

**CITY OF ALAMOGORDO, NEW MEXICO  
CITY COMMISSION REGULAR MEETING MINUTES  
6:30 P.M., COMMISSION CHAMBERS  
March 12, 2019**

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

**JASON BALDWIN, MAYOR PRO-TEM  
DUSTY WRIGHT, COMMISSIONER  
BRIAN CESAR, INTERIM 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 6:31 p.m. Roll Call was taken by the City Clerk. City Clerk Hughes announced there was a quorum present. Invocation was given by Commissioner Payne and the Pledge of Allegiance was led by Mayor Pro-Tem Baldwin.

**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.

**PUBLIC COMMENT**

Scott Frederick commented on the following:

He asked for transparency and feedback on what happened over the past couple of months with the City Manager.

**CITY MANAGER'S REPORT**

Interim City Manager Cesar made the following remarks:

1. He said staff has been working on Budgets for a little over a month and a half. He stated that the next three days it may be difficult to get a hold of certain staff.
2. He said the Joint Annual meeting for the Otero County Greentree Solid Waste Authority is scheduled for March 28, 2019 at 6:00 p.m. at the Tularosa Community Center located at 1050 Bookout Road. He reminded the Commission that many of them are members of that Board and if for any reason they cannot attend, they can bring their proxy to him or deliver it to Public Works Director Garner that way they will have a quorum for that meeting.

Mayor Boss asked if he was on that Committee. Interim City Manager Cesar answered he is.

Commissioner Sikes asked Interim City Manager Cesar if he has talked about the dates that the Commission would be involved in the Budget meetings. He said the calendar has been prepared but he does not have that with him tonight, but he will make sure that it gets out to the Commission.

**REMARKS AND INQUIRIES BY THE CITY COMMISSION**

Commissioner Hernandez made the following comments:

He announced when the Commission meetings are held, and the agendas are always available on the City's website. He said there is always something interesting happening and to get involved and not just when it's right in your back yard. He said this is why we get to these sessions where we have a full house is because not enough people get involved until it really hits your back yard.

**CONSENT AGENDA**

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1. Approve the minutes for the February 26, 2019 Regular meeting. *(Rachel Hughs, City Clerk)*
2. Consider, and act upon, Ordinance 1587 for final publication, repealing Section 02-03-052 Code of Conduct of the Alamogordo Code of Ordinances. *(City Commissioners)* (Roll Call Vote Required)
3. Consider, and act upon, the amended contract with the New Mexico Economic Development District, Non-Metro Area Agency on Aging (NMAAA) for the Nutrition Service Incentive Program (NSIP). *(Magdalena Morales, ASC Manager)*

Commissioner Hernandez moved to approve items 1, 2 and 3 of the consent calendar.  
Commissioner Rardin seconded the motion.  
Roll call vote was taken.  
Motion carried with a vote of 7-0-0.

**ITEMS REMOVED FROM CONSENT AGENDA**

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None.

**NEW BUSINESS**

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4. Consider, and act upon, the placement of a new "Resident Parking Only" sign for a home located at 1017 16th Street. *(Eric Barraza, Deputy Clerk)*

City Clerk Hughs said the applicant is asking for a residential Parking Only sign. She pointed out that there are 3 Churches within the 500-foot radius. She said Mr. Resh is in attendance if the Commission has any questions of him.

Commissioner Hernandez verified with Mr. Resh that he understood that there is a fee involved. Mr. Resh answered yes. He said it was explained to him that this sign is only for his residence, but he wanted to take the time to speak for the elderly woman that lives across the street from him. He explained the problems that his neighbor is encountering with the parking on the street. He said he would gladly pay for her sign. City Clerk Hughs stated that the Deputy Clerk explained to him that she can apply for a handicap parking which we don't charge for those. City Clerk Hughs corrected her statement that we do charge for those, but she does not have to appear before the Commission. She explained the process.

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

5. Consider, and act upon, Change Order No. 2, Public Works Bid No. 2018-007, to D&R Tank Company related to the Rehab Upper Heights Ground Storage Tank project, in an amount not to exceed \$191,759.00, excluding NMGR. *(Larry Garner, Public Works Director)*

Public Works Director Garner said they are looking for the removal and the replacement of the floor at the Upper Heights Ground Storage Tank. He said the contractor originally had taken 16 purchases out of the floor. He said they sent those purchases out to test to make sure the floor looks good and it will withhold the weight of the amount of water that is being put on it. The test results all came back good, but as they started scraping the floor and getting it ready for sandblasting, they started finding holes in the floor. He explained the process of replacing the floor. He said this tank was built in 1979 and

rehabbed in 1999. He said it is two million gallons and it is a very important tank for the City, it feeds everything east on Scenic.

Commissioner Rardin asked if there will be any other issues that may arise with this tank. Public Works Director Garner answered this is the last component that they have to look into. It is very unlikely that they will have any other problems. He said kind of what happened with the floor, until they get to that point, they really can't tell.

Mayor Boss said it was rusting out from the ground up, rather than from the water level down.

Public Works Director said they can't really tell until they get inside the tank to see how bad the roof looks. He said they have already started on the outside of the shell. They are at a standstill until they get the floor replaced.

Commissioner Hernandez asked Interim City Manager Cesar where the additional money is coming from, because last time they only had \$70,000 left. He answered there is a project that they still have on the books for Kids Zone, former Kids Kingdom. They were looking at constructing an effluent holding pond. He said the potable water is more important to the community at this point than the effluent pond. They will still keep that project on the books and look to replenish that funding as they go through the budgetary process.

Commissioner Hernandez said he would not be supporting this item tonight, not because he doesn't think that it is needed, but because he thinks that they took this project on in the wrong way. He said in the past there were ways to go in there and look at these tanks. He said they would send divers in and they would know what the cost was to these tanks and the rehabilitation of them. He said there was no engineering and really no scope of work involved in this. He said the City is allowing the contractor to basically tell them this is what it is going to cost the City. He said they need to look at this in the future on how they do these types of projects.

Interim City Manager Cesar advised Commissioner Hernandez they did pay to have the divers go in to do the inspection and give them the engineered estimates. He said that was done three and a half years ago. He said it was done and they did not see the deterioration of the bottom of the tank. He said that is part of the reason they are going in all these reservoir rehabs and installing the protection so that you don't have this occur in the future.

Commissioner Hernandez stated when you have the first change order that is two-thirds of the original project that is a red light. Then you have an additional change order that's more than half of the original price, that's another problem for him.

Commissioner Rardin said reading through the scope of work, it says the removal of the demoed material from job site becomes the property of D&R Tanks. He asked if the City wouldn't generate a little bit of revenue if they took that and recycled it themselves. He said figuring it would be about 90,000 pounds of steel and they are paying anywhere from three to five cents a pound, that's a pretty good chunk of money.

Interim City Manager Cesar said normally the City does not salvage the material. He said he does not know if that will change the amount of this change order, but they can look at that. Commissioner Rardin said even if it generates at a penny a pound. There is an additional \$9,000 that these guys could potentially make versus the City saving this money if they subtract this out of their bid pricing.

Mayor Boss said since they mentioned materials become property of D&R Tank property, it would be his guess that they did factor that into the job. He said that is speculation.

Interim City Manager Cesar said he wasn't part of the negotiations on the change order so he could not answer that question. Public Works Director Garner said that is something he would have to find out.

Commissioner Rardin asked if the City will have to cover the sales tax. He also asked if we are going to have enough money. He said it says sales tax not included on this.

Public Works Director Garner said the amount that the Commission got for the additional fiscal impact in coverage, is with the tax. Commissioner Rardin said so we are basically out of money on this project. Public Works Director Garner said yes, they do not anticipate any other problems because of the stage of where the tank is at this particular time, everything else is covered.

Commissioner Hernandez asked what percentage they are in this part of the project that they are asking for the change order. Public Works Director Garner answered with the floor having to be replaced it is backed up a little bit, probably about seven percent. Commissioner Hernandez said no, he is talking about the floor itself. Public Works Director Garner said they have not taken out any portion of the floor yet.

Public Works Director Garner said they will take out the entire floor. If they go down about 3 inches and there is more material that has to be removed, they have already made the commitment that they will take care of that and will not be raising the price on that. Commissioner Hernandez said that is his concern because of where this tank is placed and the ground underneath it. Public Works Director Garner said they have already had that discussion with them, because they were worried about the same. He said you really don't know what it is going to look like until you remove it.

Mayor Boss asked how they are going to remove the floor since they already got the upright supports for the bracing on the top and already attached to the floor. Public Works Director Garner said they will be cutting the floor up in strips and then in pieces. The braces that are holding the ceiling up, they'll jack those up enough to get the plate and the steel from underneath there and drop it back down.

Commissioner Payne asked if they had known about it to begin with, obviously the contract amount would have been more. Public Works Director Garner verified by saying yes. Commissioner Payne asked how the City would have accounted for that had they known about it. Public Works Director Garner said that would have been budgeted for that project. Commissioner Payne said she understands what Commissioner Hernandez is saying, she is just thinking if they don't vote for it, they will not get it fixed and we have to have it fixed.

Public Worker Director Garner said when they refurbish the tanks, they do the diver inspection, or they lower the water in the tank and go in and physically inspect it. He said they try to do that every five years, and every 15 years it needs to be rehabbed. When they redo the tank, they are also making improvements. He said of course they have improved the materials that go back into the tank with the paint having a zinc base and also with the protection which will help prolong the life of these tanks. He said they do not currently have this right now and as a result of that they get into the tanks not knowing. They are hoping for the best, this one of tanks they thought was going to be in a lot better shape and this is just what they ran up against.

Mayor Boss asked if they put that in the five-million-gallon tank that they just rehabbed. Public Works Director Garner answered yes.

Commissioner Wright asked if there are not Davis-Bacon wages required on this. Public Works Director Garner said he does not believe it is required on this. Commissioner Wright said they have it excluded. Commissioner Hernandez said they make more than Davis-Bacon anyways.

Commissioner Hernandez said he understands what Commissioner Payne is saying but he will not take his car to an Auto Shop without getting an estimate. He said there are change orders if they find something else, all he is saying on this one is that the City didn't even do that. He thought they should have been a little bit more involved in it. Commissioner Payne said she is just trying to figure out what alternative the City has. Commissioner Hernandez said he knows this will pass so that is why he is going to take his stance so that Interim City Manager Cesar understands where he sits.

Commissioner Hernandez said more than likely he can tell you that this bid had probably a maximum of 120-day life on it, the original bid. He said Interim City Manager Cesar said that they sent divers in there three years ago. They give you a bid that are good for 120 days, most of them are only good for 30 days depending on your procurement codes. He said they did not do their due diligence to find out what this was. Whether you have money or not, doesn't mean that you are going to spend it. He said that is his concern, the City did that at the Filter Plant and one of the answers from Engineering Manager Johnson was "Well we have money in the budget". He wants to make sure that the City is taking the best approach.

**Mayor Pro-Tem Baldwin moved to approve.**

**Commissioner Sikes seconded the motion.**

**Motion carried with a vote of 6-1-0. Commissioner Hernandez voted nay.**

**6. Consider, and act upon, waiving the Civic Center rental fees on April 8, 2019 for the National Crime Victim's Rights event. (Carolyn Glover, 12th Judicial District Attorney's Office Special Programs Director)**

Ms. Glover requested the Civic Center rental fees be waived for their Annual National Crime Victim's Rights event that they will be hosting on April 8, 2019 from 5:00 to 8:00 p.m. She said rental fees is not currently in the State's budget.

Mayor Pro-Tem Baldwin asked if they have waived fees at the Civic Center, and if so for what events.

Interim City Manager Cesar answered they have for other Government sponsored events that has had to come to Commission. He said in the case of this event the Civic Center is not booked. The total amount to be waived is \$233.50.

City Attorney Schreiber said she has a small concern with this, and it regards the anti-donation clause. She said ultimately, she thinks the City is okay because this provides a service to our citizens, especially those who are victims of crimes. She advised the Commission if they are going to authorize this, they should put it into a Memorandum of Understanding to protect both parties so that it is memorialized the benefit that the citizens are getting and the benefit that the 12<sup>th</sup> Judicial District Attorney's Office is receiving as well. She said that would be her advice to protect the City from any anti-donation concerns.

Commissioner Wright stated that his wife works at the 12<sup>th</sup> Judicial District Attorney's Office. He asked the Commission if they would have a problem if he abstained or voted. The Commission did not have a problem with it.

Mayor Pro-Tem Baldwin stated the thing to remember is that this is another governmental agency. Setting precedence is always tricky when it comes to donations and/ or waiving fees.

**Mayor Boss moved to approve.**

**Commissioner Payne seconded the motion.**

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

**7. Consider, and act upon, Resolution 2019-10, adopting the 2019 Downtown Metropolitan Redevelopment Area Master Plan as the official planning guide for the Downtown Area of the City of Alamogordo. (Stella Rael, City Planner & Camdon Wilde, Mainstreet Director) (Roll Call Vote Required)**

City Planner Rael asked the Commission to approve Resolution 2019-10. She said Mr. Wilde came before the Commission on February 26, 2019 with a presentation where he included this plan.

Mayor Boss said he was there when it was presented, and it looked like a fantastic plan. Mr. Wilde reminded the Commission that this plan started two years ago.

Mayor Boss said you can go on the City's website to see the plan. Mr. Wilde explained that they will be receiving paper copies by contract.

**Commissioner Hernandez moved to approve.**

**Commissioner Wright seconded the motion.**

**Roll call vote was taken.**

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

**8. Consider, and act upon on two resolutions to either declare support for Otero County becoming a Second Amendment Sanctuary County (2019-11) or to Declare support for Otero County becoming a Second Amendment Sanctuary County and declaring the City of Alamogordo a Second Amendment Sanctuary City (2019-12). (*Josh Rardin, Commissioner*) (Roll Call Vote Required)**

Commissioner Rardin said he felt it should be on the agenda because the Legislative session ends on the 15<sup>th</sup> and they should support the County or whatever the Commission feels prior to the session ending. He thanked the people for coming out to show support one way or the other.

Mayor Boss said 33 out of 40 counties have enacted resolutions in declaration of sanctuary status. There are only 3 municipalities that enacted resolutions, really two declaring themselves sanctuary status Farmington and Espanola. Roswell the Commission appointed a committee to review it and their Commission meets this Thursday.

Commissioner Rardin said Cloudcroft just passed theirs today unanimously.

Mayor Boss said he needs some explanation here because there is some misconception. Basically, what they are doing with the resolution is a symbolic gesture, their police are going to have to enforce the Laws of the State of New Mexico just as they do the Federal laws. He stated everyone on the dais took an oath that they would support the Laws of the State of New Mexico and the Constitution of New Mexico. He asked Chief Peete, whatever they do here tonight, they were going to have to enforce the Laws of New Mexico.

Chief Peete spoke of a letter he wrote regarding the second amendment. He stated in Senate Bill 328, which is also House Bill 87, 40, 83, and Senate Bill 8. State Bill 8 was passed yesterday and that mandates that folks who are selling firearms at gun shows have to have a background check. He said the intent of the letter is to provide the Commission with the facts as to how he understood them. He said, as it relates to Senate Bill 328, House Bill 87 and 83, the seizure of firearms if a suspect is involved in domestic violence, this is how he sees the bill. Section Six of the State Constitution reads, "No municipality or county shall regulate, in any way, an incident of the right to keep and bear arms. Additionally, State and Federal Law require items of only evidentiary value can be seized by law enforcement. This means there must be an articulable reasonable belief that a firearm has been used in domestic violence incident. Chief Peete stated the way he reads this bill, if there is a victim of a domestic violence incident, they go right to the courts and they can say they have safety concerns. There are a lot of statistics that do support that victims of domestic violence that are in households, where there are firearms, there is a high percentage that they may be hurt or killed with firearms and Alamogordo statistics do support that. He said he does not see it as a second amendment issue, he sees it as a fourth amendment issue. The Alamogordo Police Department cannot just arbitrarily come into a home and seize a weapon if they have no evidence that a weapon was used in a crime. While the courts can mandate someone leave their home, so there is a judicial process there, but his concern is that the Bill may not be hardly enough to provide the specifics regarding what law enforcement can or cannot do in that specific situation. He said as it relates to House Bill 40 and Senate Bill 8, background checks for private gun sales. In talking to staff members, the community and looking online, the primary

concern seems to be that folks feel that it is going to be a violation of their second amendment rights. He said in looking at how the Alamogordo Police Department sees where the bills are, they have some concerns, or at least he does. It is not specified as to where the warrant's scope allows the search of the respondent's entire residence or for vehicles or vehicle for a firearm. It is not specified as to the scope of the warrant if the petitioner does not know how many firearms the respondent may have. It does not specify as to whether law enforcement agencies will be required to conduct checks on the actual firearms seized as a result of these laws. There are no appeals process in regard to if an individual has their weapon taken away from them. He stated the risk of officer safety is significant in their specific area in enforcing a misdemeanor offense. He said there are higher insurance premiums, may be a possibility to address lawsuits. The Bills will require for the department to store firearms and they have very little space to store evidence within their department. Additional resources will be needed for regulation enforcement, he does not have the man power to go to gun shows to make sure folks have their federal firearms license and that they are selling according to state law. He said the cost of upgrading the facility to store ammunition may be substantial and may be necessary in this case. He stated his concerns are for the safety of all people in Alamogordo, to include the lives of his Officers. He said what he loves about this community is, when they have disagreements, they have conversations with grace and dignity. They need to remember that the terror of domestic violence is real and has affected most everyone in the room. They have to seek ways to limit the access for criminals and those with violent tendencies and maintaining people's enabling rights to the second amendment.

Mayor Boss said there is no provision for additional funding of police officers or storage facility for guns. he asked Chief Peete if he is wrong. Chief Peete answered, no Sir you are not wrong. Mayor Boss said they are on their own for that.

Commissioner Hernandez said it is his understanding the way the Bills are written, for instance a police officer has an on-duty shooting, they have shot somebody and are usually put on suspension until the investigation is done. He asked if the Police Department removes all their firearms from their home. He said it is not the gun, it is the people behind it. It is not the ability to get the gun because if some wants to do damage there's other ways to do it. He said his stance is, it's not that he doesn't want for them to follow the law, but he wants them to know where he stands on his second amendment right because he probably has more guns than Mr. Maupin does in his store.

Chief Peete said that brings up a legitimate point that if an individual has several firearms, the department may lack the storage area to house them all. He asked Commissioner Hernandez which Bill he is referring to because these Bills only outline domestic violence. Commissioner Hernandez told him that his department has had allegations of domestic violence against some of his officers. Chief Peete said yes. Commissioner Hernandez said in the future they remove their weapon and any weapon they have access to. Chief Peete said that is up to the courts, they would just have to enforce the court order. Chief Peete stated how he understand this Bill to be is, if an individual is involved in a domestic physical altercation. Commissioner Hernandez said or accused of, and that is the concern he has. Chief Peete said that accusation has to go through a judicial process in which the judge has to issue a warrant for the respondent or accused to surrender their weapons. Commissioner Hernandez said his concern is that due process is going to be eliminated. He is concerned that some young officer that doesn't know the rules, because the law changes every day. Commissioner Hernandez said if he is accused of something and they come to get his guns, they are going to get something else. Chief Peete said he understands his passion, as far as the process goes, they cannot take someone's weapons unless a crime has been committed or suspected a crime has occurred or unless they are issued a warrant. Commissioner Hernandez said he supports our troops, but he has seen things happen on smaller scales. He said some officers dislike other officers. They have had several incidents in the last couple of years where that was happening between the City and the County, the County and Border Patrol. He said he has concerns and it leaves everything up to you guys and sometimes that is not enough. Police Chief Peete said he understands and appreciates that. He understands that this is not what Police Officers should make a decision like that on the street. There are going to be Officers that make mistakes or are going to overstep their bounds and there are civil and criminal resolutions that

are there for that. He can't promise that they won't make mistakes but for any laws going forward there is a due process that is installed.

Commissioner Rardin said there have been two news articles in Maryland where they just passed a similar law to House Bill 87 where an officer was killed trying to seize firearms and the gentleman was passionate about his second amendment rights and the other one was the other way the police went in to seize it and the gentleman had it and they shot and killed him. This could happen in New Mexico based on how they are writing these, and it seems a little bit of an overreach.

Commissioner Payne said this is to pass a Resolution to declare them a Second Amendment Sanctuary City or passing a resolution to support the County in their Resolution of a Second Amendment Sanctuary County. She stated she understands why you are talking about the Bills, but they are not talking about being able to change that. She said while she supports everything said but she thinks that they need to make clear that they are talking about passing a Resolution, which is not a law, it is more of a statement. If they pass this Resolution, it does not change the Law. It has nothing to do with what's before them tonight, this does not exempt them from State Law.

Mayor Boss stated if all of the other counties and municipalities passed their Resolutions, they are still going to abide by the Laws of the State of New Mexico.

Chief Peete said, in response to Commissioner Rardin comment, police have to put their lives on the line to enforce laws, but they want to make sure the laws have due process and keeping in mind the New Mexico is an open carry state. So, when they are dealing with folks, they do not know if there was a domestic violence incident. The risk, danger is always there.

**Roger Schoolcraft commented on the following:**

He said a lot of legislation is being considered and even passed in regard to what he sees as an infringement on his second amendment rights. Stripped down legislation has been passed in many major cities throughout the US and through statistical data this legislation has proven to be a classic failure. It has a little if no effect in curbing violent crimes and homicides. He gave statistics on Gun Laws done by Uniformed Crime Reporting. He said in his research he kept finding the same statistical data time after time. Restrictive gun laws have not shown a deterrent to crime. He said he believes we have more than enough restrictive gun laws in the State of New Mexico and does not believe, personally, that any further gun legislation would benefit the citizenry of Alamogordo. He said the crime element doesn't care, he stresses this out of personal knowledge, what laws we have in effect. They will obtain firearms whenever and by whatever means they can. He asked Mayor Boss and the Commission to stand firm on our Second Amendment Rights and consider passing the resolution, protect the citizens of Alamogordo from any further violations for our Second Amendment Rights and to make Alamogordo a Second Amendment Sanctuary City.

Mayor Boss commented on Police Chief Peete's letter where he gives some statistics on weapons and murder in Alamogordo. He said in the last nine years, there have been five firearms used in crime. He thought we should be thankful for the low number.

**Kay Gomolak commented on the following:**

She mentioned she was the Director of COPE, the local Domestic Violence Agency. She said COPE is a member of the New Mexico Coalition against Domestic Violence, which is an organization with 30 agencies throughout the State. She said their group is supporting House Bill 87 and companion Senate Bill 328. She said from their perspective, their purpose is to provide a greater measure of safety for victims of Domestic Violence, Sexual Assault and stalking throughout the State. She explained some of the details in the Bill. She said in domestic violence, sexual assault and stalking firearms are used to control, terrorize and intimidate victims. She said 35 percent of all women killed by men are killed by intimate partners with guns. She said 44 percent of mass shootings between 2008 and 2013 involved intimate partners in Domestic Violence. She said we are not immune to this, it happened in Cloudcroft in 2017. In November 2017, Devon Kelly was shot dead, 27 worshippers at First Baptist Church in

Southerland Springs, Texas. He had committed domestic violence and child abuse here while he was at Holloman Air Force Base. In 2017, COPE served 393 victims of domestic violence, 236 of them reported that their abuse involved a weapon. This legislation attempts to address a serious and real threat. Its language is consistent with federal law already in effect. If you pass this Resolution, will you not enforce this law. She said she understands that there's questions about weapons storage for law enforcement and concerns for their safety, if they must enforce this law. However, let's not forget that any action taken because there was a very real danger presented to the court and validated through due process by the Court. If this situation is dangerous for law enforcement what do you think it is like for victims of domestic violence in their home and for their children. If your daughter were in this situation as a victim of domestic violence sexual assault or stalking how would you want our city to respond to her in her time of need. She suggested the Commission pass a Resolution making the City of Alamogordo a Domestic Violence victim Sanctuary City.

**Amy Barela commented on the following:**

She read the Oath of Office the Commission took when they took Office. She said the Constitution was written and ratified by an Act of the whole American people. She said as Thomas Jefferson declares, the purpose to secure the blessings of Liberty, Governments were instituted among men, not over them, and derive their powers from the consent of the government. Our principle in our constitution that has been worked beyond recognition is the general welfare clause. Our founders never intended the general welfare clause to mean limitless power. She said it means confinement of boundaries. This was agreed by all who drafted the Constitution. It has been proven that Countries that have banned firearms (Australia, England) and let's don't forget that Mexico has the strongest gun laws in the world have not made their Countries any safer. It is proven violent crime increases in an area where gun controls are enacted making more law-abiding citizens left unable to defend themselves from armed criminals. The Laws New Mexico is proposing advocates more restrictive gun control laws which makes attaining a gun more difficult for the average citizen but does not prevent criminals from obtaining firearms. She asked the Commission to declare Alamogordo a Second Amendment Sanctuary County and support Otero County in protection of its citizens.

**Scott Frederick commented on the following:**

He said he is a firm advocate of all our Amendments, not just the Second. He said he respects First Amendment comments, that he disagrees with, made by his Commissioner recently that discussed his second amendment rights, and his hunting ability. He said his ability to go shoot is a disease, and he would hope that was a misquote, but it is the second time that he has heard a comment from you (referring to Commissioner Sikes). He said one was during an election and he understands that things get tense, but when you insult your constituents with comments like that by putting your party first, that is part of the problem nationwide. He said it is not a personal attack, he respects her First Amendment rights, but please understand that not everyone agrees with you that are your constituents. He said for the Commission, this is a big deal, it is a political hot button. He told the Commission to think through what you are putting your names to, and ours as residents of Alamogordo, if you support this or if you don't. He said it is a constitutional issue in New Mexico and a United States Constitution issue.

**David Black commented on the following:**

He said he took an Oath when he was elected Otero County Sheriff and he swore to uphold the Constitution of the United States and the Constitution of State of New Mexico and State laws of New Mexico. Legislators of the State of New Mexico have presented numerous Legislative bills with serval of the proposed bills, if enacted, will be a law that there are required to enforce and in doing so they will be in direct violation of the rights of the citizens of Otero County. These laws will not address the criminal elements. He said some of the issues they see with the Red Flag Bill is New Mexico State Section 4-13-5 allows a court to issue a firearm relinquishment as part of the Courts broad injunctive relief, however when the petitioner is a household member and alleges among other things a threat, causing imminent fear or bodily injury by any household member. He said that's already in law, why are we trying to do it again. He said New Mexico also has an emergency mental health, evaluation and care law New Mexico statute 43-1-10. This law states that a law enforcement officer can apprehend a person based on a lawful arrest, attempted suicide or if the officer has reasonable grounds to believe

that the person as a result of a mental disorder, presents a likelihood of serious harm to himself or herself or to others and that immediate detention is necessary to prevent such harm. He said again that is already in state statute. He said HB 83 is a violation of due process, emergency order section 5 and the temporary order section 6 are issued ex parte and without any notice to or opportunity to be heard from the respondent. In addition, there is a very little personal harm requirement to take away your civil liberty. He said he supports the City of Alamogordo Second Amendment Sanctuary Resolution and he asks that you do to. He said does this Resolution give law enforcement the choice of what State laws to enforce and which ones not to enforce, absolutely not. This Resolution is sending a message to our legislators that we do not agree with their legislation as it is written today. If these Bills are passed there will be challenges filed immediately. He asked the Commission to support 30 of the 33 New Mexico Sheriffs who are opposed to this type of gun control legislation.

**Yvette Herrell commented on the following:**

She thanked the Commission for their courage for considering this tonight, because she knows that the decision before them is huge. She said at the end of the day, the bill passed by the Legislature, and there is many of them, are in direct conflict with our Constitution. She said if they want to talk about the bigger picture, this isn't just about New Mexico, it is not just about our rights or Otero County or Alamogordo, this is a movement. She said this is about funding being funneled into Legislators across the Country by the likes of George Sorrells and others. She said she can assure you that money is pouring into this State by people that want to take our rights away, take our second amendments away and try to cripple the people because when you control the guns and the land, you control the people and that is why there is such oppression in Countries around the world where they do not celebrate a second amendment or they do not celebrate ownership of property. She said this is real and our Country is changing very swiftly, and we are here as patriots, Americans, New Mexicans to stand up for our constitutional rights. She applauds our sheriffs who are going to protect our second amendment and she applauds this Commission for at least considering this. She said really the heroes in the room are the people of New Mexico, who are in great fear of losing our rights that our founders fought for, that our military hold the line on, and for us to even sit here and think about losing our ability to have second amendment rights.

**Gene Downer commented on the following:**

He asked Commissioner Sikes if she looked into a caller's question from her radio station show. She answered yes. He asked Commissioner Sikes what she found out. She said the caller was very concerned about the fact that he attempted to buy a handgun in the State of New Mexico. He carried an Arizona Driver's License and was denied the right to buy the handgun. She said according the gentlemen who owns Dave's Guns because he did not have a New Mexico driver's license, he was unable to purchase a handgun. He would have been able to purchase a long gun, but not a handgun. She said it is a federal law, not a New Mexico Law.

**Kerry Maupin commented on the following:**

He said House Bill 8 would impact him greatly. He said he has a \$5 million-dollar liability. He said the more guns he registers, the more liability he has. He said as far as he is concerned, Governor Grisham could do the background checks. He said he does not think constitutionally she can force him to have to do something like that and tell him how much he wants to pay for it. He said he thinks it is absolutely wrong.

Commissioner Hernandez said 35 years ago, he was a victim of domestic violence. The problem is not the guns, the problem is domestic violence. The problems run far deeper than anything else. He said 25 years ago he ran for Municipal Judge. He said his issue with the Judge, at the time, was how he handled domestic violence in his Court. A victim of domestic violence would come to his Court room and they would be charged and sentenced and made to go to counseling of the Judge's choice. He said most of those people charged with domestic violence could not afford to go to counseling. He said that is the reason he ran for Judge. He wanted to try and fix the problem. He said that is what he sees with this is that they are looking at the easy way out which is not going to fix the domestic violence problem. He said guns are not the problem, its society and that is just not with domestic violence but

with a lot of other stuff. He said that is what they need to work on and not take away Amendment Rights.

Commissioner Payne thought they need to acknowledge Ms. Gomalek. She said she does great work and is very passionate about what she does. She agreed with Commissioner Hernandez that stricter gun laws are going to change anything, she thinks the weapon is going to change. She said she is not in favor of criminals having guns because if you are a felon, you should lose certain rights. She is also not in favor of punishing to ordinarily law-abiding citizen because a felon makes a bad choice. She said she will always support COPE and victims of domestic violence. It's not 100 percent of the time that it is a true case of domestic violence, but she will never take a chance on somebody who may legitimately be a victim of domestic violence.

Commissioner Sikes she said she feels a lot of irony in saying that they support Ms. Gomalek and COPE and then clapping our hands for the fact that we don't want any of our rights taken away. She believes that five minutes extra of a background check or an order of protection, if it saves one life it was worth it. She said that is her personal opinion. She said as an elected official and knowing the sentiment of the people and most of the people in Otero County, she knows where they stand and where she will have to lean. She asked how many of the gun bills have been passed. Someone in the audience answered one. She said that one bill is Senate Bill 8. She explained the exclusions for the bill. She said it simply allows for expanded background checks. She said you may say that only criminals are going to end up with guns. She said she hears that argument all the time. She said she would like to hear your suggestions as to how they prevent situations like Sandy Hook, Las Vegas, Florida. She said she appreciates everyone's opinions. She believes that all of this gun violence needs to stop and what they are doing is trying to grasp straws and pass legislation that could potentially help a little bit. She said she supports this Commission and wherever they go with this. She said she also feels like what Police Chief Peete said, that there is so much that they don't know about this or the consequences of this and she believes that rather than going forward and passing a Resolution, that they hold off for a while and maybe get some more information.

Mayor Pro-Tem Baldwin stated that when this was first put on the agenda, he was a little apprehensive, not for his support of the Second Amendment, but because of the City's Mission Statement. He said as it's kind of panned out and we've watched what the County and the State has done, Commissioner Payne and Sheriff Black, have laid it out that it is just a statement. He said since he has been on the Commission for the past 7 years, the Commission has taken a pretty strong stance on about five different topics. He said this will mark one of his more proud moments that he has been in the community that this Commission is going to make a statement like this, although you guys understand what that statement is, that we don't support certain things that our Government can do for us. He thinks that is one of the most important things that we can do, especially when you get down to the Constitutionality of it. He echoed what Commissioner Hernandez said. He said he is most proud of that we live in a Country, State and a community that can have these debates, discussion and most everybody is going to be civil about it, and we are going to come out, usually, on the right side. He thanked everyone for being there and said the more people we get in here, the better off we are as a community. He said he never has his mind made up before he goes into the meetings because he wants to hear every last comment and that is what helps him make his decisions, fortunately this one it is a no brainer.

Commissioner Hernandez said how they fix this problem is by getting involved. He told Commissioner Sikes that most of the items that she mentioned were actually avoidable if the people would have gotten involved, but most of the people were too busy in their own day-to-day stuff.

**Commissioner Rardin moved to approve Resolution 2019-12.**

He then asked the City Attorney Schreiber if that is the one that declares the City of Alamogordo a Sanctuary City. She answered that is correct.

**Commissioner Wright seconded the motion.**

Mayor Pro-Tem Baldwin asked City Attorney Schreiber why the Commission could not do both. City Attorney Schreiber stated they can, but it is redundant. She said 2019-11 just declares support for Otero County and its Sheriff, and 2019-12 declares support for Otero County and its Sheriff and makes the City a Second Amendment Sanctuary City.

Roll call vote was taken.

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

## **ADJOURNMENT**

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Commissioner Wright moved to adjourn at 8:12 p.m.

Commissioner Hernandez seconded the motion.

Mayor Boss adjourned the meeting.



ATTEST:

  
City Clerk Rachel Hughes

(Prepared by Eric Barraza, Deputy Clerk)

Approved at the Regular Meeting held on March 26, 2019.

  
Mayor Richard Boss