

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
JULY 10, 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 6:29 p.m. Roll Call was taken by the City Clerk. Commissioner Wright was as absent. Deputy Clerk Barraza announced there was a quorum present. Invocation was given by Father Tom Arrowsmith-Lowe and the Pledge of Allegiance was led by Commissioner Sikes.

APPROVAL OF AGENDA

Deputy Clerk Barraza said staff has asked to remove items 9, 10, 12. Commissioner Rardin said item 5 as well. Deputy Clerk Barraza repeated item 5 as well.

Commissioner Hernandez moved to amend the agenda.

Mayor Pro-Tem Baldwin seconded the motion. Motion carried with a vote of 6-0-0.

PRESENTATIONS

1. STEM students update on their trip to Washington D.C., representing New Mexico for STEM, in presenting to Congress and Pentagon (June 22 - 27, 2018). (*Debbie Martinez, FIRST Robotics Mentor*).

Ms. Martinez introduced herself and the FRC team outreach ASTRO (Aviation Science Technology Robotics and Outreach) Vikings. She said they are a high school robotics team and their mission is to spread access to STEM across New Mexico. She said they were asked to go to Washington D.C. and represent the State of New Mexico for STEM (Science, Technology, Engineering and Mathematics) education. Each of the students introduced themselves and spoke about STEM and the FIRST (For Inspiration and Recognition of Science and Technology) programs, and briefly described what they did on their trip to Washington D.C. Ms. Martinez said the kids met with every single Congressman, Congresswoman and Senators from the New Mexico delegation. They were invited to the Pentagon where they met with the Vice-Director of the Joint Chiefs. Last year Congress raised the Title for Part A Block grants from \$400 million to \$1.1 billion. She said New Mexico got the largest block grant in history. She said this team is going to be going to Santa Fe to try to make sure that the decision makers at the State level understand the importance of these programs and try to help spread them to other communities in New Mexico. She thanked the Commission for all their support.

Commissioner Sikes thanked the team and said she was impressed with what they have done and with each of their presentations tonight. She said student Tabitha Miller had mentioned \$81 million in scholarships is available but none in New Mexico. She asked student Tabitha Miller if we knew why none is available here. Student Tabitha Miller said as far as she is aware, other colleges are taking advantage of the grants and offering them to students to come to their schools. The schools in New Mexico are not taking a part of that program, they are not offering the scholarships to FRC or FIRST members. They are not using and taking advantage of them, so students don't have incentives or the ability to even use it in the State.

Commissioner Sikes said we need to get them on board.

Ms. Martinez said just a little follow up on that. She said a lot of these are scholarships are offered by the college themselves. She said 10 percent of the incoming freshmen at MIT, and their engineering program is from FIRST, get full four-year scholarships. She thinks the issue is that we don't have enough teams in New Mexico for our colleges to take notice of them.

Mayor Boss congratulated all the students.

PUBLIC COMMENT

None.

CITY MANAGER'S REPORT

City Manager Paluch made the following remarks:

1. She announced that Renee Romo from Senator Udall's Office contacted the City to inform us that the Army Corps of Engineers has secured the additional federal funding in the sum of \$6.5 million dollars to complete the McKinley Channel construction. The additional funding did close the gap for that project, allowing for complete construction of the channel. The Army Corps are planning to receive bids in September and hopefully award the contract before October 1st at their fiscal year. The public should be aware that this project will probably not start the construction phase until next year. The City share of this project is funded in our FY 19 City budget and it is \$3.8 million dollars. The total federal funding available is approximately \$17.5 million which includes the \$6.5 million we just got awarded.

Mayor Boss said back some months ago, the City and our Legislators made a strong effort for the funding of this project. He said anytime you see one of our Legislators be sure to thank them because they had a part in getting this funding for us.

2. She said the City Attorney's Office has been working on the Western Baking project. She said if you recall this is a company that received LEDA funds some years ago. The City Attorney's Office is confident that the economic development monies will be re-paid to the City. This is going to be an extensive process, but the funding coming back to us will be north of a million dollars, and that would go back into the LEDA funds.

3. She said staff has received official word from Mr. Davidson, the Representative from the Steel Mill that the project is no longer going forward on the proposed property here in the City of Alamogordo. Mr. Davidson said that the latest proposed traffic plan was unlikely to be approved by New Mexico DOT. He has formally let the City know this and he will be relocating the project at this time.

4. She said the Alamogordo Branding project Adventures Action kickoff meeting will be on July 17, 2018 from 11 p.m. to 1 p.m. at Desert Sun Toyota. She said lunch will be provided by Gerald Champion Regional Medical Center. The entire Commission has been invited to this meeting and a possible quorum has been posted. She said the goals for the team will be enhance the Alamogordo Adventures experience, promote what makes Alamogordo unique and market together with a unified voice to attract new residents, businesses and visitors to our City.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Hernandez made the following comments:

He asked for an update on the bowling alley. He said at the end of May, they received an email that within that week they would have the plans done. He asked where we are at. He also said according to that email it is supposed to be open in October. He was concerned when they approved the LEDA funds on December 19, 2017, one of the items they approved for was for additional kitchen equipment, not new kitchen equipment. He is concerned that they've moved the kitchen equipment out when that was bought with bond money and they have completely replaced the kitchen equipment. He said unless Mr. Chun has paid for part of it, even then, he is still concerned that they have violated some rules there. He said he will be inquiring about that equipment.

City Manager Paluch said she can certainly pull together a comprehensive update for the next Commission meeting to let the public know, and they should have some new information by then as well.

Commissioner Payne made the following comments:

She gave kudos to the Legal department. She said it sounds like they are going to recover over a million dollars in LEDA funds. She congratulated the department and said she knows that they worked really hard on it and it was not easy to find the owners of the building.

Commissioner Sikes made the following comments:

Commissioner Sikes thanked the City for the 4th of July fireworks presentation. She probably received more calls and complaints about fireworks this year. She visited this ordinance last year and said they are in complete compliance with the State Laws. She said a lot of people called her because the dogs are so frightened, and they also bring up the fact that people with PTSD are becoming more vocal about having to hear fireworks. She does not understand fireworks from June 20th to July 8th. She thinks they can look again at potentially condensing the time for not only New Years, the 4th of July but Cinco de Mayo as well. She also said the radio station that she does her radio show on, offered her another hour because they would like a show specifically about the City. She said she will be doing the show from 8:00 a.m. to 9:00 a.m. every Monday on AM 1230.

Commissioner Rardin made the following comments:

He wanted to expand on what Commissioner Hernandez asked about on the report for the bowling alley. He said he would also like to know how much of the LEDA money has been expended to this point. He asked if they can add in a report of when they do the remodel on this facility, will they void their warranty on this facility if another contractor does the work.

Commissioner Hernandez made the following comments:

He said he got some complaints about the yard being used at the old ballfields. He said the contractor has taken very good care of that, all of his stuff is piled accordingly and not just out there junked. He is very supportive of them using that yard, it is very beneficial to the City and to the contractor. He told the Commission if they get any calls, they are welcome to go and look at the yard.

Mayor Boss made the following comments:

He said he is not a social media fan, he has Facebook for one reason and one reason only and that is so that he can correspond with his children and grandchildren to see what is going on in their lives and see pictures of it. He said he hears what other people that are on Facebook and other media, some of the things he has heard, there are claims by, he thinks is a very small group of people that many of which don't even live in Alamogordo, they live in Otero County or maybe other places. The City can't do anything right and everything they touch, they touch it wrong and anything they do turns to you know what and that is all they hear. He said he wanted to comment on that a little bit tonight. He pointed out a few things they have accomplished, and he thought of these few things in probably five minutes. He told the Commission that any of them could add to it if they would like, but there are so many more. He said they have done enhancements, very substantial enhancements to our Zoo. He said if you have not been to the Zoo, you would notice there is a new fence, there is a new cage for the monkeys, they have new monkeys in there, and we have a replacement otter for the one that died. The educational center has been renovated. There are all kinds of things going on at the Zoo. If you have been in the Civic Center, it's completely remodeled, it has a new roof, it has been painted inside, it's got sound controlling devices in it, and there are a whole lot of things going on there. The recreation center; new bathrooms, new ceiling, a whole lot of stuff. He said that is just a few of the things that they have done. He said we have a new stage at Washington Park, we have shade structures that we have been putting all over town and there are more on order, if he is correct. He said the children love them. He said that is nothing, that's a lot going on in regard to our recreation. The other thing they have done is demo the old bowling alley which sat there for a while. It was an eye sore, it was also a place for the homeless to go and spend time, it was dangerous, the roof was about to collapse, it had asbestos in it, it is gone.

Now, that land is viable for the City to sell or exchange for some other land. He said finally and caused by litigation, they finally are able to deal with Sahara apartments. It has been an eye sore, it's been dangerous to the community. He said the minute they could they moved forward on Sahara apartments. The First and Florida realignment, not everybody agreed with how to do that, some wanted a roundabout or whatever you call it, but you have to admit it turned out pretty nice. He said the town is much safer, that intersection is much safer now as a result of that. Bonito Lake; we had the fire in 2014, we had to wait for Mother Nature to take its course and to allow the rains to take the silt that is coming off from the burn go into the lake, now they have been in the process for years, and as soon as we could do it, we are starting to remove the silt and in fact he thinks that it started this week or last week to do that. He said Bonito Lake is important, there is no way we could have sped that up, we had to wait for Mother Nature to take its course, we had to wait for FEMA, we had to wait for all these things. He said we jumped on it the minute we could. That is one of our major sources of water, it is high quality water and some of our cheapest water. He said the mountain spring cams and the fence maintenance repair in the mountains. He said a lot of you may not know this, but a lot of our water comes out of springs in the mountains. He said we collect them in cans, so to speak, and we fence that in to protect it from the elk, deer and cattle that get in there because it is a shallow spring is what it is, and we want to keep the animals out of it. He said so the last two years and beyond there have been crews up there that have done renovation, all the way from the La Luz Canyon all the way into the Alamo and Caballero Canyon. He said he saw them before and he has seen them after and it is amazing what they have done. He said they have increased the quality of the water and they have also increased the amount of water coming out of those springs. He said as the City Manager mentioned tonight, we have a path now for the McKinley Channel. The Corps of Engineers has approved a \$6.5 million. We have been waiting on that and we are ready to move forward on it ASAP. He said the Airport runway extension; we have made our Airport where it can be used for all kinds of things, you can land a F16 on it. He said we also need that for firefighting. He said the Desalination Plant is approximately 80 percent complete. That has been going on for over 10 years and finally we are 80 percent complete, we can see the light. He said he looked at the Family Fun Center that they have moved that forward in a very positive way. There have been some roadblocks, some of not caused by all the people on this Commission, but there have been some roadblocks on it, but it is moving forward as fast as we can. He said it is going to be a fantastic Entertainment Center for the community. He said they have also increased economic development with LEDA funds. We have more jobs and you can see that when we look at the Gross Receipts Tax reports. He said we see increases from comparisons for the same month in the prior year, so obviously something is going right in Alamogordo. He said they have also completed a formal Comprehensive Plan to help guide and develop the City and so many other things. He said they have moved forward on the Street maintenance program. He said we now have a 99-page annual report on the City. An annual report where you can look and see what pay range, almost what an employee is making. He said it really upsets him when he hears that they are doing nothing because they are definitely doing something, and they are doing a lot. He said they are moving the City forward. He said drive around, look at the mall. The City is involved in that, believe it or not, the mall expansion too. He said you have stores out there that you have been crying for, for a long time. He said a lot goes into that, you've got them now.

He said that's one issue and another he wants to talk about is meetings. He said this Commission has been criticized again on social media, and he has heard it from other people that have made comments about it. He said they are saying that our Commission meetings are too short. He said they have been compared to the County who has longer meetings. He said let me give you some food for thought. The County meets once a month, not twice. The County meets during regular business hours from 9:00 a.m. until 5:00 a.m. and they generally don't go over that, so when they have their staff there, like when we have our staff there, their staff is getting paid, they are not getting it comp time, plus they are going to be able to go home at night after that Commission meeting and have supper and spend time with their family. He said our City employees work all day, they work from 8 to 5, they get an hour and a half break, they'll run home and eat supper or go have supper some place and then they come back and then we have a four-hour meeting. He said City employees and Commissioners have full time jobs or at least part-time jobs, he thinks everybody up on the dais has a full-time job. He said he does not have a full-time job but believe me that I keep busy enough. He said he wakes up at 5:30 in the

morning and he is up by 6:30 and he is doing things, so when they have long meetings, he tires out. He said he noticed the phenomenon that happens every long Commission meeting between 8:30 and 9:00, people in the audience start nodding off. He said he has had reports of snoring and he has seen people sleep and snoring. He said this is what happens between 9:00 and 9:30, people start leaving the chambers in significant numbers. He said from 9:30 to 10:00, those remaining in the chambers are not really paying very close attention to anything but the clock, sometimes he thinks the Commission is included, because sometimes he has to admit that he is 71 years old, and when it gets that late sometimes his mind is not as it was two-hours before. He said his personal experience at the last meeting on June 26th, he felt guilty after the meeting. He said they spent four times as much time discussing issues with parking trailers than they did with Chief LeClair's power point presentation that he spent 60 hours to prepare and it was directed by Commissioner Hernandez. He was suggested that he do that and when Commissioner Hernandez told him that within very short order Commissioner Hernandez had a report, didn't you, and a very good presentation. Commissioner Hernandez said the next day. Mayor Boss said he called and said he was going to do it, but it took him 60 hours. Commissioner Hernandez said he called him the next day and they started discussing it. Mayor Boss said exactly, and he has to say, himself and everybody, but there were hardly any comments. He said they spent more time on piddly issues like parking than we did on something that is really important to this community and that is improving our Fire department. He said we are not sub-standard, but we're not up to par with the rest of the State. He said we need to do that, we know that we are going to experience to growth, we are going to have to address this and we are going to have to find out where to get the money. He said thank goodness City Manager Paluch did give us some information on some things we need to, some alternatives we might have. He said he was going to do it tonight, but City Manager Paluch wanted to put it on the next Commission meeting. He said Chief LeClair is going to come back, we are going to see the presentation or a brief presentation. He wants to hear what some of the alternatives are. He said this is a serious thing and something that they need to do.

He said he toured the Desalination Facility yesterday. He said Engineering Manager Johnson was dead on, as far as he is concerned in the last meeting, when they were almost crucifying him, almost, because there was a change order. He said he participated himself in it. He decided to go out there and see what was going on. Mayor Boss said Engineering Manager Johnson explained some of the complexities and the unknowns that they ran into that caused these increases in price. He said you have to keep in mind too, this is a big project and what is happening out there, the change orders have not been that significant. He said most of the change orders are related to that, we did it on the dump. He said we did it on the ground that they took core samples here and they took core samples here, but there may be a dip here that's not compacted properly and an area over here that is solid. He said when they finally got into it, they had to spend considerably more money in the foundation for the facility. He said he built houses in Alamogordo for a while, himself and a friend of his, and he thought it was not complicated, it was kind of fun, but let me tell you, this is the analogy that he is going to give you from going out there. He said building a house is kind of like playing with Legos compared to constructing a desalination plant. He said it is complicated and it is a very sophisticated operation. He said we also have to keep in mind that it is the first plant in New Mexico. He said he is sure that the design engineer and the contractor went through somewhat of a learning experience while this was going on. He said here are some of the reasons there were change orders: one was because of the foundation because of where it was built, others were wage rate changes, there was also where we see angle irons, or we see iron generally. In most cases it is not iron it is stainless steel and that is very expensive. He said they should probably, the next time they have one of the employees up there, instead of grilling them, like they did with Engineering Manager Johnson, he thinks they ought to get some information, he suggested City Manager Paluch can get the Commission some information on it, and not crucify your employee.

CONSENT AGENDA

2. Approve the minutes for the June 26, 2018 Regular meeting. (Rachel Hughes, City Clerk)

3. Consider, and act upon, final 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 Vote Required)

Commissioner Hernandez moved to approve the consent calendar.

Mayor Pro-Tem Baldwin seconded the motion.

Roll call vote was taken.

Motion carried with a vote of 6-0-0.

ITEMS REMOVED FROM CONSENT AGENDA

None.

NEW BUSINESS

4. Consider, and act upon, reducing or allowing an extension of time for paying water charges incurred at 1105 Mesquite Street. (*Cecilia Perea, Owner; Mark Threadgill, Customer Service Manager*).

Ms. Perea said the reason she is there is because she had a water bill from May of \$1,600, and last month she had a bill of \$5,300. She said she has done everything on her end, to find a water leak. She hired a plumbing company that went over her property and they told her that she does not have a leak. She had the history of water usage for the property and it had never been more than \$800. She said one time it was \$1,000 before she was owner, but that was because they did have a leak. She is asking for the Commission to help her to find a solution or reduce her bill.

Customer Service Manager Threadgill pointed out the background information in the Commissioners packets. He said they have met with Ms. Perea on different occasions and have actually gone out to the property to look at the meter. He said this a 15 unit mobile home park. He said when they shut their valve off water consumption stops and when they turn it back on, then water consumption continues. He gave an update to the information in the packets and said they have replaced that meter.

Commissioner Hernandez asked what size the meter is.

Customer Service Manager Threadgill answered it is a one-inch meter. He said they replaced it on Friday afternoon and it started reporting again on Saturday and the continuous consumption continues at the same rate as before they changed the meter. He said they cannot tell if it is a leak or not. He said there are 20 hours of the day that they are in double digit usage. He said from approximately midnight to about 6 a.m., and those hours vary, it will drop down to single digit. He said if there is a leak, it's a small leak and by small he says probably about 8 to 10 cubic feet per hour because that seems to be the lowest it will get down to. He said it could be someone using that water or there could be a faucet running. He said there's been almost a 60-day period where there has never been an hour where they've had zero consumption. He said they've looked at everything that they can look at, they've replaced the meter which did not make a difference. He said there has been a drop in the overall consumption which occurred May 30th or so, something happened where the volume dropped but not the continuous consumption. He said while he understands the concern of getting another \$5,000 bill, he is guessing the bill that is going to come out this month is going to be in the \$2,000 to \$2,500 range. He said they have explained the leak abatement program to them, they have explained the payment plan to them. He said they cannot act on the leak abatement program until they see that there is no more continuous consumption. He is not saying that it is a leak, but they cannot do anything until that is gone. He said they can do a six-month payment plan for them under current policies and procedures.

Mayor Boss said as we speak the water is running. He asked Ms. Perea if she has spoken to her tenants. She said they have, they had a meeting right away. She said they took the swamp coolers

from the units, and they checked toilets and under the sinks. She said her husband is a plumber but has a license in another State and he has not been able to find any leak.

Mayor Boss asked if you can use that much water by running it in one unit. Customer Service Manager Threadgill said possibly, if you had faucets on full blast, but that would 24 hours a day, 7 days a week. He said there is water running 24 hours a day.

Mayor Boss said there is a leak somewhere or somebody is opening all their faucets, or more than one person is opening all their faucets.

Customer Service Manager Threadgill said in looking at 1,000 hours of data, it is fairly regular that between midnight and 6 a.m. is the lowest usage but it never gets down to zero. He said in the morning hours it jumps back up and stays that way until midnight when it drops back down.

Mayor Boss asked if it has been tried with everybody in the park, turning their water off and not using it in every unit.

Ms. Perea said they have tried that, they have tried everything that you could think of. She said they have tried shutting the water off completely for more than an hour to see what would happen.

Customer Service Manager Threadgill said they have a shut off valve for the whole lot that is 24 inches from the meter. He said when they shut that off then the meter stops spinning.

Ms. Perea said another thing they did was go into every single house and shut the water off and then turned it back on to see what the meter did. She said Customer Service Manager Threadgill replaced the meter with a new one, but it is not stopping.

Commissioner Hernandez asked if they have individual shut offs at each unit. Ms. Perea answered no. He said then you have not tried everything because what could happen is if you have water going and you can't completely shut it off to test the whole system then you don't know if somebody is using it and because the flow is up and down different times of the day. He thought that she does not have an underground leak. He said somebody is turning it on and off. He said something that has happened out in Walker town, at some point somebody could have tied into it. He said without going in and putting shut offs on each individual trailer so that you could cut them all off and test the main line system itself and then start testing each trailer by itself. He said if it was his that is what he would do. He said once you have tested that you can see if it is being taken somewhere else from the system.

Ms. Perea said her husband thought about that too, but at this point with a \$7,000 bill it was too pricey for them to do that. She said they need relief first.

Mayor Boss said they are going to have some way to determine where that water is going because abating it or giving you a payment plan on this water is not going to help you down the road.

Customer Service Manager Threadgill said as far as abatement goes you are correct. He said they've offered the six-month payment plan which is as far as they can go by policy. He said if they want to set that up, that is up to them knowing that they are going to get another large bill. Mayor Boss said but then they're going to get another one the next month.

Commissioner Payne said it seems like somebody maybe tied into it. She remembers a while back they had somebody come before them that said they had somebody living in their house and their bill was really high and it turned out that they had a leak. She said whoever was staying in their house was just shutting it off at night and during the day turning it on and letting it run. She said that's almost what it sounds like. She said it almost sounds like somebody tapped into it or something.

Ms. Perea apologized and said she misunderstood. She said her Manager did inform her that each unit does have a shut off valve.

Commissioner Hernandez asked if they have tested that. Manager Ruby said they did test that. Commissioner Hernandez asked if when they turned it off if they still have flow. She answered there was no flow. Commissioner Hernandez said there is a process of testing to find out where it is at.

Ms. Perea said the plumbing company that she hired walked through the whole property for about five hours or so, and they said she does not have a leak. She said this company called Customer Service Manager Threadgill and told him that. The company said they would fill out any paperwork the City would need to say they did not find a leak.

Mayor Boss asked if he understood correctly, that there are valves on each individual unit. Ms. Perea answered yes.

Customer Service Manager Threadgill said that is our understanding, but during their site visit they did not see any. Ms. Perea said yes, they do have some.

Mayor Boss asked if they cannot turn all of them off at one time and start opening them one at a time and see what happens.

Ms. Perea said they have done that and the plumbing company did do everything.

Mayor Boss asked if there was still water with all the valves closed and was there still water going through the meter. Ms. Perea answered no.

Commissioner Hernandez said one of those units is using water.

Customer Service Manager Threadgill said here is the rub with that though. If all of those valves have been shut off to each one for two hours because it depends on the timing, because the meter runs on the hour, so if you had them all off for two hours you should see zero consumption during that period of time. He said it has been over 60 days since they have seen a zero-hour consumption. He said it has been close, it has got down to 3 a couple of times.

Commissioner Payne asked if that was at night. Customer Service Manager Threadgill answered yes, that was between midnight and six in the morning.

Commissioner Sikes asked Customer Service Manager Threadgill according to our policy if they were to allow Ms. Perea to get on payment plan right now and continued searching for the problem, would we allow them to come back, under the same problem, and get it abated. He said if there is somebody not just using the water and they show that it has been repaired. He said they would qualify under the leak abatement at that time. Commissioner Sikes said maybe that is what we need to do at this point and then continue testing.

Ms. Perea asked and if there is somebody taking water from our property. Customer Service Manager Threadgill said that would be between you and whomever is taking the water.

Ms. Perea asked who that might be.

Commissioner Hernandez said that is against the law. The police would get involved at that point if somebody is stealing water.

Commissioner Rardin told Ms. Perea that she had said they have individual shut offs and if you shut them all off to all the units then you stop consuming water, you meter stops spinning. He asked as they turn them on, if they don't get to one that starts the meter spinning again.

Manager Ruby answered no. City Manager Paluch asked her to come up to the podium and identify herself. Manager Ruby said they had shut the water off one at a time and waited for a while, she didn't not know for how long, but they did it three times. She did not know when it would start spinning when they turned it back on.

Commissioner Rardin said that is kind of what you need to do, is turn them all off and then turn one on and check it, turn the next one on and check it and you will be able to tell which unit.

Ms. Perea said as a matter of fact they did that, and they took a video of it. Sometimes the meter was moving and sometimes it wasn't moving.

Customer Service Manager Threadgill said his recommendation is if they are going to shut each individual one off, is to do it for an extended period of time, four maybe five hours. He said that is going to tell you that there is nothing happening in your main. He said your main probably runs in that horseshoe, so we have multiple points of failure there, but we probably said we're not seeing any point where that water's been not running through that meter for an hour.

Ms. Perea said on Sunday they shut the main water off for almost two hours.

Commissioner Rardin asked where her mobile home park is located.

Manager Ruby explained where it is located.

Commissioner Rardin said he is thinking along the lines of Commissioner Hernandez, that in the past somebody may have owned additional property out there and tapped on to the water main and ran it to the other property or something along those lines.

Ms. Perea said there is an empty lot next to them, but she does not know if it has a water meter.

Manager Ruby said she thought that every property has a meter, right. Commissioner Rardin said not necessarily. Manager Ruby said the previous owner of the mobile home park owns the lot right next door.

Mayor Boss asked if this just happened all of a sudden. Ms. Perea answered right. He then asked Customer Service Manager Threadgill what the Commission needs to do, and what their options are.

Customer Service Manager Threadgill said on what we can do, he is not sure. He said they do not go past their responsibilities. Mayor Boss then asked City Attorney Schreiber.

City Attorney Schreiber said she is not sure, even if the Commission were to want to abate something today, the consumption is on-going. She said it sounds like this is going to be an on-going issue for the park owner and the City.

Customer Service Manager Threadgill said they sent out their first courtesy notice back in December of 2017. He said they sent out a total of four courtesy notices when they get notification that there had been continuous consumption on property.

Mayor Boss asked how many times they sent these notices. He then asked Ms. Perea if she did not see those.

Ms. Perea said she never seen them. She had asked Customer Service Manager Threadgill where he sent those, because her manager lives there, and she never got one. She said they asked the tenant that lives in number one, which has 1105 Mesquite on it, so she is assuming that is where they might have dropped it off and that tenant swears that he did not have one.

Commissioner Hernandez said they had an issue a while back. He said more than likely this guy's water hose broke and his guys did not tell him about it, and the Commission could not abate his because he never had a leak. He said because this one is continuous and by policy we cannot abate it until they come back and say there is a leak. He said he kind of treaded on thin ice a little bit, trying to give some advice but it is not going anywhere. He said the Commission cannot do anything until they find a leak, and just by listening, nobody is stealing water because they are turning it off and it is shutting off, so it is in their system itself. He said you know you go to the doctor, you don't like his opinion, you go get a second opinion, but he is not telling them that he is telling the Commission this. There is nothing they can do at this point unless they extend the water bill and let them make payments, but until they find a leak they cannot abate it.

Commissioner Rardin said that is all he was going to do is make a motion. He asked Customer Service Manager Threadgill if he had said six-months. He said they could go six-month and that does not need Commission action. Commissioner Rardin said okay, you are requesting to do a payment plan longer than six-months.

Ms. Perea said right because it will put her at almost \$900 and when she gets the other water bill it is going to be who knows. She said it does not really help her, and she is not asking the Commission to not let her pay anything, but she is asking for more time to pay.

Commissioner Rardin asked what she owes currently. Ms. Perea answered only the \$5,000. Commissioner Rardin asked Ms. Perea how much time she is requesting. She answered she was hoping to do 12-months and in the meantime, hopefully she can find this problem and fix it. Commissioner Rardin said if they can find the leak, then they could come in and file for the leak abatement.

Mayor Boss said he thinks all efforts need to be made on finding the leak and he thinks probably go with the six months at this time.

Mayor Pro-Tem Baldwin said based on the conversation, her proactive stance on the matter in trying to find the leak, doing everything they can with the plumbing company and working with Customer Service Manager Threadgill he would be willing to go to her request for a year, he has zero issues with that.

Commissioner Rardin said if they did nine-months it would be like \$555 a month. Commissioner Hernandez said policy says six months. Commissioner Rardin said but Customer Service Manager Threadgill said the Commission could go longer than the six, right. Mayor Pro-Tem Baldwin said yeah, he can go the six months. Mayor Boss said the Commission would have to approve. Commissioner Rardin said to go longer.

Customer Service Manager Threadgill commented that in the past the Commission has allowed up to one year, it hasn't been frequent but in the past the Commission has allowed it. He said he is not aware of it going any longer than a year.

Commissioner Rardin made the motion to approve a 12-month payment plan, contingent that the owner continues to try and find the leak.

Commissioner Rardin moved to approve.

Commissioner Hernandez seconded the motion.

Motion carried with a vote of 6-0-0.

5. Discuss current policy on non-household terminated water accounts. (*Petria Schreiber, City Attorney; Mark Threadgill, Customer Service Manager*)

Item removed.

6. Consider and act upon amending the Commission Meeting Rules of Conduct to include a cell phone usage rule for Commissioners. (Petria Schreiber, City Attorney)

City Attorney Schreiber said this was brought at the request of Commissioner Payne. City Attorney Schreiber put together a cell phone usage plan. She said this is in the meeting rules of conduct, so essentially what this says is that we would never want the public's perception to be that a Commissioner is not paying attention or that a certain Commissioner is receiving information relative to the subject matter at hand from someone in the public that the other Commissioners don't have. Therefore, all electronic communication devices including cell phones that are other than for the purpose of accessing agenda materials, so your laptops would be fine, are prohibited during meetings. She apologized and said this said Council meetings, but it will be fixed to Commission meetings. She said it just says that if you need to take a phone call, to ask for a brief recess and tend to the cell phone. She said this was very simple, it was a request, so whatever the Commission would like to do.

Mayor Pro-Tem Baldwin said he had a phone call, he missed that. He said you think I am joking but I really did, so I am sorry.

Commissioner Rardin said honestly you guys, he doesn't even know why they are discussing this. He said if they have to answer a text message or something, he does not see a problem with that.

Commissioner Payne said she has a problem with it.

Mayor Boss said he has a problem also. He said he is not surprised that Commissioner Rardin brought it up first because he has seen him text back and forth continually during the meetings.

Commissioner Rardin said anyways, just like Mayor Pro-Tem Baldwin just did, if he has a phone call he'll walk outside and take it, most of the time. He said if his guys are working or something, there are times that he has to be accessible by text message. He said, "like I say, I'm going to take it."

Mayor Boss asked Commissioner Rardin if they are working at 6 or 7 o'clock at night. Commissioner Rardin said from time to time they do, yes. We do night work.

Commissioner Sikes said she believes that this is a good policy also. She said the perception is that we're distracted. Mayor Boss said it's all about perception. Commissioner Sikes said she thinks it is important to consider. She said the only thing that she would like to see different is why ask for a recess, just have the fortitude, the responsibility to get up and take the phone call. She does not think it is necessary to interrupt the meeting and six other people moving forward with the Commission meeting. She said and just go take your phone call or answer your text.

Commissioner Payne said she did bring this up. She wanted to actually bring this up a couple of years ago and she kind of let it slide. She said believe it or not she gets comments about, because obviously. Mayor Boss interrupted and said as do I. Commissioner Payne said yes, people can see us, they watch us from home and she gets comments about people on their cell phones during the meeting. She thinks it is a distraction and we do, all be it not much, get paid to be here, so this is our job for, from 6:30 until whatever time we leave. She said if we are getting paid by the public to be here and conduct business, she has a real issue with it. She said it is a distraction, several times they have been discussing something and she has looked over and somebody is actually on their cell phone and not paying attention. She said the reason she knows they are not paying attention is because they are asking a question that was just answered, so she knows that they are not paying attention and it has happened more than once and she does have an issue with it. She thinks they owe it to the public to give 100 percent in their meetings because that is what they are paid for, so she did ask that this be put on the agenda.

Mayor Boss asked City Attorney Schreiber if they are texting back and forth into the Chambers, which happens, is that not a violation of the public meetings. He said he means they can't meet, they can't

get together and talk, are they not apparently conducting business at a meeting and yet it is not on the record. He asked if she understood his question.

City Attorney Schreiber said that is problematic. She said one Commissioner is receiving information that the rest of the Commission doesn't have. If that information is influencing votes on the Commission, that is very problematic.

Mayor Boss said and there is no question that it happens. He has witnessed it so many times.

Commissioner Hernandez said Mayor Boss, tonight he has answered two phone calls and 22 text messages from work. He said he does have a 24/7-hour job. He said if this is in fact installed tonight, he either pays the fine, do whatever you guys want to do or walk out of here. He said this does not pay my bills, okay. He said he has to have his phone on, it is part of his job. Commissioner Rardin said he is a business owner, it is part of his job. Commissioner Hernandez said his is 24/7. He said security called him tonight, he couldn't answer the first time, she text him twelve times, he text back twelve times, that is 22. He said he took phone calls from her. He said that is up to you guys, if that is what you want to do, then he thinks they have a bigger problem because that puts him in a position where he can't sit here. He asked is that what you guys want to do.

Mayor Boss asked if we have surveyed other communities, in regard to policies that they might have Las Cruces.

City Attorney Schreiber said she did not look around the State. She said she can tell you, that this policy was taken from three or four other Cities policies that she went through.

Mayor Boss said he is sorry and asked you took this from.

City Attorney Schreiber said from three or four other cities that are out of state policies, and she put this together based on that. Mayor Boss said out of state. City Attorney Schreiber said yes, she did not pull the rules of conduct for other cities surrounding us. She said she doesn't want to tell them that she did, when she didn't. Mayor Boss said so you mean in other states, outside of New Mexico.

Commissioner Rardin said to expand on the pay, we aren't being paid. He said he was here when the Ordinance was written, we are being compensated for expenses incurred. He said the \$600 a month or whatever it is, if you read the charter. Commissioner Sikes asked if he was getting \$600. Commissioner Rardin said well we get \$50 per regular meeting and then \$250 for a regular meeting or something, if he remembers correctly. He said it is \$600 minus your taxes that they take out of it, but it was written in the Ordinance that was passed. It is for expenses incurred for doing the job, it is not a paycheck, it is for expenses.

Commissioner Payne said okay, well part of the job is sitting up here and listening and paying attention and doing the business of the City.

Mayor Boss told Commissioner Hernandez he is very sympathetic to yours, but Commissioner Rardin, he has watched him and a partner, back and forth and back and forth. He said this was before.

Commissioner Rardin said he has a baby at home. Mayor Boss said there was no baby out there. Commissioner Rardin said how do you know what is going on. Mayor Boss said all he knows is the people in the audience, he saw it in the audience, is telling me that every time they did something, you did something. Commissioner Rardin said you are assuming.

Commissioner Hernandez said he is going to show the Commission something real quick. He said he has that, he has that, he has that (as he laid three electronic devices on the dais). He said the whole time he was sitting next to you, referring to the Mayor, he did all three of those, plus he paid attention, plus he kept up with everything that was going on, plus he helped you, the Mayor, and he never missed

a beat. He said not once, you can go back through all those meetings, and not once did he never know what was happening, not once did he say he was confused, not once did he say hold on a minute or repeat yourself. He said he continued all of it while conducting all of his business. Mayor Boss said you are absolutely correct, you did. Commissioner Hernandez said every single time, and there's not a meeting that he has not been in here that he hasn't had at least twenty text messages. Mayor Boss said he has never seen you talking to people in the audience. Commissioner Hernandez said he has gotten outside text messages, but he does not answer them. Mayor Boss said he is talking about right here, as he pointed out to the audience. Commissioner Hernandez said out here in the audience he won't, but he's had people text him, like for instance the audio is not working, so he will send City Clerk Hughs an email letting her know that the audio is not working. He asked is that illegal, yeah it is, if what they are saying, it is. So now, another question for the Attorney is, if he leaves here because he can't have his phone and have his job is that a problem. He said if you restrict him from being able to do his job because he has to have his phone is that a problem. He said absolutely, ask any Attorney. He said in fact before he gets home he'll bet he will have three phone calls if this passes tonight. He said check it.

Commissioner Rardin said nobody up here had a problem with it, until he got back on the Commission, now all of a sudden it is a problem.

Commissioner Payne said she actually wanted to bring this up two years ago.

Commissioner Rardin said this was brought up four years ago when Susie Galea was here, and we shot it down again, as well. He said actually it has been five years ago, so, guys I don't understand that. Like I say, somebody in the audience maybe getting a text message the same time I am getting one or receiving or sending one. He said he is not talking to them, he is talking to his wife at home about his kid or the babysitter that is watching his kid. He said it is not about City business, if it was about City business it is illegal if he is texting Commissioner Sikes or Mayor Pro-Tem Baldwin during the meeting. He said if he is texting somebody out there in the audience, how is that illegal. They are constituents, they live in my district, he is their representative, how is that illegal, what is wrong with that.

Mayor Boss said well, I think it is perception.

Commissioner Rardin said it doesn't matter if it is perception, it is not against the law. Mayor Boss said no. He said like I say, nobody had a problem with it until he got back on this Commission.

Commissioner Payne said that is not true.

Commissioner Rardin said well, it's the first time it has been brought up since he has gotten back on it.

Commissioner Payne said actually it was brought up before, wasn't it Commissioner Hernandez. He said with Susie. Commissioner Payne said nope. Commissioner Rardin said that was about five years ago. Commissioner Payne said it wasn't brought up in a meeting, but it was brought up. Commissioner Hernandez said he knows, they've had a lot of different things but.

Mayor Boss said he does not think they are going anywhere here. He thinks what they need to do is come up with some kind of an agreement. He said he also understands where you, referring to Commissioner Hernandez, and he also understands where you are coming from, referring to Commissioner Rardin, but I am going to tell you that I think that you have abused it, referring to Commissioner Rardin. He said he has watched it too much, but they are going to have to come up with some kind of an agreement.

Commissioner Rardin said it's not an agreement. He asked if it has disturbed anyone up here. He said if they answer a text message does it disturb you that I answer the question, referring to Mayor Pro-Tem Baldwin.

Mayor Pro-Tem Baldwin said don't put me on the spot, right now.

Mayor Pro-Tem Baldwin said one of the things, he thinks we are trying to address a slightly larger issue with a much smaller issue with the cell phones, but an issue nonetheless. He said he has taken this job as serious as his other job will allow him to take it and he has always had an issue with in private meetings, any meeting, cell phone usage or basically not paying attention because as Commissioner Payne mentioned, it is a disservice to the citizens or the people that are taking the time out of the day to be here to communicate with us. He said he has always really had an issue with excessive online use, cell phone use, talking to other Commissioners, so yeah, he does kind of have an issue with it, but all that being said he would remind everybody because they are getting a little heated now, once they get to pointing fingers it gets a little difficult. He said he actually did, he was not joking, take a phone call. He said it was the first time, actually last week or the week before, we had a meeting, he took a phone call and it was the second time in six years he took a phone call sitting at the dais. He said despite his disliking of it, he has taken texts, he has taken texts from constituents that are watching the video saying hey you guys said you were going to deal with this tonight, what happened. And he would have to say that they pulled it from the agenda or something like that, so that kind of communication does go on, but he also does feel that gets part of the City business and part of what he is here supposed to be doing. He said the only thing he would remind us as Commissioners is, he is voted in by a group of people, he is voted in by a group of people and I am voted in by a group of people. If they have an issue with it, let's just be adults about it and call each other out on it. He said he has no issue with that, if he has an issue with Commissioner Hernandez, if I don't think he is paying attention, from this point forward instead of changing the Ordinance or coming up with a rule, I am going to say Commissioner Hernandez would you please, do you have an issue that you need to leave or can you pay attention to what is going on so that his public realizes that he is using his phone. He said or the same for Commissioner Rardin or same with anybody else, but we just need to call each other out on it and let his constituency decide if they want him back the next year or the next election.

Mayor Boss said I thought you were protesting when you went out and said you were answering the phone.

Mayor Pro-Tem Baldwin said you could not have got a phone call at a worst time to deal with a cell phone issue. Mayor Boss said that was a bad time, I thought you were protesting.

Mayor Pro-Tem Baldwin said in defense of work, by the suns up he is working, seven days a week and his work had a power outage. He said they have servers that are, no pun intended, but they are City servers and you have to pick your left foot up pull the antenna this way and start it twice to get it to work properly and some of his staff doesn't know the process so he had to remind them of the steps to get their service back up so they can actually close their business tonight or at least one portion of the business because they have a whole other portion that stays open to 9 or 10 o'clock at night, which is the restaurant. He said he respects the issues we are having and yes, the answer to Commissioner Rardin's question, he does have an issue with over use of cell phone at the dais, that's just me, but he can't argue with Commissioner Hernandez's comments, he is right, he sat right here in this chair for the six year that I've been on with you and I've watched him do it and he does not believe that he skipped a beat in that process, so he does understand. He said I'm not helping any, but he does understand both.

Commissioner Payne said no, it's okay, it's alright she is not taking that personally. She said she put this on here because she has had comments about us texting. Mayor Boss said he has also had comments. She said yeah, and what frustrated her was a couple of meetings ago they were having a discussion and she was trying to get an answer and she looked over and people were on their cell phone, when she was trying to get some answers and she was looking at them. She even almost said "I'm sorry am I bothering you" because it was such a distraction and just for the record, she is on-call all the time too. She does get calls at night and, on the weekends, and as a matter of fact she just got a call for help from the Sheriff's Department as she was walking in here, so she is on call too. She said she has kids at home, not little ones anymore, but she has responsibilities and she does understand,

she does. She said it is a huge distraction when you are texting, and somebody is standing up here or you're texting, and we are trying to have a conversation, regardless of what it is, regardless of whether it's your job, regardless of what it is. She said it is not about whether you missed a beat or not because she couldn't say that he has. She said she doesn't know, she is going to guess that he hasn't, but it is a huge distraction and it is a horrible perception and she has had people tell me "Oh, we're watching online and there is so and so on their phone again not paying attention, and your tax dollars at work", and yes, she has had those comments and so. Mayor Pro-Tem Baldwin said as have I. She said yes, and how do you reconcile that, she had no idea, but it's really not fair to the public. She's not going to get into a contest whether we get paid or whether it's compensation, whatever you want to call it, but the fact is that it is taxpayer dollars going into our pocket or whatever we are doing with it and she thinks we owe the public their full attention as much as possible, and if you have to stop to text for your job, then so be it but if it is that much, yeah, she kind of would question whether you have to make that decision because that seems like an awful lot to me.

Commissioner Hernandez said not to me. He said he's done it since he's been here and the only time he has ever been questioned by it was by Ms. Alicia Rios. He said when she was watching it on the cast and he had to get up and take a phone call. He said that was the only time that he has been questioned with it.

Commissioner Payne asked if anybody else been questioned outside of Commission.

Mayor Boss said he has never used his phone.

Mayor Pro-Tem Baldwin said he has.

Commissioner Hernandez said here is the thing though.

Mayor Pro-Tem Baldwin said he left because of the usage.

Commissioner Hernandez said it doesn't matter what they do, it still is not going to be right. He said the Mayor brought that up earlier.

Mayor Pro-Tem Baldwin said well then, let's just, as a group, realize that there is a perception from a certain part of the public that watches the meetings and/or hears what staff says or the public says that there is that perception, and let's just be better at it. He said if you have to take it, you have to take it, but understand that people are watching and if we want to call each other out on it, that is fine.

Commissioner Hernandez said here is the other thing is you look at my meeting record. He asked how many meetings he has missed. He said one. He said the six years that he's been here, he has missed one, okay. Still again, just take care of both business at the same time and when he is at work, he gets phone calls. He said Chief LeClair comes to see him. He asked Chief LeClair if he turns him away when he comes to see him. Commissioner Hernandez said no sir, he's said come on in let's discuss this, let's do this. He asked what's the difference. There is none. The public does not see that. He said City Manager Paluch has come to see him at work several times with City Attorney Schreiber. He said they dealt with issues and he never cut you guys off and say he's got go, he's done." He said no, he may say let's schedule it for this time or whatever, but that's his job, but he still does business at his job because he is allowed there. He said so the public does not see that perception, at all. He asked Mayor Pro-Tem Baldwin how many people come see him at the Golf Course and ask him questions. It never stops, right. He said if Grant wasn't who Grant was, what would he do. It would be tough. He said it doesn't change, so what's the difference.

Mayor Pro-Tem Baldwin said he wouldn't argue that too much because there is a difference.

Commissioner Payne said she thinks there is a difference, it's a choice. She said if you were in the middle of a meeting at work, if you were in a meeting and you were in a meeting with your boss or you

were in a meeting with people, would you just stop the meeting to stop the meeting to talk to City Manager Paluch, probably not, you'd probably tell her I'm in a meeting can we do it at this time.

Commissioner Hernandez said City Manager Paluch has text me while he's been in the middle of the meeting with his boss. He said he text her back and told her let's do it at this time. Commissioner Payne said right, but not during the meeting. Commissioner Hernandez said yes, during the meeting otherwise he would have taken a call.

Commissioner Payne said but you don't stop the meeting to meet with City Manager Paluch.

Commissioner Hernandez said he doesn't stop the meeting to do what he does here.

Commissioner Payne said we can go back and forth on this all night, she is simply telling you that she got a call the other day, it was the last straw for her, and it was because somebody was actually in the Commission Chambers and said they were pretty insulted and that is how the conversation went and it was the last straw for me. She said she thinks that we need to be careful about perception, you can call it just perception all you want, but we talk about perception all the time and if the perception is that we don't give a crap because we are on our cell phones texting, they don't know that you are texting your work, they don't know that you are texting about your child, they don't know that she is texting to ask Kitty Williams for a pair of glasses because she can't see, which she's done, she fully admitted it. She said she is shooting herself in the foot here too, but they don't know that and so if we are not going to make this part of our conduct, we at least need to be very mindful of it and she does think it was worth having a discussion over, she does think it is important. She said perception is perception and we can't use the word when we feel like it, it is what it is, people are watching us, they don't know what we are doing, what they see is people on their cell phones looking down texting, not paying attention for whatever reason and that is all she is getting at.

Commissioner Rardin asked what's the difference between looking at my phone and reading here on this computer. He asked if he was sitting here reading this, is he paying attention to the speaker.

Commissioner Payne said because they can see your phone and they can see you texting. She said oh yeah, believe me I've gotten the calls. She said I am not making this up, I've gotten the calls.

Commissioner Rardin said I've been here. Commissioner Payne interrupted and said well I am sorry, but I have gotten the calls. Commissioner Rardin said like I said, what's the difference though between reading an email or message. Mayor Pro-Tem Baldwin interrupted and said they assume this is City business and this (as he made a texting motion) is personal. He said that is the perception.

Commissioner Payne said she really did not want to get into an argument about it, and apologized for that. She said she just wanted this brought up because she has gotten phone calls. She has gotten post on Facebook about it. She told Commissioner Rardin if you like too, she can dig them up.

Commissioner Rardin said he does not read Facebook really. Commissioner Payne said oh I think so, okay.

Commissioner Rardin said he is kind of like Mayor Boss, he puts pictures of his kid and people they go to the lake with, he does not do City business on Facebook.

Mayor Boss said he does not put his kids on there, they put them on there for me and he doesn't share them. Commissioner Rardin said I'm kind of like you, Facebook is not a place for. Mayor Boss said that is not for the world.

Mayor Boss said he thinks they need agree to disagree here and we've got it out. He thinks it is a problem and he thinks the people that he thinks are important is in government. I mean, I know you say, "well that is just what they think that is not what happened", but I think perception is very important,

I think we need to cognitive of it and any opportunity we have to avoid a ping to be away or not we need to do that. He said people think we are talking if we are using those cell phones, they think we are conducting business, some of them think we are conducting business, which is illegal. He said they don't know if, they see you on the phone and Commissioner Sikes on the phone at the same time, they don't know, maybe the two of you are communicating back and forth, now granted that is perception, you really didn't do anything wrong, but the public thinks you did. He said anyway, we need to agree to disagree and I think move on, does everybody agree with that. We will take no action on item number five. Certain members of the Commission corrected him and said item six.

No Action taken.

7. Consider, and act upon, first publication of Ordinance 1575, amending Chapter 24, Section 12 of the Alamogordo Uniform Traffic Ordinance regarding trailers being parked on City streets. (Petria Schreiber, City Attorney) (Roll Call Vote Required)

City Attorney Schreiber said this is responsive to discussion at the last meeting. She said what they have done is that it now gives it a 24-hour time period. She read the proposed new section.

Commissioner Hernandez thought this is what they agreed on.

Commissioner Rardin made a motion to approve. Mayor Boss said he would like some discussion on it.

Mayor Boss said Alamogordo has adopted the New Mexico Uniform Traffic Ordinance except with the ATV rules. He said Taos, Rio Rancho, Silver City, Santa Fe, Carlsbad have also adopted the State rules. He said Albuquerque went a little further and rather than cutting back on the rules, they restricted the vehicle being attached to the trailer and gave less time. He said he has seen what happens in Alamogordo on streets. He said he lived on a street where they saw children playing riding their hot wheels down the sidewalks and would cut across the street. He could still see a fifth wheel on the street with a truck attached to it with an extension cord running to the house, because someone was living in the trailer. He said they literally drove 5-miles per hour and he had nightmares that some kid was going to pull out in front of him and he was going to run over him. He said there is too much chance by doing that, they are increasing the chance of hurting one of our children. He said he was cited some 15 years ago and he paid the fine for leaving a utility trailer parked on the street during the day while he was at work. He said if one person was to be injured as a result of that. He asked City Attorney Schreiber if we adopted this, we are changing what New Mexico has suggested. He said if he was an attorney, the very first thing that he would do if one of his children got injured or killed, he would be looking at the law surrounding that and if he went back and saw that the laws were amended from the State recommended Statute, he would probably file suit against the City of Alamogordo or whoever it was that had changed that order, because if that trailer not had been there under the New Mexico Ordinance and we allowed it to be there. He asked if that is a stretch.

City Attorney Schreiber said no she does not think it is a stretch, but they get sued for all sorts of things every day.

Commissioner Rardin said they are home rule, they are allowed to suggest ordinances as necessary. Mayor Boss said he knows, but that is not the point. Commissioner Rardin said if the Commission does not want to vote on it, that's fine.

Commissioner Sikes said she almost owes Commissioner Rardin an apology. She said the last meeting when this was brought up, she did not take it as seriously as she might have. She thought it was an extended discussion about a non-issue. She said since the meeting and driving around Alamogordo, she sees a lot of trailers that are not hooked up to a truck. She said they are unhitched, parked in front of their houses or even on their driveways. She asked if they are allowing by this Ordinance 24-hours on the street and then they have to remove it. She said in driving around it looks

like a lot of people use the trailers during the day for work, they come home they park it, they drive off in the trucks or whatever and the next morning they hook it up again and take it to work and then they come back at 5:00 o'clock and unhook it, so what is this actually doing.

Commissioner Rardin said the reason he wanted to add the 24 in there is not so much the fifth wheel issue. He said he did not even know staff was putting this on there last week or last meeting. He said there are times he gets to a job site with a truck and trailer and he has nowhere to park. He has to drop that trailer somewhere and the only usable spot is on city right of way along the side of the street. He explained the job they were doing across the street at LOCO Credit Union and said they could park there on 8th Street, it was kind of out of the way, they could drop the trailer and it would sit for a couple of hours, 8-hour day max. He said that is what the 24 hours is. He said he is not asking to allow that trailer to sit in front of the house for an extended period of time. He said the City is just as guilty as this, when they have water breaks, they take their big equipment trailers behind their dump trucks, they'll unhook that trailer on the side of the road and leave it in the right of way. He said that is all he was asking for a 24-hour period and that trailer could conceivably sit there where you don't have to worry about DPS citing you. He said if the Commission does not want to pass it that is fine, he just brought it up. He didn't even realize that staff had even put it on the agenda last meeting.

City Manager Paluch said one point of clarification. She told Commissioner Rardin, respectfully, you had asked me to put this on the agenda last meeting and so we did put this on the agenda per your request.

Commissioner Rardin did not recall asking her to do that. He said he talked to Assistant City Manager Cesar about it, but he never talked to her about it. City Manager Paluch said he came into her office and asked her to put this on the agenda and he had informed her that he did talk to Assistant City Manager Cesar about it. She said respectfully that is her recollection.

Commissioner Rardin said he does not remember coming to her office and asking her, but either here nor there, but that is all it is about. He said Commissioner Wright was kind of on the same page, there are times we just don't have a place to put that thing that is off of a city right of way. He said by City Ordinance they could come up and cite us for trying to do a job. He said the 24 hours gives just enough time a trailer can sit there, do the job they need to do, then they'll be gone, and they'll go back.

Mayor Boss said from what Commissioner Sikes just said though, she is seeing them all over town unhitched.

Commissioner Sikes said you do, just drive around and look at the different trailers in front of houses. She mentioned the different type of trailers that could be seen while driving around town.

Mayor Boss said this is also why it is not only the utility trailers, but it also applies to fifth wheels and everything. He asked how Code Enforcement going to keep up with that. He then asked if they are actually going to write a permit.

Commissioner Rardin said what you do is have DPS come over, they mark the tires and if it doesn't move within a twenty-four-hour period, then they can cite you and that is how they handled it in the past. He said the same thing if somebody complains, DPS can come mark the tires come back a day later, if it has not moved then cite them. He said he is trying to make it where they are compliant, because there are times they cannot get off City right of way. He said that is the only reason that he brought it up.

Commissioner Rardin moved to approve.

Commissioner Hernandez seconded the motion.

Motion carried with a vote of 5-1-0.

Mayor Boss voted nay.

8. Consider, and act upon, the responses received to RFP 2018-005 Economic Development Services. (Barbara Pyeatt, Chief Procurement Officer)

Chief Procurement Officer Pyeatt spoke on the scores on this particular RFP (Request for Proposal) being extremely low. She said normally our scores come in anywhere from 85 percent and higher, and these two proposals came in; one was at about 64 percent and the other was at 58 percent. She said it is not a normal occurrence on our RFPs. She said City Manager Paluch thought that this should be brought before the Commission.

Commissioner Payne said she is assuming there is a basis for the scoring. Chief Procurement Officer Pyeatt said they are all set. She said it depends on what you are wanting, as for what the RFP is about. She said it is all averaged.

Commissioner Payne asked if she had any idea or can she share with the Commission why it was so low. She asked what is it that would have improved it.

Chief Procurement Officer Pyeatt said she cannot give her opinion on the RFP because she is the Purchasing Manager. She said they are just low.

Commissioner Payne said she is trying to figure out what were they looking for that wasn't there.

Chief Procurement Officer Pyeatt said the obvious thing is that they were just poorly done to be honest. She said she is not giving her opinion. She said they have some to they get that there are only two, and some that there are 5 to 8.

Commissioner Payne said she does not know if this other company has ever submitted another bid, but OCEDC (Otero County Economic Development Council) obviously has. She asked Chief Procurement Officer Pyeatt if she knows if OCEDC presented what they have presented in the past. She answered no, she could not tell her that because she doesn't go through and evaluate them herself. She goes through and makes sure that they have all the documentation that is required.

Commissioner Payne said that is what she would be curious about.

City Manager Paluch said she did when staff was developing the RFP with the help of our Purchasing Manager Pyeatt, they did ask her to pull the previous RFP that we did solicit bids/proposals for several years ago and she did look at those documents. She said what OCEDC presented to us this time is quite similar to the package that was presented previously.

Commissioner Payne said that is what she is getting at.

Mayor Pro-Tem Baldwin asked what they were scored at. City Manager Paluch answered she does not recall.

Chief Procurement Officer Pyeatt said she could tell you that they were at 85 percent or higher because on the average all of their stuff comes in at least an 85 percent or higher unless there are a lot of them.

Commissioner Payne said she thinks that is her point is and she has seen this not a lot, but quite often with different organizations that the City has done business with in the past. She said if no one has ever said to them, we expect more than what they are presenting, they think it is ok. If it is similar to what they presented in the past and it has been acceptable, and nobody has ever said we are looking for something different or more then what they are presenting is what they expect we expect. She asked if that makes sense. She said she is not suggesting that we lower our standard by any mean, but she is suggesting that if we decide to go back out for RFP or whatever we decide to do, perhaps we need to communicate that we are looking for, we kind of raised the bar.

Chief Procurement Officer Pyeatt said it is all pretty explanatory in the RFP what they are looking for. She said gets questioned, she'll have someone call and ask me are they looking for this or that. She said to her, if they are a person or a company that is going to be submitting a proposal for work for money you are going to put your best foot forward.

Commissioner Payne said she understands that, but the RFP that we put out, is that the same one we put out in the past. She asked if that is worded the same or was it different.

City Manager Paluch answered it was quite different than the first RFP.

Mayor Boss asked in what way.

City Manager Paluch said she cannot detail that out because she does not have that in front of her, but the requirements were very different.

Commissioner Payne said the requirements were different but what we received was very similar to what we received in the past. City Manager Paluch answered yes. Commissioner Payne said then that kind of changes things a little because maybe somebody didn't read the RFP.

Mayor Pro-Tem Baldwin asked who changed the requirements. City Manager Paluch said the requirements in the first RFP were very simple. She said to her recollection there were only four requirements and there was not a lot of detail underneath those requirements. She said they felt that in the second RFP they should detail out more of what the City is looking for based on some of the comments and conversations that they've had with Commissioners over the past several years regarding economic development. She said it was flushed out more in the second RFP.

Commissioner Payne said so we are saying that we did not receive that, because it is interesting that were scored pretty close, pretty similar.

City Manager Paluch said she can't answer that question, she was not on the scoring committee.

Chief Procurement Officer Pyeatt said that is it, they are individual, they are different people.

Commissioner Payne said she finds it interesting that two separate organizations both submitted their proposal for this RFP and they were scored very similar, which tells her that they were both maybe missing stuff or same kind of stuff.

Mayor Boss asked if they can ask some questions. He said he has some questions when he looked at it. He said one of his is, if you add the expenses all up it is \$208,000. He said the City is is going to fund \$80,000 of that, for the LEDA funds. He asked where the difference is going to come from. He asked Mr. Beug from OCEDC to come up.

Mr. Beug said the \$208,000 on their budget comes from the difference of their memberships. He said they collected about \$68,000 last year in memberships. He said obviously they need to have another membership drive to cover their budget. He said if they don't get their money in memberships, they'll have to dip into their savings account. He said they have not had to do that in the past. He said Ms. Anderson applies for grants that they have been receiving. They intend to make up that difference on their own and not come to the City and ask for any more money.

Mayor Boss said and your plan for that is through memberships. Commissioner Payne added and grants.

Mayor Boss asked if they have hired an Executive Director yet. Mr. Beug answered they have not yet, that is in the wings, they are currently interviewing people and hope to make a decision soon.

City Manager Paluch said she is not putting City Attorney Schreiber on the spot, she was one of the reviewers and she is prepared to answer questions from the Commission because she did score both of these RFPs if the Commission has any questions for City Attorney Schreiber.

Commissioner Rardin asked where Zilo International is located. City Manager Paluch answered from Colorado. Commissioner Rardin said economic development is marketing your community and making something here that you sell in other communities so that you can bring their money to our community. He said he kind of finds it ironic to outsource our economic development to a company outside of New Mexico.

City Manager Paluch said unfortunately we cannot write in the RFP that we can only accept people in the State of New Mexico and in the last RFP they did receive two proposals, one person pulled out, but that proposal was she believes from Florida and the second one was from El Paso, the third one was from OCEDC.

Commissioner Rardin said in the past, he had a lot of transparency issues with OCEDC from when he was a Commissioner formally. He said he knows they have made a lot of staff changes and he can see that they are working to become more transparent. He said he does not see the need to push it out of state, the money because it kind of defeats the purpose. We are trying to collect the tax to try and generate revenue coming into our State, but then we are going to ship our economic development money right out of the State.

Commissioner Hernandez said OCEDC mentioned they have a membership drive and that is how they are going to raise the rest of the money. He asked where these members are from. Mr. Beug answered they are all from Alamogordo. Commissioner Hernandez said you are raising quite a bit of money from individuals from Alamogordo and that tells you something right there, they are willing to put back into Alamogordo. He said like Commissioner Rardin said is that OCEDC has made a lot of changes and will continue to make changes, in his opinion, to get us where they need to be. He said he supports this whole heartily.

City Attorney Schreiber advised to be very careful, allowing one of the proposals to come before you and present is unfair to the other proposal. She said we need to tread very lightly here because Zilo has not been afforded the same opportunity, so it would be her advice that they look at the score sheet and talk about that, but really allowing OCEDC to come here to the Commission is something that we are not allowing Zilo to do, so we need to be very careful.

Commissioner Rardin said they could have come to the meeting tonight. He said they could have been there with a representative. City Attorney Schreiber said correct, but we do have a Procurement Code that we have to follow, and so while they could have been here, we still need to be careful that we are not going to violate the Procurement Code.

Mayor Boss asked if they should not ask OCEDC questions. City Attorney Schreiber said they need to tread very lightly understanding that we are only allowing one of the two companies.

Mayor Pro-Tem Baldwin made the motion to request authority to commence negotiations with the service provider OCEDC. He asked if that motion was right.

City Manager Paluch said no, he is making a motion to award the RFP 2018-005 for economic development services to OCEDC.

Chief Procurement Officer Pyeatt said because they have done this and have allowed Mr. Beug to do that, and she understands that ZILO could have been here, but under normal circumstances, if you are wanting to discuss with the proposal then you do a second interview. She said so you are able to sit in front of them and talk to them and ask them those kinds of questions. She said they weren't giving the opportunity to ZILO people. Mayor Boss asked since they have done it now, can we repeal it by inviting

Zilo to the next meeting.

Mayor Pro-Tem Baldwin said they have a motion on the table to award that based on the bidding, so it is all moot.

Commissioner Rardin said they had nothing to do with the scoring, staff did the scoring and they are doing the recommendation.

Mayor Pro-Tem Baldwin said to move with OCEDC, that is his motion.

Mayor Pro-Tem Baldwin moved to approve.

Commissioner Hernandez seconded the motion.

Motion carried with a vote of 6-0-0.

9. Consider, and act upon, first publication of Ordinance No. 1574, to change zoning from R-1 Single Family to R-3 Two Family for the address of 1201 Oregon Ave. only (*Darron Williams, City Planner*). (Roll Call Vote Required)

Item removed.

10. Consider, and act upon the approval of case M-2018-0001 (A), a street vacation located at Hermoso El Sol Subdivision, Unit 2, lots 15 and 16 (*Darron Williams, City Planner*).

Item removed.

11. Consider, and act upon, approving service agreement between the City of Alamogordo and Otero County Fire Services regarding use of water, testing equipment and training facilities. (*Dustin Johnson, Assistant City Attorney*)

Assistant City Attorney Johnson said this is a service agreement due to a collaborative effort between the County and the City. He said what was happening essentially was that our Fire department was paying \$5,000 annually in order to utilize the County's training facility as well as their pump test trailer. He said during this same period of time the County was utilizing water out of the City's hydrants free of charge. He said basically upon discussion what they came up with was a service agreement, the County is going to allow our local Fire department access to that training facility, pump test trailer for free and in exchange we are not going to begin charging for the water utilization out of our pumps. He said additionally, while the City will see savings, the agreement also assists the County in their ISO ratings, so it could have potential effect in lowering their rating. He also said with the \$5,000 of savings, that will be utilized elsewhere by our Fire department.

Mayor Pro-Tem Baldwin asked since we have a fixed amount of time to utilize that facility, but we also have as much water that we can give them, is there a limit to the amount of water that they can take.

Assistant City Attorney Johnson answered said they have not been monitoring that, they don't have a way to monitor historically what they have been using or what they are going to use. He said a couple of figures that he just put together after talking to water department. He said for example if they were going to fill, it could be 500 gallons per fill, he said they don't know the frequency that they are doing that, however the saving that we are receiving it would equate to them using 3 million gallons of water to equal the \$5,000 expenditure that we are saving our local Fire department here.

Mayor Boss asked if that water can only be used for firefighting. He said they can't fill up a water truck that is going to water a road, correct.

Assistant City Attorney Johnson said that is correct. He said the Legal department was intelligent enough to not allow just unfettered access to our hydrants.

Commissioner Sikes said she applauds the fact that they have done this. She said it just shows me that we are trying to be cooperative with the County and vice-versa.

He said it has been a collaborative effort. He said he knows we have been focused on us working with the County which is what is taking place here. We hope this just the beginning of us pulling together our resources to aid and assist one another.

Commissioner Sikes said it just shows the good faith and good effort. She thanked everyone involved.

Commissioner Rardin moved to approve.

Commissioner Hernandez seconded the motion.

Motion carried with a vote of 6-0-0.

12. Consider, and act upon, a Memorandum of Understanding (MOU) with APSOA regarding firefighters assigned to 24-hour work periods. (*Dustin Johnson, Assistant City Attorney*)

Item removed.

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

Mayor Boss read the openings and appointed Jenny Turnbull to the White Sands Beautification Committee. No one was opposed.

Commissioner Hernandez moved to adjourn at 8:36 p.m.

Commissioner Rardin seconded the motion.

Motion carried with a vote of 6-0-0.

ADJOURNMENT




City Clerk Rachel Hughes


Mayor Richard Boss

(Prepared by Eric Barraza, Deputy Clerk)
Approved at the Regular Meeting held on July 24, 2018.