

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
January 29, 2019**

**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 Hughes announced there was a quorum present. Invocation was given by Pastor Forney and the Pledge of Allegiance was led by Commissioner Wright.

Mayor Boss spoke on the passing of former City Manager and Commissioner Dan Malone. He asked everyone to take a moment for silent prayer.

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. Information on dirt distribution between Alaska Ave and Florida Ave. (*Alan Theriault, Resident*)

Mr. Theriault spoke on the residential construction yard between Alaska Avenue and Florida Avenue. He said this construction yard is causing all kinds of problems. He said he asked for information from the City on whether this is a legal site or not, and if it was or was not if the City or County gave the variance. He said he received some information from the City Attorney and it basically said that the City has no information to give him, and if the City did, they would give it to him. He said he took that as there was no variance. He said the area was rezoned in 2016 to R4-Multi Family and they don't know what a construction site and dirt distribution center is doing in their neighborhood.

Mayor Pro-Tem Baldwin advised him that this is not a question and answer discussion. He asked Mr. Theriault if he had anything else to present. Mr. Theriault wanted to know who authorized the construction yard to be there. He also said they got no support from the City on this. He explained how dirt is blowing into their houses from the road and dirt piles. He said the City Attorney that there was no dirt blown off of those piles. He said common sense tells you that when you have mass piles like that, mass dirt is going to fly off of that. He said this seems to be a total denial.

Mayor Boss informed Mr. Theriault that the City Manager will be in contact with him.

PUBLIC COMMENT

Mayor Boss pointed out that this meeting is the Regular Scheduled Business meeting of the City of Alamogordo Commission, it is not a typical town hall meeting. He said comments should be directed to him and/or other Commissioners. He said there will be no direct dialog between the public and City staff. He asked for everyone speaking to be aware of the time limits, and to state their name.

Paul Sanchez commented on the following:

He said he is not here to read his own words, he is here to read a message from City employees to the City Commission. "While we can't share with you which employees we are or our concerns verbally or face-to-face, we hope this message gets to you. While we wait for any City Commissioner to catch wind of our agony to stop by and say hello. To feel the almost unbearable air that we breathe within the walls of City Hall, we will and are hanging on. Trying our best to do our jobs and carry out our responsibilities. We do this while holding our breath for a better opportunity or our retirement day to come. We didn't sign any petitions for fear of losing our jobs or becoming the next victim of harassment, but we are victims and yes, we wanted to sign them. It's been miserable, so much energy from 8 a.m. to 5 p.m., Monday through Friday, is spent in suspense of the next new direction, the next scolding or command that compromises our integrity or morals and values, and for some the next threat. While some of us struggle to find the pride that we use to have in our jobs and work, we hunger for you to see what is really going on, but we have come to understand your stance to be just the Governing Board, to Honor your belief that you should not get involved with us because you only have one employee. We have heard you loud and clear on that point, but now we hope you hear us, but don't feel bad it has just become the norm after all. There is no open door to see the Management either, not without an approved appointment anyway. You might not have noticed all the locked doors and walls between them and us, but we know they are there. You might not have realized how repealing the personnel manual from an Ordinance took away an employee's method to report or feel protected. We hope you know the real meaning of the employee Code of Conduct as it was explained to us. We feel it would be more clearly understood to basically keep your mouth shut policy. You might trust and believe that good people are being fired for good reason, demoted or are leaving us because they have found better opportunities, but we don't. You may not use harsh words, criticisms or threats to get what you want from your employee, but we have seen or experienced it from our side of things. Please think about this message, please think about all of the employees who do our best to help make this a better City, who are here for you. Please help us tear down the doors, open up the communication, clean the air inside these walls and somehow let us know that you care. We ask you to start by giving Chief Peete back his pay and reinstating him. He did what he did for us, he did it for you, he did it for the citizens, he did not do it for himself and he did do the right thing. Start by doing this independent investigation, find out the truth and the whole truth, it's the only way to make it fair to all, but please do something." Mr. Sanchez said he was asked on part of an individual, a City employee, who came to him on behalf of the approximate 100 people that did an online survey about this subject. He said they asked for him to speak and he has spoken for them.

Rich Merrick commented on the following:

He stated he supports Chief Peete and the City employees. He said in the last couple of weeks there has been a lot of talk about the atmosphere here in City Hall. He said he has been told the tension is so thick that you can cut it with a knife. He has heard that employees are in fear of their jobs due to intimidation at the highest levels. He said somehow that does not surprise him when he watches how some of our Elected Officials treat the public, not the best of examples. He said he watched as Chief Peete put his neck on the line to try and bring to the Commission's attention the problems, he was seeing within the walls of City Hall. To try and come to the plate for all the employees, and what did you do, you broke the confidence by taking his complaints seriously and sending it to the City Manager, when that was the person, he was having problems with. He said it is sad when the only way a leader can find a way to inspire those under them is by threats and intimidation of their jobs, and he can relate to that feeling having his threatened right from these Halls. He said these employees that do vital work for the City shouldn't have to walk on egg shells when they come to work wondering where the ax will fall next. He said he guesses when the Personnel Manual was amended, they took a page from Federal Legislators and said well, we just have to pass it to see what is in it. He said when they left the City Manager as the end all to all grievances that might occur, they submitted to giving all power over to the City Manager, and yes he does understand our form of Government here in the City of Alamogordo as a Commissioner/Manager setup, but they left no employee a way out if the top person wasn't doing their job. No way to appeal past the City Manager. He said he believes it is time to hire an Independent Investigator to look into the allegations that have been set forth by the employees of the City, along with Independent Legal Counsel to give an unbiased look at the practices within the walls of

City Hall. He said should you consider this, he believes the City Manager and City Attorney should be placed on paid administrative leave during the time of the Investigation in order to not have even the slightest appearance of having any influence on the outcome of an Independent Investigation. He stated he believes if they would do this, it would go a long way to fixing the problems and provide some transparency to the public.

Kathy Denton commented on the following:

She stated she and her husband own Kitty City NM, and they have been working with Chief Peete and Alamogordo Manager Dwain Martinez in working to make things better for the animals at Alamogordo Animal Control, and the Management at Alamogordo Animal Control. She said because Animal Control is under Chief Peete, they have been working very carefully together and she has found the Chief to be articulate, professional, thorough in his research, open to new ideas, he considers both sides of the issues and he is very personable. She said as a federal manager of people and facilities, she has a lot of questions. She said as a supervisor, where is the documentation of the goals and objectives that Chief Peete is supposed to perform and accomplish while he is Chief and where are his timeline and markers. Where is the documentation that says he has not met those goals and objectives. If he has not met them, what is the process to make improvements so that we could have a good Police Chief and good outcomes. Where is the documentation for the suspension and why did this happen. She asked if any of the Commissioners have any of this documentation at their disposal to make decisions from. She said she felt the suspension was retaliation after the letter of no confidence was leaked. She said it was meant to be for the Governing Body of the City Commissioners. She said Chief Peete has worked to do very good for his department and for the City. He has made great strides in a lot of the things that he has done. He has felt that he has not gotten the support and cooperation and so he had to take this avenue. She asked the Commissioners as the Governing Body to reinstate Chief Peete with back pay and an apology from the City Manager. She also asked for an Independent Investigation of this incident and all of the other incidents that she has heard as a private citizen working with City Employees. She said they fear for their jobs, they fear if they speak out, they are going to be retaliated against, they fear that they cannot even talk about what is going on and they have been told not to talk about Chief Peete's suspension. She said she has read the City Commissioner's statements on the City's website, she has looked at the statement for the City and it talks about transparency and accountability. She said she knows that the Commissioners are very good people and they will do the right thing and make a wise decision.

Gene Downer commented on the following:

He introduced Chief Peete's father. Mr. Downer said there is wide spread concern amongst towns people about Chief Peete's continued employment and for that reason he has chosen to make a few comments. He said he heard Commissioner Hernandez and Mayor Boss say this word at a recent City Commission meeting, and he was sort of startled, but he feels like saying that word tonight and that word is "Bullshit". He said he is concerned about the process which the City Manager, Mayor and Commission are using to discuss and decide on the Chief's job security. He said there seems to be a frequent turnover in major City positions. There have been several City Managers in the past few years. He said one of the terminated Managers sued the City and was awarded a substantial sum. He said there is a possibility of a racist complaint because the City Manager is a white female and Chief of Police is a black male. He said he has heard no comments which supports this type of complaint. He said the Human Rights Commission is part of the State Employment Commission and the Department head was interviewed on Nadia Sikes' Monday Morning at 7 a.m. Radio Program. He said if a racist complaint is included in a Human Rights complaint you can be certain that the Human Rights Commission, the District Court and the New Mexico Court of Appeals will look at any complaint thoroughly and each time an employee discrimination goes from one Court to another, there is considerable legal expense by the City. He said he was formerly licensed as a mediator through MIT in Massachusetts and he wants to make sure that the Chief of Police was given every fair consideration and opportunity to work with City Officials to hold on to his position and to achieve objectives, mutually agreed upon. He said he discussed a few improvements with the City Police Chief and found out that he already had them planned. He said it seems like a rush to judgement and not entirely a fair treatment of an employee.

G.B. Oliver commented on the following:

He stated he had a different take in this. He said this community, right now, stands on the threshold of the greatest economic opportunity in our lifetime, and it is unfortunate that something like this comes along. You have a lot of people in this community that are working tirelessly to raise the bar in this community. He stated that he has spent quite a bit of time with Chief Peete and he was a great deal of help to them on the Fourth of July event. He said when Chief Peete was suspended, Chief Peete called him. Chief Peete told him his side of the deal. Mr. Oliver said he is not so naive as to believe there is only one side in any issue, and therefore he would ask all the people in this community to keep in mind that the City Management or Commission cannot talk about employee issues. He said he does not know all the facts, he is assuming there are two sides to this story, and no one here knows the other side of that thing. He said he has known all of the Commission for some period of time. He has a great deal of confidence in the Commission, and one thing he can tell you is that he does not agree with any of the Commissioners 100 percent of the time, but he knows why they are on this Commission and he knows that it is for a reasonable reason. He said he believes that the Commission stands for what is best in this community and he wants the Commission to know that he has full confidence that they will look into this, gather all the facts in this situation and they will make the decision that is in the best interest in this community.

Denise Lang commented on the following:

She said she worked for the City 20 years ago. She stated she met Chief Peete at the Crisis Intervention training. He did this amazing organizing of employees from both the City and County. She said we had Mental Health Clinicians, Law Enforcement, Corrections, Emergency Response, the VFW Faith leaders and citizens interested in improving our community by keeping folks out of our jail and out of our court system and into alternative resources to help them. She said this is very forward vision movement that will save human lives and public money. She said he was the first and only Law Enforcement Official who spoke of addiction as a Mental Health issue and vowed to help get our community a substance abuse treatment facility after the Crisis Intervention teams were up and running. She said point two, when one man, Chief Peete, can inspire folks from opposite ends of the political spectrum together in their common support on finding common grounds of Chief Peete, that is just not amazing, but it is absolutely miraculous. She said that benefits our community as beyond priceless. She asked to please suspend the City Manager without pay for 20 days, so that she has a chance to consider what is becoming visible and revealed tonight.

Peter Villa commented on the following:

He said he never had the opportunity to work for Chief Peete. He said his tenure at the Police Department was cut short by decisions made by the City Attorney and the City Manager's Office. He said after reading Chief Peete's letter, it got him thinking back to when Mr. Straface was the City Manager. He said Mr. Straface came through the Police Department and spoke to every single one of us. He said one of the first things that he told Mr. Straface was if you want to find a Police Chief that wants to come into this Department and is going to make changes for the better, start looking outside this State because every time we pull somebody from inside this State or County, something ends up backwards or upside down. Mr. Villa said it finally happened, we got a Police Chief, from out of the State, with a well-educated background that this City needs. He said he read through Chief Peete's letter and it became very apparent that it is exactly what this City needs. Mr. Villa said his position with the City Police Department was terminated. He said he was offered the opportunity to resign. So, he could speak personally to the retaliatory factors that are made in the City Administration's decisions and the overreach of the disciplinary actions that are taken, and the imbalance between them depending on who the person is. If they stand up and they point out that something is wrong, at the same time they are being taken down for a mistake they have made, there will not be any forgiveness. He said that is showing in Chief Peete's position as well. He said Chief Peete stood up and said there is problems and here he is suspended. Mr. Villa said he provided a letter of resignation to the City Manager's Office and because of the language that he used and the fact that he stood his ground in the fact that he was not the only party involved in this to have made a mistake, his resignation was not accepted, and it was considered a termination. He said the reprisal and the actions that are taken against people who stand up and speak for the better of this City should not be tolerated. He said again he never got the chance

to work for Chief Peete, but reading a simple letter from him, like much of his brothers in blue, he will stand behind him every step of the way.

CITY MANAGER'S REPORT

City Manager Paluch made the following remarks:

1. She thanked Acting Chief Schoolcraft and APD for a traffic stop that happened on January 18, 2019 of a known drug trafficker here in Alamogordo. She said they retrieved methamphetamine, heroin, cocaine and drug paraphernalia with the approximate street value of \$90,000.
2. She announced Neptune Aviation has satisfied their LEDA requirement. She said they are also conducting a job audit for the cookie factory, and the City remains first place in the mortgage for that building, but she is happy to say the owners have been very responsive and they are working with us to repay the LEDA funds. Additionally, she met with Mr. Medlin from Medlin Ramps last week and they are actively moving forward with that project. She said the City is cutting a check to Mr. Medlin for the purchase of the Old Wal-Mart building this week. She said City Planner Rael is working with Mr. Medlin on rezoning the property.
3. She stated that the Water Committee met last Wednesday to continue discussions on the future of the water system. She said this Committee consists of Commissioners as well as City staff and the purpose is to ensure the vitality of the water system for our future growth. She said the first goal of the committee is to create a quick reference guide that can be given to the public and posted to all of our media outlets. The quick reference guide will detail the current and future needs of the water system.
4. She and some Commissioners attended the MainStreet Metropolitan Redevelopment area plan meeting, where many citizens and business owners joined them. She said Ms. Fishman from Consensus Planning reviewed the draft MRA plan and how the document will help spur revitalization in historic Downtown Alamogordo. She thanked Cam Wilde and the whole MainStreet team for their hard work in the development of that plan. She said the City is looking forward to the projects that MainStreet will be undertaking in partnership with businesses, community leadership and the City.
5. She gave kudos to two employees, City Planner Rael and Customer Service Manager Threadgill for helping a local business owner turn on his water at his new location.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Hernandez made the following comments:

He thanked the public for coming out. He said he received a lot of emails and phone calls. He said one of the concerns he has is how government works and how it is setup in Alamogordo. He said he wished more people would come to the meetings so that they would understand that, or even contact the Commissioners and not just when they are mad. He said his wife showed him a post on Facebook where a lady complained about a light on First and Florida. He said what good does that do, you need to call the authorities, call the City or call your City Commissioner so that we can get it fixed. He said that is how things work. He said he served on this Commission in 1996 to 2000, and then he took a break for a little while. He said in 1996 they didn't have computers, they didn't have social media or any of that stuff, everything was paper. He said he has four legal boxes at home full of correspondences from the City Attorney and City Manager from those days, and now everything is electronic, it was a lot different back then. He said they got the phone calls and visits, you didn't have to find something on Facebook when something was wrong. He said that was a big change and it does not help be productive in this community. He said they had a presentation this afternoon and that gentleman lives in his district. He said the Commission makes decisions for everyone in the community, not one person. He said that is the problem with this is that he never contacted me, his representative. Commissioner Hernandez said he got word that this was happening from Senator Udall's Office. He asked how that fixes things. Start with your local representatives, then if they can't fix it for you, then go up. He said that is how government works, but if you only show up when you are mad or when you think that the system is broke, then it is really hard to fix it. He said get involved. There is an election November 5, 2019, he is sure that there is plenty of people ready to run, we think that every year and then it never happens. He said he loves doing this job, he loves sitting up there, he loves getting mocked for the things that he says and does, and that is all fine, but if you guys would

show up to the meetings you would know where he stands all the time. He said he does not float to either side, he works with what he has to work with, and he makes the best decisions he can based on the information he has and the input he has from his constituents. He said he can show you his email and his City phone, it is very minimal. It is not because he does not listen, it is because nobody cares until something happens. He said this is his home and he has lived here all his life, he is not moving anywhere, he does not plan to, he has lived in the same house on the same block, where he was raised. He said next month it will be 54 years that he has lived there. He asked how many people can say that. Commissioner Hernandez acknowledged that five people responded. He said that is not too many. He said he loves his home and he loves this town and if you do to, get involved. Not just tonight. He said they have committees that are empty, they will go over them in a little while, but he is sure that most people will be gone, but there are several committees that need help.

Commissioner Sikes made the following comments:

She thanked everyone for being here. She said every text, every private message and every encounter she has had Wal-Mart in the past couple of weeks, everything people have told her, via email is taken into consideration. She said your comments are important. She said just because they sit up there with stone faces and they cannot respond to everything that you are saying, doesn't mean that they are not listening or that they don't care. She said your support of our Police Chief is commendable and she thanks you. She knows that each and every one of you that have spoken to her personally, knows how she feels. She has been very candid with you. She said she has subscribed to the belief that they as Commissioners don't get involved with the City employees, but that doesn't mean that they don't listen to the City employees, and when they have the opportunity to speak with us, that they speak with us and we take what they say into consideration. She said she has a lot of respect for the City employees. She too is one of those people that thought that the City is a great place to work. She said she does not work for the City and was unaware of a lot of things that she has been told over the past couple of weeks. She certainly believes that this debacle could have been avoided. She is confident because of what she knows about her colleagues and the City and the City Administration of the Directors that this situation is going to be resolved and she thinks the resolution will be satisfactory to everyone involved.

Mayor Boss made the following comments:

He said this is some food for social media because he gets beat up on it all the time, very unfairly. He is whiny and you'll understand that there is some whining involved in this, but there is also some education, some City government 101. He said he would like for some Commissioners to indulge while he makes some comments on the manner in which our City government operates and also some commentary. He said there is generally speaking two types of methods to operate City government. One method is called a Commission/Council/Mayor form, the other is called a Commission/Council/City Manager. There are hybrid approaches to both of these methods, the Commission/Mayor form generally has the Mayor responsible for municipal operations and the Commission responsible for legislation. He said in this form the Mayor is a very powerful position. An example of this would be the Mayor of Albuquerque, Mayor Tim Keller. He receives a six-figure salary, has a personal secretaries, multiple assistants, a large and functional office space. He is reimbursed for his business expenses. He directs the various departments on a daily basis and is responsible to the Albuquerque City Commission. On the other hand, in the Commission/City Manager form of operation, as Mayor he receives the established amount of per diem from his out of pocket expenses, for regular Commission meetings he receives \$50, just like every other Commissioner. If they have a Special meeting, they don't get compensated for that. He said a typical event at Holloman Air force Base is \$30 per person for a meal. He said that would be two times for him because his wife generally goes with him, it is expected out there. That is taken out of the per diem that he gets. He has no personal secretary, other than his wife. His wife does most of his typing and receives no compensation for this service. The Office he provides to himself, and an Office is provided in City Hall to himself and the other Commissioners. If you are in that Office and you close the door, you feel like you are in a broom closet. He thinks everyone would agree with that, if you have been in that Office. He has spent some time in there and personally he would rather meet someone in a coffee shop than in their Office. As Mayor he has not one bit of authority more than any other Commissioner. He is one of seven, the power of this Commission is generally determined by the majority which is usually four of the seven. He has the

exact voting rights as each Commissioner up here tonight and no more. He read Article VII - The Governing Body Section 1. – Equality of Commissioners from the City Charter. "All Commissioners, including the Mayor, except as otherwise provide by this Charter, shall have equal voting power, privileges and prerogatives". He pointed out that he has no more power, no more authority than any one up there. He said he does not have the authority to hire or fire employees or discipline employees nor the authority to pay vendors or enter into contracts. He said he signs checks, contracts and Ordinances but only after Commission and/or staff have approved him to do so. He said he hopes this clears up the vision that some of you have of him walking through City Hall and giving orders to staff and creating havoc among the staff. What really happens when he walks through the halls of City Hall is, he greets all staff with a smile, and he wish them to have a great day. He nor any other Commissioner have authority to direct or threaten them in any way, no authority what so ever. There are a couple of duties that he is responsible for that his fellow members generally do not perform. The Mayor is the Official Head of the City for all ceremonial and military purposes. He has taken this responsibility very seriously. Both he and his wife have taken every opportunity to create the very best environment and relationship with our Air Force, Army and German Allies. He said his wife and him love, appreciate and respect these Airmen and soldiers. He said two, is leads the Commission and Management in developing short- and long-range plans and goals relating to the City Growth and Development. Time does not permit going into detail on the Mayor's role, but he assures all of you that he has participated and helped move our economy and quality of life forward in Alamogordo, just look around Alamogordo and you will see there is more activity. They thought that when the German Air Force left that it would be a real problem, those houses are filled up. He said there are people coming in and a lot of that we are all responsible for that. He said when you look at the Mall and you drive by the Mall and you see all the cars out there and the new stores that are out that replaced K-Mart and have gone beyond what was there before. Notice those things, notice our parks and the shape they are in, notice our Civic Center, notice the zoo, there has been differences made in this town and we are all responsible for that, and all the employees out there are responsible. He said a very small amount of his time as Mayor is spent at City Hall. He said the Commission meetings are the most time he spends here, quite frankly. He spends a great deal of time at home at his desk, a desk he paid for and utilizes 95 percent for City business, he pencils draft speeches and presentations for events and for getting ready for Commission meetings. He does not type so his wife usually types them for him. He also spends a great deal of time at various meetings; City sponsored events, other community events, Alamogordo organization meetings, presenting proclamations and attending military related events, both US and German. He went back to his 2018 daily calendar, he attended 290 events in 2018. These events consist of military change of command ceremonies, other military functions, city community events like proclamations, ribbon cutting, and so forth. Before he became Mayor, he played golf four times a week, when he went back to his calendar, he played three times all last year in 2018. He did not enumerate the duties he performs as Mayor to brag or for any reason other than to point out that there is a reason to have a Mayor position in our government. He said that being said, there is also a reason to have a City Manager and allow that City Manager to have the discretion necessary to make tough decisions. He said his primary goal as Mayor is and has been moving Alamogordo forward. He is proud to say that he, the Commission and staff have been part of doing just that in spite of many obstacles that have been thrown their way. Example, this Commission not long ago awarded \$450,000 to be spent on improving the image and branding this City in a positive way. Leaps and bounds have been made in that regard. Chamber of Commerce has worked diligently, Main Gate has worked diligently, the hospital, the University, the School District. After events of the last few weeks, good luck with that, no telling what might come up when you google New Mexico news, what you are probably going to see is Chief Peete telling people that there was misuse of funds. That is what you are going to see when you do that and that is also what the person is going to see that lives in New York that is wanting to maybe come to Alamogordo or in California. He said that is what you are going to see, that come up on Google. Finally, he would like to remind his fellow Commissioners of the City Commission Statement whereby they make a promise to their City Manager. "We will operate with strict adherence to our values and beliefs. We will work within the guidelines set forth by the City Manager when working with staff, any opposing position or need to express concern will be done in private to the best of our ability. We will not micromanage." The City Manager is completely in charge of the day to day operations of the City. The City Manager is also the only staff person that can hire or

fire City staff. Back again to the City Charter Section 2 – Duties of the City Manager - Item B – “the City Manager and Chief Executive Officer of the City, he or she shall have a seat, but no vote at every meeting of the Commission. The City Manager shall employ and discharge employees of the City.” The City Commission including the Mayor is responsible for the legislative aspects of the City. He said there has been a claim to misuse of city funds. He said this is very great concern to him, there have been claims from a City employee and others on social media. He said he would really like to see the details supporting that claim. He said this really surprises him since the City's outside Auditors, which are Certified Public Accountants, must have missed this. He said the City pays them \$62,568 to audit the City of Alamogordo and he would have thought they would have come up with something where there was some misuse of funds, had there been something. The Auditors spend a lot of time down here, the report is complete and will be released very shortly from the State Auditor's Office as he understands. He said but anyway, he doesn't know that they need another investigation after they just had a certified public account expense of \$62,000. He said not only did an employee make the claim of misuse of funds, he understands that social media has also made the same claim. He said this is a very serious allegation and he thinks the entire Commission takes it very seriously. If the person or persons that have valid proof this has occurred, he would encourage them to provide this information to himself or another Commissioner. If the information they have supporting the misuse of funds appears credible to him and at least one other Commissioner, he will personally drive that person to Santa Fe directly to the Steps of the New Mexico State Attorney General's Office. He said he would wait for them to file their claim and he will drive them back to Alamogordo. He offers that.

Commissioner Hernandez made the following comments:

He said going back to his statement of how proud he is of living here all his life, he forgot to mention to everyone to visit the board outside the chambers, on their way out. He said it is very important to him and his family and you guys can understand how proud he is of Alamogordo and what this community means to him.

Commissioner Payne made the following comments:

She said she has been the daily piñata on social media. She said people don't think the Commission doesn't read social media and they don't take it seriously. She said that is the comments she gets. She said after a while it is pretty daunting, and you are right she stops reading it because she does not to see over and over again, everyday that she is crooked or that she is guilty of misappropriating funds or lining her pockets. She said she does not need to see that every day, she gets the message that is what people think of her, but she would echo the Mayor's sentiments that if anybody has any proof at all that they are mismanaging funds or that she has personally done something illegal which by the way defames her character. She said she would personally drive anyone to the AG's office or the State Auditor's Office, she has no problem with it, because she is 1000 percent confident that is not happening in this city, and she stands by that. She mentioned that there has been a lot of talk about the personnel manual. She said she does not know any other way to say it, it's a lie. She said she has the proof right there. She would encourage all of you, all of our minutes are online, every single one of them are online and if you have a question about a particular issue, she is welcoming you right now to call her and she will tell you exactly where to find it and you can find it for yourself. You do not have to be in her district, she helps constituents all the time that are not in here district. She said right here in the personnel manual, a personnel manual that had not been revised in 15 years, was revised in 2017. She said there is a particular section in there that is really important. She read the minutes of when the personnel manual was first brought to the Commission. She said when Ms. Lang worked here, she does not think that they had to deal with bullying. She said the personnel manual now includes an anti-bullying policy. She continued reading the minutes. She said they tabled adopting the manual for a month, and they came back a month later and without even saying a word the City Manager and the HR Director said “they just decided to take the part out about giving the City Manager control over changing the Personnel Manual. It seemed like the Commission didn't want that, so they took it out.” Commissioner Payne said the City Manager and HR Director said that without being prompted. Commissioner Payne said as our personnel manual stands right now, and she asked the HR Director to correct her if she is wrong, the City Commission has control over changes to the Personnel Manual. She asked if she was correct. She said so all this talk about giving our City Manager full control and

the City Commission has no, let her tell you something not only is that untrue but that is a lie. All you have to do is go back. She said Thank God we have an amazing City Clerk that takes minutes. Commissioner Payne could not believe the incredibly detailed minutes that she has right here. She said word for word everything that she said and everything that every other Commissioner said. So, this ridiculous notion that we don't have control over the personnel manual is just that, it's ridiculous. She said there is also an anti-bullying policy in this. She said we did have a mechanism in place for City employees to give suggestions. She asked if this was still in place. City Manager Paluch answered yes, we had the tiny pulse program that the City employees came up with suggestions on what they wanted changed within the City to have a better working environment. One of those suggestions that came from one of the City employees was a day, once a month where the City employees did not have to attend meetings, which was so called "No Talk Thursday." She said, "No Talk Thursday", is not no talk for citizens to come to the City, it is not that the City Manager's Office is closed, or the City Commission cannot be contacted. She said it is so that there are no meetings held within the City so that everyone can sit down and get their work done. Commissioner Payne said she is not defending the City Manager, she does not need to, that is her job and she knows it is an important job, it's a high-level job and it comes with a lot. She said that is why she gets paid the big bucks, so to speak. She said she is going to defend herself because there is a lot of misinformation out there about her, and she is disappointed. She said she knows Commissioner Hernandez sometimes gives stories about his childhood, and she really appreciates them sometimes. She said they are so great that she can almost visualize them. She said she could sit here and tell everyone her past, but she is not going to do that. She said she has been through enough in her lifetime that there is nothing that anyone can say to her that is going to beat her down any further than she has been beaten down in life, she can assure you of that. She said that doesn't bother her, but it disappoints her that people she knows to be very intelligent people, very articulate people are buying into this notion that the Commission just sits up there and doesn't pay attention to anything. She said everything is online and it is right here (she pointed to the minutes). She asked what do you want to know. She said they have talked about the mall, they have talked about the new call center at the mall, all the new things coming up, and it's amazing the things happening in this City. If you want to know anything, her door is always open, she has never shied away from a phone call, and she has never hung up on someone that has yelled at her, she tries to answer all emails. She said she does go through junk mail sometimes because she got beat up because an email went to junk mail which was beyond her control. She said she got beat up on social media because she explained that the email went to junk mail. That is how ridiculous it has gotten. She said she does not know how all this is going to play out. She said the last thing she is going to suggest, and this is in regard to Chief Peete. She said G.B. is right, there are two sides to every story and while we don't get involved in personnel matters, she personally has not seen the suspension papers. She said she would be curious to see them. She understands it is about 10 pages. She would like to know what is in it. She said she thinks that everyone should know what is in it, if they are going to talk about the letter that he wrote, then let's talk about the suspension papers, let's see what is in it, and let's see if there is a valid reason for his suspension. Mayor Boss asked if the Commission or the City could do that. Commissioner Payne said Chief Peete certainly can, she doesn't know why he hasn't released it yet, but release it, let us all see for ourselves what the reasons were and then you can decide. She said she does not see a problem with that. She asked if there is a problem with that, she doesn't see a problem with it at all. She said this letter that everybody is talking about, that letter is subject to the Inspection of Public Records Act. **(Commissioner Hernandez left the meeting at 7:33 p.m.)** She said to not make sure that the right people have it in the City, would be a violation on the City of the Governmental Code of Conduct. She said they could have got in a lot of trouble for that, they were put in a horrible position. She said her for one did not appreciate it. She said it is public information that is why it had to be disclosed. She said in all honesty, she did not give them the letter. She said somebody had to disclose it, you cannot keep that confidential and it is not in Chief Peete's purview to do that. She said the letter got leaked, but somebody needs to talk to Chief Peete because it is not confidential, this is public information. Everybody has a right to see it, as she has in spite the fact that it has been all over social media.

CONSENT AGENDA

2. Approve the minutes for the January 8, 2019 Regular meeting. *(Rachel Hughs, City Clerk)*

3. Approve the statements related to the Executive Closed Session held on January 8, 2019. *(Rachel Hughs, City Clerk)*

(Commissioner Hernandez returned to the meeting at 7:35 p.m.)

Mayor Pro-Tem Baldwin moved to approve the consent agenda.

Commissioner Rardin seconded the motion.

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

NEW BUSINESS

4. Consider, and act upon, request waiver of weed lien in the amount of \$542.11 for property PC-0112234. *(Fred Flores)*

Mr. Flores explained that he will be closing on a property on Monday February 4, 2019. He said in order for him to park on this property, he has to go through his neighbor's property. He asked his neighbor if he would sell him this piece of property and he agreed. The neighbor told him if he paid the lien, he could buy the property. Mr. Flores said he would rather donate to the City for the amount of the lien rather than pay for his neighbors' lien. He said it is just a matter of principle. He asked the Commission to consider waiving the lien and in turn he would donate to the City for the amount of the lien.

Mayor Boss asked why there was no recommendation from City staff as how to handle this.

City Attorney Schreiber said there is a little more information that not even Mr. Flores had access to. She said she was informed this morning by Code Enforcement that this property was since abated again on December 13, 2018. The City had someone go out there and cut the weeds and that cost the city another \$125.70. She said what they should be considering today is a waiver in the amount of \$667.81. She said the reason there is no recommendation from staff is that this is Mr. Flores' agenda item, so he would be the one making the recommendation. She said she thinks his recommendation is clear in that he would like for the Commission to go ahead and waive the lien.

Mr. Flores said that is what he is requesting, but when he made the request to speak to the City Commission was on December 18, 2018 and the amount at that time was \$537.65. Mayor Boss asked Mr. Flores if he was just now becoming aware of the additional amount. He answered yes.

Commissioner Hernandez asked Mr. Flores if he is going to occupy the house. He answered yes, once he gets it livable. Commissioner Hernandez asked if he was going to live there and not sell it. Mr. Flores answered yes, he does not plan on selling it right away. He said he is commuting three times a week from Las Cruces to take care of his dad and he just needs a place to stay when he comes here.

Commissioner Sikes asked City Attorney Schreiber just because the City waives the lien and it potentially gets paid for by Mr. Flores, what about the property owner. Is what they are doing carrying over to the Courts, so that the property owner is no longer liable. City Attorney Schreiber said what her office would do if the Commission chooses to waive the lien today, is they would prepare a release of lien and it would be release, as to the lien attached to the property itself. She said in order for Mr. Flores to buy the property, he needs to satisfy the lien.

Mayor Boss asked if Mr. Flores he was willing to pay the \$500 amount, just not as a lien. Mr. Flores said that correct.

Mayor Pro-Tem Baldwin asked City Attorney Schreiber if anyone could donate to the City of Alamogordo and earmark it for anything. He then asked City Attorney Schreiber why don't we accept the donation and earmark it for the lien and it goes to the lien. She asked if they call the lien payment a donation. Mayor Pro-Tem Baldwin said so he can make it as a donation, he can earmark it for this property, then it gets paid off and then they can move forward. City Attorney Schreiber asked if that would be in the amount of \$667.81.

Mayor Pro-Tem Baldwin asked Mr. Flores if he would be willing to move forward the donation, now that he is aware of the new amount. Mr. Flores answered yes, the \$500 donation. Mayor Pro-Tem Baldwin said there is an additional amount. Mr. Flores said he realized that, but he was not aware of that. Mayor Pro-Tem Baldwin asked Mr. Flores if he was not willing to pay the additional \$100. Mr. Flores said he still wants to buy the property so he will. Mayor Pro-Tem Baldwin said it is an unfortunate position for him to be in and what frustrates him is this a conversation Mr. Flores should be having with the neighbor. He said if that neighbor has a reason for not wanting to pay it, it seems kind of petty on his part, but if we are not doing anything incorrect, his understanding is a donation can be made to the City of Alamogordo for any reason and can be earmarked for anything the person wants it to be earmarked for. He said that is the easiest way around this.

Mayor Boss said they should consider releasing the lien on the property for the \$500, since he was not aware of the other and write off the remaining \$160 or whatever it was.

Commissioner Rardin asked City Attorney Schreiber if they could legally release the new amount without payment and allow Mr. Flores to make his \$542 donation. She answered yes.

Commissioner Hernandez moved to approve to abate the original lien amount and write off the new amount of \$125.70.

Commissioner Hernandez moved to approve as amended.

Commissioner Rardin seconded the motion.

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

5. Consider, and act upon, an Ordinance 1587 for first publication, repealing Section 02-03-052 Code of Conduct of the Alamogordo Code of Ordinances. (City Commissioners) (Roll Call Vote Required)

Paul Sanchez commented on the following:

He agrees that the Code of Conduct needs to be repealed and taken off the books. He said he is the type that a law is absolutely useless, an Ordinance is useless if it is never used. He said also if it continues to waste time such as when a complaint might get put in, because it is on the books there is a process that has to be gone through as a result of that. He said if it not on the books then the process doesn't exist. He said what is interesting to him about this is after the last meeting, after a lot of discussion went on about the Code of Conduct, obviously with the heartfelt exception of Mr. Downer tonight, all of the citizens that stood up here maintained decora, unlike several of the Commissioners here in the room. Mr. Sanchez said had he used some of the language that was used last meeting by the Commission from the dais, he would have been appropriately admonished by Mayor Boss. He said it is kind of amazing to him how we have an Ordinance, and we expect certain things from the public, but they don't apply to the Commission. He said that is fine, the Ordinance is useful, the Ordinance is never used, and the Ordinance should absolutely be done away. He said the only other thing that was amusing to him, was after the last meeting he was approached by two individual Commissioners that are sitting right here now and both of them made the point to him, which he already had known, by rumor, the only reason they put the Ordinance in place was because they had to control Mayor Galea. He said you don't pass Ordinances to control an individual. He said you pass an Ordinance to control a situation, such as if Commissioners in general are doing something wrong. He said that is what that Ordinance should have been passed to do, but he has two Commissioners that are sitting here right

now that directly told him it was done to control Mayor Galea. He said he is not going to out the two that talked to him, but it is exactly that type of attitude and conduct and personal vendetta that has permeated throughout time, throughout this Commission. There are individual Commissioners that do great and some that are very concerning. He said in all the years he has been to these meetings and written about things, there is one Commissioner sitting up here that he has only wrote one negative thing about once and that would be Mayor Pro-Tem Baldwin. He said he sits there and listens, does the research, he makes his comments and it is always well considered. He said he has never had a reason to concern himself with what Mayor Pro-Tem Baldwin has had to say. He said please repeal an absolutely worthless Ordinance because it is not being used.

Rich Merrick commented on the following:

He asked they repeal the entire Code of Conduct. He said he finds it funny that a few of the Commissioners decided that they needed to school the public on Ordinances on how the government is ran but can't read the Code of Conduct Ordinance to save their life. He said the Ordinance has no teeth and the general consensus when a complaint is lodged that some Commissioners have qualms about having to pass Judgement on their peers. He said in the last meeting, on one issue, the Code was broken numerous times. He said during this one issue, since he does not have the leisure time that the Commission has when they make your comments, 3 A, C, D, E and H clearly being about half of the Code of Conduct was broken by one or more at the last meeting, and not once did a Commissioner nor the Mayor, who is running this Commission meetings, called for a point of order. He said that just shows that the Commission either doesn't care about the Code of Conduct or don't know the Code of Conduct. He said in that respect, just as Mr. Sanchez said, it is useless, it is a piece of paper that is costing us all a lot of time. He agrees with Mr. Sanchez 100 percent. He said it costs the Attorney time, it costs the Clerk time, and it costs the Commission's time. He said he is sure that some of the Commissioner's think that he has lost his marbles saying go ahead and get rid of that thing, because he sure has been one to stand up and make a complaint, but strongly urges the Commission to pass a complete repeal on this second reading without hesitation and he would strongly back each and every one that does just that.

Commissioner Rardin moved to approve to repeal the entire ordinance.

Commissioner Wright seconded the motion.

Roll call vote was taken.

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

6. Consider, and act upon, Amendment No. 1 to R.A. Pratt LLC, related to construction observation, inspection, and coordination services for the 1-MGD Brackish Water Treatment Facility, in an amount not to exceed \$15,000.00, excluding NMGR. (Bob Johnson, Engineering Manager)

Engineering Manager Johnson said this item is essentially to extend the services of the Inspector for the Desal Plant. He said current funding will run out this week or next and with changes in the scheduling for the Acceptance testing, staff has the need to extend the services of Mr. Pratt. He said they will be scaling his hours back, and as the project moves forward Mr. Pratt's services will be needed less and less, and City staff will be brought on more and more.

Commissioner Rardin asked if this will be enough money to get it done. Engineering Manager Johnson answered yes. Commissioner Rardin said he thought Commissioner Hernandez asked this question last time. Engineering Manager Johnson said this is the first extension for Mr. Pratt. He said Mr. Pratt's agreement cannot exceed \$60,000. This extension will max out the amount of time, and once the contract is done, the City cannot re-hire him.

Commissioner Hernandez said he has heard this called three different things tonight; an amendment, an extension and a change order. Engineering Manager Johnson stated it is an amendment to a Services Agreement. It extends the term the City will be able to utilize Mr. Pratt's services for.

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

7. Consider, and act upon, approval to apply for Doppelt Family Trail Development Fund grant in the amount of \$50,000, to repair and enhance the Washington Avenue walking trail. (Veronica Ortega, Community Services Director and Debbie Osborne, Grant Coordinator)

Grant Coordinator Osborne asked the Commission to consider and approve the application for the grant. She stated they are awarding two grants in the amounts ranging from \$15,000 to \$50,000 each. She said they are seeking to enhance and repair the Washington Avenue trail.

Commissioner Rardin asked Grant Coordinator Osborne if there is a match that the City has to come up with. She answered no match.

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

8. Consider, and act upon, the lease of 5 buses to Zia Therapy Center for use by Z-Trans. (Petria Schreiber, City Attorney and Brian Cesar, Assistant City Manager)

Mr. Hardin said they have been working with City staff to come up with a lease agreement for five buses. He gave some history on Z-Trans and said that the City has never bought a bus. Z-Trans has always paid the twenty percent cost that they have to pay. Federal Transit Administration always pays the 80 percent. He said every year they try to replace at least one bus with the aging of the buses. Currently they have a fleet of 12 public transportation buses, and they have anywhere from 400,000 to 700,000 miles on these buses. He said it is a testament to the maintenance they have done on them that keeps them running. He said unfortunately it costs more and more for that maintenance to keep them running. He said what they are looking at this year is a Legislative Outlay, and the City would actually receive a Legislative Outlay and then lease the buses to Z-Trans. He said they would also have advertising on the buses strictly for the City. He said what they are looking at is the lease of five buses from the City and hopefully with an agreement. He said this is all contingent if the Legislature awards it or not.

Commissioner Rardin asked if the City would be their fiscal agent. The Z-Trans team answered exactly. Mr. Hardin said they are looking at 21 Legislators because they are in Dona Ana, Otero and Lincoln County. Commissioner Rardin asked if this would not cost the City any money, other than just staff time to coordinate the money back and forth. Mr. Hardin said yes.

Commissioner Payne said she is going to guess that because this item is before them, that everything is good. City Manager Paluch nodded her head yes.

Mayor Pro-Tem Baldwin asked if and when the Legislative money does change, what is the situation then. Mr. Hardin said if the Legislature doesn't do it, it is all null and void. Ms. O'Neil said Z-Trans asked for funds for five buses, so they don't know if they will get funds for five buses or a lesser amount, but the lease agreement should work whether they have one bus or five buses.

Commissioner Rardin said it is all dependent on what the State awards you. The Z-trans Team answered exactly. Ms. Webb said they are asking for \$145,750 which would purchase the five buses. Commissioner Rardin asked if that would be the 20 percent that they would need for the five buses. The Z-Trans team nodded their heads yes.

Assistant City Manager Cesar pointed out that the City would effectively be taking their normal five requests to the State Legislature, and now this would make it six requests. He said this would not impact the City's five requests at all.

Commissioner Sikes moved to approve.

Commissioner Rardin seconded the motion.

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

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

Mayor Boss read the openings and appointed Marianne Schweers to the Alamogordo Promotions Board, Michael Eshleman and Audrey Hukari to the Alamogordo Public Library Board, Anna Blanch Rabe to the Housing Authority Advisory Board, and Lissett Mendoza to the White Sands Beautification Board. No one was opposed.

Paul Sanchez commented on the following:

He talked about a survey that was put secretly online and sent to employees of the City of Alamogordo. He said as of this morning there were approximately 100 that were signed up. He read a survey entitled "I wish to sign the petition for vote of No Confidence", and Mr. Sanchez said on the City Manager it was a six and on the City Attorney it was only 2, but both were 92, to not that a vote of no confidence, but it is kind of an emotional statement. He read another survey entitled "I want the City Commission to have an Independent Investigation of the City of Alamogordo Management." He said 100 percent of the respondents did say that. He said again the reason he spoke earlier, those were the words of City employees that contacted him, they wrote those words and they were not comfortable in standing up there and putting their faces out. He said he was tempted to say "No" because he has tried to stay out of City business since the election, unfortunately, he thinks when the City employees asked him to do this, he had to do it. He said he thinks that definitely not tonight, you are not going to be discussing hiring, firing, admonishing, etc., that is not what is in the figure to be talking about in an evaluation, but it does pertain to the approximately 200 people that came here tonight to support Chief Peete and really not to support Chief Peete, but support the concerns and the fact that he was willing to put his face upfront and take the hit for the team. He said he would hope the Commission would consider that, not necessarily this evening, but he wanted to remind the Commission that Mayor Boss or any two Commissioners can call a Special Meeting for next week. They can put the item on the Agenda to decide what to do with the ten days pay for Chief Peete, the suspension is almost over so he is not going to be reinstated, but there are 10 days of pay that are out there. The Commission has a voice, they can direct something to do about that. It is up to the Commission to decide what they want to do. Mr. Sanchez said you guys have to take control and do this, you are the Commission.

Mayor Boss stated social media users have drafted a petition asking to show no confidence in the City Manager and the City Attorney. The petition asked the Commission to order an outside Professional evaluation of the City Manager and City Attorney departments at City expense. Last night at 10:11 p.m. he received an email from Sharon Hodges that requested restatement and return of suspension salary to Police Chief Peete. The no confidence in the City Manager and City Attorney petition had 211 votes at that time. He corrected himself and said this was at 6:00 a.m. there were 211 votes. The restatement of Police Chief Peete petition, which was a separate petition, had 83 signatures. There was a copy of the actual petition and the attachment of all those that signed it and that was at 6:00 a.m. this morning. Assuming that City population of 35,000 people and 50 percent of that is children that is 17,500 people were potential voters on the signatures of these petitions. If you divide 211 by 17,500 you approximately have .012. Compared to the 35,000 that is a very small number. If you divide the 83 by 17,500 you get approximately 5005 percent signing the restatement of Chief Peete's petition. That is minuscule compared to the whole. Based on these numbers he does not believe they should take any action, to spend any resources based on these two petitions. The City paid \$62,568 for a financial statement audit which reviews a lot of those things. He does not think they should be spending anymore money on that. He said this is his opinion, and stated have fun tomorrow morning social media.

EXECUTIVE SESSION

10. Adjourn into Executive Closed Session in compliance with 10151(H), NMSA 1978 (as amended) to discuss City Manager's evaluation. (Roll Call Vote Required)

Mayor Pro-Tem Baldwin moved to adjourn into executive session at 8:10 p.m.
Commissioner Rardin seconded the motion.
Roll call vote was taken.
Motion carried with a vote of 7-0-0.

ADJOURNMENT



ATTEST:


City Clerk Rachel Hughes


Mayor Richard Boss

(Prepared by Eric Barraza, Deputy Clerk)
Approved at the Regular Meeting held on February 12, 2019.