

**CITY OF ALAMOGORDO, NEW MEXICO
SPECIAL MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
AUGUST 21, 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 6:29 p.m. Roll Call was taken by the City Clerk. City Clerk Hughs announced there was a quorum present.

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.

WORKSHOP

1. Presentation will be made on the Rocket City Fun Center. (*Jay Chun, Manager of Rocket City Fun Center*)

Mr. Chun gave some history on how he became involved with the Family Fun Center project. He said he knows there are a lot of questions on why it has not opened, and he explained that the kitchen equipment would not work with the full kitchen design of the center. They needed something more solid, so they exchanged the kitchen equipment. He stated that he is within the budget of the \$. He said it will cost \$53,000 for TV projector screens. Mr. Chun said they have changed plans 7, 8, 9 times. He said he does not want to make changes later and that is why he is making changes now. He stated they are at the second stage of moving forward. He said their goal is to be open in October and probably start hiring by the end of September. He said if anyone has any questions they can submit them to their Facebook page. He said the only thing they have not done major, was the exterior construction. He wanted everyone to know, the Commission and public that this is not a simple, small 3000 square foot restaurant that they are making changes to, this is the entire 36,000 square foot building that they are adding and making changes to make sure that this is an excellent fun center that everyone can be proud of. He said there has to be some programming done for cards that people will be able to use when playing games. He said he was hoping to bring something printed out, but his computer broke down and he will get it to City Attorney Schreiber or City Manager Paluch. He stated there is no hidden agenda. He said the project is moving along. He wants everyone to support the project. He apologized to the public for delays. He said he cannot give them a specific date, but he will try by October. He said they had to put a big pizza oven in and the previous plan did not account for this. He asked the Commission and the public to allow him to do his job as quickly as possible. He stated the people of Alamogordo deserve this fun center. It takes a lot of time to build a fun center and he just took over in April. He stated it is not fair to him to be critiqued and asked people not to spread rumor. He came because he likes the town. He stated he is not getting the support that is needed, and he is frustrated, and it is stressing him out. All the negative comments are not going to help the community or help the business in this town. He said he cannot do this by himself he needs help from the Commission and the community, there is too much negativity. He stated he can drop this project and go somewhere else. He said if you can find someone that could do a better job and better passion than he has in this project, then find someone, but he does not think you will. He said whatever they feel, let him finish the project and attack him later. He asked if they can work together.

He said this was to be more of a presentation, he wanted it to be more of a discussion. He said they are finalizing the contract on the construction, so construction will be starting soon. He said they are moving just not at the pace you all wanted. He said in a perfect world it would be perfect, but he did not get a perfect building nor was the project on a perfect setting. He said he is doing his best to make sure that things are moving, and he hopes they can all work together to make sure they knock off all the nonsense out of the way and he hopes the public can give more positive feedback on how things are. He asked that anything related to the City please send their comments to the appropriate pages. He said he will continue to press forward, and he hopes he got his point across.

He wanted to address another issue concerning Mr. Williams. He said Mr. Williams had helped him tremendously but whatever happens with Mr. Williams and the City he does not want to get involved in that. He said there are rumors that Mr. Williams and his wife are going to take over this thing and do all that. He said if it didn't come from Mr. Chun, don't think that is what the direction is. He said officially on the record, he did not hire him, or has he paid him. He said Mr. Williams left the City or whatever the situation is, that's his situation, it has nothing to do with me. He moved on to the Governmental Conduct Act. He said because of the scenario and what the whole thing looks like because he is involved in the project, he read it. He did not think it has anything to do with him, personally. He said if Mr. Williams doesn't represent the project in any other way, that is the only section that he sees that might be of an issue. He asked if he has to go through the Government Conduct Act, for a project, for a guy who left the City, and for him having to deal with this issue after, this doesn't make sense to him. He asked if the City was going to come back and sue him for something and does he have to hire an attorney. He said there was many things going through his mind when he was given this. He asked if he is not involved in this, why are they getting him involved. He said on top of that, questions were if he hired Mr. Williams or his family or otherwise, then the question after that is the City telling him that he cannot hire anybody within City staff. He said there are a lot of other questions that follow up after that. He stated because of the uniqueness of the Center, he does have a lot of people that come in and ask for a job. He said he gets calls from all over including the City. He said he needs clarity and not just throw him a booklet and tell him to read this and expect him to understand, he is not an attorney. He stated he does not want to jeopardize 15 years of his lease years along with a million and a half dollars that is going to get him in trouble if he screws this thing up. He said he wants to build the Rocket City Fun Center, that is all he wants to do right now. He said this is a waste of time and held up the Governmental Conduct Act booklet.

Mayor Boss told Mr. Chun said he really does not believe and maybe City Attorney Schreiber can explain this, but the City is not going after you in any regard. He asked City Attorney Schreiber to explain as much as she could under the circumstances.

City Attorney Schreiber explained they received some information from several employees about some alleged Governmental Code of Conduct violations. She said they did what Mr. Chun has described, and they wanted to ask him some questions to find out if these things were true or not true. They asked the questions, they took Mr. Chun's word at face value and believed them as true. She said that was the end of that. She gave Mr. Chun that copy of the Governmental Code of Conduct to explain why we were asking the questions. She said that was her intent, and she believes the City Manager's intent, when they talked to Mr. Chun just to try and get clarity on what they are being told versus what the truth was. She said when they talked with Mr. Chun they got very simple answers to their questions, said thank you, and here is the reason why and they left. She said that was really all that it was.

Mayor Boss said it is his understanding that Mr. Chun does not need an Attorney to defend himself against the City of Alamogordo. City Attorney Schreiber said the City of Alamogordo has absolutely no interest in going after Mr. Chun and he is not the governmental employee that has to comply with any code of conduct. She said the problem is that we had a former employee that there were some allegations against that involved Mr. Chun, so it was very simple for us to ask Mr. Chun whether these were true or not. She said when he said no, we said thank you very much. She said that is the end of

it, it has absolutely nothing to do with him, nor were we ever going after Downtown Venture Corporation, Mr. Chun or Rocket City Fun Center.

Mr. Chun said this is not personal so don't take it personal, but at the same time after that meeting, he gets an email that afternoon saying exactly the same thing. He said it was an official email asking if he had done this, this or this. He said this comes from the City Attorney, so how would you take it. He said he would not have brought this up, if that was done at the time of their initial discussion, but when you send me an official email asking the same question and stating that she could not consult him with legal advice as an Attorney, but this, this, this. How would you take it?

Commissioner Payne said she grew up in Southern California and when she moved here it was a different world for her too. We are a small town and word travels fast and rumor travels fast, and it is probably something that Mr. Chun is not used to. She said as Commissioners, take what you have listened to and multiple that by a hundred, thousand times, that is what we deal with every single day, everyone has to answer to somebody. She addressed the Governmental Code of Conduct. She has personally heard from people that Mr. Williams is telling people that he works for Mr. Chun. She told Mr. Chun that Mr. Williams is the one that is putting your integrity in question, not us. Perhaps, Mr. Williams is the one that you should have a word with because he is the one leading people to believe that he is working for you. She said as a City Commissioner, speaking only for herself, that is tough for her because she gets this person telling her this and this person telling her that. It is very difficult to know what to believe. She stated that a lot of the Commissioners have full time jobs during the day, and then they do this. She gets calls when she is at work and she has to stop and answer questions. She said no one is trying to disrespect you. She said this is probably her number one thing that she spends time defending. She is excited about the Fun Center, she thinks Mr. Chun is going to do fantastic. She told Mr. Chun the very first moment that she met him, when he said our citizens deserve this, that resigned with her because she does think that our citizens do deserve this and she is willing to wait to get something quality because she does understand what it can be. She said but you have to understand that them giving you the Governmental Code of Conduct was for his own sake.

Mr. Chun said he understands and agrees with her. He said he may be over reacting on certain things, but the reason he mentioned this is not just for him, but for all of them as well because he knows the Commission has taken a lot of heat on the project as well. He also wants the public to understand when stones are thrown, those heal but words will stay with you for a long time and that is not just for a project or otherwise, but also for him and all of you. He said the one thing that he wanted to address and clarify is he is here to do one job. He hadn't really thought about hiring Mr. Williams at the time. He asked if he is limited to who he can hire or not hire. He asks that the City just be clear with him. He said if that is the case, then he'll say based on legal or whatever the situation is and that is what it is. He said everyone has different opinions. He has known Mr. Williams from the beginning of the project and he has worked with Mr. Williams throughout the stuff and based on that he feels at the time, although he didn't think about it when everybody kept telling him do this, do that, now he is thinks maybe he should hire him. He said it got to the point of why are we so hung up on this thing, and that is why he wanted to address it. He asked if there is a problem of him hiring city staff members or ex city staff members. He said you don't have to answer that right away, but if that is then just give the clarity. Either that or he will have to get an Attorney to give him the clarity, which he does not want to do.

City Attorney Schreiber told Mr. Chun that she had sent that email for his protection, as well as, the City's, so that they could memorialize their conversation, and that you are not currently hiring Mr. Williams, and that a lot of the allegations that we have discussed that would have been violations of the Governmental Code of Conduct did not in fact take place, and they did have that discussion, and that is what you said. She said it was not meant as a personal attack, it was only meant to protect you as well as us. She said the last paragraph in the email does say that although she cannot give you legal advice, it would behoove you to read that so that you understand the limitations of City employees and how they can and can't work for and or help you. She said that was the clear intention of writing and sending you that Governmental Code of Conduct. She said she is truly not allowed to in her position to

give him legal advice, but she thinks it is fairly clear when you hire someone what they can and cannot do in that Code of Conduct. She said it was truly not an attack but a way for you to understand the City's position. She said they have talked about that, they've had phone calls about the infamous car that has been parked on people's driveways and has been personally driven. She said you are requesting that the City come to you and tell you when things can't be done because it is not legal and that is exactly what she did. She said she did call him and say, this can't ever happen again and please don't have this happen, so she has held up that end of the bargain and have made those calls to you and given you that compliance guide to try and help.

Mr. Chun said he didn't know why his car came into the picture. He said he has come here some many times that he figured rather than renting a car, he ended up purchasing a car and left it here. He said this was a purchase made prior to Mr. Williams leaving the City. He said he does not know anyone in town, and through all the months he has been here, Mr. Williams was the only one that he spoke to and he asked him if he would mind if he left his car at the facility. He said because he is doing another project, if he was not here and he needed certain things. He said that was just the simple communication at the time and that is what happened. He saw what was written up on this and that and all that stuff. He said that is his car, he left it here for his travel purposes as needed. He purchased the car for the purpose of the project. He said he was originally going to get a Chevy Pacifica, but they would have given it to him at a higher loan rate, so he had to go to his dealer to give him a good rate, so he ended up purchasing that, it just so happens to be a Mercedes. He said he thinks they just took that out of context.

Mayor Boss said one thing to keep in mind, this Code of Conduct is not the City's Code of Conduct, this is from the Secretary of State. These are rules and regulations that the Secretary of State has imposed upon municipalities and employees of those municipalities because they are involved in public service. He said this is not an Ordinance that we dreamed up, it is something that we have to live by. He said he understands his concern about the social media and the comments that are made, he has lived it every day. He gave Mr. Chun some advice, what he has done is that he has learned that there is a little handful of people out here that you can't do anything right for. He said you could pave the streets in gold and the sidewalks in silver and you should have done the sidewalks in gold also. He said that is not going to extreme. As you have had time in Alamogordo and you go into the community, you go into the store and someone comes up to you and thanks you for what you are doing and thinks you are going the right direction and that is about a hundred to one or greater, believe me the majority of the people are not doing this, it is a small handful of people that have nothing else to do with their time.

Mr. Chun said he understands and that is the reason he is mentioning this so that those handful of people do not hurt the others by not having all the facts straight and just in speculations or rumors. He thinks that has to get addressed and the public needs to know about it. He said let's just get the facts straight and let's just talk about the things that are really necessary to improve as an overall, not just pick on one particular item and just run in circles with it.

Mr. Chun said he wanted the Commission to think about this and then he would like a legal opinion or answer or whatever it is, at least for him. He is talking as Mr. Chun and thinking about the project now. He said he has known Mr. Williams throughout this time and he believes that he can utilize him. He said again he has not done it, just to get that clear and out of the way. If he were to do that would that be an issue to the Commissioners or the public.

Commissioner Hernandez said that is in that document, referring to the Governmental Code of Conduct. He said he wouldn't answer, that is in the document. He said let's change direction, a few months ago you sent an email that the bowling alley would open in October. He said honestly, he doesn't think that is feasible, so could they get some dates. He said the actual letter came from you to Mr. Williams and said that the bowling alley will open no later than October, and we would be hiring by July, we didn't meet that deadline, so can we get some deadlines. He said before we do that, he would like to bring to the attention of the Commission that back in December of 2017, he made a statement during the LEDA fund presentation and such. He read his statement as "Mayor Pro-Tem Hernandez

asked if they could put a not to exceed time frame on this", he explained that this referred to the opening of the bowling alley. He continued reading and said, "City Attorney Schreiber said we can, but we would have to change the documents." He pointed out that he is not reading this verbatim. He continued reading "he had said that he does not want to see us 8 or 9 months out and still with nothing". He said we are now 8 or 9 months out and still with nothing. He asked Mr. Chun for a dropdown date of when he is going to start hiring and when the facility is going to open. He stated he cannot almost not only do his job on a daily basis because he is being asked when we are going to get our bowling alley.

Mr. Chun said he would repeat himself again if you haven't heard me sir. He said they will go ahead and start the hiring process at the end of September. He asked Commissioner Hernandez if that answers his question in one. Commissioner Hernandez confirmed at the end of September. Mr. Chun said the second thing, like he mentioned before, if you would like for him to walk through the entire building as to why some of the things need to get done, he will do that with you. He said for him to give a firm deadline, if he does not meet that deadline are you going to call me back. He said you talk about summertime, he asked if he was doing the building in December. Commissioner Hernandez said it was given to you if February. Mr. Chun and Mayor Boss both said no, not in February. Mr. Chun said he did not get full access to the building till the middle of April. Commissioner Hernandez said okay, but it does not matter because the letter that you sent. Mr. Chun interrupted and asked how that does not matter. Commissioner Hernandez answered because the letter that you sent out. Mr. Chun interrupted again and said he accepts his letter that he sent out and he apologized for it, but that was at the time when he was initially assessing the building. As he went through the entire building, he mentioned earlier that there were many things missing that needed major improvements and these things take time to plan, execute, draw it out, plan it out, stamp it out, whatever. He said it takes time get all that done. Commissioner Hernandez asked okay so what is that timeframe, you should have a plan by now, you are a businessman. Mr. Chun said they have the plans, they are going to submit this, as he held up the plans. He asked if Commissioner Hernandez was not listening to him. Mr. Chun said they have a contractor, they are going to start hiring by September, and once the contractor submits all these things then they are going to move forward on the project. He said you keep going back to certain things, again if you are going to go item by item there are many things he can start talking about item by item. Commissioner Hernandez said the reason these people are here tonight and the reason we came here tonight, the reason I came here tonight is to find out when are we going to get a bowling alley. Mr. Chun said his goal is to get this accomplished by the end of October, he has not changed that setting yet. He said he may have delayed a little bit on the planning, but he will do his best to try and make it up on the construction. He said if there is a little bit of a hiccup in between that he cannot control it, whether it is coming from the State or the City. Commissioner Hernandez said he wanted to make sure that they had clarifications on those items.

Commissioner Hernandez stated that when they approved the LEDA funds, he pointed out that he voted no, but he was part of the Commission, one of the items said additional kitchen equipment. He said wording is very important, just like in that other document. He said it did not say replacement of kitchen equipment, it said additional kitchen equipment. He believes that is a problem for us. He said there is nothing in there about construction other than additional HVAC unit. He said this is not on Mr. Chun, he is letting the Commission know.

Mayor Boss asked him if he was trying to make a case against what they did. Commissioner Hernandez said he wants to make sure that they understand there could be a problem because of what they approved with the LEDA funds. He said what is in the document is not what he is talking about. He said that is his concern. Mayor Boss said he does not understand. Commissioner Hernandez said Mr. Chun is talking about major construction that is not in this LEDA fund stuff, unless he is paying for it out of his pocket. Mayor Boss said he thinks anybody that went out there understood that there would be major construction. Commissioner Hernandez said it's not on here, referring to the document. He said what we approved, what they voted on to approve the LEDA fund money on, the \$1.5 million, has to be right here, it's not there.

Mayor Pro-Tem Baldwin stated that is a subject for the Commission and the City Attorney. Mayor Boss said he does not think this is the venue for that, right now. Commissioner Hernandez said it's a subject. Mayor Boss said well go ahead. Commissioner Hernandez said it's a subject matter and that is why he is bringing it up. Mayor Boss said it would have been a subject between you and City Manager Paluch probably.

Commissioner Rardin said he is along the lines of Commissioner Hernandez tonight, he wants a date of when this is going to be open. He said he has a lot of history with this project. Mayor Boss asked Commissioner Rardin what he didn't hear and understand about Mr. Chun's comments about what he was going to do by the end of October and the opening. Does he need to say October 31st, maybe. Commissioner Rardin said let him say his spill first. He said the bonds for this project passed in March of 2014. He said the bonds have been sold since December of 2014. Mayor Boss said Mr. Chun had nothing to do with that and he had nothing to do with dragging it out for four years. Commissioners Rardin said these people sitting here in the audience have been paying the bond payments for four years. Commissioner Payne said so have we. Commissioner Rardin said we have to, all of us, anybody who owns property in the City of Alamogordo has been paying these bond payments. We owe them an explanation of when this will be open. He said he agrees with Commissioner Hernandez, he was in the meetings in December and Mr. Chun stated that we would start construction April, May, June and start hiring around July and should be open September or October were the exact words in the meeting, if he remembers correctly. He said that is where our issue is, all seven of us are catching heat every day, wanting to know when this things is going to be open. He said we have a building out there that is finished. He said the CO on that building was issued on February 9, 2018. He said it has been substantially complete since January. He said he has been in the facility when they were building it, he has seen it, he saw it when they were finished, he does not understand the changes honestly.

Mayor Boss asked Commissioner Rardin if he has been through the building. He answered that he has. Mayor Boss said, and you don't understand why when the chip board is coming off the walls and little kids are going to be playing there, they don't need to cover that. Commissioner Rardin said there is wafer board on the walls, Mayor Boss said oh yeah there was. Commissioner Rardin asked where it was at. Mayor Boss said in the laser tag, where the kids are going to rubbing up against it and it is chipping off, that is just one example.

Mr. Chun asked Commissioner Rardin if he has been to restaurants. He answered yes. Mr. Chun asked how he pays. Commissioner Rardin said the point of sale system is not in there, but that is on the operator. Mr. Chun said you know the answer. Mr. Chun said so you are telling me the building is complete. Commissioner Rardin answered yes. Mr. Chun said he completely disagrees with him. Commissioner Rardin said the building itself is complete. Mr. Chun said it's a box, what are you going to do with a box. Commissioner Rardin said it's not just a box, it's got a CO. He said it has every single thing that the State of New Mexico says it has to have to be inhabited. He understands that it needs beer taps, it needs your food storage, it's got the places for it. He understands that it needs a point of sale system and this and that, and that's what the Commission approved this money for. They approved the LEDA money for you to purchase this stuff to install into that building. He said he is not here to argue with you tonight, he is here to find out. Commissioner Payne interrupted and said she thinks he is. Mr. Chun said he is there to argue with him because he is saying everything is complete. Mr. Chun asked what you were building when you approved that, what was the main reason you were building that. He said for a Family Entertainment Center, right. Mr. Chun asked are we building a box or are we building a Family Entertainment Center. Commissioner Rardin said a Family Entertainment Center. Mr. Chun said in a Family Entertainment Center there are many things that have to be in the center along with the equipment, kitchen and everything else. He said if you did not do your research, find out what is in the Family Entertainment Center, that obviously you did not check into it. He said as a matter of a fact, the last time they had a power outage, do you know how dark inside that was. He said if kids were inside running around and a power outage went through, he's going to get a lawsuit, you're going to get a lawsuit. He asked who checked on that, who signed it off. He said that is a complete disaster right there. He asked if they have checked on that. Mr. Chun said please do not mention stuff that you are not aware of. Commissioner Rardin said he is very aware of it, sir. He said

the bottom line is tonight with this meeting, we owe these people right here and everybody in this City an explanation of when it will be open.

Mr. Chun looked into the audience to address a question. City Clerk Hughs advised Mayor Boss there was no public comment and Mr. Chun could not address the public.

Mayor Pro-Tem Baldwin said he did not think that he could not have said it any better than Commissioner Payne did. He thought her words were quite on point with some of the situations that we are dealing with. He said he respects his fellow Commissioners because they are all there to represent a body, and that body is demanding at times as you heard. He said they use words like we, and for once it should have been I, because it doesn't reflect his opinion on what is going on. Mayor Boss said nor does his. Mayor Pro-Tem Baldwin said there is a hypocrisy that it took them fumbling four years to build a bowling alley and we expect you to have it open with the quality that you wanted within four or five months. He said there were letters written, there were things said. He is not overly happy that we are not open, but he completely understands. He said there are two things that Mr. Chun said during the whole process and then something that was said tonight that kind of struck him and keeps him hopeful about the project. He said first, you need to understand that you are now working with a municipality and the government. He said that might be very difficult and very hard to understand, but there are a lot of things that are very difficult. The product that you are trying to provide to the customers, the reason he was sold on it was because you wanted to provide an experience, not just a box or not just a place to throw balls down a lane and maybe have a little bit of food. What you are experiencing and whether or not the money is legal to be used inside there or not is something that we'll have to deal with, but what you are experiencing with what you had, we dealt with in the Golf Course. He said that is his personal experience. He said very much like your situation they came into a built facility. In order to operate a restaurant in there, the walk-in freezer was woefully undersized, the banquet area was woefully small, and it was just part of the process that they had to deal with it, and they had to make changes. To build that stuff out, in order to accommodate, it did take a substantial amount of time. It was not ready when they handed over the keys to the contractor and it took them two years and a month on an eight-month project. He said he shares their frustration of the other Commissioners, he is not trying to sit on both sides of the fence here. He does agree with them on their frustration, he does understand they are being addressed by citizens on a daily basis in order to get their Family Fun Center. He also acutely aware that he is not going to hold Mr. Chun's feet to the fire like they will, and they said we, that's not a we, that's them and respectfully he says that as much as he can. He understands that it took a long time to build this and you are going to have some challenges and he hopes some of those challenges are overcome as quick as possible, and he hopes that we have the quality entertainment that we're looking for come October. He said he excited that Mr. Chun is here. He said there is one other thing, he understands that Mr. Chun had some frustrations with that and he did not hear his opinion in reference to the Code of Conduct. He thinks City Attorney Schreiber addressed the miscommunication possibly between you and hopefully that settles that. He asked Mr. Chun that he address his question about Mr. Williams with the City Attorney.

Commissioner Sikes agreed with Commissioner Payne, and she too gets a lot of questions every day, but she thinks it is incumbent upon them as Mr. Chun said, to support the project and be able to answer the questions reasonably. She liked what Mayor Pro-Tem Baldwin just brought up about the fact that reminding us that this is just not a place to go bowl, but this is an experience. She said when she went in there and looked at the building she thought it looked pretty good, but she does not know construction. We've talked about all of the changes and one of the things that really stood out to her is if she was sitting at the bar, she could look straight into the men's restroom. She said this will be one of the nicest facilities in the City.

Mayor Boss said Mr. Chun made a comment about how the negative comments in the community get out and there are potential businesses looking at this. He said about six weeks or two months ago, the Commission voted to give \$450,000 for establishing a brand for Alamogordo. Part of that branding is to offset the negative social media that they hear. He said he will be looking the same direction, trying to

get this done and get the Family Fun Center open as soon as we can without being critical of every step you take. He thought Mr. Chun is doing a great job.

Commissioner Payne wanted to clarify that any work that Mr. Chun does or that National Construction does, will supersede with its own warranty, is that right. She said in other words, there is talk out there that the warranty is void because you are doing some construction, but she is going to assume that the person that is doing the construction will warranty their own work.

Mr. Chun said they will warranty their own work, they cannot warranty the previous work. She said if it is previous and untouched it should still be under warranty. He stated when he took over the building, or even before he took over the building, he made some requests because he knew what needed to go in there so that they could save the money and do otherwise, but none of that worked out. Now everything all got passed up and now he has to tear down the exact same thing that he had requested not to put up. The reason behind all that is the warranty issue is that, at least for him, at least during the time that he is there, anything interior he is expecting there is not going to be a warranty, he is going to have to fix it. He said other than little things the previous construction company may have done here or there, he does not see how that is going to be possible, but any future work that they put on there obviously it is going to be his responsibility. He said the only thing that he mentioned to the executive team is that if there is anything structural, anything with the building that he cannot really touch, or fix are something that they might need to address with the previous contractor. He said right now there is a crack on one of the structural side of the bowling alley and he hopes that it is nothing major. He knows City staff is checking on it, if it is something like that, he cannot fix. He said they have noticed a lot of the leakage coming in from all directions and he has seen a lot of bugs in the building, which means the building is probably not completely sealed either, at least for what he has seen, but he can't say that. He said things like this should have been checked and been done with, but it wasn't and now it is dumped on him. He said he is going to take responsibility, he is not going to charge the City, and the only thing he is not going to take responsibility for is the structural stuff. He said that had nothing to do with his end, so he wanted to at least clarify. Commissioner Payne said he is talking more about the cosmetic stuff. Mr. Chun said the only thing they are putting in right now is cosmetic stuff and maybe the additional storage that we had to build because that is an outside unit, that he is responsible for, he fully understands that. He said he did something that the City might want to check into, when he puts up the pizza hood oven that has to go up, which is needed. If the previous contractor says because you guys are putting a hole in that roof, is that going to void the entire roof warranty, he cannot say anything about it because he needs that hood. He said he will warranty what is built on that hood or surrounding it, but he cannot take care of the entire roof because of that reason and to him that is not fair either, if that is the case. He said things like that are the only other things but anything interior or anything that's not necessary, even if he has to spend his own money he will do it, that is his responsibility.

City Attorney Schreiber said the way it works, this is how it was explained to her and it made very clear sense. For example, the crack that Mr. Chun is talking about is a sheetrock crack that will be fixed by the White Sands Construction, the previous contractor. She said there is a stucco issue on the back wall that the sub-contractor that did the stucco is going to come in and take care of, those are still warranty. If we do something to the inside west wall, that does not mean that we voided the warranty on the inside east wall, however, if we mess with the electrical system then we have voided the warranty on the electrical system. There are limitations when you do that with construction. Going into the roof will void that warranty on that roof. Something to keep in mind is that we did get this building in February and we did get a year warranty on construction, that warranty is already almost up. It is in our lease agreement spelled out what is our responsibility and what is the tenant's responsibility. She said if we are going to mess with the framing of the building, that warranty for the framing would be voided, but it really depends on what we are talking about.

Commissioner Payne reiterated that this project was approved in 2014, and she will say for the record that she was a citizen back then, she was not an elected official and she did not vote for it. She said nonetheless, the voters did vote for it and because they voted for it she is supporting it because she

feels like it is our right to vote, that is something that we have the right to do and the majority of the voters voted to build this building and that is why we are doing it. She does not know anything about building Family Fun Centers, she does not know anything about what goes into one, she never would have thought about all the little things that Mr. Chun talked about, but she expects a quality facility and she believes that we are going to get one. She said we had a bond out there for how many years, paying interest on a bond with nothing, and here we are, we are in the last leg. We are in the home stretch, we just have a little bit longer to go and we will see this thing to fruition and for her, she has owned the decision she has made, they have not all been perfect. She thinks five years from now nobody is going to remember all of this. She said her biggest concerns were the rumors about Mr. Williams and Mr. Chun has addressed those. We are a government entity, so it is a little bit different. She said hopefully by October 31st we will see something. If there are some unforeseen circumstances, she is willing to wait.

Mr. Chun apologized for raising his voice. He said he is passionate for what he is doing. He asked for support from not only the Commission but from the public also. He said any questions that anyone may have, to address them to him. He said Commissioners have no idea what the machines look like, nor the arcade games or any of that stuff, so if the public is listening out there, please send questions to him, he will address it so that the Commissioners don't have to deal with that issue. He said when he took over, he took over the entirety. His goal is to have this completed by the end of October, unless unforeseen things come up and if they come up we will address it to the City, as well as on Facebook. He said his first stage is somewhat done, planning is pretty much done. The second stage is going through the actual construction, the third stage is hiring, the fourth stage is training and then the fifth stage is actually a soft opening. He apologized to Commissioners Rardin and Hernandez. He said his passion to have this completed not only as a Fun Center, but to have it in Alamogordo. He said his focus is on getting this thing done. He asked for their patience and for their help as he signed a 15-year lease with them.

Mayor Pro-Tem Baldwin moved to adjourn at 7:55 p.m.

Commissioner Payne seconded the motion.

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

ADJOURNMENT



Rachel Hughes
City Clerk Rachel Hughes

Richard Boss
Mayor Richard Boss

(Prepared by Eric Barraza, Deputy Clerk)

Approved at the Regular Meeting held on September 25, 2018.