CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
February 13, 2018

RICHARD BOSS, MAYOR	**AL HERNANDEZ, MAYOR PRO-TEM**
JASON BALDWIN, COMMISSIONER	**MAGGIE PALUCH, CITY MANAGER**
NADIA SIKES, COMMISSIONER	**PETRIA SCHREIBER, CITY ATTORNEY**
JENNY TURNBULL, COMMISSIONER	**RACHEL HUGHS, CITY CLERK**
SUSAN PAYNE, COMMISSIONER	

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

Mayor Boss called the meeting to order at 6:29 p.m. Roll Call was taken by the City Clerk. City Clerk Hughs announced there was a quorum present. Invocation was given by Pastor Dr. Bob Reno and the Pledge of Allegiance was led by Mayor Pro-Tem Hernandez.

APPROVAL OF AGENDA

Commissioner Turnbull moved to approve the agenda.
Mayor Pro-Tem Hernandez seconded the motion. Motion carried with a vote of 6-0-0.

PRESENTATIONS

1. Lt. Colonel Booth from the US Army Corps of Engineers to provide an update on the McKinley Channel Flood Control Project. *(Lt. Colonel Booth, US Army Corps of Engineers)*

Lt. Colonel Booth said he was here to give an update since the last update in September 2017. The project went back into a re-design or design update and he promised to come back since they have an updated cost estimate. He said the bottom line for his update is that they believe they have reduced the delta between the construction costs and the funds on hand. He said when he briefed the Commission before it was somewhere around $10 million and now it is down to just a few million dollars at this point with a re-design on the project. He showed his agenda for the presentation and then gave a brief history of the project. He went over some of the cost challenges they've had. He described the course of action for the revised design and showed the status of this revised design. He said with the funds they have right now there is about 1000 feet that they will most likely not be able to construct or line with funds available and so what they have done is they are going to move forward with the contract with the base portion of the bid, which would be everything except for that 1000 feet. He said they would put two bid options into the contract that would allow them if they got good bids, to basically award that portion of the contract. However they've got pretty good cost estimates, they are pretty sure that mostly likely would not be awardable but it just depends when it goes out. He discussed what they will do, on the federal side, to try and compensate for the few million dollar shortfall. He said the next step down would be, if they were able to find federal funds on that few million dollars, the potential for make up of the cost share between the 75 percent federal and 25 percent non-federal and that would be required of the City. He said there is potential that they wouldn't be able to do the re-programming and there is potential they would not get additional federal funds and that would leave them with a few million dollars delta between the construction costs and what is available. He said at that point and time the City may need to make a decision on leaving that section unlined or completing that internal to the City. He thinks that they have a couple of good options ahead of that, but that does remain as a potential situation. He said they look to move forward with the design and they would advertise that in August of 2018 after they have completed the plan in July and they would expect an award around September. He said he has been talking in generalities in numbers, the reason being when he talks construction cost range is they do have an exact estimate at 60 percent design, however, that is what they call the Independent Government Estimate (IGE) and since this could potentially go out for industry for bid, he has to talk in generalities on the numbers. He said his staff would talk with the City staff on the specifics, so that the right numbers are available for City consideration.

Mayor Boss said he still has a problem with the ratio. He said the cost of the construction has obviously gone up, but so has the cost of replacing a residence along that channel that was damaged or completely destroyed. He asked how they got so far apart with these ratios. Lt. Colonel Booth said he can take the question back to his staff to educate the Commission more on the specifics and they can get an official comment back to shows how that delta occurs. He said maybe it is the increasing value that they cannot take into estimate, but if you could imagine what the federal government did around 1995 is that they were no longer going to take increased infrastructure in an area into consideration if you are in a floodplain because if you think about it, someone could build or increase the value of the area by building infrastructure in a floodplain and thus justify a flood control project through increased infrastructure versus trying to protect it. However, he thinks his question is more of the actual value of the infrastructure that may have already been in place at that time frame. Mayor Boss said pretty much, it just seems that there is such a large disparity between the 2 and what it is now, the less than one. He said if you are only considering construction costs, there are probably additional houses that have been built there plus the price of residential dwellings has gone up. He said he can't get his head around the formula. Lt. Colonel Booth said he would not try and do that in this venue. He said he believes they have talked about giving the Commission that answer before, when he was here before. He apologized for not getting that answer and said this would be taken back to staff and they will maintain communication with staff and get an answer on it.

Mayor Boss said we are hearing that we are going to have a big infrastructure bill, at the federal level, and we are going to spend trillions of dollars. He asked if there is any way that type of funding would apply to this. Lt. Colonel Booth answered he can't guarantee that. He said they have seen drafts that indicate there are some opportunities out there for flood control projects to be completed under some of these funds, however, they are still draft. He said that maybe a potential other venue for funds and they will keep the staff informed over the next few months as that gets clarified.

Mayor Boss thanked Lt. Colonel Booth for the work they have done. He said it looks better than it did the last time Lt. Colonel Booth was here and he appreciates that.

PUBLIC COMMENT

Gene Downer commented on the following:

Mr. Downer gave a pat on the back to April D. Jones. Ms. Jones works at the reception desk here at the City and she is efficient, friendly, and knowledgeable and always makes his tasks and requests easier. He also gave a pat on the back to Airport Manager Talbert for his idea of moving the historic jet into Alameda Park. He then talked about abandoned buildings and the need for the City to beef up efforts in abolishing and cleaning up properties.

CITY MANAGER'S REPORT

City Manager Paluch made the following remarks:

1. She reminded everyone of the Plaque Dedication Ceremony for Officer Dominguez is on February 17, 2018 at 11:00 a.m. at the Fallen Officers Memorial. She said a possible quorum for Commissioners was posted.
2. She gave an update on re-painting of City Hall and the sign in front. The project will advertise on February 4, 2018 with bids due on March 8, 2018. She explained what is to be involved in the project.
3. She said there was a slight delay in the 2017 Street Maintenance Project, while awaiting some estimated quantity corrections from the consultant. The project advertised on February 11, 2018 and bids are due in late March.
4. She said the plans and specs for the Griggs Retention Basin are going through some minor updating. The Army Corps of Engineers has approved the design and will be sending the design documents to the EDA for their review and approval. She said they are still looking through some final

environmental and historical preservation clearances, due to the Federal funding aspects of this project the plan performance period is approximately 180 days with an estimate of $1.8 million in project costs and the intention is to advertise in late April, early May of 2018, contingent upon approval from funding and regulatory agencies.

5. She said staff met on-site, two weeks ago, with the new consultant from UP for the North Scenic Extension project. She said no update on the Inter-Governmental Agreements. She said those are being prepared by UP. She said once those documents are signed by UP and the City, the consultant will complete the design and the project can be advertised for bidding. She said the best estimate is advertising in late summer 2018.

6. She said staff and representatives from OCEDC have been working hard on securing a large scale project for this community. She said the project is a call center that will bring in over 200 jobs into Alamogordo. The potential site is located within the White Sands Mall and the company is requesting $1.2 million in local LEDA funding in exchange for guaranteeing 100 jobs at $9 an hour and one Executive Level position at $25 an hour. The Participation Agreement is currently with the Company for review. Once they review and hopefully approve, it will come back to the City and we should see a benefit of over 200 jobs in our community.

7. She said the Kids Kingdom project is being procured through the Cooperative Agreement (CES). She said Exerplay is the vendor the City is working with, and the project includes: two playground structures, two shade structures, swings, engineered wood mulch, two picnic shelters with grills and tables, perimeter wall seating and concrete flat work. The City is waiting on pricing on the perimeter wall seating and the concrete work. Once the pricing is received and verified the project can move forward with the execution of the agreement. She said staff is anticipating final pricing will be received this month. The project is tentatively scheduled to start in April 2018 with a tentative completion date of November 2018.

8. She showed pictures of Valentine treats for the Zoo animals. She said all of this to promote the City's animal enrichment.

9. She welcomed Mr. Dustin Johnson as the City's new Assistant City Attorney.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Payne made the following comments:

She said she has received tons of great compliments on the First Street realignment. She said they did a great job.

CONSENT AGENDA

2. Approve the minutes for the January 30, 2018 Regular meeting. *(Rachel Hughs, City Clerk)*

3. Approve the Investment Report for the quarter ending December 31, 2017, in accordance with the City of Alamogordo Investment Ordinance. *(Julianne Hall, Finance Director)*

4. Approve an application for participation in the FY2018 Community DWI Program. *(Roger Schoolcraft, Acting Police Chief)*

5. Approve the DFA Quarterly Report for the period ending December 31, 2017. *(Julianne Hall, Finance Director)*

6. Approve Resolution No. 2018-07 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 February 13, 2018. *(Kathy Gilsdorf, Budget Analyst)* (Roll Call Vote required)

Mayor Pro-Tem Hernandez moved to approve items 2,3,4,5,6 of the consent calendar.
Commissioner Baldwin seconded the motion.
Roll call vote was taken.
Motion carried with a vote of 6-0-0.

NEW BUSINESS

7. Consider, and act upon, award of Public Works Bid No. 2017-017 to Mesa Verde Enterprises, Inc., related to the Effluent Storage Pond P-13 Improvements Desert Lakes Golf Course, in an amount not to exceed $253,129.48, including NMGRT. *(Bob Johnson, Engineering Manager)*

Engineering Manager Johnson explained what the work will consist of, for ponds one through three. He said the project was advertised on December 17, 2017 and bids were open January 18, 2018 at 2:00 p.m. He said three responsive bids were received by Mesa Verde Enterprises, Las Luz Dirt and Paving, and Advance Environmental Solutions. He said the first two bidders are local. He said the attached bid tabulation pretty much spells how these bids came out.

Mayor Pro-Tem Hernandez moved to approve.
Commissioner Turnbull seconded the motion.
Motion carried with a vote of 5-0-1. Commissioner Baldwin abstained.

8. Consider, and act upon, Change Order No. 5, 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 $12,039.20, including NMGRT. *(Bob Johnson, Engineering Manager)*

Engineering Manager Johnson said this change order consists of two items only, trenching and four inch communication conduit installation based on some Century Link requirements while increasing the material testing allowance by $5,000. He explained the reasons for the change order.

Mayor Pro-Tem Hernandez asked Engineering Manager Johnson where they are at as far as the percentage of completion on this project. He answered approximately 58 percent complete. Mayor Pro-Tem Hernandez said he was a little concerned, not with this change order itself, but where they are at with the contract and the budgeted amount. Engineering Manager Johnson stated, as am I. Mayor Boss asked Engineering Manager Johnson how much reserve they still have. He answered excluding the item before you; they have approximately $172,000 left in contingency. He added that assuming the Commission approves this item tonight there will be just under $160,000 left in contingency. He said at 58 percent completion we have used 65 percent of the contingency. He said on the lighter side, he can with reasonable certainty say that two of the largest items between change orders 2 and 4, they had two $100,000 cost increases for increasing the quantity of solid waste removal, at this stage this constitutes the bulk of chewing into the contingency. The rest of the items are 5 figures or less. At this stage the raw water line, the finished water line, a lot of the utilities extending out to the evaporation pond have been completed. He said the last change order that he brought before the Commission in December involved trenching for primary power, which was a much longer run than the item before you tonight. We encountered no buried solid waste. The item before you is one of the last remaining deep trenches, it is approximately 200ish feet. We don't anticipate it but we have the second $100,000 add-on for the buried solid waste contingency, there is about $46,000 of that which has not been used. Staff is fairly confident that between 30,000 and 35,000 of that $45,000 is remaining, will be remaining to go back into the contingency when it is all said and done. We have this small trenching effort that's not only deep; the rest of the trenching is fairly shallow. We have a couple of manholes to put in and a few light posts. We are hopeful that we will have $30,000 to $35,000 of that contingency coming back into our side.

Mayor Boss said for a project of this size, that is probably not that unusual to have that much. He said that is why we have that contingency obviously. Mayor Pro-Tem Hernandez said well it isn't but because of the unforeseen in this area, that is where a lot of this is coming from. Mayor Boss said what I am hearing is that we are pretty much through the unforeseen. Engineering Manager Johnson said that is correct and you have to remember that this project is on a site that is about 18 acres in size. He said it is the first and only of its kind for this State.

Mayor Pro-Tem Hernandez asked if Engineering Manager Johnson foresees anything else, or if they have identified anything else that he may be bringing to the Commission that could put this over. He answered they have one in the distant background, but it will involve a City requested change and an exterior paint color, but it is less than $5,000. He said that is the only known item we have at this time.

Mayor Pro-Tem Hernandez moved to approve.
Commissioner Sikes seconded the motion.
Motion carried with a vote of 6-0-0.

9. Consider, and act upon, GRIP (Gross Receipts Investment Program) application by Solid Cap Properties for the construction of Hobby Lobby. *(Petria Schreiber, City Attorney)*

City Attorney Schreiber turned it over to Paralegal Williams.

Paralegal Williams said you will notice in the packet that there are two applications. She said we discovered recently that this application had been submitted in April and then was returned to him and we are not sure why, so we asked him to update his numbers and send it to the City again. She said this is for the construction of Hobby Lobby. She said he anticipates that the building will cost $3.5 million, but we are not certain how much of that he is going to be able to get back at this point based upon the fact that the contractor who is building is from Utah and if they don't pay gross receipts tax then he does not get any of that back. She said we will have to determine that, so it will be, if they pay gross receipts tax, somewhere in the neighborhood of $68,000 that will be returned. She said if he only gets the return on the portion that National Construction did, which was the foundation and the paving, somewhere in the neighborhood of $16,000 to $20,000. She said anticipated jobs are excellent and they are anticipating their gross receipts tax somewhere in the neighborhood of $5 million a year. She said at this point we are just asking for the Commission's approval of this application, and then we will move forward in determining what the outcome is going to be.

Mayor Pro-Tem Hernandez moved to approve.
Commissioner Baldwin seconded the motion.
Motion carried with a vote of 6-0-0.

10. Consider, and act upon, Resolution 2018-08 to approve the Rules of Conduct for City Commission Meetings. *(Petria Schreiber, City Attorney)* (Roll Call Vote Required)

City Attorney Schreiber said this is what exactly what they talked about at the last meeting when they presented this. She said there was some discussion at that meeting about including contact information for the Commissioners or the website. She said ultimately when she sat down with the City Manager and Assistant City Manager they did decide to leave that out because the purpose of this document is only to inform someone of how these meetings are run and what is expected of both, the Commission and the public, as well as any speakers. She said in order to find this document, you would already have to be on our website or you would have to be standing in City Hall and asking for it, so they thought that might be a little redundant, but that is something they could work on. She said these are the rules that they talked about last time; nothing has been changed in the document.

Mayor Boss said he had a comment on rule 14, under public comment item D time limits, "Except on Written Communication, members of the public may be required to limit their remarks to a period of time specified by the Presiding Officer prior to opening discussion." He said the three minutes that we have now, the Commission agreed to it, everyone sitting up here right now, correct. The Commission acknowledged their agreement. Mayor Boss said he does not see why the presiding officer should have that, why can't the commission decide by vote how much time they give a speaker. Mayor Pro-Tem Hernandez said it is done by the Commission, but the Mayor is just their representative. Mayor Boss said that is how he has always seen it, but it seems like it is misinterpreted and he is the one that is enforcing the three minute limitation. Mayor Pro-Tem Hernandez said he is the presiding officer and he is the one that is going to put it out there for the Commission. Mayor Boss asked if anyone feels that he is enforcing the three minute rule and if anyone would like to change that.

Commissioner Payne said she has looked around at other Cities do and 3 minutes is pretty standard. She thinks that the Commission is right in line with what other municipalities are doing.

Paul Sanchez commented on the following:
Mr. Sanchez referred to item 6 in the rules. He read the item and said this is not the order of business that we currently have and has not been for probably over a year now. He said he would simply submit that if we take a good read at it, the Commission might want to re-order that. He was concerned with striking the words "continue if needed" from the public comment section, simply because there are times that the public would like to comment after issues has been done. He said there are times that Mr. Espiritu has waited around to speak, and because of your graciousness you did allow him to speak, but it had been after public comment had been removed. As you can see from your current agenda it is not at the end of the meeting.

Mayor Boss asked City Attorney Schreiber for comments. She said this is completely for the Commission how they would like to run the meetings, so this vote would be whatever the Commission would like it to be. Mayor Boss asked if there was a problem with the way the Commission has been presenting up to this time. City Attorney Schreiber said she does not find any problems with the way they are conducting meetings at this point.

Commissioner Baldwin said he was going to make a motion to approve it, but a very valid point there. He made a motion to approve with the change that the rule number 6 reflects the current order of their agenda. He read "the order of business will be approved at each organizational meeting of the City Commission." He said which means prior to approving the agenda they can make any changes or moves or add public comment. He said they can move anything around, so this is not the way it has to be done at every single meeting. He said that is how he reads that.

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

11. Consider, and act upon, first publication of Ordinance No.1562. An ordinance amending City of Alamogordo Code of Ordinance Appendix B, Employee Manual Section 5-6. Recreational Facilities Benefit and Section 7-1. Drug-Free and Alcohol-Free Workplace. *(Katie Josselyn, HR Director)* (Roll Call Vote Required)

HR Director Josselyn presented two changes to the employee manual. She said the first change is related to a MOU (Memorandum of Understanding), providing documentation and clarification to an employee and retiree discounts that the City entered into with G&L Golf on January 17, 2018. She said the following amendments were made to their recreational facility benefits section of the employee manual. The annual membership for a golf membership at the golf course was clarified at 25 percent off, and one day golfing at the junior rate was also clarified and we indicated that that particular discount is not available to retirees. She said the 15 percent off of an entree at the 19th Hole was clarified that a City ID card was required and it is only for Monday through Friday during lunch, and this is also not available to retirees. She said they also added a disclaimer to the bottom of that section that says discounts are subject to change without prior notice and to contact Human Resources for the most current list of discounts. She said the second change is required because the Department of Transportation made amendments to the drug testing regulations, effective January 1, 2018. She learned of this change amidst of changing the full body of the employee manual which was approved in January. She said they need to get those changes made to the drug testing section of the policy. She thinks that policy was very old, so they updated some sections with the more current things that are going on in the drug scene. She said the opiates category that was used throughout the drug testing policy was changed to opioids to include hydrocodone and oxycodone drugs. She said there was also a change to the method of how the tests are handled. She said that was not in our manual, so that did not require a change to our manual, but that change will be handled by our drug testing contractor.

Commissioner Sikes commented that she and Mayor Boss have had the opportunity to sit on the prescription drug, opioid, prevention Committee. She said every time they go to these meetings they learn really interesting information. She said currently, the new drug of choice is gabapentin, and rather than have to update this in the future, should we look into possibly updating this now. She said it is a drug that according to the powers that be within our Committee are saying it is being abused. HR Director Josselyn said the language within our policy is dictated by the DOT regulations. Commissioner Sikes said then when they make a change then we would then make our change.

Mayor Pro-Tem Hernandez asked if these tests are for levels, not for non-use of those drugs. He said for instance, Doctor's would drug test for levels. He said they used to do 30 day prescriptions on these, and then they went to 15 day prescription. He said most physicians now will only give you a three day prescription and if you still need it after that then you go back. He said what they actually do is a level test, and if your levels are above what a three day prescription would normally be then they won't give it to you. HR Director Josselyn said she is not sure, there are cut off levels in the DOT regulations. She said they have actual nanogram measurements, but she is not sure how that equates to the number of days, but there are cut-off levels. Mayor-Pro-Tem Hernandez said although the drugs are as bad as they are, they are still needed by some people and as long as they are within the levels, if there is levels.

City Attorney Schreiber said they do not check the level to make sure that it is not higher than that three day prescription. She said what HR Director Josselyn is talking about is that we have cut-off levels so that it does not alert to a false positive. She said those are minimum levels, that are a very common drug testing practice, but we do not get involved with the employee and say you have a three day prescription or a ten day prescription, how much have you actually taken. She said a lot of this is about is the drug present in the system and if it is, then is there a valid prescription. She said some drugs, like illegal narcotics will never have a valid prescription. Mayor Pro-Tem Hernandez said he wanted to make sure that we were not cutting them out because some people still need them. HR Director Josselyn said part of that drug testing process, if they have a test result that is non-negative, then they will send it to a Medical Review Officer and this Officer calls the employee and talks through with them why that test might be positive and they talk about prescriptions and that kind of things. She said if they are able to reconcile that to a prescription then the Medical Review Officer comes back with a negative result, so those things are considered in the process.

Mayor Pro-Tem Hernandez asked if they were based on the Federal Regulations. HR Director Josselyn answered correct.

Mayor Boss said it wasn't people that were abusing drugs like the kids and "druggies" out there that were dying. He said it was the older people because they were overdosing because two or three Doctor's were giving the same pill and they were taking too many. and it is amazing how quickly that the reaction has been to like you said they are only giving three pills now instead of here you have a bottle and another doctor give them another bottle and it has brought the rate down. It is actually working very well. Mayor Pro-Tem Hernandez said now they are actually selling them. Mayor Boss asked if the older people are selling the drugs that they have stocked up. Mayor Pro-Tem Hernandez said no, they are actually going and getting them and selling them because they can get up to $50 a pill on them, sometimes even more if someone is really desperate.

Mayor Pro-Tem Hernandez moved to approve.
Commissioner Payne seconded the motion.
Roll call vote was taken.
Motion carried with a vote of 6-0-0.

12. Appointments to Boards and Committees. ***(Richard Boss, Mayor)***
Mayor Boss did not appoint anyone.

13. Adjourn into Executive Session in compliance with Section 10-15-1(H), NMSA 1978 (as amended), to discuss Threatened or Pending Litigation; specifically a case update on all cases being handled by the Self Insurers Fund and ongoing Personnel Matters. (Roll Call Required)

Commissioner Turnbull moved to adjourn at 7:29 p.m.
Mayor Pro-Tem Hernandez seconded the motion.
Motion carried with a vote of 6-0-0.

ADJOURNMENT

Mayor Richard Boss

ATTEST:

City Clerk Rachel Hughs

(Prepared by Eric Barraza, Deputy Clerk)
Approved at the Regular Meeting held on February 27, 2018.