

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

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

**JASON BALDWIN, MAYOR PRO-TEM
DUSTY WRIGHT, COMMISSIONER
MAGGIE PALUCH, CITY MANAGER
PETRIA SCHREIBER, CITY ATTORNEY
RACHEL HUGHS, CITY CLERK**

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

Mayor Boss called the meeting to order at 6:30 p.m. Roll Call was taken by the City Clerk. City Clerk Hughs announced there was a quorum present. Invocation was given by Pastor Crispin and the Pledge of Allegiance was led by Commissioner Wright.

APPROVAL OF AGENDA

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

PRESENTATIONS

1. Presentation of Small Business Saturday Proclamation. (*Richard Boss, Mayor*)

Mayor Boss presented the proclamation for the Small Business Saturday.

2. Presentation to the Chief of Police by the Alamogordo High School Band in recognition of the Departments support and escort on Saturday, October 27, 2018 to competition in Las Cruces Tournament of Bands. (*Larry Garner, Public Works Director*)

The Alamogordo High School Tiger Band presented a plaque to Police Chief Peete for the Police Department. Mayor Boss accepted the plaque on behalf of Police Chief Peete.

PUBLIC COMMENT

Gene Downer commented on the following:

He spoke on the various trees in Alamogordo. He suggested the City purchase trees from Home Depot. He said Ms. Carrell, the rose lady from the Parks department, is an amazing person. He encouraged everyone to use Desert Foothills Park hiking path. He spoke on trapping gophers before they begin breeding this winter.

CITY MANAGER'S REPORT

City Manager Paluch made the following remarks:

1. She gave an update from Mr. Chun and the Rocket City Lanes. She said his Manager training will be on November 19th, and all other positions will begin training on November 26th. She said a soft opening is scheduled for December 14, 2018 at 5:00 p.m. There will be a Pre-Grand opening event on January 3rd, 2019 at 6:00 p.m. The Grand opening date will be January 4th, 2019.
2. She said there is no law that would allow APD Officers to cite people who are towing vehicles unsafely through our community. She said they will be drafting an Ordinance regarding this issue and will bring it back to the Commission.

3. She said tomorrow there will be several meetings throughout the day with the owner of a company that manufactures metal ramps. Currently, he is in the purchasing phase of the old Wal-Mart building. Tomorrow afternoon, City staff will be meeting with OCEDC and the State of New Mexico Economic Development representatives to work on the incentives such as local and State LEDA and any programs that this business might qualify for.
4. She announced the lights at the playground have been finished. Today, the Communications and Marketing department held a mini-soft opening for the new playground. Kids Zone is the new name of the playground.
5. She said the Senior Center is selling homemade bread and cranberry relish for Thanksgiving. She said to place orders call 439-4150.
6. She showed a picture of two new Red Kangaroos at Alameda Park Zoo.
7. She announced that the Police Department has three new fire arm instructors.
8. She said the Recreation Center had their free Annual Turkey shoot on November 3rd. There were over 100 people in attendance with 38 teams competing for prizes. She said over 25 prizes were handed out.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Hernandez made the following comments:

He said he wanted to make sure that he made it clear to have some clarified dates for the opening of Rocket City Lanes. He pointed out that Mr. Chun did not meet any of the dates as stated from previous meeting minutes. He said it looks like they have those dates now, but he would like to see those in writing.

Commissioner Rardin made the following comments:

He said they held a meeting back in July regarding the Budget Resolution, and at that time he had made a request of a report of any budget resolution or budget adjustment over \$5,000 and he has still yet to see that report. He asked where they are at on that report and if maybe they could expedite that by the next meeting. City Manager Paluch said that is going to be released in digest to the Commission. She assured Commissioner Rardin it has not gone by the waste side and it will be completed for him.

CONSENT AGENDA

3. Approve the minutes for the October 23, 2018 Regular meeting. *(Rachel Hughs, City Clerk)*
4. Approve award of IFB 2018-04 Miscellaneous Foods, Dairy Products & Items for Alamogordo Senior Center Program to multiple vendors in the amount not to exceed \$160,422.99. *(Veronica Ortega, Community Services Director)*
5. Approve the Investment Report for the quarter ending September 30, 2018, in accordance with the City of Alamogordo Investment Ordinance. *(Evelyn Huff, Interim Finance Director)*

Commissioner Hernandez moved to approve item 3, 4, and 5 of the consent calendar.

Mayor Pro-Tem Baldwin seconded the motion.

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

NEW BUSINESS

6. Consider, and act upon, annual renewal of Hunger Coalition Lease of 1614 Abuelito with the Alamogordo Housing Authority. *(Janett Quick, Chair Hunger Coalition)*

Acting Public Housing Manager Ruiz introduced Ms. Quick. Ms. Quick explained they are stepping away more from the homeless because they feel they can serve the hungry better. She said they still provide

meals for the homeless, but they are not actively working on anything to shelter them, they do not have the funds for that. She said donations have been down.

Mayor Boss asked Ms. Quick if she keeps any data on the actual number of meals that they have served. She said they average about 300 a week.

City Manager Paluch asked Ms. Quick to explain what they are using the City facility for. She answered it used for their pantry and to hold Board meetings. She also explained that anyone could go in and use their computer when it is open.

Commissioner Sikes thanked Ms. Quick. She asked Ms. Quick if she could provide the Commission with quarterly reports.

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

7. Appoint a Policy Committee Member and a Technical Committee Member to the Southeast Regional Transportation Planning Organization (SERPTO) due to the vacancy. *(Rachel Hughs, City Clerk)*

City Clerk Hughs explained that former City Planner Williams was previously appointed and since he is no longer with the City, they will need to appoint a new member to the Policy and Technical Committee of SERPTO.

Mayor Boss asked if there was a motion to appoint new City Planner Rael.

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

8. Consider, and act upon, Resolution 2018-44 relating to a rate increase of 2.19% effective January 1, 2019 for residential solid waste collection through Southwest Disposal. *(Mark Threadgill, Customer Service Manager)* (Roll Call Vote Required)

Customer Service Manager Threadgill said the City has a contract with Southwest Disposal for residential trash collection and for City facilities. He said by contract they may apply for an annual rate increase comprised of two components: a fuel charge and the CPI. He said the CPI has gone up by 2.19 percent and therefore, the City will need a rate increase effective January 1, 2019.

Commissioner Hernandez said he has issues with Southwest Disposal. He asked if they have methods of rating their performance and if there is something there that they can hold them accountable. Customer Service Manager Threadgill said there are service standards set out and a dispute resolution in the contract. He said he does not believe that it is tied to this annual rate increase. He said it has been a while since he has read those contracts, so he could not address this specifically.

Commissioner Hernandez asked Customer Service Manager Threadgill if he knows if there are any current disputes that the City has with them, that they have not fulfilled anything. He answered none to his knowledge that haven't been resolved. He said the contract liaison is in the Public Works department.

Commissioner Hernandez said he calls on issues and sometimes he gets results and sometimes he doesn't. Customer Service Manager Threadgill said if they get a complaint from a customer, those are usually resolved within a couple of days. He said typically he'll call Southwest Disposal with the complaint.

Mayor Boss asked if that was not a separate issue to this. He said this is in the contract that based on whatever the index is, that we adjust to that. Customer Service Manager Threadgill answered correct, this is a negotiated annual adjustment to the rate. Mayor Boss said we don't negotiate it annually, we've already agreed that if this index goes up, then we will pay this. Customer Service Manager Threadgill said it can go either way, it has gone down once in the past seven years, but generally it goes up, and it is tied 93 percent of the CPI. Mayor Boss said these are two separate issues.

Commissioner Hernandez said he understands but wants staff to be prepared for when it comes time to negotiate a new contract.

Mayor Pro-Tem Baldwin moved to approve.

Commissioner Wright seconded the motion.

Roll call vote was taken.

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

Public Works Director Garner added that if there are any problems with Southwest, if they would let Public Works know and he will get those problems resolved.

Commissioner Hernandez said he wanted to make sure that they are documenting the issues. He gave some examples of where the driver could have logged issues, instead Commissioner Hernandez had to call Southwest to report the issues. He said document issues and look to see if there are ways to get money back from them.

9. Consider, and act upon, ordinance 1581 or 1582 for first publication to Opt-in to the Local Election Act. (Rachel Hughs, City Clerk) (Roll Call Vote Required)

City Clerk Hughs said both Ordinances are for opting-in to the Local Election Act. One of the Ordinances is for shortening the term by nine-weeks, and the other Ordinance is to lengthen the term by a year and 10-months.

Mayor Boss said adding a year and 10-months is more than 25 percent more to their term. He said he personally does not like that one. He said as he understands it, if they opt-in to the three months, they leave three months early, but they continue getting PERA. He asked City Attorney Schreiber to explain it to the Commission.

City Attorney Schreiber read the portion of Ordinance 1581 that explained that the City shall reimburse the elected official whose term is being shortened to what would have been the end of their elected term. Mayor Boss said if they are going to do this, shortening would be a much more reasonable way to do it, unless there is somebody that needs the eight-years to be fully vested in PERA. He asked City Attorney Schreiber if this would count, even though that elected official would not be sitting up there on the Commission. City Attorney Schreiber said she discussed this issue with Senator Ivey-Soto, and essentially the Commissioner whose term is shortened by nine-weeks would go on some type of administrative leave. She said of course they would not actually put this person on leave, but it is the same sort of coding so that they are still an "employee" of the City and still receiving those benefits.

Mayor Boss said there are people out there that would be very upset if he were to extend his term. He said he supports the one to shorten the term.

Commissioner Rardin said typically when they elect a County Commissioner, they don't actually take their seat until January. He asked how this is going to work for the City Commissioners. City Attorney Schreiber asked the Commission to look at page 1 of Ordinance 1581. She said it does say that the new term shall commence January 1st, 2020, and the new term shall commence January 1st, 2022. Commissioner Rardin has an issue with changing the Charter by Ordinance. He said if they have a Commissioner that resigns prior to their two-year mark, the Charter reads that the City must have a

Special Election, but according to the bill that Senator Ivey-Soto presented, is that you cannot have Special Election to elect people, only for questions. He said he asked Senator Griggs how they can get around that or what they do in a case like that and he answered that they either change the Charter or they change the law. He said Senator Griggs comment was that it would be fairly easy to change or amend the law. He said he is sure that they will not be the only community that has this issue. City Attorney Schreiber said they would have to change the law at the State level. She said State law preempts local law when it comes to elections. She said elections are not power reserve for the City for Home Rule Charters, they do not get to make their own rules in this area, they must follow the State. She said they did contact the Firm in Albuquerque and asked the same question to confirm Senator Ivey-Soto and the legality, that they can go ahead and change their Charter by Ordinance because technically the Charter now is opposite of what the State law says. She said their options are to make an Ordinance or they can bring back the Resolution that basically says parts of our Charter are invalid due to this new State law. She said passing this Ordinance will do that, in effect. She said the entire Municipal Election Code has been repealed and replaced with the Local Election Act. Commissioner Rardin asked even though our Charter requires a vote of the people to change it. City Attorney Schreiber said correct, because our Charter right now is illegal. She said elections are not a power left up to the Municipality, we must be in compliance with State law. Commissioner Rardin said they were in compliance up to the time that they changed it. City Attorney Schreiber said absolutely.

Mayor Boss said in the agenda report it says Las Cruces, Hagerman and Estancia have opted-in and other cities are in the process of opting in, but no other cities other than those three. City Clerk Hughs said those three are the ones that have completed the entire process. Mayor Boss asked if there are other ones that are still in the process. City Clerk Hughs said yes. She named several other Municipalities that are still in the process.

Commissioner Rardin asked how it is going to work in the event the City wants to pass a bond issue again. City Attorney Schreiber said the City can do a Special Election and it would be done by mail ballot. She also told Commissioner Rardin that there is some established case law that would allow them to amend the Charter.

Commissioner Rardin stated in the event they do not opt-in, the Charter will still not comply with the law. City Attorney Schreiber said correct, so then at that point staff would work on an Ordinance to get the Charter cleaned up.

Mayor Boss said the difference would be that City Clerk Hughs wouldn't be doing the drawing for the order of the people that show up on the ballots and some of the other things that she has done before. City Clerk Hughs said she would not be doing the drawing either way. Mayor Boss said if they didn't opt-in, the City Clerk would be doing it just like they've done it before except we would have to adopt to the State rules, where she does not make that selection, someone at the State level does. City Clerk Hughs said yes, the State would do it.

Commissioner Rardin asked if this has to be done by January 30th. City Clerk Hughs said by January 30th, the State has to have our adoption, the first and second publications. Commissioner Rardin said so they essentially need to do it by tonight, otherwise they will not be able to make the publication dates. Commissioner Sikes answered yes. City Clerk Hughs said if the Commission passes the first publication tonight, the second publication would come before the Commission on the first meeting in December, and then they would be looking at 10 more days after that second publication to have everything finalized.

Commissioner Sikes moved to approve Ordinance 1581 for the shorter term.

Mayor Boss seconded the motion.

Roll call vote was taken.

Motion carried with a vote of 5-2-0. Commissioners Rardin and Hernandez voted nay.

10. Consider, and act upon, approval of Amendment 4 to the Engineering Professional Services Agreement with Smith Engineering Company for the McKinley Channel Utility Relocation project. (Nancy Beshaler, Project Manager and David Nunnelley, Water Operations Manager)

Project Manager Beshaler said there is a section of water line at Washington Avenue that is being relocated due to the Channel. She said that line is going to be put in as an 18-inch line and tie into a 16-inch line on the north side, and as it runs south it is going to tie into a 12-inch line. She said there will be a 700-foot section where it will tie into this 12-inch line and then go back up to an 18-inch line. She said the Water Operations Manager requested that we incorporate changing that 12-inch line to an 18-inch line. She said this work was too late to get incorporated into the McKinley Channel project, so the way they are going to do it is they are going to do a separate set of plans, and do the work separate of the McKinley Channel project work, but it is meant to tie into the McKinley Channel Utility relocation work.

Mayor Boss asked if this is costing the City more. Project Manager Beshaler said all the work that is done for utility relocation of City utilities for McKinley Channel, all the costs are born by the City. He asked Project Manager Beshaler if the City has the resources for this budgeting. She answered we do.

Commissioner Hernandez moved to approve.

Commissioner Wright seconded the motion.

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

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

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

ADJOURNMENT

Commissioner Payne moved to adjourn at 7:26 p.m.

Commissioner Hernandez seconded the motion.

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



ATTEST:


City Clerk Rachel Hughes


Mayor Richard Boss

(Prepared by Eric Barraza, Deputy Clerk)

Approved at the Regular Meeting held on November 20, 2018.