

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
JUNE 12, 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 6:31 p.m. Roll Call was taken by the City Clerk. City Clerk Hughs announced there was a quorum present. Invocation was given by Commissioner Payne and the Pledge of Allegiance was led by Mayor Pro-Tem Baldwin.

APPROVAL OF AGENDA

Mayor Pro-Tem Baldwin moved to approve the agenda.

Commissioner Hernandez seconded the motion. Motion carried with a vote of 7-0-0.

PRESENTATIONS

1. Presentation on the new City of Alamogordo brand. (*James Glover, One a Day Marketing contractor*)

Mr. Glover gave an overview of the new City of Alamogordo brand. He announced names of people they have been able to share the brand with in the community. He said they have anticipated so far, that they have presented to 350 people in the community. He explained what branding is and does, and why we consider community branding. He talked about what they are trying to do through the community branding initiative. He explained what they want to do with the Brand Action Plan for Alamogordo. He talked about the Alamogordo Branding Alliance.

PUBLIC COMMENT

None.

CITY MANAGER'S REPORT

City Manager Paluch made the following remarks:

1. She gave an update on Kids Kingdom. She said the perimeter fence has been installed. The asphalt pavement path from the south parking lot to the site has been removed. The over excavation earthwork for the footing and the fall protection areas has started and should be finished at the end of this week. She said the concrete contractor is scheduled to be on-site next week and the contractor will proceed as much as they can, pending the arrival of the playground equipment and structures.
2. She visited animal control open house event and there were several rescue agencies in attendance. She said two veterinarians in the community donated half off the spay and neuters for animals that were adopted on Saturday. She announced that eight dogs and seven cats were adopted, and several people put their names down on a list for when the adoption dates on several animals become available. She thanked the entire APD staff and Animal Control specifically for putting on the event.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

None.

CONSENT AGENDA

2. Approve the minutes for the May 22, 2018 Regular meeting and the May 14, 2018 Special Meeting. *(Rachel Hughs, City Clerk)*
3. Consider, and act upon, final publication of Ordinance 1569 updating Chapter 13 of the Alamogordo Code of Ordinances to comply with Federal requirements. *(Nancy Beshaler, Project Manager)* (Roll Call Vote Required)
4. Consider, and act upon, final publication of Ordinance 1570 updating portions of Chapter 17 of the Alamogordo Code of Ordinances regarding Pawnbrokers and Secondhand Dealers to add reporting procedures. *(Petria Schreiber, City Attorney and Brian Peete, Chief of Police)* (Roll Call Vote Required)
5. Consider, and act upon, the award of RFP 2018-001 Financial Advisory Services for the City of Alamogordo, to the overall highest rated proposal, George K. Baum & Company. *(Julianne Hall, Finance Director)*
6. Consider, and act upon, the approval of Resolution No. 2018-27 requesting written approval from the Local Government Division of the Department of Finance and Administration, State of New Mexico, for the revised budget figures computed as of June 12, 2018. *(Julianne Hall, Finance Director)*
7. Consider, and approve, Alamogordo Police Department grant application to AED Grant Program for the purchase of 5 AED units. *(Debbie Osborne, Grant Coordinator)*
8. Consider, and act upon, Alamogordo Police Department grant application to American Police and Sheriffs Association Equipment Donation Program. *(Debbie Osborne, Grant Coordinator)*

Commissioner Hernandez asked to remove Item # 8 from the Consent Calendar.

Commissioner Hernandez moved to approve items 2, 3, 4, 5, 6 and 7 of the consent calendar.

Mayor Pro-Tem Baldwin seconded the motion.

Roll call vote was taken.

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

ITEMS REMOVED FROM CONSENT AGENDA

8. Consider, and act upon, Alamogordo Police Department grant application to American Police and Sheriffs Association Equipment Donation Program. *(Debbie Osborne, Grant Coordinator)*

Commissioner Hernandez said he pulled the item off because he would like for the Police department to give the Commission a five-year plan on what their needs are for the future and what they are going to be doing, so they actually have a plan on what they need for Alamogordo, because this was never on there in the past that we've ever heard about. He said he heard of a narcotics unit, they did hear about SWAT and such, but he would like to actually get a plan, so they can plan on grow and not just start throwing things out there.

Mayor Pro-Tem Baldwin said this is just a grant they came across. Commissioner Hernandez said it is, but again it is not cost neutral. He said you are going to have to buy motorcycles, you are going to have to train staff, you'll have to do all that stuff. Mayor Pro-Tem Baldwin said he sees his point. Commissioner Hernandez said all he is saying is that we need for staff to sit down with PD and put a plan together and let the Commission know that this is what they think they are going to need in the future, so that we have a growth plan and so we know what that is going to cost us.

Mayor Boss asked if this is just applying for the grant. City Manager Paluch said correct, but Commissioner Hernandez is correct. She said there is an expense that is not listed here in this grant

such as; purchasing the motorcycles, training and what not. She agreed with Commissioner Hernandez and said she can direct staff to put together a five-year plan just like the fire department did. She said they can either table this item this evening or they can go ahead and approve it and then it is just pending.

Commissioner Hernandez said he had no issue with this part of it, but it is just the understanding that this is a grant fund. He said we are going to get it more than likely, but then they are going to have to come back to us and say now we need \$40,000 for motorcycles, plus this much for training. He thought if we are just upfront on it and figure out what we are going to need in the future, it would be a lot easier. He said it would be a lot easier on staff to figure out how we appropriate our monies.

Mayor Boss asked if there is a time limit on the grant application. City Manager Paluch answered no. She said the fire department will be coming before the City Commission to present their five-year plan and that would be her recommendation for the police department as well, once it is completed.

Commissioner Hernandez stated again he does not have any problem moving forward with the grant, he thinks that staff needs to sit down with them and come up with a plan on what their future growth plans are, so they can have a plan every year for budget.

Mayor Boss asked if we do apply for the grant and get the grant are we committed to additional expenditures. City Manager Paluch and Commissioner Hernandez both answered no.

Mayor Pro-Tem Hernandez said the grant is fine, he just thinks we need to sit down and figure out a plan.

Commissioner Hernandez moved to approve.

Commissioner Rardin seconded the motion.

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

PUBLIC HEARINGS

9. Consider, and act upon, granting the Flickinger Center for Performing Arts, Application No. 1086576 a Non-Profit Club Liquor License With on the Premises Consumption Only, located on 1106 and 1110 New York Ave. (Rachel Hughs, City Clerk)

City Clerk Hughs introduced Mr. Mack from the Flickinger Center.

Mr. Mack said in their application to the State, they indicated that they do not want to become a bar. He said they have applied for a non-profit club license, so they could provide alcohol service to their patrons for special events.

Commissioner Hernandez said in their application they are showing both of their addresses. He said he knows that you cannot take liquor out of one building and into another one. He asked if this is because they combined them and is that possible.

Mr. Mack answered yes, in the state application the main premise is the back room of Patron's Hall, then the front room in the Flickinger Center are additional premises that could be included for larger activities.

Commissioner Hernandez said his concern would be if they walk out of the one and walk on the sidewalk, which would be violating the law.

Mr. Mack said their attorney met with the State people. He said as long as they provide security throughout the entire premises to include the theater and Patron's Hall that they are still within.

Commissioner Payne asked if there is an indoor exit and entry to both. Mayor Boss said there is a pathway where the two buildings are connected. Mr. Mack said right. Commissioner Payne said so you would not have to go outside.

Mr. Mack said they put in new doors on the Flickinger side that lock. He said they still have egress, but for fire regulations people can get out, but you cannot get back in once they close.

Commissioner Hernandez said he wanted to make sure that they don't add a problem, where someone goes for a function and ends up getting a citation. He said he thinks that could be easily solved by adding a temporary fence during the functions, if they had to do that.

Mayor Pro-Tem Baldwin asked City Clerk Hughs to describe what a Club Liquor License is. She answered it is just for the members. She said if they have guests come in, the member has to be there. She said it is not just open to anybody and everybody. She said they cannot sell tickets for instance. It is something like the Elks Lodge or the VFW.

Mayor Pro-Tem Baldwin asked if they will be able to take donations for the liquor or would they purchase it and then sell it. Mr. Mack said it has to be purchased and then all the funds will go to help with the operations for the Flickinger Center. Mayor Pro-Tem Baldwin confirmed the process with Mr. Mack.

Mr. Mack said right, we have membership set up, and we've got membership rules set up, and we've revised our bylaws to also include in there for the alcohol, because it had not been that and we have to re-submit those to the State.

Mayor Pro-Tem Baldwin asked if the State will require them to have the Alcohol Server's License as well. Mr. Mack answered yes, and all but one or two of their folks have already have gotten their Server's permit.

Commissioner Payne asked if this is only for special events. Mr. Mack said they are looking at, in the beginning, maybe three to five events per month that they would be potentially be doing this. It may increase, by popularity, to five or seven, but they are not going to be doing this every day. He said that is the way they submitted their application to the State is for special events only.

City Clerk Hughs added that for club licenses, they do not need to come and get a temporary liquor license.

Commissioner Sikes asked Mr. Mack how one becomes a member, so they can purchase the alcohol. He said they will advertise that there are memberships available. He said it will be a twenty dollar per year fee and it will run from September 1 to August 31. He said folks that buy a membership will be given a membership card, and people coming to use the designated service area will have to present their membership card and a valid ID, they will have to sign in with a patrol person at the entrance to that designated area.

Commissioner Sikes asked if one will be able to buy a membership the night of an event. Mr. Mack answered no. He said according to the State they cannot sell memberships the same time an event goes on. The application for membership has to be prior to that.

Mayor Pro-Tem Baldwin said he thinks all you need is a member there and then anybody else can purchase it. Mr. Mack said they have limited the number of guests that a member can bring that evening to four.

Mayor Pro-Tem Baldwin asked if they can picnic the licenses like other liquor licenses. City Clerk Hughs answered no. Mr. Mack said it can only be used on the premise. Mayor Pro-Tem Baldwin said congratulations, he is assuming that they will not have a big issue with this, and he is excited that the Flickinger has this opportunity to grow the business and do something else in Alamogordo.

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

UNFINISHED BUSINESS

10. Discussion, and possible action regarding the Sahara Apartments asbestos abatement and demolition. (City Manager Maggie Paluch, Assistant City Manager Brian Cesar, City Attorney Petria Schreiber, and Engineering Manager Bob Johnson)

City Manager Paluch said staff has worked very diligently on this project and they are at the point of seeking direction of the Commission.

City Attorney Schreiber showed recent pictures of the Sahara apartments. She gave a history of the Sahara apartments.

Engineering Manager Johnson said relative to the procurement methodology there has been some discussion as to how we proceed forward. He said staff had solicited Southwest abatement of El Paso for some budgetary numbers for the abatement, demolition and removal of all the structures. He said he had requested budgetary numbers through the use of the CES (Cooperative Education Services) procurement mechanism. He said they elected on their own to provide firm numbers. He said we have those numbers in place. He said in addition, Terracon has an on-call contract with the City for both Geotechnical and asbestos services. He said they have provided a firm number as well. He said using the CES mechanism, we could accelerate this project and get this done much sooner than later. If we are to go out for competitive bidding through our normal processes, we will have to contract with Terracon to develop a scope of work, then it is a matter of preparing the bid documents obtaining the wage decision, advertising, putting it on the street for a minimum of 30 days to comply with our local Ordinance. He said then the awards process, bonds, insurance, contract execution and then eventual notice to proceed. He said the competitive bidding process, they estimate that demolition and abatement would not occur prior to October. Under the CES mechanism they believe they could turn this thing loose in approximately 45 days after July 1st, 2018 when the new budget is in place.

Mayor Boss said at this point, we have it more secure than it has ever been. Mayor Boss said we are not in any super rush position right now.

- City Attorney Schreiber said the City did have to make a police report last week. She said there was a break-in of the apartments. She said several of the windows were broken and the boarding the City had done was ripped down and people had been inside. She said they re-secured the structure last week.

Engineering Manager Johnson said the CES mechanism has been used successfully over the past 18 months on upwards of nearly 20 projects. He said it has accelerated a lot of natatorium bond projects and a lot of the Community Services projects. They got done extremely quickly and well within budget and timeframe.

Mayor Boss asked if it would be less costly to go with CES then it would be to go out for bid. Engineering Manager Johnson answered it is difficult to say. He said Southwest Abatement is located in El Paso, but their main corporate headquarters is in Albuquerque. The next closest abatement company that they are aware of is in Albuquerque. His concern is they end up with a contractor like the one that did the abatement work at the old bowling center, and that went poorly. He said personally has a concern there, but that is strictly his opinion.

Commission Hernandez said even with the CES project, they would still have to have a scope of work. Engineering Manager Johnson said he has it already. Commissioner Hernandez asked if that included the abatement. Engineering Manager Johnson answered yes, he has firm pricing that includes the

abatement, the demolition, the haul off, NMGR, performance and payment bonds and state wages. He said that number is firm. Commissioner Hernandez asked what that number is. Engineering Manager Johnson answered \$401,000 plus the air monitoring costs, permitting costs, and air clearance costs from Terracon. He said with tax that is approximately \$28,000. He said those two scopes of work are based on a 30-day performance period.

Mayor Boss asked if that is considerably less than they had originally estimated. Engineering Manager Johnson answered staff had estimated probably double that.

Commissioner Rardin asked if it was going to be about \$429,000. Engineering Manager Johnson said yes with everything together. Commissioner Rardin said they are going to be \$100,000 and something short. Engineering Manager Johnson said right, other individuals will speak to the funding scenario, he can only speak to what we have right now.

Commissioner Hernandez said let's go past the demolition, if we get past this part. He asked what the plan is after that, are we going to go after the property, do we have the papers filed or ready to be filed.

City Attorney Schreiber said we can't file them yet until we decide what we are going to do, and we know that final cost. She said obviously that will change if the Commission decides to go with the competitive bidding process, but as soon as she has the numbers she will prepare the liens and as soon as the City pays the money, we will file the liens, then you will see it at a Commission meeting and she will come before you and ask permission to foreclose on all those liens. If the Commission gives her permission to foreclose on those liens, we will immediately file the foreclosure and start that process.

Commissioner Hernandez asked if that property is still a whole, because there used to be 5 or 6 apartments and now there is only four he believes. Engineering Manager Johnson said there are four complexes. Commissioner Hernandez said the property goes all the way to 25th Street and asked if it was whole. City Attorney Schreiber said yes. Commissioner Hernandez asked if we would lien the whole property. City Attorney Schreiber answered absolutely, and we have already several weed abatement liens, water liens on it, so this would be added to that and as soon as we have that total and the liens perfected and filed, she will be asking for permission to foreclose on those liens.

Mayor Boss asked if the property is not going to be worth nearly as much as we are going to have in it. City Attorney Schreiber said she would assume not. Commissioner Hernandez asked what that is going to do to us as far as our budget for any other demos. He asked if that wipes it out for this year, and next year.

Finance Director Hall said we have in this Project EN1809 approximately a little under \$315,000 for FY18. She said any amount that is not used by June 30th will roll over into next year. She said next year's budget FY19, the same line item there is approximately \$300,000 budgeted. She said if we need an additional \$120,000, we could take it from that line, it is already budgeted. It will still leave \$150,000 or more for other projects for Code Enforcement. She said she thinks we would be okay for the time being.

Commissioner Hernandez said the reason he asked that is because they have been getting hammered pretty good about all the dilapidated buildings in town and he does not want to use all our resources. He said in a hidden area, to the City, he means it is not hidden to the residents he wants to make that clear, it is not hidden to those residents that live in front, and behind and to the side of it, but it is in the central part of town, and that people coming through town don't see it. He said the dilapidated buildings that people coming through town see are the ones that are being complained on.

Finance Director Hall said just for comparison purposes for FY18, we had budgeted \$100,000 in that line item. She said we did increase that amount specifically for the Sahara Apartments, so as you know

this is a large project this has been ongoing for years, so it is going to take a little more money. She said even \$150,000 left over for next year is more than what we had typically budgeted annually.

Commissioner Rardin said he thinks we'll ever get our money back from this lot, but this project or issue has been going on since 2010 or 2011. He thinks they actually condemned this when he was in office prior. He said it is a lot of money to tear it down.

Mayor Boss said it is, but he does not think that they could use that for criteria. He said they have to do it even if we can't get our money back out of it.

Commissioner Rardin said if they did the competitive bid process it will basically hold them up a month or a month and a half, and they may be able to get a lesser price. He said there are some smaller abatement companies out of Albuquerque. He wants to hurry and get it done, but if they can save \$100,000 with the competitive bid process maybe they should look at that. It would take 45 more days, but they would save \$100,000 potentially. Mayor Boss said maybe. Commissioner Rardin said or we may be spending more, we don't know.

Mayor Boss asked if they decided to go to bid and didn't like the numbers that they saw, could they go back to the bid that you have in hand. Engineering Manager said with the constantly fluctuating economy it is doubtful. He believes he could get Southwest Abatement to hold their current pricing for another 45 days. He said if we are talking about three or so months out, they are naturally going to want to re-evaluate their cost.

Mayor Boss asked Engineering Manager Johnson what he would estimate they would save by doing that. He answered his best guess is that it is even money. He said we have an opportunity to get rid of blight sooner than later, which he believes is a positive thing. He said Southwest Abatement has proven themselves to us on several occasions with no issues, no change orders, within budget and on-time. He said he is not trying to sell the Commission on this firm, he is just stating a fact.

Mayor Pro-Tem Baldwin said are we going to move forward with the demolition, are we going to spend this money, and use this fund and next year's fund to do it. Then what mechanism are we going through to do the demolition. He said his opinion is in good faith, despite we have lots of blight throughout the town, this is the first and foremost, and most important one in front of us, we need to handle it right now, so let's tear it down, let's spend the money, let's do it. He said secondly, he is willing to go with Engineering Manager Johnson's recommendation and go with the CES process, if it can get it done quicker.

Commissioner Rardin asked if they need a motion to direct staff on this.

City Manager Paluch said Finance Director Hall has one more comment about another option for the funding.

Finance Director Hall said she knows they have concerns about making sure they have money for FY19 for other abatements in the Code Enforcement budget. She said we could always use the rededication for the fund 49. She said that is currently for FY18 that is \$647,000 and it will be approximately the same for FY19. She said we could use that money to make up the difference, the \$110,000 to \$115,000 depending on what the final contact comes in at.

City Manager Paluch said what we could do is take the money from FY18 and roll it into the project currently the EN1809, and then that project would roll over into FY19. She said the remaining money in fund 49, if it is not used in the current budget, it just rolls back into fund 49. She said if you would like to keep the \$300,000, the additional money they funded for FY19 in the budget for taking down dilapidated buildings, so that just gives you another option for funding.

Commissioner Rardin said Finance Director Hall said we have the \$314,000 in the project this year and then we have \$300,000 for next year already allocated. He said so we are going to eat up \$120,000 of it, so we should still have \$180,000. Finance Director Hall said correct. Commissioner Rardin said in the event we need some of it for FY19. He said he does not foresee them doing any major projects like that in FY19.

City Attorney Schreiber said she and Fire Chief LeClair are looking at Tinsley Trailer Park which is very visible to the City, on White Sands Boulevard. She said it is something that Chief LeClair and Code Enforcement has worked very hard on and has attempted to work with them, but we anticipate that being a major cost as well. Commissioner Rardin asked if they will be able to get that done in FY19, if they do something similar to what is being done now. City Attorney Schreiber said there is a lot of variables with that and she thinks we have a lot more cooperation with the owners, so we are going to try our best to get it done with the amount of money budgeted. She said that is our goal because we have heard a lot from the Commission about White Sands. She said we are working on it and we will do our best.

Commissioner Rardin said if we do use FY19 money to tear this down, we could always roll a little of Fund 49 money over, in the event that we go over the \$180,000 that we have.

City Manager Paluch told Commissioner Rardin that he is correct, but just a thought that next year, if there is something that pops up during the year that we need to use that money for, we just need to make sure that we plan for that.

Commissioner Payne said we do not necessary have to jump the gun and touch anything from fund 49. She said we can let it go back for FY18, and then for FY19 if we need it. She said we've never had to touch it, we've used it the last couple of years. City Manager Paluch said we used it the year before for litigation purposes. She said there is stuff that pops up like litigation that you can't plan for.

Commissioner Hernandez asked if there is any dollar threshold on using CES. Engineering Manager Johnson said Southwest Abatement's proposal includes the demolition by Jack Wayte Construction. Commissioner Hernandez said that is where his concern comes in, because there are other local demo contractors.

Mayor Boss asked Engineering Manager Johnson if it would be a problem for him to explain, so that the public and everyone knows, when we are talking CES and we are talking about being able to use that without going through the normal procurement process, could he explain that so that people can understand what we are talking about. He said CES stands for Cooperative Education Systems, it is a cooperative purchasing instrument similar to a statewide price agreement. He said in this case the New Mexico School systems or the educational systems have gone out on their own for competitive proposal requests for various trades, whether it be asbestos abatement, electrical work, utility work, purchasing of commodities and so forth. He said it has already been competed in that area for a specific product, service or construction. He said CES allows any organization, public entity whether it be a City, County, or Soil and Water Conservation District to utilize that instrument similar to using a statewide price agreement to purchase equipment or a vehicle. It is essentially an intragovernmental agreement. He said GSA is probably one that is most familiar to everyone although GSA has a great deal of restrictions for our specific use. He said because it has already been competed, it does not need to be competed again. That mechanism is already in place. The organizations that awarded CES contracts for specific term have already vide for that through a competitive process in that particular.

Commissioner Wright asked Engineering Manager Johnson what is the role of Southwest Abatement, if Jack Wayte is going to be doing the demo. He answered Southwest Abatement will actually perform the abatement processes. He explained the processes. He said Jack Wayte would come in and collapse all of the structures. Southwest Abatement has their own container company, they will bring in as many roll-off containers as they need. He said the containers will be lined and the encapsulated

structures will be put into those containers and hauled to the landfill to the specific area designated for asbestos.

Mayor Boss asked if they had to put a can around it, like they originally thought. Engineering Manager Johnson answered no, there is a liquid encapsulate that is used for this kind of situation.

Commissioner Rardin made a motion to proceed with the demolition of Sahara apartments using CES.

Commissioner Sikes seconded the motion and said she agrees with Mayor Pro-Tem Baldwin, Mayor Boss, Commissioner Payne and everybody that the quicker that we can do this, the better.

City Manager Paluch asked Commissioner Rardin in his motion, if he wanted to include something about the funding. Commissioner Rardin amended the motion to use EN1809 from FY18 and a portion of the abatement money from FY19.

Commissioner Rardin moved to approve as amended.

Commissioner Sikes seconded the motion.

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

NEW BUSINESS

11. Consider, and act upon, granting a waiver of the permit fee for a Special Fireworks Display permit for the July 4th Fireworks Display at the New Mexico Museum of Space History property. (Rachel Hughs, City Clerk)

Mayor Boss asked City Clerk Hughs if the fee was \$25. She answered yes, the Space Hall has asked the City to waive this permit fee for more than 20 years now.

Mayor Boss moved to approve.

Commissioner Hernandez seconded the motion.

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

12. Consider, and act upon, editing the Event Sponsorship Policy & Procedures to include a Permanent City Partner category. (Maggie Paluch, City Manager)

City Manager Paluch said last year, the Community Services department put forth the event sponsorship policy and procedures and during that discussion the Commission talked a lot about whether or not there were certain entities within our community that we wanted to make so called "Permanent City Partners". She said we are bringing this policy back to the Commission to create that permanent City partner if the Commission would choose to do so. She said what that would mean is that an entity that has contracted with the City such as the Chamber of Commerce or our Economic Development group, they would be made permanent City partners, thus they would not have to pay any of the fees for renting our spaces for special events. She said if the Commission chooses not to revise the Event Sponsorship policy and procedures, then the next item will come before you where the Chamber of Commerce is looking for a fee waiver for the Fourth of July event they are planning at Hang Glider Park. She said if you approve this, we will pull item number 13, if the Commission does not then we will move on to item number 13.

Mayor Pro-Tem Baldwin stated this was brought to his attention three years ago at one of the Chamber meetings. He said they asked him why is there still fees. He said he has been pushing for this for two and half to three years. He said the last iteration that the Commission got from staff was a great start to it in creating some collaboration and partnerships throughout the community, but it has always been his feeling to be charging the Chamber and/or contracted organizations in Alamogordo to pay the City for the use of things that our mission statement, our vision and what we are trying to do, just seemed counter-productive. He made a motion to approve.

City Manager Paluch said there is a typo on the third line of Section 2.5 where it says examples of permanent City partners. She said there are an extra "R" and "S" in partners. She said we need to strike that from that word.

Commissioner Payne asked who else would fall under that category. City Manager Paluch said it has to be an organization that has a contract with the City. She said one other organization they were thinking of is possibly COPE or the Train Depot. She said somebody that is contracted to provide a service to the City residents. She said they talked a lot at the previous Commission meeting about this setting a precedent that if we provide this to one group, what is going to set that group apart from another group. She said staff came up with the idea that they had to be contracted with the City of Alamogordo.

Mayor Boss said like Zia Transportation probably would be one. City Manager Paluch agreed.

Commissioner Rardin asked if they had a fiscal impact of how much money this will cost the City. City Manager Paluch said they do not know the future, so they don't know how many events these organizations are going to hold. She said for this event, the cost would be the regular fees \$2,970 that the Chamber of Commerce would be paying for the Fourth of July event. Commissioner Rardin said to use our facility, but then if he remembers right there is another thing in the agenda to approve some overtime for police for that. He said he does not mind waiving \$25 fee for fireworks, but \$2,000 is a lot of money. He does not mind doing it, but if we do it here then we are going to continue to do it. Mayor Pro-Tem Baldwin said and we should. Commissioner Rardin said other entities are going to want us to waive the fees.

Mayor Pro-Tem Baldwin said that is what we get paid to do, or what we volunteer to do, is decide if they individually ask and we need to weigh that. He said the Chamber of Commerce, OCEDC and some of these other contracted entities that were mentioned, it is counter-intuitive to him that they would be paying us when we turn around and we pay them again. He said that is not the only reason, but he is willing to forego those fees just because it would nothing but facilitate and encourage those organization to do more.

Mayor Boss said they need to consider the economic impact. He said bringing all these people into the community as a result of this project or event that is being put on, we are going to have lodger's tax, NMGRt that we are going to be able to share in. He said we need to consider all of that.

Commissioner Rardin stated they are paying these organizations yearly. He said the Chamber we give a billing for a dollar a year for 99 years, if he remembers right. He said we give them \$30,000 for one deal, \$36,000 for another deal and OCEDC we contribute \$70,000 to \$80,000 a year. He said we contribute \$100,000 or so a year to Z-Trans. He said we are paying these organizations and then we are waiving fees that we are charging, so we are actually losing money essentially. He said he understands the other side of it that you guys are saying about lodger's tax and NMGRts come in because of it.

Mayor Boss said the Chamber of Commerce does a lot for our City though, leaving the fees out he believes. He said when the people come through here and they are handing out the brochures and telling you where to go. He said we can take this along ways and we can probably show the benefit of doing this outweighs the negative, even from a cash flow standpoint. He said that is his opinion.

City Attorney Schreiber told Commissioner Rardin that part of Section 2.5 does say that this does not obligate the City to provide other services or waive other costs other than rental fees. She said if they are requesting additional police services, and that will be a cost to the City, this does not obligate us to waive that cost. She said this is just for the rental fees of the City property and the use of that. She said that is still something that will come before the Commission to be considered.

Commissioner Hernandez asked City Attorney Schreiber if she is recommending that the Commission approve this. She said that is up to the Commission. He said he is asking her as a legal, if this is something that they should do or not do. She said she can advise them that it is perfectly legal to do this. She said she does not see anything that there is any illegal action to do this. She said to make somebody a permanent City partner, is something the Commission would decide.

City Attorney Schreiber said she did not know if Commissioner Hernandez was asking about the legality of this or her personal belief. Commissioner Hernandez said he would not put her on the spot for that one, but he was asking about the legality.

City Attorney Schreiber said if we choose to partner with certain groups, we can do that. She said when this originally came before the Commission, one of the big concerns was that we said we weren't going to partner with religious or political groups. She said that is something that she has since talked with the Municipal League about and it is fine that we do that. She said as long as we do not pick and choose and say we like this party over that party or this group over that group. If we just say that we are not going to do this with political or religious groups and make it a blanket statement that we're okay there.

Commissioner Hernandez said we will follow all other parts of the policies, the insurances depend on what we decide on each one individually the costs.

City Attorney Schreiber said absolutely and told Commissioner Hernandez that he could ask the Chamber of Commerce, both herself and the City Manager Paluch have hammered them pretty hard about the insurance recently. She said she won't ever let them waive liability or expose us to additional liability, that is still something that we have to make sure the City is protected on.

Commissioner Hernandez said the reason he is asking that question is because we basically waived \$40,000 a couple of meetings ago for the parking lot at Griggs field. He said obviously they did not have insurance or we forgot that they had insurance and went after them.

Mayor Pro-Tem Baldwin said it was not a fee. Commissioner Rardin said it was reimbursement for the parking lot. Commissioner Hernandez said they should have been required to have insurance to use the field as policy.

Commissioner Sikes asked City Attorney Schreiber if they need to incorporate language in this defining that this will be in effect for organizations that are contracted with the City of Alamogordo. City Attorney Schreiber said they can add that in. She said what we have done is we've said if you would like to become a permanent City partner, a group should write a letter of interest to the City Commission and put for the City Commission which leaves the governing body to be the deciding factor. She said it is in the policy as far as we are not going to do it with political or religious, but we sort of left it open ended so that if this Commission or future Commission wanted to make somebody else a permanent City partner that would be well within your right to do so. She said she can adopt additional wording, delete it or however the Commission would like her to do it.

Commissioner Sikes said she would be more comfortable if it was less objective. She said if they are going to make that the definition. She said if we do this because it is for the good of Alamogordo with City partners then we might want to make sure that the language is in there.

Commissioner Rardin asked if the little league groups, and all of them, be able to apply as a City partner. City Attorney Schreiber answered if we put in language that you have to have a contract with the City, we do not contract with them in the same way that we contract with the Chamber or our economic development group or any of those.

Commissioner Rardin said they just lease our fields. City Attorney Schreiber said they rent the fields on a day by day basis.

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

**13. Consider, and act upon, fee waiver for the Chamber of Commerce 4th of July concert event.
(GB Oliver, Executive Director Alamogordo Chamber of Commerce)**

City Manager Paluch said we need to take no action on this item.

**14. Consider, and act upon, funding of overtime-holiday pay for Alamogordo Police Department
to staff the Chamber of Commerce 4th of July event. (Maggie Paluch, City Manager)**

City Manager Paluch said Police Chief Peete and Mr. Oliver are there to talk about the event. She gave a history and details of the event. She said the Chamber of Commerce is expecting a very large turnout. She said because of the large turnout there is definitely a police presence that is going to be needed at the event.

Police Chief Peete said we are looking at how much it is going to cost us in overtime to adequately fund for security for this event based on the resources that we have. He said they think they came up with 16 officers in a rotation.

Deputy Chief Lawrence said they looked at numbers similar when they ran Oktoberfest. He said at that point they ran 25 officers but no other additional security. He said for this particular event, they are bringing in an outside company to provide private security also, so they looked at the police presence potentially necessary as 16 officers from 4:00 p.m. till 1:00 a.m., which the event shuts down at 12:00 p.m. and in that time it takes to people to leave the area and shut everything down and close it up, but then also an additional three officers starting at 7:00 because of the fact that there is a 5K as part of this event, with traffic control needed to ensure things are setup and in place. He said and then vehicles that need to be moved out of the VIP parking at Griggs field and then the event actually starting at 11:00, which would be another 3 officers coming in at 10:00, just prior to the event starting up so that we have a presence there and building that as we expect more people to arrive.

Commissioner Rardin asked if we are paying the bill on this. City Manager Paluch said that is what you are here to discuss. She pointed out that the City has not budgeted for this event for this amount of overtime, but there is an annual overtime budget at the Police department, it is over \$100,000 but that is just for our regular overtime, not for special events to this magnitude. She said that would include overtime for one traffic control person for a smaller event, but we do not have this budgeted. She said that is basically what the Commission needs to decide this evening.

Commissioner Payne asked if we have this many officers working overtime for this event, what is does that do to our officers on the street.

Deputy Chief Lawrence said looking at this, our standard practice already is that any officers that are scheduled to work the 4th of July, they are not allowed to request time off. Everybody who would have normally been scheduled to work the 4th of July will be working. We have adjusted our schedule to where early on we have four officers coming in during the day shift, we have created swing officers who will come in and work a 3 to 3 shift and then the night shift coming on, so we will have between five and seven officers from 7:00 p.m. onto the morning hours.

Commissioner Payne asked if that is on the street. Deputy Chief Lawrence answered yes, that is just assigned to the streets and not involved in any way with this event. He said the other side of that is we have a contingency that if as that event closes down, if we have additional call for service, potentially related to the event or just in general. He said depending on the call volume, some officers that were working the event to assist with those calls until that call volume dies down, much like they do with New Year's and many other holidays within the year.

Commissioner Payne said it's going to be like mandatory overtime, is really what it is going to be. Police Chief Peete said it is voluntary. He said what we are doing for the officers that are going to work this one, we are asking for volunteers for overtime, so we are soliciting volunteers from the department that normally wouldn't be scheduled to work.

Commissioner Payne said she thinks the event is great but given the fact that there is going to be alcohol served there she is concerned about once they leave the event what's going to happen and are we going to have enough officers and that kind of thing.

Police Chief Peete asked Commissioner Payne if she meant in terms of when the event shuts down. She nodded yes. He said we'll still have the officers based on the call volume. He said in addition there will be security folks that will be provided throughout the course of the actual event by the Chamber. He said as far as afterwards it will be us that will be there.

Commissioner Rardin asked when we did the Oktoberfest, who paid for the overtime for the police officers for that event. He said he could not remember but they may have split it with the German Airforce. Mayor Pro-Tem Baldwin said they paid a portion of it and then they asked us to write off \$4,000 which was the overage.

Mayor Boss asked what they did. Mayor Pro-Tem Baldwin said our standard procedure is when officers are requested that the organization pays for it. He said the Oktoberfest requested a specific number of officers, we said you need to pay for x amount and they said yes. He said the disagreement was the City provided more officers.

Commissioner Rardin said the issue he has here they are requesting 16 officers and then the 4th of July night is going to be a busy night anyway. He said we will probably have every officer that we have to cover everything that is going on in the City plus this.

City Manager Paluch said the officers assigned to the 4th of July event, this is per some of the requirements with the State Liquor Board, is that they have to be at that event within the four walls of that fence. She said they cannot leave to take calls until after the event is over. She said we will have people assigned to the street as well.

Commissioner Rardin asked if we will have enough officers to do both. Deputy Chief Lawrence answered yes, what we've got is the normally scheduled officers and come midnight when the event is officially over we can look at if we need as many at the event or do we need to release some of them and have them go to the streets to help assist with calls and coverage. He said we have that flexibility. He said what we will run into, like anything else, is the officers assigned to work the streets, that is what we normally have, outside of that if we felt that we needed more, it would be a voluntary request.

Commissioner Rardin asked how many are typically on the street like on 4th of July night. Deputy Chief Lawrence said what we have scheduled in this instance it would be 5. Police Chief Peete said in this case it would be a little bit better, because at the end of the event will have officers there that we can move over to the street in case the call volume dictates it, and that money would come out of our overtime budget.

Mayor Pro-Tem Baldwin asked City Manager Paluch what the Chamber has agreed to pay in reference to this overtime. She answered that is to be determined. She thought the Commission may want to hear from Mr. Oliver this evening. She said in regard to Commissioner Rardin's concerns, the Chamber is developing a very comprehensive transportation plan for this event. She said it is not completely developed at this point and time, but they are using buses from Z-Trans and they also spoke with the Base, and the Base may or may not be providing buses for transportation for the active duty military from base to the event and back home again. She said the idea for the transportation plan is to keep people from being on the road and being intoxicated.

Commissioner Payne said that is huge concern for her.

Mayor Pro-Tem Baldwin said that is not our decision to make. He said they provide the event, people make their own decisions. He said it all starts with your server, and how they identify and how they manage their people.

Commissioner Payne said she wants to make sure that we have enough officers on the street, if that happens.

Police Chief Peete said they also plan to talk to State Police as well as the Sheriff's Office to let them know what the manning levels are going to be at that particular time.

Commissioner Hernandez asked Deputy Chief Lawrence if he knew of any citation that were issued last year to anybody on Scenic Drive or Indian Wells and any arrests that were made. Deputy Chief Lawrence asked if he meant during the fireworks. Commissioner Hernandez said yes. Deputy Chief Lawrence said he does not have any of those. Commissioner Hernandez said he spoke to City Manager Paluch and he agrees with her. He said they were using police overtime to put traffic control out. He said he thinks we can use our Public Works to save money, pay them overtime versus police overtime. He said the concern he has is if they pull those officers or enough of those officers down, if they don't see you guys, he knows there is a lot of drinking on those two streets during that night, so that is another concern he has is how we are going to cover that and are we going to cover that. He said also the businesses and the residents that live within those areas, he thinks they deserve what they have been getting in the past, if we are going to continue to partner with the Space Hall to do this.

Commissioner Sikes asked if the enthusiasm been high with wanting to work this event. Deputy Chief Lawrence said they have 7 that have volunteered and 6 to work the earlier morning portions of it.

She said she had the opportunity to speak with Communications and Marketing Administrator Brideaux and Mr. Oliver about the event. She said this event is pretty spectacular and if we do it this year and we do it even partially right it is going to happen again next year. She said she thinks that we really understand the scope of this event, it is something that we have never seen in Alamogordo and she really thinks we should be embracing it with a little more enthusiasm.

Police Chief Peete said as to the enthusiasm, since it being the 4th of July, he would strongly speculate that a majority of the officers that are not going to do the overtime part of it, because they probably have previous plans with their families to travel.

City Manager Paluch stated the Chamber of Commerce has offered for any officer that is working this event general admission tickets for their immediate family free of charge.

Commissioner Payne asked how many additional officers they need. Police Chief Peete said they are going to get 16. He said the 7 that volunteered plus the executive staff that will be there, we are looking at roughly another 6 people. He said they are going to try and go out to other departments, Tularosa, Ruidoso and give them that same OT opportunity.

Mayor Pro-Tem Baldwin asked if they will have it covered. Police Chief Peete asked if he meant for the budget or the security. Mayor Pro-Tem Baldwin said for the security of our citizens and the event if they will have it covered. He said yes. Mayor Pro-Tem Baldwin said then the Commission needs to decide if they are going to spend the \$12,000 to cover.

Commissioner Rardin said if they reach out to other departments, so we would be paying officers from other jurisdictions. Police Chief Peete said yes, through that OT budget that they have. Commissioner Rardin asked how we would do this.

Mayor Pro-Tem Baldwin said that was done for the Octoberfest.

Police Chief Peete wanted to applaud Commissioner Hernandez when he had mentioned the five-year plan or strategic plan, as far as where we want to go in the department for future planning purposes. He said this is one of the issues they will be bringing up when they discuss that plan regards to manning and personnel requirements.

Commissioner Rardin asked what kind of revenue they are looking at generating off of this event. City Manager Paluch said that would be a question for Mr. Oliver.

City Manager Paluch commented if the Commission would like the City to fund this amount of money, staff's recommendation is to not go into fund balance is to use the contingency fund that we have. She said there is approximately \$150,000 in there and we would transfer that money over to the overtime budget of the police department.

Mayor Boss asked Mr. Oliver to speak.

Mr. Oliver stated they believe this will be the biggest event this community has ever put together. He said their number one priority is safety. He said you asked about money and we are probably going to walk out of this with probably nothing. He said this is an opportunity to put on a first-class event in this community, do it seamlessly, do it as safely as we possibly can because where we go from here is next year we go into a two-day event/concert. He said that is why we are going to exceed anything the State is asking for as far as security, we hope with the City's help and Red Rock Security to have 60 security people on that field at all times. He said they want this to be a family venue and that is why there is going to be an entire section, probably sectioned off for children and families. He said the other thing they have spent a great deal of time making sure of is that we are able to get people into and out of that venue. He talked about the transportation that will be available. He said parking is an issue that has been challenging. He said if we do this thing right and we do it seamlessly then we should be able to put together an event that will be here every year, this time of year, and do a two-day or maybe even a three-day event. He said he thinks the things that they've made mistakes already and they will be apologizing for this part. He said one of the mistakes we've made is pricing the VIP tickets too inexpensively. He said they are within 50 tickets of selling that out. He said the other thing that surprised them is they have Eventbrite selling the tickets online and to our shock about 75 percent of the tickets that have sold online have been out of the State of Texas. He said it is accomplishing some of the things that we need to accomplish. He said it has been a pleasure to work with the people of this community and the City of Alamogordo. He said he would like to come back and present to the Commission the plat of how this will look and the traffic flow pattern that has been set.

Mayor Boss said they would like to see that, probably at the next meeting.

Mr. Oliver said you bet. He also wanted to share that the business community has come together behind this event and has contributed nearly \$230,000 to put this event on. He said our hopes are that they are so successful, and they put together a great event when they move to a two or three-day event that it would be funded by Red Bull and Budweiser. He said we want them to see what we are capable of doing. We want to bring outside people in here and we want to do it with outside money. He said never again do we want to go back and do this on the backs of the business people. The goal is to make this a safe, exciting event and do this in a way that we'll bring in the big corporate sponsors next year.

Commissioner Payne said she likes the word safely and Mr. Oliver using the word safely. Mr. Oliver said it has to be. He said if they mess this up they will never do it again. He said right now they are wrestling with a stigma that a precedence has already been set in this community. He clarified that he was talking about Alcohol and Gaming.

Commissioner Payne said her biggest concern is with drinking and driving. She said her concern is that everyone gets home safely.

Mr. Oliver said one incident can mess this up completely. He said we cannot afford mistakes. We don't want to embarrass you or this community.

Commissioner Payne said ultimately that is the reflection, it is never the Chamber put on a bad event, it's always the City messed this one up. She said even before she was elected that is what you would hear.

Mr. Oliver said there is no reason in the world why friends and neighbors of this community can't come together for an event with outside people and share a beer, listen to good music and leave safely. He thanked the city for providing their stage, but said they had to go to San Antonio, Texas to get a stage for the headliner bands that meet the specs.

Commissioner Hernandez said they owe it to the community to do this. He mentioned the hot thing right now is the lighting for the Pupfish. He said anything they do for one, it's we did not do enough for the other. He said he does not want to have somebody come to us and say we called the police and they did not come to our house. He said if we provide this service, we need to make sure that we provide this service to everybody. He said as a resident he should not have to wait for a police officer to come to his house and take a report, if we are going to do this. He completely supports this and thinks it is good for the community, but with that we need to be ready to service the entire community.

Commissioner Hernandez moved to approve.

Commissioner Wright seconded the motion.

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

15. Consider, and act upon, award of Public Works Bid. No. 2018-003 to General Hydronics Concrete, LLC, related to the Griggs Reservoir Outfall Structure Modifications and Storm Drain Improvements project, in an amount not to exceed \$1,389,214.13, including NMGRT. (Bob Johnson, Engineering Manager)

Engineering Manager Johnson said this is essentially a flood mitigation project in what we typically call the Griggs Detention Basin area. He said it currently has an area that has been breached and it has been breached since the mid-80s. He explained what the project will do and what it will consist of. He said this project should mitigate the flooding that we currently experience when we have a sufficient rain experience that engulfs 26th and Puerto Rico.

Mayor Boss asked if this is funded primarily by the Army Corps of Engineers. Engineering Manager Johnson said the initial funding was provided by the economic development administration. He said that was the initial \$800,000 grant that would require a City match. He said the Army Corps of Engineers grant came in half way into the design process. He said staff had no knowledge that the Corps of Engineers had even been requesting this funding. He said it was a pleasant surprise because we would not have the budget constraints that we did initially.

Commissioner Wright said he would be abstaining from this vote.

Mayor Pro-Tem Baldwin moved to approve.

Commissioner Rardin seconded the motion.

Motion carried with a vote of 6-0-1. Commissioner Wright abstained from voting.

Mayor Pro-Tem Baldwin commented that this night seems to be a night of victories for the City. He said there are some things that have been on the books coming to fruition for a very long time. He thanked City Manager Paluch.

16. Consider, and act upon, first publication of Ordinance 1571 amending sections of Chapter 2, Section 15 of the Alamogordo Code of Ordinances regarding the Gross Receipts Investment Program in regard to the way that payments are processed and paid. (Petria Schreiber, City

Attorney) (Roll Call Required)

City Attorney Schreiber said this is cleaning up the language in the GRIP Ordinance. She said what our GRIP Ordinance calls for currently is just an impracticable way of accounting. It calls for us to set up a special fund for each product and somehow know where each penny of our taxes come from and that is just not practical. She said what this allows us to do is take a GRIP application, set a budgeted amount every year and reimburse that way and it also cleans up some typographical errors.

Mayor Boss said we are merely making it easier to pay the invoices on this.

City Attorney Schreiber stated it will become easier on the Finance department because what happens is when Gross Receipt taxes are paid to the State, the State just sends us a check 60 days later and we don't have a breakdown of where the money goes without seeing the actual invoices. She explained how this will help.

Mayor Boss moved to approve item 15 but read the subject matter for item 16.

Mayor Boss moved to approve.

Commissioner Wright seconded the motion.

Roll call vote was taken.

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

17. Consider, and act upon, first publication of Ordinance 1572 adding Section 14-01-015 to the Alamogordo Code of Ordinances clarifying the requirements for refuse collection. (Petria Schreiber, City Attorney) (Roll Call Required)

Mayor Boss asked City Attorney Schreiber if she was pulling the item. She said yes.

18. Consider, and act upon, first publication of Ordinance 1573 approving the project participation agreement for a LEDA project proposed by Big Wave Express, Inc for funding to complete paving and construction of the tunnel car wash at 909 S. White Sands Blvd. (Petria Schreiber, City Attorney) (Roll Call Required)

City Attorney Schreiber said this is for a Car Wash and \$493,560 is being request for infrastructure. She said this does not represent the total cost of the project, there is private monies going towards this project, so it is part of the project. She said she was asked if this is a retail business. She said when we look to the State Statute for retail business, the State defines a retail business as a business that is primarily engaged in the sale of goods or commodities at retail and it has further qualifiers that we do qualify for. She said there are legal definitions of goods and commodities. She said these are tangible items. She said it is different than going to a restaurant, but you could probably make an argument that a restaurant you are served food, but a restaurant is considered by the State as service. She said when she called the economic department their General Counsel talked to her how this is not settled in Law currently. She said this is a Commission decision this evening. She said when you talk about a business that is primarily engaged in the sale of goods and commodities at retail, the only good or commodity that she can think of or the State can think of, is the water itself which is not something after your car has been washed that you walk away with. She said she know that is going to be one of this Commission's concerns. When we look at this project we need to understand that we are looking at it, it is not a well settled area of Law. She again gave the definition of a retail business and said when she reads that as a lawyer, she does not read it as a car wash as being a retail business, but it is not settled in this State, so that is the status of that law.

Mayor Boss asked City Attorney Schreiber what did the State to her and how did they phrase that. She answered that it is not a well settled area of law and that it is up to interpretation. She said it is up to the Commission this evening whether a car wash is a business that is primarily engaged in a good or commodity. She said she has the legal definition of goods and commodities if the Commission is

interested in hearing them. She said this is a project that qualifies in every other way. She said this is a car wash that is different than anything we have currently.

Commissioner Sikes asked if this town needs another car wash and if there was a marketing study done. She also asked if we looked at marketing studies if there is a reasonable need for a car wash because should there not be \$493,560, she know we invoice as we go, but that is a lot of money for the business developer to be out of should their business not do well. She said granted she has been in line at car washes but based on our water situation, she wonders that the marketing study has proven that this is a need for the community.

Mayor Pro-Tem Baldwin said he does not believe that would be for the Commission to determine.

Commissioner Hernandez asked City Attorney Schreiber how this was different from other car washes that we have here. She stated that we have several types of car washes. She said we have a business-like Desert Suds where you walk over and hand them your keys and they do everything, or we have some where you drive through and then you can pay for vacuuming afterwards. She said this is one where your car would go through and there are free vacuums that you could do yourself. She said it is similar to something, but it is something that we don't have exactly the same thing currently.

Commissioner Hernandez asked if it qualifies because it is different. She said the non-compete part that she thinks he is referencing is only for retail businesses.

Commissioner Rardin said in his eyes it is a retail business. He said you are selling a service, it is strictly service, but it is retail. He said he thinks they need to be very careful what they decide to do on this tonight. He said in order for the City to use this for retail business, they have to put the question back on the ballot and they have to get voter approval per the State Bill.

City Attorney Schreiber said they just changed it in the last Legislative session that we need to go back in and amend our Ordinance. She said they have talked internally that if there is a project that is strictly retail and that is something that we see, we cannot do it right now, it needs to go back on the ballot.

Commissioner Rardin asked if the State is giving us the authority to change our Ordinance without voter approval. City Attorney Schreiber said no and apologized if she mis-communicated. She said what she is saying is that when she talked with the State, no one is clear on this if this is a retail project or not. She said they cannot say yes and they do not say no.

Commissioner Rardin asked her if they went to court and you had to defend it, what would she do. City Attorney Schreiber said when she looked at the definition of a good and a commodity, she cannot see anything tangible coming out of here. She read the definition of a good and the definition of a commodity. She said she thinks we have a strong argument that this is a service and not a retail establishment, but again she wants the Commission to understand that this is not settled.

Commissioner Rardin said he thinks it is both. He said this is a gray area and they need to be very careful. He said they are going to set a precedence and he feels that it is a retail business, it may or may not fit the definition but it's an area they need to be careful with. He thinks they are 100 percent legal. He said we really don't the Attorney General's Office or the State Auditor down here slapping us around for giving away money when we shouldn't have.

Commissioner Payne said she is looking at the payroll because they primarily approve LEDA based on how it is going to enhance our economic development. She said the Store Manager is on payroll for \$1,000 a week. She asked Mr. Worthan if the Store Manager was going to be him, a family member or somebody else. Mr. Worthan answered it would be his son. She asked what Store Manager means and if they are going to be selling anything. He answered no, facility manager might be a better word for it. Commissioner Payne said she sees that he has three Assistant Managers at 40 hours a week. She asked if the owner needed three assistant managers. He said seven days a week 12 hours a day. Commissioner Payne said not that it is any of her business, but it does affect payroll.

Mayor Boss asked him how many hours a day he said. The owner said about 12 and they might slow it down in the winter.

Commissioner Payne was confused on the attendants and asked what they are going to be doing. Mr. Worthan explained the process. She said she noticed that he has more attendants, but they are only like 14 hours a week or 18 hours a week. He said for peak days and some students. Commissioner Payne said she is only questioning it because she is looking at it from an economic development standpoint, job creation and that kind of thing and she is thinking that some of these jobs are only 14 to 18 hours a week. He said to someone that needs a part-time job it is important. He said \$9 an hour is what LEDA is based on. Commissioner Payne said she is looking at it from a standpoint of asking us to give you almost half a million dollars based on job creation and some of these jobs are only 14 or 18 hours a week.

Mr. Worthan asked if she has an annual estimate. City Attorney Schreiber said it is in the application.

Mayor Pro-Tem Baldwin asked Mr. Worthan if he was building this building prior to finding out about the LEDA funding. He answered correct. Mayor Pro-Tem Baldwin asked whether or not he gets the LEDA funding his business is going up regardless. Mr. Worthan said some of this projects they intended to do after in business and this would expedite some of things they want to see done. Mayor Pro-Tem Baldwin said as you can hear from our Attorney that LEDA funding is very specific. Mr. Worthan said he feels that they researched that very well.

Commissioner Rardin said he agrees with Mayor Pro-Tem Baldwin in that he appreciates them coming to the community. He said our own LEDA Ordinance, this is where we need to be careful. He said they are violating their own ordinance there.

Mr. Worthan stated they have over 13,000 gallons in reclaimed water and each wash would use about 32 to 34 gallons of water. He said just for comparison In bay uses about 68 gallons and the average driveway washer at home uses a little over 100 gallons of water. Commissioner Rardin said he would agree with that.

Commissioner Rardin read the Ordinance and said when this was setup the City looked at it, they wanted the higher wages. Mr. Worthan said again that is all LEDA would allow. He said they are paying more than that for the hourly rate, but they are only able to apply \$9 an hour towards the LEDA fund.

City Attorney Schreiber stated that was not correct. She said with the Project Participation Agreement actually calls for is producing 12 new full-time jobs of an hourly wage of at least \$9 dollars, but the business will get credit for every \$1 it pays in payroll for a new full-time job, so if the business chooses to pay somebody \$14 an hour or \$16 an hour, we would credit that against what we given and that is in the agreement. She said anything under \$9 an hour we don't reimburse. She said to be clear it is for 12 new full-time jobs at an hourly wage of \$9 an hour, so the job would need to be full time to get that credit.

Commissioner Rardin asked in the event that something happens, and you were to shut down the facility. City Attorney Schreiber said it's a performance bond, so it is a company Mr. Worthan goes through and they issue us a bond, we attach all of these agreements to it and there is a period of cure in here that we send a default letter and give them an opportunity to cure it, if not we can exercise that bond and recoup our funds.

Commissioner Wright said he mirrors Commissioner Rardin and Mayor Pro-Tem Baldwin, he appreciates the work and bringing new jobs, but he abstained from voting.

Mayor Pro-Tem Baldwin said he feels more comfortable for the sake the owners and for the sake of the project important to new business, he would recommend to table this tonight. He said he would like to

look in this a little more.

City Manager Paluch said she does not believe that we are going to get clear direction on this because of what City Attorney Schreiber spoke about earlier. She said if we do table this, of course we can do research, but she does not know if they can bring back a clear answer.

City Attorney Schreiber said Mr. Worthan did put a GRIP application in and understanding if the Commission does not want to move forward with the LEDA, we could move forward with the GRIP application, like we did for other businesses. She said that is something beneficial for Mr. Worthan to know instead of tabling it and we can't move forward on either application. If the Commission wanted to make a decision this evening, we could at least move forward on something.

Mayor Pro-Tem Baldwin stated it was not his intention to get information back from staff. He said this was for him. He said he did not want to make a decision tonight on their business application without finding some more facts. He said if the Commission chooses to vote for it tonight he is going to abstain.

Mayor Boss asked if they can get a letter from an Attorney who is independent and give them an opinion on this. City Attorney Schreiber said absolutely but the minimum cost on that will cost about \$7500 and would eat up about three quarters of her legal opinion budget so she would just ask the Commission that we wait for the new fiscal year to roll over, so she has a budget to do that and keep in mind that there will not be a whole lot of money for additional legal opinions going forward.

City Manager Paluch stated she does not recommend that.

Commissioner Rardin said they can write a letter to the Attorney General's Office requesting clarification on that of whether it meets the criteria of a retail business.

City Attorney Schreiber told Commissioner Rardin that the Economic Development Department are not even clear on this. She said she does not know that the AGs Office is going to be clear on this, but right now we are getting opinions back from mid-2017.

Commissioner Rardin said it may be a year before we get any kind of opinion back. He said the only way they are going to have any way to interpret the law is when lawsuits get filed, then you have case law. Something like that is probably not going to go to the courts anytime soon to where we have a way to determine whether it is legal or not legal. He said he wants to side with caution.

Commissioner Hernandez said he agrees with the business coming to town. He said he received a lot of calls from OCEDC with concerns about this with a lot of the things that Commissioner Rardin brought up and things that he was concerned with as far as how the money is being spent and what is documented. He has a hard time supporting it, unless we get something that says this is good to do. He said this is processed by the voters. He said we have to be careful with that on what we do and how we do it. He said if the project is there and that staff says absolutely not a problem, but he is not hearing that tonight.

Mayor Boss asked if they wanted to table it.

City Attorney Schreiber agreed. If the Commission is just not comfortable she thinks it would behoove us to at least allow him to process the GRIP application paperwork that her office already has and move forward with that.

Commissioner Rardin said he believes they will not get clarification on this issue.

City Attorney Schreiber said until there is any significant case law in this area we are not going to get any clarification.

City Manager Paluch said the Commission needs to decide if you want to be that case law.

Commissioner Rardin moved to deny.

Commissioner Hernandez seconded the motion.

Roll call vote was taken.

Motion carried with a vote of 5-0-2. Mayor Pro-Tem Baldwin and Commissioner Wright abstained from voting.

19. Consider, and act upon instituting stage 1 water rationing per ordinance 28-03-035. (Larry Garner, Director of Public Works)

Facility Manager Garner gave some history and information on the water system as where we were and where we are right now. He talked about our water resources and some of the challenges they are facing. He talked about the Desalination Plant and where they are on this project. He said the reports on this continue to get worse. He showed a power point presentation. (See blue book for Power Point).

Mayor Boss said the we are using 50 percent more than we used the same day last year. He said he knows the temperatures are a lot higher, but it is a tremendous amount more water.

Facility Manager Garner said usually we are up around 4 or 5 million gallons daily, now we are up around 8 million gallons right now, especially with the disadvantage of not having the influx of the water system coming in. He said we are recommending that we go into stage 1 water rationing. He discussed the details of the ordinance for rationing. He said time will tell if we need to go further than stage 1 rationing.

Mayor Boss agreed with what Facility Manager Garner. He said we need to do it. He said he looks at the report every day. He talked about the usage.

Commissioner Rardin said he was concerned with the consumption as well and asked how we are using that much water. He also asked if we had any large leaks somewhere and are we going to see this in our water rates that we are collecting in fund 81. He is concerned with consumption

Assistant City Manager Cesar said what we are experiencing now is what we experience back in 2005 and 2006. He talked about contributing factors that reduce the water sources. He said the direction to utility maintenance crews is if there is a water leak no matter how minor those will be addressed immediately. He said the last time we had water restrictions or water rationing the previous Commission said we'll except a little bit of water loss, we want to see you cut back on overtime. He said they have gone away from that and if there is a leak it is addressed immediately. The increases that you are seeing it's not because we have a water leak.

Commissioner Sikes asked Assistant City Manager Cesar when the last time was we were in stage 1, was it in 2005 and 2006. He answered yes, they actually went beyond stage 1, they went to stage 2 and were very close to stage 3. She said they have not had any rain and she is watering her yard more than she has in the past.

Mayor Boss asked Assistant City Manager Cesar if the rain is going to be an overnight solution. He said if it rains it will not be an overnight solution. He said hopefully when we hit our normal monsoonal flows, we will see demand go down because people are not having to water their lawns.

Facility Manager Garner said on May 10th the State issued a drop condition. He said it is not just the City of Alamogordo that is being hit hard, it is the entire State. He said he got the latest water report today and when you jump from 21 days of storage to 19, that is a matter of a couple of days.

Commissioner Hernandez asked Facility Manager Garner if well number six is still our main well. Assistant City Manager Cesar nodded yes. He said yes but that goes into our Green.

Commissioner Hernandez said most of the wells are pumping into the Green and so we need to get a plan together on how we can divert that into the transmission line or whatever we need to do to pump it in to town. He said when well number six goes down it really hurts us. He asked if we can look at how we can divert those over that would be great. He said on the presentation he has the hours of watering backwards.

Public Works Director Garner said the fixes they are looking at as far as those wells are concerned, the quickest and easiest fix would be to get another storage tank right next to green so that we would have two, but those are not cheap.

Commissioner Hernandez said even a diversion to divert the water. He said green is an old tank. If something were to happen we would be down until we were able to divert that water.

Assistant City Manager Cesar said the most cost-effective way is the second reservoir. He said what they run into with the La Luz well field is we cannot just tie those into the transmission line and send that water to the City. He said that water has to be treated and has to have a certain retention time for the sodium chloride to disinfect the water. He said the second tank is something they looked at years ago. This is not a new plan, we have just had funding constraints over the years. This is on the ICIP, it is one of the items we looked at through the budgetary process, but before building a new tank we need to address the reservoirs that we have currently.

Mayor Pro-Tem Baldwin said he does not believe the City is doing anything weird by doing this. He said the argument of going into water rationing shouldn't really be an argument, it should be what you supposed to do when things are bad. He asked if we have any other sources that we are not currently getting water from that we could get water from. Public Works Director Garner said at this time no. Mayor Pro-Tem Baldwin said if we had access to some other water it would be the process he would prefer to go.

He said let's not do anymore GST restoration during the summer time. Public Works Director Garner said the reason that happened the way it did is once we got funding to move forward there are only so many companies that go around and do these tanks and ideally the best time to do it is during the winter time. He said we were lucky to get them started in January, but they are difficult to get them done during the winter because everyone wants them done in the winter. Commissioner Hernandez said there is also temperature requirements for the coatings. Assistant City Manager Cesar stated it was a one-year project. Commissioner Hernandez said this coating system should last longer because it was done during the peak requirements versus doing them in the cold.

Mayor Pro-Tem Baldwin stated he had a real issue doing this.

Commissioner Rardin said realistically, the Green reservoir we are about 5 or 6 weeks out. He agreed with Mayor Pro-Tem Baldwin about having to go to stage 1 rationing when they are trying to promote our town.

Public Works Director Garner said they sent out a PSA trying to get people to conserve water before we came to this conclusion.

Commissioner Rardin said if he can send out the reports out daily. Assistant City Manager Cesar stated they are have an issue with the programming.

Mayor Boss said if they do not instigate stage 1 and we run out of water, those people are going to be a lot madder at the City than the people we are trying to change our image to. He asked the Commission if it is obvious that they need to go into state 1 rationing.

Commissioner Payne said it is not a punishment it is for the good of our City. Mayor Boss sated they have to do this. She said step 1 is sending out a PSA, and now they are talking about actually

implementing stage 1. She said she does not see that they have an option.

City Manager Paluch stated the PSA was sent out to the public to start conserving water. She said if the Commission decides to go into stage 1 rationing, not only will another PSA go out, but they will blast social media, our website, we'll get in touch with our Radio Stations and all of our media outlets.

Mayor Pro-Tem Baldwin suggested they state the reasons why.

Commissioner Rardin said maybe they can have a special meeting next week and keep an eye on it.

Commissioner Wright asked Public Works Director Garner if that six weeks is for filling, flushing and re-filling that tank. He said it is for getting it back online. Commissioner Wright said we could have the additional water in that tank within a six-week period. He answered that is what their goal is.

Mayor Boss asked Public Works Director Garner if they pump raw water into that tank and then does it go to the treatment plant. He answered we have raw water coming from the Las Luz filter plant but the water that you are asking about, we pump from the wells into green. Mayor Boss said you cannot pump directly from the well into the tank and then distribute it. Public Works Director Garner said it has to go to the filtration system.

Commissioner Payne asked what is the biggest effect of going into stage 1. She said she gets that we can't have fund raising car washes, she thinks they should not allow car washing anyway. She said they can still fill their swimming pool. She said the benefits outweigh the sacrifice.

Mayor Boss moved to approve.

Commissioner Hernandez seconded the motion.

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

Mayor Pro-Tem Hernandez said for the record, he has a well at his house.

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

Mayor Boss read the openings and appointed Manuel Gonzales, Jr and Erich Wuerschling to the Airport Advisory Board, Phillip Tashash to the Airport Zoning Board, and Thomas L. Knox to the Parks and Recreation Board and Jeremy York and Christine M. Davis to the White Sands Beautification Committee. No one was opposed.

EXECUTIVE SESSION

21. Recess into Executive Session in compliance with Section 10-15-1(H), NMSA 1978 (as amended), to discuss the possible disposal (requested donation) of real property located at Fairgrounds and White Sands Blvd to Otero County. (Roll Call Vote Required)

Commissioner Rardin moved to recess into Executive Session at 9:42 p.m.

Commissioner Wright seconded the motion.

Roll call vote was taken.

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

RECONVENE INTO OPEN SESSION

Commissioner Rardin moved to reconvene into Open Session at 10:01 p.m.

Commissioner Hernandez seconded the motion.

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

22. Consider, and act upon, the possible donation of real property located at Fairgrounds and White Sands Blvd to Otero County.

Commissioner Rardin moved to take no action.

Commissioner Wright seconded the motion.

Roll Call vote was taken.

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

ADJOURNMENT

Commissioner Rardin moved to adjourn at 10:02 p.m.

Commissioner Hernandez seconded the motion.

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




City Clerk Rachel Hughes


Mayor Richard Boss

(Prepared by Eric Barraza, Deputy Clerk)

Approved at the Regular Meeting held on June 26, 2018.