro-Tem Hernandez, she would be more comfortable also. We are working with the Otero County Economic Development Corporation (OCEDC). They are our partner and I don't think we should ever allow the perception that we are working independently of them or vice versa. She thought that adding the word shall should cement that contract.

City Manager Paluch clarified this wording does not pertain to the annual contract that we have with OCEDC. This wording pertains to, what City Attorney Schreiber was saying; the reading up in Albuquerque is that we have to contract with them for each individual project. We are not getting rid of the annual contract with OCEDC by any means. City Attorney Schreiber said this language is something the City added ourselves, which we are still in compliance with the State Ordinance if we do this. We do not want to give the perception that every time we work with OCEDC that we have to sign a separate contract to do that LEDA project.

Mayor Pro-Tem Hernandez asked how many LEDA projects we do a year. City Attorney Schreiber said traditionally we have done five and there are four applications currently pending. City Manager Paluch said we had five in the last five years. Not all of those projects had local LEDA money contributed some of it was just State LEDA money

Mayor Pro-Tem Hernandez stated that isn't very many and he doesn't think a huge offset to work with OCEDC to sign a contract. If we start getting a lot and it becomes cumbersome then we can relook at it, but at this point I don't see that it is an issue to work in conjunction with them.

Commissioner Sikes asked City Attorney Schreiber if it is a LEDA project that OCEDC is part of the initiator of that project, so they should be aware of it. We should make sure that they are in the negotiations. City Attorney Schreiber said, correct. It has been my experience that when we take a LEDA application, OCEDC is one of our very first calls about it. The intent of this has nothing to do at all with OCEDC, we have been working extensively with them.

Mayor Boss said he is suspecting that this has something to do with something we have done recently and he supported it but the Commission never voted on it. We sent out a PSA explaining all of the LEDA opportunities to the public and it was never been done before. He asked City Manager Paluch how many request have we had. She answered we have had four applications. Mayor Boss said he spoke to a gentleman that had tried to speak to OCEDC on five different occasions and was turned away from the door. He thinks that we should have the opportunity to pursue it and then take it to OCEDC rather than OCEDC come to us. The funds are available, we have almost \$7 million dollars in funds, they have been growing year after year and we never used them. We look at businesses outside of Alamogordo why have we not looked at businesses within Alamogordo. I know of one business specifically that builds large trailers that haul the blades for a wind generator. He builds those and sells them all over the country. He does not know if he is one that has made an application or not, but we will share that with him. He does not think the City of Alamogordo should be excluded from it when it has not been done in the past. It was an idea that we had and it worked.

Commissioner Sikes said she does not know why this is the first time that she is hearing about this. Mayor Boss said he did not think you were intentionally left out of it. Commissioner Sikes said she thinks it is a good thing, but just wondered why they hadn't had a Commission discussion about it. Mayor Boss said OCEDC will be involved in it.

City Manager Paluch said the fact sheet was put in digest to the Commission a couple of weeks ago.

Commissioner Baldwin said it looks like everyone is tip toeing around the subject. Basically some people feel like we do not want to cut OCEDC out of what they have been doing. He does not read it as some kind of conspiracy or as anything trying to cut OCEDC out. He also does not see an issue of two entities trying to create jobs in Alamogordo. If does not cut OCEDC out from what they have been

doing for this community, then he is fine with it. He does not want to be playing tug a war with money that is just sitting there. He wants to use it and get some economic development going. Mayor Boss said he thinks that is exactly what they are trying to do. Commissioner Sikes agreed with Mayor Boss and Commissioner Baldwin. Mayor Boss said it is not like we are cutting them out, we are helping them out. He thinks they need a little help right now.

Commissioner Baldwin moved to approve.

Commissioner Martin seconded the motion.

Roll call vote was taken.

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

UNFINISHED BUSINESS

11. Consider and act upon, Ordinance No. 1544 amending sections 28-03-005, 28-03-100, and 28-03-085 of the Alamogordo Code of Ordinances regarding water and sewer service. (Mark Threadgill, Customer Service Manager) (Roll Call Vote Required)

Customer Service Manager Threadgill said this Ordinance was first presented on September 12, 2017. At that time there was much discussion and the Commission asked for some additional information. The changes proposed to the Ordinance would; increase the subdivisions lot exemptions, add an exception for an exemption for lots not in a subdivision that have never been developed, it eliminates the residential owner deposits for starting water service, provides a mechanism for rental property owners to eliminate the \$25 transfer fee, and adds a \$25 a month hydrant meter rental fee. The information that the Commission asked for was are the economics of this going forward, what the projects would be looking like into the future, what the revenues will be looking into the future including what would happen if we created a new special rate for the owner transfers of a \$10 base rate. Looking at the two years of data we have available, what we would be looking at if we created this new \$10 rate would be a net decrease of approximately \$145,000 in FY19 over FY18 projected revenues. Customer Service Manager Threadgill then discussed how he came up with calculations for future projections.

Mayor Boss thanked Customer Service Manager Threadgill, Assistant City Manager Cesar and Finance Director for preparing the information and said it is pretty much what the Commission asked for. He said he is having a problem with the base rates and having the vacant properties and having the \$29 plus fee on them. He said he looked at some water bills on their personal residence, his wife's business and some other properties he has access to information on. He said in July his water bill was \$57.92 and we used 3,321 gallons of water. Our water service totals were \$21.34 and sewer was \$19.04. If you look at those that is \$40.38. We are only paying \$10 more and we used almost 3,400 gallons of water. We used more than the person that has a vacant property, being a rental that they can't rent or be it just a property where there is a house sitting there. I did my wife's bill, which is a commercial property, and it comes out to \$35.53. That is within \$5 of what a person that is using no water and may never use water. He is having a real problem with the base rate as a result of that. His wife only has to pay \$5 more on her bill than the base rate. People have to pay \$30 on their bill and they are getting nothing. He said he supported before, but he can't continue to go along with the amount of the base rate that we have now.

Mayor Pro-Tem Hernandez said some lots in his neighborhood are worth possibly \$5,000. In seven years they are going to belong to someone else because most of those people can't pay for services not received. To go in there and remove the water line it is ridiculous. You can pull the meter setter or cap the meter setter, it is that simple. That way if that homeowner ever decides to build or sell it they are not going to have to pay another \$3,000 or \$4,000 to get the service put back in. He can't support it because of that. He mentioned he received a call from a resident from Amber Skies where they own the homes but rent the lot. They get charged renters charges. He said he could not support this, but he would like to see staff put something in this ordinance with that. He said he appreciates all the work that has been done.

Mayor Boss said he had some calls from some elderly people. They had inherited a house but no one in it and they were on social security. Some of these people that are on fixed income, especially social security, \$29 is a lot of money to them.

Commissioner Turnbull asked Customer Service Manager Threadgill about section one of the 28-03-005, section one number four where it says the original developer of subdivisions may petition the Commission. She thought they talked about if the original developer is no longer here and if the subdivision got sold. She he thought they were going to allow the new owners to be able to petition. City Manager Paluch told Commissioner Turnbull they did not vote on anything for that. If the Commission would like to vote with amendments to this Ordinance you can certainly do that at this meeting.

Commissioner Payne asked Mayor Boss if he thought there should be any kind of charge. Mayor Boss said we have to have some mechanism to have revenue for these improvements that we got to do. He thinks that we need to somehow allocate it.

Customer Service Manager Threadgill said you have two streams of revenue for water and sewer. You have consumption charges and you have base rates. Mayor Boss said it has to be one or the other, but it does not have to be \$29 on vacant lots. Customer Service Manager Threadgill said if the Commission were to amend the ordinance to say vacant lots don't pay, then they wouldn't pay. That cost would be shifted to those that are on the system all the time. Mayor Boss said he is not saying that we should drop that full fee. He thinks there is a beneficial interest and they should pay something, but he just thinks that it is too high. Customer Service Manager Threadgill said that is the Commission's decision to make those rates should be and when they should be charged. The staff's recommendation is that the Commission approves this ordinance as it has been presented. That is staff's recommendation based on the research that we have done, based on the economics, based on the projects that we see into the future to keep this as a sustainable water and sewage delivery and processing system. Again, you have two revenue streams base rates and consumption.

Mayor Boss said he thinks the Commission understands that. Customer Service Manager Threadgill explained the last time someone mentioned that we could go to consumption based system and do away with base rates. He said he did a back of the envelope estimate. He said we would start, to remain revenue neutral, our tiers at what is now a tier three. Basically \$3.65 per hundred cubic feet if it was totally consumption based. Even that would be suspect because we will find a paying point where people will start cutting back on water consumption because the per unit cost keeps going up.

Mayor Boss stated, we have a lot more people out there that are paying water bills based on water usage, they are using the water, than we do people that have vacant lots. Customer Service Manager Threadgill said substantially. Mayor Boss said to make up the difference for those fewer people; it does not seem to me that it is going to be a great amount that will be passed on, if we were to do that. Customer Service Manager Threadgill said he believes it was Commissioner Turnbull that wanted the \$10 base rate. That would be a reduction in revenues of \$145,000 over the current years estimated that would have to made up to remain neutral. Mayor Boss said he doesn't think that is a big number. If part of that were kept as a minimum fee. Pro rata to the minimum we charge to the vacant houses and the other two thirds is allocated to the current users. That is hypothetical; we would have the same result in revenue correct. Customer Service Manager Threadgill said we would have to shift some costs from those that were reduced to the \$10 rate over to those who are still paying the full rate. Mayor Boss asked how the Commission wants to go here.

Commissioner Baldwin said we took care of most of what we wanted to care of except for the base rate so he thinks they are on the right road. The \$10 fee was roughly at two-thirds reduction in the base rate. The amount of \$145,000, he thinks, is absorbable into the budget. We are talking about the two revenue streams in that you have to have the revenue from one of the two. I see it as a reduction in services. He said instead of talking about raising the fees, we can look at our projects and just budget better for the next couple of years. He said they can reduce the rate and get to \$10, not charge any

additional fees for the average users. Our projects just change over the next few years. He thinks that we cannot take it away completely because he does agree with the fact if you have a meter or a piece of property that can be accessed or needs fire services or emergency services there absolutely needs to be a fee. If you are a contractor that built it, your planning and budgeting should take things like this into consideration, however \$30 was just a little too much in my opinion. Most everyone that he talked to and asked if the rate was \$5 or \$10 how would you feel and almost every single one of them said that is extremely manageable.

Commissioner Payne asked if they are talking about all base rate or base rates for empty lots. Commissioner Baldwin answered base rates for empty lots. Customer Service Manager Threadgill said for a typical residence in Alamogordo, the water base rate is \$13.90 and the sewer base rate is \$13.60 that is with a residence. He thinks Commissioner Payne's question is a vacant lot versus a vacant home. He said a vacant home, you figure is going to turn, so are we going to lower that base rate to \$10 or just the one for the vacant lot or the undeveloped lot. Commissioner Payne said that is exactly what she is asking, because there is a difference and she wants to be sure what we are voting on. Are we talking about an empty lot without a house on it, without a dwelling on it or are we talking about an empty dwelling.

Mayor Boss said himself, he is taking about both. Commissioner Payne said that is not what we just said, but I get it now. She took it as an empty lot.

Customer Service Manager Threadgill would this also include those customers currently considered as snow birds, the ones that leave town for months at a time. Right now, they will put their house on base rates, would that \$10 also applies to them. Mayor Boss asked how big a number is that as far as the number of people that do that. Customer Service Manager Threadgill answered about 75 to 100 per year. Mayor Boss stated this is my feelings; he has a problem with people almost paying as much as he pays. Basically they are paying what he is paying and they are getting no water for it. Customer Service Manager Threadgill said they are receiving the water they just choose not to use it. The water is available to the property. They are receiving it, we are producing it, we are treating it, we are capturing it from the mountains and the wells; doing all of those things all the way up to the property line. Mayor Boss stated they have water available, they are not receiving water there is a difference.

Commissioner Payne asked if they have ability to know if they were using the water in the home or not. Customer Service Manager Threadgill said yes we read the meters. Commissioner Payne asked if the house will have a service now, it has to be in somebody's name. Customer Service Manager Threadgill answered right. Commissioner Payne asked if a house is on a base rate because it is supposed to be empty, do you still read the meter. Customer Service Manager Threadgill said yes. Mayor Boss said that is why we put meters on them so we can control the water and make sure they did not put a valve on it without a meter. Customer Service Manager Threadgill said that is true.

Commissioner Baldwin said his concern is with empty lots and not the homeowners that choose not to use the water. He asked Customer Service Manager Threadgill if the calculation for the \$145,000 if we went to the \$10 base rate was just for the meters that were going to empty lots, correct. Customer Service Manager Threadgill answered no that was based on across the board. Commissioner Baldwin said it makes it much easier going to \$10 then.

Mayor Pro-Tem Hernandez said he has two water meters on and he chooses not to go to the base rate, because in one of the houses he has plants that he waters, instead of taking water to the plants. He uses maybe five gallons a month, but if he goes to base rates and he uses a gallon they are going to charge him the full rate. The other house he is doing work in it, but again he is using 5 to 10 gallons a month and if he goes to base rates and uses a gallon of water, the meter registers that type, he is no longer on base rates. Commissioner Baldwin said it makes sense though. Mayor Pro-Tem Hernandez said to throw him off because of a gallon of water; there should be a minimum, maybe a hundred of gallons. If you do that with the snow birds, more than likely they have someone watching their house, if someone flushes the toilet, because if not there is going to be a smell. Then they are no longer on

base rates. Commissioner Baldwin said now we are arguing semantics and each individual case. Mayor Pro-Tem Hernandez said he made a comment when this was passed that it is going to come back and sneak up on us and it did and this is another one that is going to sneak up on us.

Customer Service Manager Threadgill said we are running into an issue on the subdivision lots. Under the current ordinance, in December we start charging for the vacant subdivision lots. He reviewed what has been relieved with the proposed ordinance.

Mayor Boss said we can change base rates and the rates that we charge, correct. Customer Service Manager Threadgill said you have every option on the table open to you. This is staff's recommendation. We have hit most of the high points and he understands there is always going to be disagreements on the philosophy of the base rates. As staff we have come up with that compromise to keep the system financially sound. If there needs to be changes then tell us what exactly what you are looking for.

Commissioner Baldwin made the motion on to consider and act upon Ordinance 1544 with the \$10 base rate for empty lots and Commissioner Turnbull's recommendation for page 1. Customer Service Manager Threadgill interrupted and said he believes that we would need to rewrite the Ordinance. That is going to be a substantive change to the Ordinance. City Attorney Schreiber said that is correct. Commissioner Baldwin said section 1 item 4 the original developer of the subdivision covered by this ordinance, it was going to be changed.

Commissioner Turnbull said it was going to be changed to the current owner. To say the original developer sold it to somebody else. Customer Service Manager Threadgill asked if she means any person owning that lot. If a developer owns 50 lots and they sell one to me as a builder, do I fall under that exemption as a developer or is it your intent to the successor to the developer. Commissioner Turnbull said the successor, the owner. Customer Service Manager Threadgill said the developer develops then a builder comes in builds on the lot, maybe two separate entities. The way the ordinance is written now the developer gets the extension. Once that lot is sold to a builder then that exemption disappears. Commissioner Turnbull said it should also apply to the builder. She thinks it should apply to whoever owns that lot at that time. If the original developer has passed away, she is trying to protect the person after that person passes away. Customer Service Manager Threadgill asked if the developer or their legal successor would be satisfactory. Commissioner Turnbull said she likes owner. Customer Service Manager Threadgill said well the owner would then eliminate pretty much any person from being charged base rates, because when you buy a house you bought that lot you have become the owner now, you would become exempt. Commissioner Baldwin said it would be no different if somebody owned an empty lot in some other place other than a subdivision, right. If I bought a lot somewhere else and it had no house on it and it should be \$10, right. Customer Service Manager Threadgill said let's go back to the empty lot, right now in a subdivision once that lot is sold what happens at that point. Commissioner Baldwin said still a base rate of \$10.

Mayor Pro-Tem Hernandez said the reason for that is because several times you will have a developer that has a group of builders within his friendships or whatever you want to call them. He may develop a hundred of lots and one of these guys might come in and buy 10 lots for future plans. They would lose that option if they were not included in that, so he believes they should be included in that. Customer Service Manager Threadgill asked if they wanted them exempted or included in the \$10 vacant lot fee. Commissioner Turnbull said she wants them to be able to petition the Commission if they want for the five years and then if they need additional time, she wants them to fall under that as well. Mayor Pro-Tem Hernandez said that happens often. Customer Service Manager Threadgill said he understands, but he does not know what that language is, that is something that will have to be. Commissioner Turnbull said this is what she was talking about in the last meeting.

City Attorney Schreiber asked if she can butt in, and asked if they could change the language to the developer of the subdivision and take out original. Customer Service Manager Threadgill said developer has a specific legal term in bland use. City Attorney Schreiber said she believes that is what

Commissioner Turnbull is getting at. Customer Service Manager Threadgill said she wants the owner, if the developer sells the property to someone else; they want that exemption to carry over, is that correct. Commissioner Turnbull said we are just kind of picking at the words. It is the same thing to me if I now purchase and I now own 10 of these lots now. It is the way I'm going to develop them now in my mind. Customer Service Manager Threadgill said the word developer has a specific legal definition when it comes to land. A developer develops and then they sell to a contractor or a builder to build on that lot. They maybe the same but they are not necessarily the same. Commissioner Turnbull said then we can put developer, contractor, and builder if you want to spell it all out so that they all covered. Customer Service Manager Threadgill said he understands what she is saying, but he does not know what that language is specifically right now. To cover from exempting everyone, because once you say owner everyone that owns a lot then maybe eligible for that exemption even though that house may have been there for 25 years.

Mayor Boss asked City Attorney Schreiber if she can handle that. She answered absolutely, she can work with Customer Service Manager Threadgill and bring something back to the Commission but it is a new term and something that we need to flush out. She asked if we are talking about a specific set of people that are there to develop and build on it. If Commissioner Turnbull means anybody who owns that lot ever, that extrapolates out to anybody could come in front of the Commission and ask for those five years and then petition for an additional three. She just wants to be clear on that.

Commissioner Turnbull said she is trying to cover people that say the original developer had 100 lots and now somebody else has 50 of those lots. She thinks those people should also be protected by this. Commissioner Payne asked, as long as the lots are vacant. Commissioner Turnbull answered yes. Commissioner Baldwin said that most importantly the idea is to be business friendly. Commissioner Payne said she wants to be clear on what they are talking about. Commissioner Baldwin said for plans to develop, for plans to build. The intent is not having a single home owner go there and be exempt.

City Manager Paluch said Commissioner Baldwin is right; staff will bring this back and develop the language. She asked Customer Service Manager Threadgill if he was clear on what the Commission is talking about.

Customer Service Manager Threadgill reviewed what needed to be changed.

City Manager Paluch said they needed to address Amber Skies. Customer Service Manager Threadgill said he had a question on the reason that mobile homes are handled differently is the property in New Mexico the physical property owner, wither they are liable or not and is responsible ultimately for the payment. The lien is going to go against the owner of that lot not against the owner of the structure upon that lot.

Mayor Pro-Tem Hernandez asked if there is something we can get where the owner signs off as we do on rental properties. There has to be a simple fix to it. Customer Service Manager Threadgill said we can accept the fact that they are a home owner but we would file the lien against the land owner.

Mayor Pro-Tem Hernandez said he is asking that we look into it and address it; if it is not doable then we explain why it is not doable. Customer Service Manager Threadgill said the only thing that it impacts is the deposit. There is no difference in the rates or base rates. Commissioner Payne said that is where she is getting confused; it just has to do with the deposit only.

City Manager Paluch suggested taking a 10 minute break so they could come up some wording. This is not going to be put to bed this evening because we will have to bring a new ordinance, but she wants to bring back some wording to the Commission.

Mayor Boss said the Commission has a motion on the table and we also have three individuals signed up for comment before they vote on this.

Commissioner Turnbull moved to recess at 8:23 p.m.
Commissioner Martin seconded the motion.
Motion Carried 6-1-0. Commissioner Baldwin opposed the recess.
Recess for ten minutes.

Mayor Pro-Tem Hernandez moved to call back into order at 8:33 p.m.
Commissioner Martin seconded the motion.
Motion Carried 7-0-0.
Back in session.

Mayor Boss asked at what point to allow the public to comment. Commissioner Baldwin said there is a motion on the table. Either let it die or second it and then we go into discussion and then you can let the public speak. Mayor Boss asked for the motion to be repeated. He then asked City Clerk Hughs if she had the motion that was made. Commissioner Baldwin withdrew the motion.

Ken Driscoll commented on the following:

Mr. Driscoll spoke on an impact fee. He remembered the fee being \$500 for water and \$500 for sewer. His suggestion was to go back to, lower the base rate if the City has to, making the contractor pay for those improvements that \$500 for water and \$500 for sewer.

Josh Rardin commented on the following:

Mr. Rardin said he appreciated Mayor Boss's statements when he actually sat down and looked and saw how ridiculous it was that you are paying more on a vacant home than on your home that you actually live in and actually consume water. He said if the Commission changed the base rate to \$10, they still have two developers that it will be \$800 a month for basically nothing. They have already paid for all that infrastructure that is in those subdivisions. He stated that \$10 is better but it is still not a fix that we need. He said the builders would be on board if we went back to the \$250 for the connection and did away with the base rate on vacant lots or vacant homes. He thanked Mayor Boss for looking at this.

Beth Crabb commented on the following:

Ms. Crabb stated she is on the side of the point Mayor Boss made. It is a big deal when people are coming and they have to keep the base rate on or pay the \$50. It is a real hardship and truthfully a paperwork nightmare. She said they needed to look at not only the lot situation, but also the vacant home situation.

Ken Driscoll commented on the following:

Mr. Driscoll said a base rate is fine, if the meter is activated by the owner. He said this is like Wells Fargo. Don't turn our accounts on unless we ask for it and then if the City has to charge a base rate that is fine.

Commissioner Payne said she thought they were waiving the \$25 fee now. Commissioner Martin said but not the \$30 charge.

City Manager Paluch asked if the Commission would like to hear from Customer Service Manager Threadgill and what staff came up with the language that Commissioner Turnbull was speaking about.

Customer Service Manager Threadgill asked if they can change the language to original developer, successor, or assignees. He asked if that would cover what she was looking for. He said they would add a new section that would create a new base rate for vacant lots of \$10 a month. He asked if the remainder of the ordinance as it is written would be acceptable.

Commissioner Martin said the majority of what has come before the Commission has been property owners of vacant rentals. She said the majority of the people that spoke tonight have multiple rental properties and \$30 is a lot of money when you have multiple properties. City Manager Paluch stated

they have addressed it two ways; the transfer fee would be waived if they provide a list of properties that they have and if someone moves out and then someone moves in a week or so later, the owner is not charged the full base rate they are charged a prorated amount. Commissioner Martin asked if the houses that sit on the market for a while, they would pay the \$30 fee for however long it is on the market. Customer Service Manager Threadgill said in many of those cases they choose to leave the water on. Commissioner Martin said the majority of her customers like to turn it off because they are worried about a leak. Customer Service Manager Threadgill said he gets call for them wanting the water on for one day, and then you are off base rates. Commissioner Martin asked if they can charge \$50 for a home inspection for three days. Commissioner Payne said if they are going to charge them \$50 then you might as well charge them the \$30 base rate.

Commissioner Baldwin said they have done their best to address most everything that they could. Commissioner Martin said she is not saying to get rid of the base rate fee, but \$10 should apply to vacant homes as well. Commissioner Baldwin asked if that is their only disagreement right now. Commissioner Martin said the property owner are the only ones that give them a tax base too that we earn. Commissioner Baldwin said that fee that was calculated the \$145,000 was for structures and empty lots. Customer Service Manager Threadgill said right. Commissioner Baldwin said he was okay with \$145,000 not to raise money across the board, not to generate additional revenue from the property owners, but to change our services and/or projects in the future. Customer Service Manager Threadgill said if we go with the \$10 fee, the section that pertains to the automatic transfer of ownership and waiver of \$25 that has to come out. He cannot setup an automatic transfer system. We are a property based utility based system. When you create a new base rate, he cannot assign that rate to every property.

Mayor Boss asked Customer Service Manager Threadgill how much work that creates. He answered quite a bit. He explained the process to make the change.

Commissioner Payne asked if they went back to impact fees. Customer Service Manager Threadgill said they only had impact fees for about a month and a half. He said while we have had ordinance that created impact fees, no Commission since 1989 has ever approved a Resolution that actually assessed an Impact fee. Commissioner Payne asked when we were not collecting base rates; we were just raising water rates. Customer Service Manager Threadgill said actually we have been collecting base rates since 1956 in one form or another. Commissioner Payne said she is not sure how enforced it was. All of a sudden this is an issue. Customer Service Manager Threadgill said because prior to 2004, if you vacated your property and had an inactive account you were charged nothing. In 2004, this ordinance was passed and unless you physically disconnect service from your property you will be assessed base rates. It was inconsistently enforced until 2016. Commissioner Payne said now that it is being enforced it is an issue; before it was enforced we were just raising water rates. Customer Service Manager Threadgill answered correct. Commissioner Payne said if we did not do something, then we would just have saw a water increase yearly or every other year. Customer Service Manager Threadgill said from 2000 to 2015 there was a rate increase every year. Since July 2015, we have not had a rate increase and the projections that he provided includes to rate increase up to 2022.

Commissioner Payne said she if we don't this, it was mentioned that the rates would go up \$0.95. She said this is where she struggles because she doesn't have rental houses why should she have to pay \$0.95 per month every year.

City Attorney Schreiber wanted to clarify with Customer Service Manager Theadgill if we currently have a system in place where if we change the base rate to \$10 an employee will have to key that information in, subject to user error. He answered yes, that is going to be a manual deactivation, activation, deactivation, and reactivation process. City Attorney Schreiber asked within our own software, do we have current safeguards in place to make sure that we don't actually see \$100 in there instead of \$10. Customer Service Manager Threadgill answered no, because we would have established a new fee that will only be keyed in one time. It will be a creation of a new service. He

explained what we have currently in the system. He then explained the process they would go through if they were to change the rate to \$10.

Mayor Boss asked how long the process is. Customer Service Manager Threadgill said it takes about a minute and a half or two minutes per account. He has not actually timed any of those, but about that. He then explained the process for when a resident leaves or a new tenant comes in. If we don't do that, then someone is going to get all of the charges, including the special base rate or they get charged for none of the services if we do it wrong.

Commissioner Payne asked if \$25 charge is part of the code that he is going to setup or are you just saying that we have to charge them \$25. Customer Service Manager Threadgill said right now the Ordinance states that for new applications or transfer of service there is a \$25 fee. The transfer of service, if we know or can verify that you are the owner of this property, we can set that up automatically. Then there really is not a need to charge that \$25 fee. Commissioner Payne asked if you manually charge that \$25 as well. Customer Service Manager Threadgill said no, it's when we do the transfer of ownership, not the transfer of service, we have to manually go in and make the change and at that time then we can implement that transfer fee of \$25. She asked him why they have to charge the \$25 if we reduce the base rate. Customer Service Manager Threadgill said because right now the \$25 covers the cost for us to do all of the processes to get you an account. If you come in and give me a list of properties owned, we input your name one time for each of the properties and whenever there is a transfer it is done automatically.

Mayor Pro-Tem Hernandez said they have been on this for an hour and a lot of the questions are technical and something that we could get with Customer Service Manager Threadgill afterwards, so what is the direction of the Commission.

Commissioner Baldwin said he would like to consider and act upon Ordinance 1544 with items discussed from staff in their 10 minute recess in reference to page 1, with a \$10 base rate fee for vacant lots. Mayor Boss acknowledged the motion.

City Manager Paluch interrupted. City Attorney Schreiber said if we are going to substantially change the Ordinance we need to bring it back and do the proper notice for the public to come back. She asked if that is going to be the Commission's direction then direct staff to bring it back to the next meeting, rewritten that way, but we need to make sure that we are complying with the law so we need to give the proper notice with the fully written Ordinance.

Commissioner Baldwin said then we will table this and asked if this is the correct way to do this. City Attorney Schreiber said yes. Mayor Boss said then he needs to withdraw the motion. Commissioner Baldwin withdrew the motion and moved to table this. It does need to be rectified for the contractors because of the current Ordinance.

City Manager Paluch said the problem is that we only have one meeting left in November. She asked if this goes into effect in January or does it go into effect for the developers in December. Customer Service Manager Threadgill said the lots that become nonexempt in December will receive their bill in January, so as long as the Ordinance becomes operative no later than December 31, 2017 then they are safe from being charged. City Manager Paluch said excellent, then we will bring this back to your last meeting in November and then it will go back before the Commission the last meeting in December. Customer Service Manager Threadgill said we could put an emergency clause on there to become effective immediately upon passage.

Commissioner Baldwin moved to table.
Commissioner Turnbull seconded the motion.
Motion carried with a vote of 7-0-0.

NEW BUSINESS

12. Consider, and act upon, Change Order No. 3, Public Works Bid No. 2017-001, to Smithco Construction, Inc. related to the 1-MGD Brackish Water Treatment Facility project, in an amount not to exceed \$26,488.48, including tax. (Bob Johnson, Engineering Manager)

Engineering Manager Johnson spoke on the Change Order. He said this change order consists of three items one which is of no cost. He described the items to be provided and installed by this change order.

Mayor Boss stated it amazes him that on a pond, that we have a liner on, like the ones at the golf course, how we missed the materials that we need. Engineering Manager Johnson said unlike the pond at the golf course, this pond will not be filled with water. It will be filled with very little liquid material; it is going to be the brine residue from the RO process. That material is quite light; in addition this is only going to be a peaking facility. It will not be in operation 12 months out of the year, nor will it produce water 12 months out of the year. Only during high usage periods and only if the City needs it. Mayor Boss asked if the liner comes up and is used to put material in it. Engineering Manager Johnson answered the liner is already there. These ballast tubes will sit on the edge of the pond every so many feet and will weigh the liner down. The very bottom is where the sandbags will be placed on a 10 foot grid. This is approximately a five and a half acre pond. These weighted ballast tubes and sandbags will prevent the liner from lifting up during the periods of high wind when there is nothing in it.

Commissioner Baldwin moved to approve.

Mayor Pro-Tem Hernandez seconded the motion.

Motion carried with a vote of 7-0-0.

13. Consider and act upon first publication of Ordinance No. 1547, An ordinance repealing the entire personnel manual (Appendix B) of the City of Alamogordo code of ordinances and authorizing the City Manager to develop and implement a personnel manual at their discretion. (Katie Josselyn, Human Resources Director and Maggie Paluch, City Manager) (Roll Call Vote Required)

Human Resources Director Josselyn presented the proposed Personnel Manual. She thanked City staff for their review and input. The input came from our experiences that all of us have had in dealing with situation in the course of our responsibilities. She gave the history on the Personal Manual. She said they incorporated the Drug and Alcohol Policy into the Personnel Manual. She said they contracted with SHRM (Society for Human Resource Management), which is somewhat equivalent to what the Attorneys' work with the BAR Association, so they are an accredited organization. We purchased their manual builder software, which provided us with a template. She spoke of the information and tools used to build this new manual. She said the new manual will be available in an electronic format. It will available on the City website. The SHRM builder provides a service that they will notify us when there has been a change in the law. She said any major changes that will have an impact on budget will still come to the Commission. She stated the current Personnel Manual Appendix B, with our proposal will be repealed and replaced by this manual. She said going forward the City Manager will have authority to make operation changes to the manual. The City Manager, the City Attorney and the Human Resources Director will work together considering major changes. The purpose of doing this is there are constant changes in the law and we want to get a process in place that makes it easy for us to incorporate those changes. She spoke on the objectives; continuity and clarity. Another objective is to minimize our liability with employment law cases. She pointed out some primary operational changes in the new manual. She said they added an anti-bullying policy. That is something that is not required by law; there is a fine line between harassment and anti-bullying.

City Manager Paluch said the anti-bullying policy came from the training that staff went to in Albuquerque. The trainer did recommend this and it was one of the last minute adds. She said a lot of the policies were out of date in this manual. We are trying to accomplish is a plug and play design for a new manual, so instead of having to print out updates to the manual and try to deliver those to 375 plus employees, we will be able to take the change and plug it into our new manual to be in compliance at

all times. She asked the City Attorney Schreiber to explain how this is going to protect us with liability claims.

City Attorney Schreiber said her office has been seeing that we are following unwritten policies, which does not give our employees due process and makes it very unclear when you are looking in the manual for a situation what you should do. A lot of times we are meeting saying this is what happen, the right thing to do is separate from what our personnel manual says because it is so out of date. That is what some of our litigation has revolved around. We have used this SHRM product to make sure that we are in compliance with the law.

City Manager Paluch made it clear that anything that deals with budget that would require change to this manual, that she will not be able to approve that and will need to go before the Commission for approval. She will have approval power over the nuts and bolts of those laws that change so frequently.

Mayor Pro-Tem Hernandez asked when the last time the manual was updated. Human Resources Director Josselyn said we have made some piece meal changes the last 13 years, but the last time that the full manual was updated and distributed was in February of 2004. Mayor Pro-Tem Hernandez stated he does not have a problem with the manual; the most we would look at is three weeks for changes. If it has not been changed since 2004 till 2017 and all we are looking at is three weeks maximum if a change comes to bring it aboard. Most of the Boards and Committees that I have been on that have large employment; everything goes through the Board, which is the Commission.

Commissioner Payne said that was a lot to digest and she are not comfortable with making a decision on it. She said we just got this last Friday. She agreed with Mayor Pro-Tem Hernandez. She called five other cities and nowhere did she find that the City Manager has authority to make changes without the Commission to the Personnel Manual. She is concerned that if she votes tonight, she would be voting on something that she does not know the contents of.

Commissioner Sikes asked Human Resources Director Josselyn about the portion of the manual pertaining to the compensation, if we have determined if there was any fiscal impact to any of the changes made. She answered that is a little difficult to decipher because it depends on turn over and what positions are turning over. We did not run any calculation. Commissioner Sikes asked if this was in place what would be the fiscal impact. She also wanted to remind everyone that the City Manager is the only employee of the City Commission and they have given their trust to the City Manager to run the City, with the exception of anything that has to do with budgetary, financial, fiduciary issues. By scrutinizing every aspect of the personnel manual, when we have given our City Manager the responsibility, is unfair, but she agreed with Commissioner Payne there is a lot of information to digest here. She asked to give them a little more time, just to make sure that everybody understands to we have done all of our homework.

City Manager Paluch said if they want to table this, they can certainly do that. She would recommend that they hold off until the first week in December so that the Commission can have plenty of time to review the manual. She said what you are seeing today, you would not be approving this manual, and you would be approving the Ordinance that repeals the ability for the Commission to have input on the manual, with anything that is not budget related.

Commissioner Baldwin asked Human Resources Director Josselyn if the Unions get to see this and sign off on it prior to. She said there were some communications with AFSCME and they inquired about some changes and she responded back to those changes back in September. We first started sharing this with them on October 11th, so they have had some time to look at the Manual. Commissioner Baldwin said okay and there is nothing of that as of yet. Human Resources Director Josselyn said AFSCME has had some inquires. He had a couple of concerns that she told him that they would look at and address. City Manager Paluch said it was not changes that dealt with anything that was budget related, something that was internal. She thinks AFSCME had a question about the

abandonment section, so that is stuff that we can work out with the Union. She said they have not heard from APSOA, even though we did send it to them. HR Director Josselyn clarified that this does not affect the contracts. The contracts stay in the same form they are in. The only way it would affect the contract is if the contract had a provision that says it will follow the personnel manual.

Mayor Boss said he was shocked that Commission Payne found five cities that run it through the Commission. Commissioner Payne yes. Mayor Boss said the City Manager has the power to go and fire just about any employee in this room. He asked what the City Manager is going to do in a manual. He asked why they were concerned with giving the City Manager the authority to make a technical change.

Commissioner Baldwin agreed with Mayor Boss, but said it was a lot of information to take in. He did not mind holding off on this.

Commissioner Payne clarified that this is not a trust issue; it is a text and phone call issue. That is why she looked into it. Mayor Boss said he is shocked and asked Commissioner Payne if Las Cruces was one of them. She said she did not get 100 percent confirmation from them. She said she spoke with Deming and Silver City. She said she tried to pick random cities. Mayor Boss said so every change that is made in that manual they have to go before the Commission. Commissioner Payne said it has always been that way here too.

Mayor Pro-Tem Hernandez said our board does it and our Personnel Manual is more complex than this. He said for him, it has nothing to do with the City Manager or the Personnel staff, he thinks it should still come through the Commission. Commissioner Payne said she spoke with a City Commissioner from another City and his reason was that they represent the employees of the City, if they live within the City, they are one of our constituents and they represent them as well. She said it was too much information to take in and is not prepared to make a decision on something this complex.

Mayor Pro-Tem Hernandez moved to table.

Commissioner Turnbull seconded the motion.

Motion carried with a vote of 7-0-0.

Human Resources Director Josselyn asked for clarification on when they bring this back, if there is any information that she needs to bring back. City Manager Paluch said we will talk about it.

14. Consider and act upon request from Tommie Herrell to continue building a path between his development on Florida and the Alamogordo Senior Center across the City's land adjacent to the Senior Center. (Petria Schreiber, City Attorney)

City Attorney Schreiber presented a request for a proposed path to the Alamogordo Senior Center by Mr. Herrell. She gave the history of the request. She said Mr. Herrell began to build the path without the City's permission and then we asked him to cease. She showed the Commission where the current path is located and what the path looks like at this moment. She said all liability associated with this property belongs to the City. She shared concerns of City staff with this path. She said we have two options: don't allow the path and have the materials removed or we allow the path and talk with Mr. Herrell about making the path safe. Our recommendation is not to allow the path and take measures to ensure that our property isn't crossed in that way. My recommendation is that if the Commission tells us to go back and meet with Mr. Herrell and find a way to make it safe, that we work it into budget next year and we do it ourselves. We are asking for consensus as the way forward and how you would like for us to handle this. (See Blue Book for Power Point)

Commissioner Turnbull said we said no to him purchasing the land that low price that was offered last year, so she was trying to figure out how it was decided on his part that he decided that he was going to put a path on our property. City Attorney Schreiber said it is my understanding from what he has told

City staff and me that he thought as soon as he procured the easement from the school that he had clearance from the City. She is not sure where he got that idea from; it was certainly not from me.

Mayor Boss asked if this was not going on when Mr. Stephen Thies was Attorney. City Attorney Schreiber said there was some discussion. Mayor Boss said he was told that it was Mr. Thies that told him that. City Attorney Schreiber said he was told no by City Manager Paluch.

City Manager Paluch stated she has been in all the meeting with Mr. Herrell and the initial meetings with Mr. Thies. Mr. Thies did not say that he could put in a path. The only thing that was said to Mr. Herrell was that we cannot even discuss a path until you speak with the School Department because they have a piece of property that you would have to cross first. Mayor Boss said he thinks that Mr. Herrell had the opinion if he did get that done, that he was okay to go.

City Attorney Schreiber said she has an email from City Planner Williams and Mr. Herrell that says if he was able to work with the School District, then he could come and talk to us and we could see what we could do, but it was not permission.

Commissioner Sikes asked about the condition of the path right now. If we choose not to allow the path do we have to remove what he has already done. City Attorney Schreiber said that would be my recommendation as that we would remove the base course and pile it in a way that he could get to it as to preserve his material that he has added. Commissioner Sikes asked if there is another alternative route instead of going all the way around block. City Attorney Schreiber said they would have to take that walking path on Indian Wells. We have not recommended anything to him at this point.

Commissioner Baldwin said he believes Mr. Herrell is wrong and he did not have any right to put that path. He asked what is best for the City of Alamogordo and the citizens. Is this possibly a workable situation. Can we not just allow access instead of walking around. City Attorney Schreiber said my concern is that there is some liability with allowing people to walk through there. Commissioner Baldwin said if we determine that there is a liability issue and we are not going to allow that, that is fine, but it seems like the citizens in that area are the ones that lose. It's not our faults. City Attorney Schreiber said if the Commission would like for us to go back, then we could work with the Senior Center. Commissioner Baldwin said if we could achieve that, it would be the best solution.

Commissioner Turnbull stated she thinks that is something Mr. Herrell should have thought of before. He should not have assumed that the City was going to allow him to have access to our property. That is just a small portion of the people that utilized the Senior Center. The majority of the people that go to the Senior Center are not coming from Mr. Harrell's property. If we allow them access, it is a liability issue and it cuts us off from later developing that land for the City's use. Commissioner Baldwin said he completely agrees, but all he is saying is take the emotion of him doing something wrong and saying if someone walked up to us right now, what is your decision going to be. It is probably going to be liability, it doesn't function, future property plans, and that is fine but just take the emotion of that other stuff out and let's make a decision based on what is right for the community.

Commissioner Sikes said should anyone from Centennial Village need to get to the Senior Center, we do provide transportation. Commissioner Payne asked if they can drive a golf cart on that path the way it is right now. City Attorney Schreiber said they are currently driving golf carts on that path, even though we have instructed them to stop. Commissioner Payne said she thought it was too soft and it would get stuck. Commissioner Baldwin said there is a much greater liability as the base course is, than as if it was paved. Mayor Boss said he has seen it and the concerns are the grades and stuff. Commissioner Payne said she has too and then asked if someone gets hurt on that property are we going to get sued, because I am reasonably sure Mr. Herrell is not going to accept liability for that. City Attorney Schreiber said Mr. Herrell did say that he would not accept liability. The maintenance of the path, although he says that he would take care of it, but we would not be comfortable with that. Commissioner Payne said but it is not even if the path is dangerous, if somebody just trips and falls are we going to get sued for that.

Mayor Pro-Tem Hernandez asked City Attorney Schreiber if Mr. Herrell was notified that this was on the agenda tonight or did we try and contact him. City Attorney Schreiber said she did call him, she did not get an answer. She also has emails into him with questions about the grade and she has not received any responses from him.

Commissioner Turnbull made the motion to deny the request to continue building the path.

Commissioner Turnbull moved to deny the request.

Commissioner Payne seconded the motion.

Motion carried with a vote of 7-0-0.

15. Consider and act upon first publication of Ordinance 1551, an Ordinance Amending Section 12-04-015 of the City of Alamogordo Code of Ordinances Regarding Firework Dates of Use. (Petria Schreiber, City Attorney) (Roll Call Vote Required)

City Attorney Schreiber said they have taken the State Fire Marshall's code and mirrored that. We are not regulating the type of devices; it is not permissible for the City to do that. She went over the proposed date changes. She did include the provisions in this Ordinance of our Noise Ordinance, just for ease of citizens. We did add a caveat that you can set them off till 2:00 a.m. on New Year's Eve so there will not be a noise Ordinance violation there.

Commissioner Payne asked if City Attorney Schreiber was saying that on July 4th after 10:00 p.m. they cannot shoot off fireworks. She said that is exactly what our current noise ordinance says now. That is going to talk more about loud noises and things that disturb the peace, but a lot of what is sold is going to be a permissible noise. The State regulates what is sold and what can be set off within City limits. The big area boomers, the State has made those illegal. The State has not made them illegal within the State and they have said that we can make them illegal within the City. Those are not allowed to be set off at all, however the permissible ground aerial fireworks that are always permissible are under a decibel level that are allowed.

Commissioner Payne said that is not what she is reading. The way she reads this is that you cannot do this after 10:00 p.m. City Attorney Schreiber said anything that you do after 10:00 p.m. has to comply with our noise ordinance. Commissioner Payne said she gets what you are saying but that is not what she is reading. City Attorney Schreiber said she can take out the part about the noise ordinance. Commissioner Payne said she did not see the part of the noise ordinance. City Attorney Schreiber said it says see 11-5-279 and she sees where the confusion is coming from. City Attorney Schreiber said they should strike that and make it a cleaner reading.

City Attorney Schreiber said the intent behind this was too understand the citizens' concerns but also allow for fun. She suggests striking some of the language on the last paragraph, and bringing it back next time. Commissioner Payne said she thinks there should be something in there that says that violates the noise ordinance. Mayor Boss asked if they table it.

City Attorney Schreiber recommended tabling this. She will clarify the language and bring it back on December 5th.

Commissioner Payne moved to table.

Commissioner Martin seconded the motion.

Motion carried with a vote of 7-0-0.

16. Appointments to Boards and Committees. (Richard Boss, Mayor)

Mayor Boss read the openings and appointed Arlan Ponder to the Alamogordo Public Library Board, Daniel Darr to the Housing Authority Advisory Board and Stephen S. Einsminger to the Parks and Recreation Board. No one was opposed.

ADJOURNMENT

Mayor Pro-Tem Hernandez moved to adjourn at 10:10

Commissioner Payne seconded the motion.

Motion carried with a vote of 7-0-0.



ATTEST:


City Clerk Rachel Hughs



Mayor Richard Boss

(Prepared by Eric Barraza, Deputy Clerk)

Approved at the Regular Meeting held on November 21, 2017.