

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
October 23, 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. Mayor Pro-Tem Baldwin was as absent. City Clerk Hughs announced there was a quorum present. Invocation was given by Reverend Harp and the Pledge of Allegiance was led by Commissioner Sikes.

APPROVAL OF AGENDA

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

Assistant City Manager Cesar asked to pulled item 6. He will bring it back to a future meeting.

Commissioner Hernandez moved to amend the agenda.
Commissioner Sikes seconded the motion. Motion carried with a vote of 6-0-0.

PUBLIC COMMENT

None.

CITY MANAGER'S REPORT

City Manager Paluch made the following remarks:

1. She announced Stella Rael has been promoted to City Planner, and Evelyn Huff has been promoted Interim Finance Director. She gave a shout out to the Human Resources Department, and thanked HR Director Josselyn for stepping in and supporting the Finance Department the past several months.
2. She announced the pool will be opened Monday through Friday, for lap swim, from 11:00 a.m. to 1:00 p.m., and additionally Monday through Friday from 4:30 p.m. to 6:30 p.m., for lap swim and public swim. These new hours will go into effect November 5th, and they anticipate the pool will be opened until December 15th.
3. She said this week the City is recognizing all of their employees for Employee Appreciation week.
4. She said this weekend the City had several water main breaks that caused water to be disturbed in several areas of our community. She thanked all the people who worked on these breaks.
5. She announced she will be starting a new section of Manager's comments where she talks about good things happening throughout the City. She announced Project Manager Balderrama celebrates 25 years of service with the City. She said the City received just under half of the refund of the LEDA dollars from Premier Pellets. The City has setup a payment plan for the remaining portion of the refund. She thanked City Attorney Schreiber for pursuing that money. She said the Police department received kudos for their work in responding quickly to a substance abuse and mental crisis incident. The City Clerk's office received kudos for providing free notary services. The Fire Department reached a total of 200 student this year for fire prevention week. She said Isaac King has been battling leukemia since the age of 5. He has been trying to get patches from Fire Departments from all 50 states and ended up with over 350 patches. He sent a warm letter thanking the Alamogordo Fire Department for the patch we sent him. He is now 8 years old and just finished therapy on October 20th.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Sikes made the following comments:

She said she and the Mayor attended the NMML Conference in Roswell. She talked about some of the presentations they heard while at this Conference. She also talked about the Council of Governments meetings. She reminded the Commission that she is more than happy to share the information from these meetings with them.

Commissioner Hernandez made the following comments:

He talked about vehicles towing multiple vehicles at one time and how dangerous that is. He said he does not know what the rules and regulations are, but he does not want them coming through our town anymore. He said he would like to see the City start stopping or ticketing them and sending them through another route. Mayor Boss said he has seen them, but usually on the bypass. He asked if we had authority on the bypass. Commissioner Hernandez said yes sir.

Commissioner Hernandez also talked about the opening of the Family Fun Center. He said Mr. Chun said it was going to be opened by the end of October. Commissioner Hernandez said Mr. Chun is not having a hiring situation until tomorrow. Commissioner Hernandez said he doesn't see Mr. Chun opening by the end of October. He said he is going to ask that if Mr. Chun does not open by the next Commission meeting, that they have something on the agenda that he is back up here telling the Commission when he is going to open. Commissioner Hernandez said they need to get a set date from him, and start hitting him with liquidated damages, if they can. He said that is his opinion.

Mayor Boss asked if all the Commissioners would like to see that on the agenda. Commissioner Rardin said if he is not open by October 31st, he would. Commissioner Payne answered no.

Commissioner Payne made the following comments:

She said they need to look at the minutes to see what Mr. Chun exactly said, because she recalls him saying that he was shooting for the end of October.

Commissioner Hernandez said he asked Mr. Chun when he was going to open, and he said at the end of October. Commissioner Hernandez also said his next question was this year, and Mr. Chun answered yes. Commissioner Payne said he was shooting for the end of October. Commissioner Payne thought that Mr. Chun would not be able to give Commissioner Hernandez a specific date because of the unforeseen.

Commissioner Hernandez asked Commissioner Wright when that gym was going to open. He answered December 24th is the deadline to turn it over. Commissioner Payne asked Commissioner Wright if he foresees any problems. He said there will be, but. Commissioner Payne said that is what she said, you cannot predict this stuff, and Commissioner Hernandez knows that.

Commissioner Hernandez said it is a brand-new building. Commissioner Payne said if you want it on the agenda that is fine, but she thinks they are setting Mr. Chun up for failure when they do that kind of thing because nobody can predict what will happen. She said she knows that Mr. Chun is working on it. She said there is no way that Mr. Chun is going to be able to tell Commissioner Hernandez exactly what day, maybe, if they got the contractor in here, maybe, the contractor could give a date.

Commissioner Rardin made the following comments:

Commissioner Rardin said every contract that the City awards to a contractor gives them a deadline and the majority of the time those contracts are fulfilled by that deadline. Commissioner Payne replied that Mr. Chun is not the City though. Commissioner Rardin said essentially, he is.

Commissioner Rardin mentioned the Republican Party meeting Thursday night where State Auditor Johnson will be in attendance. He mentioned to City Clerk Hughs that she may want to post a potential quorum notice in case more than three or four Commissioners plan on attending.

CONSENT AGENDA

1. Approve the minutes for the October 2, 2018 Special meeting and the October 9, 2018 Regular meeting. (*Rachel Hughs, City Clerk*)

Commissioner Rardin moved to approve item 1 of the consent calendar.

Commissioner Hernandez seconded the motion.

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

NEW BUSINESS

2. Consider, and act upon, a request to utilize the portable stage for a special event at the Otero County Fairgrounds at no cost. (*Stephanie Hale, Thrive*)

Ms. Hale requested to utilize the portable stage for their upcoming event on Saturday at no cost.

Mayor Boss asked Ms. Hale to give a little information on her project. She explained what Thrive does. She said they do fund raising events to pay their operations. She said the event is the Annual Chili Cook-Off, and they have combined it with the Burning of the Bull and Día de Los Muertos (Day of the Dead) at the Otero County Fairgrounds. She said they are doing their part of bringing their own adventure to Alamogordo with the whole new Campaign. She said if they can combine efforts they can do more financially, and for a bigger event.

Mayor Boss asked if the Chamber of Commerce has anything to do with this event. Ms. Hale answered no sir. She said this is strictly non-profits putting their resources together and having an event.

Commissioner Sikes asked her if they were charging for the event and how much. Ms. Hale answered yes, \$10 per person and 12 and under is free. Commissioner Sikes asked if the County was charging them to use the fairgrounds. She answered no, the Otero County Fair Board/Association is partnering with them on this event.

Commissioner Sikes mentioned a few months ago the Commission determined that if someone was a partner with the City of Alamogordo that they would no longer be charged, and it was brought up a couple of times during that discussion that they did not want to set a precedent if someone was not a partner that they would have to hardline it and charge them. She suggested they charge a token amount.

Ms. Hale asked what constitutes being a partner. City Attorney Schreiber stated in order to become a partner with the City you have to submit a letter of interest to the City Commission and they decide if you become a partner or not. Ms. Hale asked in what aspect. City Attorney Schreiber said you would receive free rentals from the City and reduced rates off of other things. She said in the partnership policy it does say that further rentals our partners are still charged. She said they can certainly come before the Commission to have those fees waived additionally, but they just use the City's facilities.

Mayor Boss asked doesn't the City usually have a contractual relationship with them also. City Attorney Schreiber answered correct.

Commissioner Sikes said she does not think there is anything precluding them from attempting to become a partner and then maybe the City would be allowed to have their name as a partner with them on this type of event.

Commissioner Hernandez asked City Attorney Schreiber what she suggest the rate be for this item. She said that is a Commission decision.

Commissioner Rardin asked how much it actually costs the City. Assistant City Manager Cesar stated for two people it would take about an hour, and the same for tearing it down and bringing it back to the yard. Ms. Hale asked if that is something that City staff must do for insurance purposes. City Manager Paluch

nodded her head yes.

Commissioner Rardin asked what the normal rate is, it says \$1,000 but that is for three days. Ms. Hale said the reason she put three days is because their event is on Saturday and she didn't think that City staff would be bringing it out Saturday and picking it up the same night. Assistant City Manager Cesar said normally it is delivered the day before the event and picked up the next day, so it is three days.

Mayor Boss said the fee is not only to cover the personnel time of going out, but it is more to be able to have a fund to repair it or replace it when necessary.

City Manager Paluch said there are other options. She said obviously Thrive has already partnered on this event, but the City does have a permanent stage at Washington Park that does not require setup and take down and is far less expensive than the temporary stage. She said they may want to think about utilizing that. Ms. Hale said they actually considered that before this opportunity presented itself.

Commissioner Hernandez asked Ms. Hale when they changed their name from Untied Way to Thrive. She answered a year ago. Commissioner Hernandez asked if they are doing 100 percent where everything stays here now. She answered yes, a lot of donations that were received under a previous umbrella, they would take quite a chunk of donation and operations to pay for their overhead. She said now that they are not affiliated with another entity. She said all of their donations stay in our community or where ever you want your donation to go to. They do their fundraisers so that their operations can be paid without using your donations, they keep that separate.

Commissioner Hernandez made the motion that they honor their request and charge \$100 for this one single item and recommends that Thrive put their paperwork to partner up with the City, and he would pay the \$100.

City Attorney Schreiber clarified that permanent partners are the ones that the City contracts with, and a partnership and sponsorship are ones they do per event. She said if they are talking about putting in paperwork for a permanent partnership, she wanted to make sure that they are clear because she did not use the right nomenclature when she said that earlier.

Commissioner Hernandez asked what works best for them. City Attorney Schreiber said the permanent City partnership policy is one where they would submit a letter to the Commission formally requesting that and then they would become a permanent City partner. Mayor Boss asked if they would have to come before the Commission. City Attorney Schreiber said they would have to come before the Commission for rentals.

Commissioner Hernandez said he would make that motion to become a permanent partner. Ms. Hale asked where she would get that paperwork. City Attorney Schreiber told her that they could chat about it.

Commissioner Hernandez moved to approve.

Commissioner Rardin seconded the motion.

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

3. Discussion and direction to staff on Opting-in to the Local Election Act. (Rachel Hughs, City Clerk)

City Clerk Hughs said staff is seeking direction from the Commission on if they want to opt-in to the Local Election Act, and if so, if they want to make their terms longer or shorter

City Attorney Schreiber said a concern that her office has had is what could happen if they shorten the terms, and a Commissioner runs for re-election and does not win the election. She said they may come back and say they have a vested interest or property right in those additional nine-weeks that we would agree to take from them. She said it would be her recommendation if they do that, they pay that Commissioner the same amount they would have regularly earned and go ahead and extend the Health Insurance for those nine weeks as well. She said it is comparable to an employee being put on

Administrative Leave with pay. This would give the City the ability to pay that Commissioner to finish that term that they were elected to serve, and it would be able to continue the health insurance out as well. Mayor Boss said only for nine-weeks.

Commissioner Sikes said it would cost approximately \$1,000 to do that and avoid lawsuits.

Commissioner Hernandez said because of our small-town politics and the effect this would have because he is one of the Commissioners that this would affect, he abstained from discussion or the vote on this. He said he does not have a problem either way and he will support whatever the Commission decides.

Commissioner Sikes asked Commissioner Hernandez with that logic, shouldn't they all abstain. He said no, just four of us. He said that is his opinion. He said it could affect him politically, as far as, certain people are concerned that he did this to extend or shorten his term. He said he will do whatever is in the best interest of the City.

Commissioner Rardin said Commissioner Hernandez is right. He said you are not allowed to take an official act that benefits themselves financially, so technically if they vote tonight to extend or shorten their term, somebody could misconstrue that to be that they are benefitting themselves financially.

Commissioner Payne pointed out that it would affect all of their terms. Commissioner Rardin said it is not extending three Commissioner's terms, and then said I guess it would.

Commissioner Rardin asked City Clerk Hughs how she felt about losing control over her elections. She said she and the Deputy Clerk have talked about it and they both agree that they are for the County taking the elections. She gave several reasons as to why they were in favor of it.

Commissioner Rardin said it really seemed confusing. He said he understands it is not going to cost as much money. Mayor Boss said he thinks Commissioner Rardin is right, there is more to evaluate than just the cost. He said he has some issues with it as well. He shared some of his pros and cons for opting-in. He said the big thing he dislikes is the partisan politics. City Clerk Hughs clarified that the election would still be non-partisan and the election would be held on opposite years from a General Election. Mayor Boss said there has been quite a bit of controversy over this right now.

Commissioner Rardin clarified that the City could op-in or back out of it at any time. City Clerk Hughs said that is correct.

No Action Taken.

4. Presentation highlighting the ongoing activities of the Alamogordo Fire Department Code Enforcement Division. (*Jim LeClair, Fire Chief*)

Fire Chief LeClair gave a PowerPoint presentation and showed before and after pictures of properties that Code Enforcement found to be in violation of Ordinances that they enforce. He said as of to date, Code Enforcement has had 87 mobile homes removed, 7 structures and one to be removed in the near future. In addition, Code Enforcement had a total of 5,502 calls in 2017, and for 2018 they are at 5,074 calls. He showed the different Ordinances that they enforce. (See Blue Book for Power Point presentation)

Commissioner Payne commented that today she was in a business and the customers were talking about the weeds in Alamogordo. She said she told them that we don't live in a big City until it is time to clean it up, and all of a sudden, the City seems very large. She said Fire Chief LeClair and the entire Code Enforcement deserves all the kudos in the world because she has seen remarkable improvement. She said typically when she emails or calls Code Enforcement about a problem, it's already been addressed.

Commissioner Hernandez said they have a potential partner that came in front of the Commission earlier, that has what they call a Day of Caring, once a year. He said he knows that Fire Chief LeClair gets lists of people who would like to clean their yards but don't have the ability or the money to do it. He said maybe once we become partners, maybe they can start giving this partner a list of some of these.

City Attorney Schreiber told Commissioner Hernandez he is correct. She said she has watched these Code Enforcement Officers personally buy people weed eaters, she has watched them go to their house and show them how to use it, show them how to take weeds down and talk to them about how they can get things removed. She thinks this Code Enforcement department goes above and beyond what the City can begin to expect. She said they are wearing bullet proof vests because of how they are being treated on the daily.

Commissioner Hernandez said he understands that most of time they are in a bad situation when they are going to someone's house. He thanked Fire Chief LeClair.

5. Consider, and act upon, the award of Public Works Bid No. 2018-005, through Open Market, to L.E.R. Inc. dba Renner Sports Surfaces related to Washington Park Basketball Courts Reconstruction (NB1804) in an amount not to exceed \$171,024.48, including NMGR. (Edward Balderrama, Project Manager)

Project Manager Balderrama gave the scope of work for the project. He said the reason this is being procured through the open market is because they went out for bid twice on this project and both times they did not receive any bids. He said there is a correction, the available amount should be \$174,000.

Mayor Boss asked him if he said the bid was adjusted. Project Manager Balderrama said the available amount is \$174,000, but the award amount will still be \$171,024.48.

Commissioner Rardin asked for clarification on how many times they have to go out to bid before they are allowed to do this. Project Manager Balderrama answered twice, according to Ordinance 2-13-220. Commissioner Rardin asked him if this is CES. Project Manager Balderrama answered they are not. He said when this project was first funded they tried to go through CES process, but they are not listed as a vendor through CES, so they went out for bid on it. Commissioner Rardin asked if they said why they did not bid on the first two bids. Project Manager Balderrama said he didn't ask them. Commissioner Rardin said it is odd that they wouldn't bid on it knowing that they did work for the City before.

Mayor Boss asked Project Manager Balderrama if it was tough to find anyone to do post tension in this area now. He said there are contractors in town that do it, but there were some certain requirements that the City was looking for as far as the specifications on what we wanted. He said we wanted to make sure that they were members of the Americas Sports Builders Association and they were certified tennis court builders.

Commissioner Hernandez moved to approve.
Commissioner Wright seconded the motion.
Motion carried with a vote of 6-0-0.

6. Consider, and act upon, either suspending or canceling the Scenic Drive Extension to Mesa Verde Ranch Road project. (Brian Cesar, Assistant City Manager and Bob Johnson, Engineering Manager)

Item removed.

7. Consider, and act upon, first publication of Ordinance No. 1579, Case: Z-2018-0004(A), 1451

Galway Dr., Rath Tara Estates 1 & 3, Replat B, Block 4, Lot 7B, to change zoning from R-1 Single Family Dwelling District to R-4 Multiple Family Dwelling District. (Acting City Planner, Stella Rael) (Roll Call Vote Required)

City Planner Rael said the applicant owner is the German Catholic Church. She said the application was filed on September 5, 2018 and the legal notice was published on September 16, 2018. She said 29 Certified letters were mailed out to all property owners of record within the 200-feet from the property excluding public right of way of the property for which the rezoning is sought. She said she did an additional 29 letters, regular first class, addressed to residents within the 200-foot radius. She said as of October 15, 2018 there have been five letters returned undeliverable. She received one email requesting clarification on R-4 zoning. On October 4, 2018 she took this in front of the Planning and Zoning Board, and they recommended approval by a vote of 3 to 0.

Commissioner Rardin asked if they rezone to R-4 what will it be utilized for. City Planner Rael said if this rezoning passes, Gallien Therapy is looking at taking their speech therapy department to that location.

Commissioner Payne asked if we pass this what else could it be. City Planner Rael said there are multiple things that could go in there. She named off a few things that could possibly go into that location, if it was rezoned. Commissioner Payne asked if she got any letters back. City Planner Rael said no ma'am. She said to give you a little history, last year they took this in front of Planning and Zoning. There was another person interested in purchasing the property, but they wanted it rezoned to C-3. There was a lot of opposition. She said C-3 is our Business District, and they were wanting to have a catering business. She said it never made it to the Commission because Planning and Zoning denied the request, and the property owners decided to end it at that. She said Mr. and Mrs. Gallien had an open house for the community. She said the woman that started the petition when it was going to C-3 actually came to the Planning and Zoning meeting in October and talked in favor of Gallien Therapy there. Commissioner Payne said that makes her feel better.

Commissioner Wright said he did attend the open house. He said from his take, he thinks it has been welcomed.

Commissioner Payne said she wanted to be clear that she thought Gallien Therapy was a fabulous idea. She said the question was brought to her as to what happens if they fail to become Gallien Therapy or whatever.

Commissioner Hernandez moved to approve.

Commissioner Wright seconded the motion.

Roll call vote was taken.

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

8. Consider, and act upon, first publication of Ordinance No. 1580, Case: Z-2018-0005 (A), 1395 E. First Street, Wesley Subdivision, Lot 1B, to change zoning from R-1 Single Family Dwelling District to C-3 Business District. (Acting City Planner, Stella Rael) (Roll Call Vote Required)

City Planner Rael said the applicant owner of this property is Grace United Methodist Church. She showed a map of the location. She said the application was filed on September 6, 2018 and the legal notice was published on September 16, 2018. She sent 7 certified letters out to all property owners of record within the 200-foot radius. As of October 15, 2018, there have been no letters returned undeliverable and she has not received any phone calls, emails, or any communication at all. Planning and Zoning Board did recommend approval on October 4, 2018 by a vote of 4 to 0.

Commissioner Rardin asked what the plan for the use of it is after it is rezoned. City Planner Rael said they are looking at selling it. He asked if this area is utilized for parking when they have Soccer going on. City Planner Rael said she did not know if there is an agreement with anybody or if they just let

them park there.

Commissioner Hernandez asked Assistant City Manager Cesar if he sees any issue with going to C-3. He answered no, and to go back to the question about soccer, the majority of the soccer games or practices have been moved out to the Balloon Park. Commissioner Hernandez asked if sees any issues with any of Washington Park going to C-3 or anything that could be put there. After a long silence, Commissioner Hernandez said that is what he did, he went through his head and thought about anything that could be a problem because of the park. He said he really doesn't see anything. He also mentioned Dollar Stores popping up and the metal buildings. He thinks the Commission really needs to get back on that.

Commissioner Hernandez moved to approve.

Commissioner Payne seconded the motion.

Roll call vote was taken.

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

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

Mayor Boss read the openings and appointed Jeffrey Rabon to the Airport Advisory Board and Victoria Eastman to the Cemetery Board. No one was opposed.

Commissioner Rardin asked staff to possibly looking at acquiring the property that they just discussed for the C-3 rezoning. He said additional parking for Washington Park would be beneficial.

ADJOURNMENT

Commissioner Rardin moved to adjourn at 8:13 p.m.

Commissioner Hernandez seconded the motion.

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



ATTEST:


City Clerk Rachel Hughes


Mayor Richard Boss

(Prepared by Eric Barraza, Deputy Clerk)

Approved at the Regular Meeting held on November 6, 2018.