

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
March 27, 2018**

**RICHARD BOSS, MAYOR
AL HERNANDEZ, COMMISSIONER
NADIA SIKES, COMMISSIONER
JOSH RARDIN, COMMISSIONER
SUSAN PAYNE, COMMISSIONER**

**JASON BALDWIN, MAYOR PRO-TEM
DUSTY WRIGHT, 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. City Clerk Hughs announced there was a quorum present. Invocation was given by Reverend Dwight Harp and the Pledge of Allegiance was led by Commissioner Rardin.

APPROVAL OF AGENDA

Commissioner Hernandez moved to approve the agenda.
Commissioner Rardin seconded the motion. Motion carried with a vote of 7-0-0.

PRESENTATIONS

1. Comprehensive Plan update. (*Jackie Fishman, Consensus Planning*)

City Planner Williams introduced Jackie Fishman from Consensus Planning. Ms. Fishman showed a Power Point presentation and talked about the process they went through to come up with the final plan. She showed the plan elements in the Comprehensive Plan including a summary with goals, objectives and strategies. She gave a brief description of each of the elements of the plan. (See Power Point in Blue Book)

PUBLIC COMMENT

Bill Dennis commented on the following:

Mr. Dennis said he is the Chairman of the Alamogordo Library Public Advisory Board. He notified the Commission that Library Board Member Gloria Vaughn has not attended a Public Advisory Board meeting since January 11, 2017. He said Ms. Vaughn has Alzheimer's disease. He asked the Mayor and Commission to vacate Ms. Vaughn's seat on the board. Mayor Boss apologized and said he does recall Mr. Dennis's letter. He said Mr. Dennis also brought this up at a meeting in public speaking one other time. He said at that point he thought it was taken care of and obviously, nothing has been done. He said they will wait till they get to Boards and Committees, on the agenda, to remove Ms. Vaughn from her seat.

Frank Medeiros commented on the following:

He passed on his comment.

Eugene Downer commented on the following:

He gave a pat on the back to anybody associated with Youth Programs. He also gave a pat on the back to Commissioner Rardin for scheduling a meeting with the County. He thanked Mayor Boss for showing up and welcoming the owner of Spaghetti Western. He talked about Mr. Griffith investing millions in the mall and Holloman Air Force Base being an important market for the mall. He continued to talk about the blight removal program and making the entrance, into the City, inviting. He talked about increasing the salaries of all police officers and firefighters. He said to have City employees participate on firefighting activities really exposes this city to too much liability, so he would appreciate that not being done again.

CITY MANAGER'S REPORT

City Manager Paluch made the following remarks:

1. She said Monday April 2, 2018 is Brian Peete's first day as Chief of Police for the Alamogordo Police Department. There will be a swearing in at 8:15 a.m. in the Commission Chambers.
2. She spoke about the progress of the Sahara Apartments. She said Terracon has been issued a task order to perform the asbestos and lead based paint sampling survey. The survey is scheduled for March 27th and 28th and the facility maintenance team is coordinating access with the structures and the City should have the survey results back around mid-April.
3. She said the Street maintenance program bids were open on March 20 at 2:00 p.m. She said two bids were received and General Hydronics Utilities is the apparent low bidder and the Commission should see that award on April 10, 2018. The cost for the base bid and all four bid alternates is approximately \$6 million. She staff is going to have to move approximately \$250,000 from fund 81 from the future 2018 Street Maintenance Program to facilitate award of the complete scope in lieu of moving some of the streets into the 2018 Project.
4. She said there has been quite some debate on Facebook regarding the equipment at Kid's Kingdom. In response to the outcry, we released a public service announcement that said the project was on hold. She clarified that the project is currently moving forward. She said please understand that the Commission did act and supported option 2a in September 2017. This option that was presented to the Commission did include a cost breakdown of the playground equipment and other park amenities. Since the Commission already took action on the item, the design is currently moving forward. She said she will have more information on the design which will be included for the Commission meeting on April 10, 2018. The public will be able to see more detailed renderings from Exerplay of the park. During that meeting the Commission can discuss and insure that the City wants to move forward with what the Commission already voted on.
5. She said the Zoo has been looking for a new river otter for over a year. She is pleased to announce that Zoo Manager Wisner has found a male otter from a rehab facility in Utah. Hopefully we will see that otter in mid-April.
6. She said Easter in the Park was held on March 24, 2018 at 10:00 a.m. until 1:00 p.m. She said the event was co-sponsored by Bert Broadcasting and there was an estimated 4,000 people in attendance. She said 26 local businesses and organizers set up booths with an Easter game or activity for the children to play. The Annual Easter parade was led by the Easter Bunny himself and there were 42 participants dressed up and decorated in efforts to win a new bike. She gave a big shout out to First National Bank for purchasing four age appropriate bicycles for the winners of the Easter parade. They had different age groups for the Easter egg hunt; there were 32 full rounds of Easter egg hunting fun and the children were able to collect five eggs each. She again gave a major shout out to First National Bank for donating 32 Easter baskets for the winners of all of the rounds of the Easter egg hunt. She said 94 Key hosted their annual adult Easter egg scramble. She said 100 adults won prizes from local businesses and one lucky participant won a \$300 grill. There was plenty of parking for handicap individuals with a whole designated lot near the large stage. She said for another year we had a great event at Easter in the Park.
7. She said this evening the Commission will be reviewing the LEDA project for TLC for the call center at the White Sands Mall and in the case the Commission does approve that project there will be a PR ceremony at the mall in front of the old Sears/Hallmark location. She thanked Laurie Anderson and OCEDC for organizing that. The ceremony will be tomorrow at 10:30 a.m. She said the public and the Commission are invited and again there is a possible quorum posted.
8. She said the City of Alamogordo will be conducting a ceremonial key exchange for the family fun center to our operating contractor Mr. Jay Chun from Downtown Venture Corp. The ceremony will be on Monday April 2, 2018 at 11:30 a.m. in front of the Family Fun Center and Mr. Chun will be able to share his vision and his plan for the facility. She said the public and the Commission are welcome to attend.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Rardin made the following comments:

He asked where they were on the meeting he requested with the County. He said we could include Mr. Downer's comments about the County's Blight Ordinances that they were working on, so that we could

discuss that with County Commissioners. City Manager Paluch said she has been having an email exchange with County Manager Heltner. She said County Manager Heltner has only spoke to one County Commissioner and needs to get with the other two. They are more than willing to meet so we will setup a time. She said they want to talk about annexation, peace app, the steel pellet mill, so there are various items, so she will add this to the list. She recommended to do something like they did last time over at the Civic Center or at a larger location that has enough room for the public to attend. Commissioner Rardin said we have a newer Commission here and some of them do have day time jobs. He said in the past the Clerk would call all seven of them with multiple times of when the meeting could be held and see what works best for majority of the Commission.

Commissioner Hernandez made the following comments:

He said during the election he commented that this is one of the most thankless jobs available. He said as far as he knows nothing was put out that they were not going to talk about the park tonight and everybody expected that the Commission was going to do something, and you can see what they have here. He said it is easy to put your comments online but when it comes time to come in here and letting us know what you really think, because he does not get those posts, he does not see them. He said he does not do that social media stuff like that. He said staff did a lot of work on Kid's Kingdom, the Commission had several meetings on Kid's Kingdom, they spoke about it several times. Staff made their recommendations, the Commission made theirs, they did their due diligence. He said he appreciates City Manager Paluch bringing forth that they are still moving forward with the plans and they would discuss it further. He said the citizens have every opportunity every second and fourth Tuesday of the month to be here. He said if they have concerns, the Commission is more than willing to listen to them. He said his phone is always on and he will always return calls, but it just does not happen. He said social media is not a way to run the Commission and he just wanted to bring that forward. He said again he appreciates his fellow Commissioners, the staff and all the crap that everybody catches for the job that they do. He said it is open to the public, it has always been open to the public. He said for someone to accuse them of taking money, he said he is sorry, but that just pisses him off. He said again there was nothing posted that they were not going to talk about Kid's Kingdom tonight and look at what we have. He said it is a shame and they are blaming him for doing his job with the information that he has. He said that is all that he can use. He said so please if you have something to say, call him or come to the meetings, call city staff and talk to them. He said running behind social media, it doesn't do anything for him. He said he was very disappointed in how they are related as far as they don't do what they are supposed to. He said they do with what they have and that is it.

Mayor Boss made the following comments:

He said he is going to add a little bit to that and he is aware of some of the stuff going on with social media. He said they are expected to know everything about everything. They sit up there, they have staff that are Engineers, they are City Managers, they are Attorneys, they are Accountants, we have all these people out there and the Commission is expected to know everything that these employees know we rely on that. He said people don't understand, we have to rely on staff. We have a fantastic staff to rely upon, in his opinion. He said he is not an Attorney, an Accountant or a City Manager, he is the Mayor of Alamogordo. He said they have to rely upon their staff and they do, and he does it in confidence. He said we are not bobble heads, he can assure you. They know what is going on, they do their due diligence, they have an agenda report that comes to them every Friday, before a meeting, and they review it. When they come to the Commission meeting they know what is going on to the best of their ability. He said they have not gone out and looked at every little project that's going on in the community, he hasn't gone down and looked at every financial statement. He said that is not practical, but there are people out there on social media that think they should do it. He thanked Commissioner Hernandez for his comments.

Commissioner Hernandez said if these people that worked on social media and just put out their comments, if they would actually be productive and come and talk to us, it would be a whole lot different. He said he does not use social media for that exact reason. We do have a very young staff, but he can tell you, from his point, when he first started this it wasn't working very well with the current staff, and since then a lot of things have changed. He said we don't always see eye to eye, but we communicate,

and we learn from each other and that is what this is about. He said nobody here knows everything. He said we have probably one of the best staff, if not today, tomorrow because they do listen.

Commissioner Payne made the following comments:

She said she wanted to piggy back off what Mr. Downer said about our Code Enforcement. She said those of you who think that they are not doing enough, you are so incredibly mistaken, because they are working incredibly hard. She said for example there was a video put on social media about a particular home and just like Commission Hernandez said there must have been 40 or 50 ugly comments about the City doesn't care and the City doesn't do anything. She said that is very unfortunate and so she sent an email and within twenty minutes she got an email back saying where that this was on the list, this is where it's at and she was able to get back on there and say this is what is going on and she has yet to have a time in the last year that she has not been able to get an exact answer on a piece of property that they think that we are not working on, but people have to understand that we have laws, we have a process that we have to go through, we can't just tear down a home, unfortunately, that is how you get sued. She said we cannot do those kinds of things we have to go through the process. She gave a shout out to Code Enforcement because they are so on it. She said she would love to give them a raise, it probably not practical but it is a great idea, but she has not had a time where she has not been able to call them and get an answer and know that they are on it. She said we really appreciate that very much.

CONSENT AGENDA

2. Approve the minutes for the March 13, 2018 Regular meeting. *(Rachel Hughs, City Clerk)*

3. Consider, and act upon, request by PNM related to a leak adjustment request for 650 Fairgrounds Rd. *(Mark Threadgill, Customer Service Manager)*

4. Consider, and act upon, an application for participation in the 2019 Law Enforcement Protection Funds. *(Mike Lawrence, Deputy Police Chief)*

5. Approve Resolution No. 2018-11 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 March 27, 2018. *(Kathy Gilsdorf, Budget Analyst)* (Roll Call Vote required)

6. Consider, and act upon, final publication of Ordinance No. 1559 amending sections 29-01-100 and 29-01-110, Chapter 29 of the CODE pertaining to White Sands Beautification District. *(City Planner, City Planner Williams Williams)* (Roll Call Vote Required)

7. Consider, and act upon, final publication of Ordinance 1564 approving a Local Economic Development Project for secured financial assistance proposed by Thomas L. Cardella & Associates, Inc. *(Petria Schreiber, City Attorney)* (Roll Call Vote Required)

City Attorney Schreiber asked to remove Item #7 from the Consent Calendar.

Commissioner Hernandez moved to approve items 2, 3, 4, 5, 6 of the consent calendar.

Commissioner Rardin seconded the motion.

Roll call vote was taken.

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

ITEMS REMOVED FROM CONSENT AGENDA

7. Consider, and act upon, final publication of Ordinance 1564 approving a Local Economic Development Project for secured financial assistance proposed by Thomas L. Cardella & Associates, Inc. *(Petria Schreiber, City Attorney)* (Roll Call Vote Required)

City Attorney Schreiber said there are a few changes that need to be made before they pass this. The first change they need to make is on the Ordinance itself, it references Drought Adaptation Industries. She said that needs to be stricken and should read Thomas L. Cardella & Associates on that first page. Furthermore, in the Project Participation Agreement, you will see on page two there is a yellow highlighted area. She said if this is approved tonight it just needs to have the correct approval date in there. Furthermore, the State of New Mexico came down and we met with Secretary Geisel from the State Economic Development Department. After some conversations with them, we did go ahead, on page four in Section seven, strike three and four from the disbursement, call center technology i.e.: computers, wireless hardware, software security and furniture and fixtures. She said although we may see these as eligible expenses as far as equipment, the State has taken a different view for various reasons. She said we spoke at length with Mr. Cardella and OCEDC, and instead we will replace this with lease abatement. This does not change the award of the LEDA funds, it is absolutely allowable under the LEDA statute as well. The amount will not change, but the purpose in use of the funds will change.

Mayor Pro-Tem Baldwin said he had a meeting with City Manager Paluch on Monday and this falls in the purvey of those conversations. He asked City Manager Paluch if she was okay with this and if all parties agree. She nodded yes.

City Attorney Schreiber said she has that in writing from the State and is happy to provide that to him or any members of the Commission that would like to see that.

Mayor Boss asked if the Commission could approve the item subject to the changes. City Attorney Schreiber answered absolutely.

Commissioner Rardin moved to approve as amended.

Mayor Pro-Tem Baldwin seconded the motion.

Roll call vote was taken.

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

NEW BUSINESS

8. Consider, and act upon, Resolution No. 2018-13, to adopt the update to the City of Alamogordo Comprehensive Plan final draft. (Darron Williams, City Planner) (Roll Call Vote Required)

City Planner Williams said we now have the finished and final draft. He said he does want to Segway into a little more explanation based on some additional feedback from the public and that is in regard to annexation. He talked about the planned use map that is part of the plan. He said essentially, it's purpose is, as we go forward as a City and as we work through petitions from land owners to be annexed into the City, if we don't already have a plan established as to what kind of zoning that property should become as it becomes part of the City, it automatically defaults to single family of R1 use. He said we could have a piece of property in the middle of an industrial zone that when it annexes, if it is not adapted properly, would automatically revert to R1, that is incompatible zoning. Part of this preferred used plan is to help guide us as we go forward to these annexation cases brought to us by individuals. He said City Ordinances Articles 2-07-010 through 2-07-040 defines annexation procedures within the City. This refers to how an individual petitions the City to be annexed and become part of the City of Alamogordo. He said normally City policy is that it does not annex property, meaning that the City does not go after property annex. Normally it is the owner or group of owners of property who create the petition to the City to be annexed. The City to his knowledge is not currently planning, is not envisioning nor otherwise active consideration to annex any property outside the City limits. Furthermore, the City itself does not normally pursue annexation of property. The routine method of choice is to negotiate purchase at a fair market value, if annexation was the method of choice, then the City would have to follow and comply with State Statutes outlined in Articles 3-7-5 through 3-7-18. He said if you look in our Code of Ordinances when it talks about if the City is going to annex property it immediately refers to the State Statutes; meaning we do not have a process within City Ordinance for the City to do any annexation, we have to comply with State Statutes. He said for the record, the City is not actively attempting to, planning to or

otherwise actively working annexation beyond those cases the owners petition to the City to be annexed into.

Commissioner Rardin said about 15 years ago when the City still had the permitting Department, he thinks the City had jurisdiction of a five-mile radius outside City Limits. When the State took our Department away, they shrunk that down to like one mile. He said if he remembers right the City is allowed some input with the County on any subdivisions the County approves, is that correct. City Planner Williams said it did change when the City lost its Building Permit process, and at the time and up through currently it is referred to as extraterritorial jurisdiction. He said that is an incorrect term and in the next Ordinance update you will see that change to what is equivalent with State Statute and now County Ordinance as concurrent jurisdiction and it is still 5 miles adjacent to the border of the City of Alamogordo. He said in that area, what is says is we have to coordinate with each other on zoning of subdivisions. He said in individual annexation cases, the petitioner has to coordinate with the County through that process and my understanding is the County does not actively prohibit annexation, but it is a coordination process so that the County is aware of you are transitioning out of the County into the City.

Commissioner Rardin said he just remembers that the City had some say in the subdivisions that the County approves, and it was close enough to City limits that we had a little bit of say in it to see if it met our Master Plan.

City Planner Williams said correct and that is so that we do not have incompatible business adjacent to. He said for example north of Scenic as we transition into the County, since the County does not have any active zoning, there is technically nothing to prohibit a coal stoking plant to go in right there, however, because it is within five miles we would have coordination on it and obviously it is not compatible with the residential area right to it. He said that is the purpose and reason behind it.

Commissioner Hernandez said one of the other parts to this also is actually just a plan. He said it is something that we could drive off of, if needed at some point, we can make changes if necessary. We can see the City going one way and it actually can take off another way, so we adjust our plan to meet that. He said we have to have something to go off of and that is all this is. It is not something that is set in stone, this is not what is going to happen exactly, but it gives us a direction that we can work off of as we start to grow.

Mayor Pro-Tem Baldwin said to echo Commissioner Hernandez's comments, would it be prudent to put in to re-visit our Comp plan every two years or four years as opposed to let it go to the Commission to just decide to bring it back. He said if there is a mechanism that is fine. He said his six years being on the Commission he is very excited to finally see this come to fruition. In 2012, that was one of the things the Commission talked about readily. He said the Commission and staff made a feeble attempt in 2014, it wasn't really the greatest Comp Plan. We had a lot of change in staff at the time, so one of his first meetings with the City Manager when she was first hired on, this was one of the topics of conversation, and three months in she already had gears turning and this mechanism was moving forward. He said this is extremely important so that we do not lose focus of where we are going in the future. He said as Commissioner Hernandez stated this is just a plan, not an actual blueprint. He thanked staff for finally bringing this to the Commission in the form that it is in now.

City Planner Williams said it is preferred every five years that we re-do the Comp Plan in an update and part of that is to give us an opportunity in the intervening years, not only to accomplish some work, but also update other plans which are also in cue now to include a new water master plan, wastewater master plan, transportation plan, economic development plan and about six other plans that we will be working on the next five years to catch us up and get us current and then we will run a continuous cycle so that we always have a good set of tools. He said he likes to call it blueprints in pencil, because they do change, but those blueprints are what we start the foundation and build on.

Mayor Boss thanked City Planner Williams, Ms. Fishman and all the staff. He said he knows there has been a lot of times spent on this. He can tell there has been a lot of effort put into this.

Commissioner Hernandez said one of the meetings and one of the reasons City Planner Williams is being very specific about the annexation is because people showed up to tell him what they didn't want, correct. Mayor Boss said they did. Commissioner Hernandez said that is how it works, if City Planner Williams would have done it on social media we would have just went on with it because City Planner Williams may not have seen it.

Commissioner Hernandez moved to approve.

Commissioner Sikes seconded the motion.

Roll call vote was taken.

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

9. Consider, and act upon, award of Public Works Bid No. 2018001 to Hank Williams, Inc. dba Williams Construction Contractors, related to the Otero/Greentree Regional Landfill Cell #5 project, in an amount not to exceed \$1,044,833.70, including NMGR. (Bob Johnson, Engineering Manager)

Engineering Manager Johnson explained what the project will consist of for Cell #5 at the Otero Greentree Regional Landfill. He said they advertised the project on February 4, 2018 and opened bids on March 8, 2018 with four responsive bids. He said this is a project that has been funded over a couple of fiscal years through the Otero/Greentree Landfill Board and we did have somewhat of a delay in getting this project finalized through the twenty-year permit renewal, but we are there now.

Mayor Boss said he is excited it turns out that the bid is about half of what we estimated for the project and budgeted for the project. He said the only thing that he can question is how we missed by a million dollars on the engineering. Engineering Manager Johnson said it scared him too. Mayor Boss said we doubled the cost of the project, how did that happen. Engineering Manager Johnson said from what I can understand and talking with the engineering staff from Souder Miller is that they based their estimate on the average of bids they received for other solid waste projects around the State. Mayor Boss said it seems like a really big mess, but he is excited about it, it is half of what we had budgeted. Engineering Manager Johnson said he was a little afraid of it himself considering the estimate and knowing the budget we had. He was gratified to see that we had some pretty consistent numbers come through considering that this contractor is from the lower portion of Colorado. He said the Engineering Firm, Souder Miller, did their due diligence and a pretty significant background check and the contractor is well experienced and well qualified.

Commissioner Payne asked what six-inch subgrade compacted to 95 percent mean. Engineering Manager Johnson said six-inch subgrade will be a buildup of the cell, consisting of subgrade six inches thick compacted to 95 percent. Commissioner Payne said it looks like that is where it is way off, if I am reading this correctly. She said that is where the problem is, right. Commissioner Payne asked if that will come back and bite us later, right. Engineering Manager Johnson said no. Commissioner Payne said it's a little terrifying to her, how much that is off. Engineering Manager Johnson said if there are any change orders it will be based on estimated quantities because we are out there in the middle of nowhere. He said there are no hidden utilities to speak of, we don't anticipate any issues. Commissioner Payne asked about the \$1.05-unit price. Engineering Manager Johnson said it is pretty consistent across the board. He said it is existing material, there is almost no import of material in this project.

Commissioner Rardin said Engineering Manager Johnson kind of answered it, but were the Engineers maybe figuring on importing material and that is why their cost is so much higher, because you can't buy that for \$1.05. Engineering Manager Johnson said I know.

Commissioner Rardin moved to approve.

Commissioner Hernandez seconded the motion.

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

10. Consider, and act upon, award of Public Works Bid No. 2018-002 to Classic Builders, Inc., related to the Repaint Alamogordo City Hall and Sign project, in an amount not to exceed \$37,028.88, including NMGR. (Bob Johnson, Engineering Manager)

Engineering Manager Johnson explained what the project will consist of. He said they advertised the project on February 4, 2018 and opened the bids on March 8, 2018 and only one bid was received by Classic Builders, Inc. He pointed out that they had five bidders attend the pre-bid conference. He said there was a fair amount of interest expressed, he has no explanation why only one bidder chose to bid on this project. He said it is a 45-calendar day project. He explained what the prep work was going to involve.

Commissioner Sikes asked if we are changing the color. Engineering Manager Johnson said he was told that they are, but that decision will be made at a level much higher than his.

City Manager Paluch said she was thinking something that looks nice in the desert, something that is typical around town possibly a two-tone. She said they were thinking something that blends nicely with other buildings of this size in the community.

Mayor Boss asked if this building has ever been re-painted. Engineering Manager Johnson answered no, not that he is aware of. He said bidders were informed to expect up to two color selections for the building itself and then possibly a third and fourth color for the down spouts on the side of the building and the four hollow metal doors and frames on the southside. The window and door frames are not to be repainted, that is a factory finish, any attempt to re-paint will make it worse than it already is.

City Manager Paluch asked the Commission if there is any building that they like specifically.

Commissioner Rardin asked if they are doing a latex or elastomeric paint. Engineering Manager Johnson answered elastomeric. He said the requirement is for primer and two coats of elastomeric paint on the EFIS system. Commissioner Rardin said if they will be going in and caulking the cracks and repairing, sometimes when you do that the elastomeric doesn't cover a lot of times, and you will be able to see all the pop joints and stuff. Engineering Manager Johnson said the Contractor indicated they plan on using Sherwin Williams products, and is aware that Sherwin Williams has an elastomeric caulking product you can get with or without texture. Commissioner Rardin asked which product will be used. Engineering Manager Johnson said that submittal has not been provided yet and will not be until after an award.

Commissioner Hernandez said he has a project where they are going to bid, and they started out with five bidders and now there are just two. He said it is just kind of the standard right now of what's happening.

Commissioner Hernandez moved to approve.

Commissioner Wright seconded the motion.

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

11. Consider, and act upon, application for GRIP reimbursement submitted by Solid Cap Properties, LLC. for the remodel of the location for Melrose Family Fashions at the White Sands Mall. (Petria Schreiber, City Attorney)

Paralegal Williams said this is the initial presentation of the application for GRIP reimbursement. She said this is coming at the end of the project, because the reimbursement is expected to be less than \$10,000. She has not seen the full invoices, but his estimation was \$500,000 which puts our reimbursement at about \$8,600. When he submits the invoices, we will know for certain because we will not pay anything that the gross receipts taxes were not paid on. She said we are seeking the Commission's approval of this application and then we'll move forward with looking at the agreement.

Commissioner Hernandez moved to approve.

**Mayor Pro-Tem Baldwin seconded the motion.
Motion carried with a vote of 7-0-0.**

12. Consider, and act upon, first publication of Ordinance 1565 amending Section 7-01-020 of the Alamogordo Code of Ordinances regarding the keeping of bees. (Petria Schreiber, City Attorney) (Roll Call Vote Required)

Item was removed by City Attorney Schreiber.

13. Consider, and act upon, first publication of Ordinance 1563 amending Chapter 12 of the Alamogordo Code of Ordinances regarding the Alamogordo Fire Department. (Petria Schreiber, City Attorney) (Roll Call Vote Required)

City Attorney Schreiber said this is regarding Chapter 12 which is where all of our fire codes are contained. She said there are a couple of changes to this. The first major change is that Chapter 12 originally had our old department of Public Safety language in there, so it was very confusing for citizens. If you needed a burn permit, you were directed to see the Director of Public Safety, no one is quite sure who that is anymore, so we went ahead and updated that to the Alamogordo Fire Department and the Fire Chief to make it easier for citizens to obtain help. She said we then moved the Hazmat section out of Chapter 24 and in to Chapter 12 since that is under the purview of the Alamogordo Fire Department. She said we did not update anything in the Hazmat section except for wording. She said we took out Department of Public Safety language and added Alamogordo Fire Department language there. She said the last change is going to be updating our fire inspection. She said there are a couple updates that involve fees and a new fee schedule and Chief LeClair is briefly going to talk to you about his fire inspection program and what is going on with that and then we can discuss the need for this.

Fire Chief LeClair said the Alamogordo Fire Department conducts approximately 1,764 business inspections a year. He said out those inspections somewhere around 350 to 400 of them they are doing re-inspections for those businesses. He said they are averaging about 1,200 to 1,400 more inspections on top of the 1,764. He said what they would like to do is apply a fine which would apply to the second re-inspection, and then a fine for the third and fourth re-inspection. He said the reason for that is they are probably one of the only departments that do not have a fine or a fee schedule for inspections. He said basically what it would do is get the attention of those business owners to come into compliance. He said those who are going on the fourth, fifth, or sixth re-inspection, it is pushing the other initial inspections back, in order for us to get those business owners to come into compliance.

Mayor Boss asked if you come into my business and my fire extinguisher is expired and you have inspected it and tell me what needs to be done, if I do that there is no fine and if I don't and you come back and find that out, there will be a fine, correct. Fire Chief LeClair said they do the initial inspection, give them 30 days, then the first re-inspection is free of charge. He said if they go back in and they haven't come into compliance, then that is where the fine comes in.

City Attorney Schreiber said one of her concerns that the Fire Department has sort of talked to her about is that if your business, if it is a fire extinguisher issue, they let you know, they come back for re-inspection and the only thing they will look at is that fire extinguisher. The only things that are checked on a re-inspection are the things that were noted during the first inspection. Fire Chief LeClair said that is absolutely correct, we are not going to be adding to, as we do re-inspections.

Commissioner Hernandez said that kind of touched on what he was going to talk on. He said he has about twenty to twenty-five buildings and that's what was happening. He said he would get one crew to come out and inspect and give them whatever write ups they found, and a lot of times another crew would come back and add to that list and it would never end, because you can put twenty eyes on it and continue to find things if you wanted to. The other problems that we have is we only get inspections when we call for them, so if we do this they will have to be yearly. He said you can't hit them and then miss them.

City Attorney Schreiber said that is part of the concern with this, is that the Fire Department hasn't been able to get to everyone because the firefighters are doing four, five or six inspections on some buildings. She said hopefully giving this some teeth will bring the business owners into compliance so that those firefighters are free to make sure that all businesses are inspected, and it is a safety issue for the public at large, going into businesses.

Commissioner Hernandez said absolutely, he totally understands that because he probably has ten different agencies that they have to go through.

Fire Chief LeClair said Commissioner Hernandez's concern has been addressed. He said what they have done to correct that problem, is the fire inspector that initiated that inspection stays with that inspection till it is completed. Commissioner Hernandez said that helps and if you do find something, point it out but do not tag me on it so you guys can keep coming. He said we'll fix everything that we have to on our side. He said we deal with that on your side too because we also have lease properties that we have to get the landlords to do repairs through the fire inspections and sometimes that is tough.

Commissioner Rardin said if he is reading this right, this says the fee for initial fire inspection is \$15. Chief LeClair said this is reading is for a new business, and that fee will be attached to their initial application. He said the fine portion of it, would follow. Commissioner Rardin said he knows that they need to have those fees a little higher in order to have some teeth, but \$500 and \$250 seems a little excessive. He said it seems unfriendly towards business.

City Attorney Schreiber said she said the same thing and what Fire Chief LeClair pointed out to her is that all businesses are different. She said you may have a smaller Mom and Pop store on New York that might take one firefighter, but if you are talking about something like Wal-Mart it is going to take a significant crew to go through there several times. If there is a big store where we are sending four or five guys in, and they have to go in four or five times, the cost to the City is enormous. She said she hears Commissioner Rardin's concerns, the fees can absolutely be changed if the Commission wants them changed. When we looked at this we initially tried to do this; if your business is this many square feet it will be this much and the conclusion that we came to is that it became very confusing.

Commissioner Rardin said his theory on that is that to the little Mom and Pop small business down there on New York Avenue; \$250, \$375 or \$500 is a significant amount of money to them and to Wal-Mart they don't care. He said \$500 to Wal-Mart, they flush that down the toilet every minute, so it just seems a little excessive on the fees. Fire Chief LeClair said we are definitely not opposed to re-visiting those fees.

Commissioner Payne asked Fire Chief LeClair if they know when you are coming to do the first follow up. He said we always schedule the appointments. Commissioner Payne said so they know when you are coming to do the second and the third. Fire Chief LeClair said yes. Commissioner Payne asked if it is typically things like fire extinguishers or does it vary. Fire Chief LeClair said it can be various items. Commissioner Payne asked how long before you do the first follow up. Fire Chief LeClair answered 30 days. Commissioner Payne asked and how long for the second follow up. Fire Chief LeClair answered 30 more days. Commissioner Payne said they have 60 days to comply and they don't. She said she understands what Commissioner Rardin is saying, but at the same time she thinks there needs to be a deterrent and she thinks what they've had in the past is that people don't think they have had any deterrents and people don't think they are serious. She said it is the same thing with Code Enforcement, people don't think it is serious because it hasn't been serious in the past. She said we do need to find some kind of happy median. She said the word is safety and so it is not that the City wants more money, but it is a safety issue.

Fire Chief LeClair said it allows us to get to other businesses that the Fire Department has to do. He said we have fire prevention, we have to test our equipment yearly and it goes on and on. He said my guys are very busy. Commissioner Payne said she is not opposed at looking at the fees, but she does think that the fee needs to be high enough that it is a deterrent for people to understand that we are serious; that you've got to get these issues fixed. She said because it is not fair just because Wal-Mart can afford

it doesn't mean that it should be different. That is why we have laws, that's why we have Ordinances, that's why we have rules. Fire Chief LeClair said if I could add, in the past we've actually dealt with businesses for almost a half a year trying to get them to come into compliance. Commissioner Payne said because there hasn't been a deterrent. She said I wonder if you would still have that same problem if they were slapped with a fine, maybe they would get the message that it is a safety issue.

Commissioner Wright said he is assuming that firefighters have to be trained and certified to what to look for on inspections, so that is something that we need to justify. Fire Chief LeClair said we are creating a company inspection program, we have been working on it for a while. He said out of the 20 firefighters that we have right now, 13 of them are fire inspection one certified.

Commissioner Sikes said should someone require something serious, maybe a new smoke alarm system or something, you would probably give them more than 30 days if it is something that they can't get to within 30 days. Fire Chief LeClair said that is true, we do our best to work with businesses. He said we definitely go out of our way to work with them. He said regardless of the size of the business, business is what makes things happen in Alamogordo. Commissioner Sikes said she agrees with Commissioner Payne, it is a matter of safety. She said when you hear about something like recently happened overseas where a four-story mall complex caught on fire and 64 people died. She said she does not envision something like that happening here, but should that happen, even a \$500 follow up fee doesn't even equal a cost of a life.

Commissioner Rardin asked Fire Chief LeClair how much money he thinks they will be generating off these fees, based off past experiences of doing these inspections. He answered that he is not positive, but he could put those numbers together and get back to the Commission. Commissioner Rardin said we are not in the business to make money and charging some of these fees, we are just here to try and break even and provide these services to the Community.

Fire Chief LeClair said our major goal in this, is just to get compliance.

Mayor Pro-Tem Baldwin said he has extensive experience at his place of work, being a City facility. He said they have dealt with these inspections quite often. He said he was always under the impression that there was a fine when they came back. He said his two cents is ditch the \$15 incorporated business fees. He said he does not see that generating any money for the City that is worth anything. He asked how many license fees a year do you get, we are talking a couple of hundreds of dollars and it goes against what he believes is a little anti-business as it was kind of stated. He said \$100, \$200 and \$500 would be his two cents as far as the fee goes. He said very small initially, but if they have to come back that last and fourth follow up they need to get hit and he would even consider higher than that if you ever get to that point.

Commissioner Rardin said he concurred with Mayor Pro-Tem Baldwin. He said if they did away with the \$15 fee and did \$100, \$200, \$500 or \$1000 for that fourth one, he would be okay with that. He said maybe bump that fourth follow up to something where you are going to get their attention, if they get to that.

Commissioner Sikes asked Fire Chief LeClair when someone is really out of compliance and you are having to go back and inspect and reinspect, how does that affect their insurance. He answered it doesn't. Generally, the way it works is, they don't want to come into compliance, that is when the Command Staff gets involved and then they have to go and have a heart to heart with that business owner. He said most of the time that works, but sometimes people just blatantly refuse to fix anything.

Commissioner Rardin asked if they won't come into compliance, couldn't we pull their business registration and shut them down. Fire Chief LeClair said we can according to the International Fire Code. He said visiting with the City Attorney we have tossed around some ideas as to how to kind of handle that and the other option is that we treat it like we would a Code Enforcement issue and then we summons them into Court. Commissioner Rardin said instead of doing that \$500 or \$1000 fee on that fourth follow

up, we pull your business registration and we shut you down until you comply. He said that will get their attention because they are not going to make any money if they are shut down.

Commissioner Hernandez talked about some past experiences with inspections. He pointed out that there used to be a violation in the Commission Chambers, with a table by the entrance/exit.

Mayor Boss said he thinks what we have here is we want a deterrent. He said we want people to comply so that our firemen don't have to spend time after time. He said if we went with the \$100, \$200, \$500, to me that sounds reasonable.

City Manager Paluch said you can certainly pass this and then upon second reading we can have those numbers changed for you.

Commissioner Hernandez clarified the motion to adjust the fees to \$100, \$200 and \$500 and waive the \$15 initial business registration fee.

Commissioner Hernandez moved to approve as amended.

Commissioner Payne seconded the motion.

Roll call vote was taken.

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

14. Consider, and act upon, Resolution 201812 extending the moratorium on new off-premises billboards for a period of six months. (Darron Williams, City Planner) (Roll Call Vote Required)

City Planner Williams said in October we passed a six-month moratorium on new billboards off-premise advertising. He asked the Commission for a six-month extension. He then talked about putting together a team that will help draft not only that language but really a total and comprehensive sign Ordinance. He said what the Commission can expect from this team is a draft plan somewhere between June and July that outlines the Sign Ordinance. He said in that intervening time we will also be collecting a consensus from business owners on White Sands Boulevard and MainStreet to gather some input from active businesses on what there are willing to live with and can't live with. He said what we present to the Commission will be of a voice larger than just the team putting it together. He said at that point we will look for some additional input from the Commission and then hope to bring back to you then the final draft for action sometime in the August/September time frame. He said that will encompass this next six-month moratorium with the plan of action outlined.

Mayor Boss said one of the first things he looks at, is whether or not staff makes a recommendation for the Commission to approve an item. He said on this there was no recommendation and that makes me uncomfortable.

City Planner Williams apologized and said the recommendation is to pass it.

Commissioner Rardin asked City Planner Williams if he will be looking to re-write the whole sign Ordinance. He answered because we do not have one, yes. Commissioner Rardin said they looked at this in the past and it was very cumbersome. He said they had an Ordinance from another community that they were looking at and tweaking and changing a little bit. He said it was hard to come to an agreement on what everybody thought was right.

City Planner Williams said they have actually reached out and received examples from Texas, the east coast, the west coast and even some mid-west States. He said they also have some recommendations from the American Institute of Planning and strong recommendations based current litigation where communities, municipalities and States have won against the big sign consortiums. He said we are bouncing all of that together as well as going to our business community and gaining a consensus. He said he thinks that's where this attempt maybe a little bit different than times in the past.

Commissioner Payne said this sign Ordinance is going to include what we are going to do about these billboards. She said she is really interested in this sign Ordinance because she thinks White Sands Boulevard would look a whole lot different if just did something as simple as had a real sign Ordinance and got rid of painted signs. She said she would really like to see something more uniform.

Commissioner Rardin asked if they could take a look at political signs. He said our Ordinance right now, does not have a time limit. Your signs must take them down within seven days past the election, but there is no time limit on when you can put those signs up prior to the election.

Commissioner Sikes said she likes the idea of putting the Committee together. She asked if public comment would be included. City Planner Williams said absolutely, and that is the intent behind the consensus of the businesses themselves since they are the ones that employ most of the advertising signs.

**Commissioner Rardin moved to approve.
Commissioner Wright seconded the motion.
Roll call vote was taken.
Motion carried with a vote of 7-0-0.**

15. Appoint new Board member and alternate to the Southeastern New Mexico Economic Development District/Council of Governments. (Rachel Hughs, City Clerk)

City Clerk Hughs said this Board is asking for appointments, this is a two-year appointment. Currently, Commissioner Sikes is on the Board and Commissioner Hernandez is the Alternate.

Commissioner Sikes said this has been a really interesting Board to be on. She said whatever the project is, it seems like Assistant City Manager Cesar or someone from the City staff knows about it and when she comes back with a report they are usually well aware of what they talked about. She said she goes so that she can vote on the policy and technical committees. She said she would be more than willing to step back and let somebody else do it.

City Manager Paluch said just in full disclosure, these meetings are during the daytime.

Commissioner Wright volunteered as an alternate. Mayor Boss said we have appointed Commissioner Wright and Commissioner Sikes.

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

16. Appoint Committee members to the Southeast Regional Transportation Planning Organization. (Rachel Hughs, City Clerk)

City Clerk Hughs said the Board is asking the Commission to review and designate someone as the Policy Committee and on the Technical Committee. Currently, Commissioner Hernandez is on the Policy Committee and the Technical Committee is vacant.

Commissioner Hernandez said in the past a staff member was on one of the committees. City Clerk Hughs said currently, it is vacant, but in the past, it has been the City Planner. Commissioner Hernandez asked if they were going to continue doing that. City Clerk Hughs said that is up to the Commission.

City Manager Paluch said it is up to the Commission and as you know until City Planner Williams joined our team, we were without a City Planner for some period of time.

Commissioner Hernandez said on the Technical Committee, he would recommend that the Commission chose City Planner Williams and probably Assistant City Manager Cesar as an alternate if necessary.

Mayor Boss asked Commissioner Hernandez if he was making a motion. He said let's talk about the rest of it. He said he will serve again if no one else wants to or can, but it is getting difficult for him to make the meetings at this time.

Commissioner Sikes said she thinks this position is served well by having a City staff person on it. She asked if they could appoint a department in the event that the City Planner himself can't go. She said if we could appoint a department to attend that it would keep it open. Mayor Boss asked City Clerk Hughs if the Commission could do that. She said she would have to check on that, but she did not think the Committee would have a problem with it, they just want somebody appointed especially since it has been vacant.

Mayor Boss asked how they should proceed tonight. Commissioner Hernandez said let's just make the appointments and if they have to change it then they could bring it back. Mayor Boss asked departments or individuals. Commissioner Hernandez said either or.

City Attorney Schreiber said you could make the appointment and if it needs to be changed in the future it can be brought back. It is really going to be up to this organization if they will accept it or not.

Mayor Pro-Tem Baldwin motioned to appoint City Planner Williams and if he is unable to attend he will appoint somebody to represent on the Committee.

Commissioner Rardin asked if Commissioner Hernandez is going to remain on the Policy Committee and City Planner Williams do the Technical Committee, or is he going to do both.

Mayor Pro-Tem Baldwin said both. Commissioner Rardin clarified that the Commission is appointing City Planner Williams or his designee to do both committees.

Mayor Boss asked City Clerk Hughs to read back the motion. City Clerk Hughs said you are appointing City Planner Williams and his department to the Technical Committee. Members of the Commission replied for both Committees.

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

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

Mayor Boss read the openings and appointed Nate Mandalia to the Alamogordo Promotion Board and Eddie Kemp II to the Planning and Zoning Committee. He also directed City Clerk Hughs to write a letter to Gloria Vaughn thanking her for her service on the Alamogordo Public Library Board, but also dismissing her from the Board. No one was opposed.

Commissioner Sikes said she has known Gloria Vaughn for a number of years. She recognized Ms. Vaughn for her years of service as a State Representative, her involvement with the Boy's Scouts, and as a Pink Lady with Gerald Champion Memorial Hospital. Commissioner Sikes said Ms. Vaughn was also a certified and licensed clown and used her services for the betterment of the community. Commissioner Sikes said I understand that people go through transitions in life, and the transition Ms. Vaughn has gone through is well out of her control and had she the ability to attend every single meeting that she ever wanted to go to she probably would have. Commissioner Sikes said she keeps Ms. Vaughn in her thoughts and prayers and she served the City well. Commissioner Sikes said she understands that we need to have a quorum when we convene these meetings at the Library, so that would be the only reason that Ms. Vaughn is being dismissed from the Board, nothing that Ms. Vaughn had control over.

EXECUTIVE SESSION

18. 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. (Roll Call Required)

Commissioner Hernandez moved to adjourn into Executive Session at 8:24 p.m.

Commissioner Rardin seconded the motion.

Roll call vote was taken.

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

ADJOURNMENT



ATTEST:


City Clerk Rachel Hughes


Mayor Richard Boss

(Prepared by Eric Barraza, Deputy Clerk)

Approved at the Regular Meeting held on April 10, 2018.