

**CITY OF ALAMOGORDO, NEW MEXICO
SPECIAL MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
OCTOBER 2, 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

Mayor Boss called the meeting to order at 6:31 p.m. Roll Call was taken by the City Clerk. Mayor Pro-Tem Baldwin was as absent. City Clerk Hughes announced there was a quorum present.

APPROVAL OF AGENDA

Commissioner Hernandez moved to approve the agenda.

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

PRESENTATIONS

1. Presentation on the Local Election Act. (*Daniel Ivey-Soto, Senator*)

Senator Daniel Ivey-Soto presented a power point presentation of the Local Election Act. He said the Local Election Act was effective July 1, 2018, and it establishes the Regular Local Election in November of odd-numbered years. He said it also establishes Municipal Officer elections in March of even-numbered years. He explained why they did this bill and what it is about. He explained that Municipalities are not automatically in, they have the option to be included. He explained the Municipal Election Code and the School Election laws were repealed and no longer exist, as well as other local election laws. He said all elections now operate under Chapter 1 Article 22, and all elections in New Mexico now have the same procedures, the same protections and processes for voters. As of July 1, 2018, all Special Elections in New Mexico are now conducted by mail with returned postage prepaid. He said if a municipality takes no action, elections will remain in March of even numbered years and the City Clerk will continue to conduct Regular and Special Elections, other than Recall Elections. He also said all forms and procedures must be approved by the Secretary of State for these elections. He said early voting will be the same days and hours as in the Primary and General Election. He said if you have more than 10,000 registered voters, the municipality must operate an early voting site in addition to voting in the Municipal Clerk's Office for 28 days. He said the City will also operate, 12 of the last 17 days, an early voting site at another location. The Federal Qualified electors, the Military and Overseas voters, has the same rights as in the Primary and the General elections. All the polling places will have accessibility requirements, and all the Proclamations and materials have to be in English and Spanish. He said the election process begins with the Secretary of State issuing the Proclamation for the Municipal Officer elections. The County Commission canvasses the Municipal Election results, and the Secretary of State issues the election certificates. He said the City Commission can by Ordinance opt-in to the Regular Local Election Act. He said all other local governments with taxation authority are in that day. He said this applies regardless of whether you have Home Rule status and regardless of the language in your Charter. If Municipalities opt-in, then Municipal elections will be held in November of odd numbered years along with all the other local non-partisan races conducted by the County Clerk. The Municipal Officers will go first on the ballot, then the School Board, the Community College, then everyone else after that. He said this will extend everyone's term of Office. He said for municipalities because the term of office would expire December 31, new Officers will take Office

January 1. He addressed how to get from March, in terms of election and from the first or second week of March to an election in November and a term that ends in December. He said there are two ways to go. If a municipality chooses to opt-in, that municipality determines if they want to adjust by nine weeks serving in office backwards or if they want to adjust by a year and 10 months forwards. The Municipal Clerk will still conduct any supplemental election procedures they may have. He said there is an assessment on all the local public bodies for the election. He said that assessment comes out to \$250 per million of general fund expenditures. This assessment does not include Special Elections, the municipality will pay the actual cost of that election. He said this will go into a fund administered by the Secretary of State and used to reimburse the County Clerks for conducting the election. He said elections in New Mexico, the division of expenses on those is that the Secretary of State pays for the ballots, and the ballot marking devices, and the County pays for poll workers, polling places and publications. He showed some figures of general fund expenditures and estimated annual assessments for Otero County Municipalities. Based off these figures, the City of Alamogordo would pay an annual assessment of \$3,750. He said because the County Clerk does Vote Centers County-wide, voters can vote at any polling place in the County, just like a Primary and General Election. He mentioned the process for run-off elections.

Mayor Boss asked Senator Daniel Ivey-Soto if there were any surveys taken of what other States do in regard to their voting. He answered yes. He explained what other States do and why they choose not to follow those models. He said what they learned is what they really didn't want to do, more than anything else.

Commissioner Sikes asked who mails out the ballots in Special Elections. Senator Ivey-Soto said the Municipal Clerk, but if you opt-in the County Clerk mails out the ballots. He explained that they will be bring forth, this next Legislative session, is for those municipalities that don't opt-in, the ability for the Municipal Clerk to enter into an MOU (Memorandum of Understanding) with the County Clerk and to have them send out the ballots for Special Elections. Commissioner Sikes said the annual assessments are minimal. She asked if the County is responsible for paying the poll workers. He said yes that is right. He stated if you opt-in and pay the assessments for the regular local election, you do not pay another single penny for it.

Commissioner Sikes asked City Clerk Hughs how much our current elections cost. She answered for 2018, it was \$21,768. She said she had a twenty-year list of election costs and in 2012, it was the highest \$35,000 and in 2008, it was the lowest at almost \$15,000.

Commissioner Sikes said this is a really good deal for us, but we need to cognizant of the fact that it could be a burden on the County Clerk. County Clerk Holmes said no.

Senator Ivey-Soto said when the municipality operates an election right now, the voting list comes from the County Clerk. He said the County already has the boundaries of all the Jurisdictions in their software. He said the County Clerk already provides voter lists, voting machines and general help with many of these elections, so doing just one election is a lot simpler for the County Clerk to conduct the election.

Commissioner Rardin asked if we choose to not opt-in to this, basically the elections will stay the same and our Clerk will run them. Senator Ivey-Soto said if you don't opt-in, your Municipal Clerk continues to operate your elections, but because they did away with the Municipal Election Code then all the procedures are under the Election Code. He gave examples of provisional ballots, military and overseas voters, the requirement of translating into Spanish, Accessibility requirements and the alternate voting location for early voting. Commissioner Rardin said it sounds like it is going to complicate it on our end and it also sounds like we are going to push some costs over onto the County Clerk's Office and more than likely they'll want reimbursement for a portion of that from the City. Mayor Boss said County Clerk Holmes is nodding her head no.

Senator Ivey-Soto said the reason it is cheaper on the assessment to opt-in is because everyone is

already paying the assessment in, which is why the cost seems like such a deal.

Mayor Boss asked County Clerk Holmes if she had comments. He also announced that he was going to allow questions from people in the audience.

County Clerk Holmes said she feels this is a great opportunity for all of our voters to be treated fairly and not to be disenfranchised. She said there are times that people do not know that different elections are going on. She said every November there will be an election and people will get used to that. She said if the City decides not to opt-in, voters may or may not make it to your election because they are thinking that everything is going to be on this Local Election ballot. She believes it is going to save the City and taxpayers a lot of money. If the City chooses not to opt-in, the Municipal Clerk will be responsible to run that election and the burden of that cost will fall on the City. She said this is a win-win situation for everybody if the City opts into this. She said that is her opinion.

Diana Brusuelas-Guilez commented on the following:

She stated she is the former Clerk for the Village of Tularosa. She asked how soon this comes about if they opt-in. Senator Ivey-Soto said the Local Election Act went into effect July 1, 2018. A municipality that wants to opt-in must pass their Ordinance and file it with the Secretary of State, no later than January 30, 2019. He said that will also be the Ordinance where the Municipality would make the decision of going forward or backwards on their terms. Ms. Brusuelas-Guilez asked if the assessment gets paid to the Secretary of State, and if they then pay the County. He answered correct.

Senator Ivey-Soto said a Municipality that opts-in can change their mind later and opt-out.

Blanch Wright commented on the following:

He stated he was the Secretary of the Cloudcroft School Board. He asked if he understood that there are no requirements that they have to fulfill as far as being extended for the 10 months. Senator Ivey-Soto answered that is right. Mr. Wright asked when they have to register to be on the ballot to be elected in. He also asked what the rankings of bonds on the ballot are. Senator Ivey-Soto said School Board members do not have to do anything, their terms are automatically extended by 10 months. He said 90 days before the Regular Local Election, the Secretary of State will issue the Proclamation calling the Regular Local Election and identifying all offices that are to be elected. Filing day for the Regular Local Election is 70 days prior to the election. He said any ballot questions go onto that Regular Local Election that passes the matter in their governing body and files it with the County Clerk at least 70 days prior to the Regular Local Election. He said the one asterisk on that, this is really an Albuquerque issue, but any Charter change, you have to layout the entire section of the Charter. He said if you put something on the ballot that forces a second page then you will have to pay for that second page of the ballot.

Tim Wolf commented on the following:

He stated he is the Secretary of the Alamogordo School Board. He said the SB 9 Mill Levy is coming up for them, which they had scheduled for February, and now they cannot do it now. He said if they wait until November they lose a year's worth of revenue because the November Election is too late for the Treasurer and Assessor to do their thing to keep the money flowing. He said they are looking into being forced to have a Special Election this spring to keep their revenue stream continuous. He said he does not know any way around that. Senator Ivey-Soto said he does. He explained two solutions for this issue.

Margie Trujillo commented on the following:

She stated she is the Mayor of Tularosa. She asked if they did a survey of the Municipal Clerks asking if they thought this was a good idea. She also asked if down the line, they will be taxed in any way to cover costs. Senator Ivey-Soto said three or four years ago, the Municipal Clerks passed a

Resolution to get rid of the Municipal Election Code and for everybody to operate under the Election Code. In addition to that, the feedback they have gotten is that there's a fairly solid one-third of the Municipal Clerk who feel very strongly that their job is to run the election for their Municipality. He said there is another one-third of the Municipal Clerks that has been calling him regularly for the sample Ordinance, so they can put it before their City Council to send the election to the County Clerk. He said there is another fairly solid one-third in the middle that either does not want to tell them how they think or their position is whatever their governing body decides to do. He said many of the City Clerk's came to him saying that they want to continue running the election, but they did not want to run the Special Elections.

He said his perception of future costs will only get better for the local governments. He said the County Clerk's Affiliate have voted to try and get the State to do a dedicated Election Fund at the State level to cover the costs of elections that would not only take care of a lot of the enhanced cyber security needs and some of the other technological things, but would also allow us to get rid of the assessment all together for the local governments.

City Clerk Hughs pointed out that the City uses a lot of the County Clerk's equipment already, and the City pays for that. She then asked if there is a blackout time because of the November Election what's the timeframe that the City needs to be within. Senator Ivey-Soto said there is a blackout rule on statewide elections, where you cannot have a local election 70 days before or after a statewide election. He said in terms of the cutoff for opting in is January 30, 2019 for the cycle. If you miss the cycle, you could do it by January 30, 2021. He said you can pass that Ordinance at any time between now and January 30th, 2019.

PUBLIC COMMENT

Diana Brusuelas-Guilez commented on the following:

She asked Senator Ivey-Soto why he was against the portion of the Act that had the assessment. He said all of the local public bodies, including Municipalities, are political subdivisions of the State. He thinks in a democracy, it is the responsibility of the State to provide for the elections, and then once that has been provided for, that provides the authority for each local government to then go and do what they need to do to serve their constituents.

Margie Trujillo commented on the following:

She said they are having an election in March for two Trustees. She asked if they pass this Ordinance before January 30th, do they get to run in November instead of March. Senator Ivey-Soto answered yes, they would.

Commissioner Rardin asked if they choose to opt into this, we have an election in 2020, so would those terms shorten. He said there were two options, to shorten the terms by 9 weeks or lengthen the term by a year and some change. Senator Ivey-Soto said yes sir, a year and 10-months. Commissioner Rardin asked if it would go from March of 2020 to November of 2020. Senator Ivey-Soto answered it would go to November 2021.

Mayor Boss thanked Senator Ivey-Soto.

ADJOURNMENT

Commissioner Hernandez moved to adjourn at 7:43 p.m.

Commissioner Rardin seconded the motion.

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

October 2, 2018

City of Alamogordo Regular Meeting

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Mayor Richard Boss

ATTEST:


City Clerk Rachel Hughs

(Prepared by Eric Barraza, Deputy Clerk)

Approved at the Regular Meeting held on October 23, 2018.