

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
February 26, 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, ASSISTANT 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. Commissioner Payne was as absent. City Clerk Hughs announced there was a quorum present. Invocation was given by Reverend Harp and the Pledge of Allegiance was led by Commissioner Hernandez.

APPROVAL OF AGENDA

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

PRESENTATIONS

1. Presentation on Marijuana Legalization and House Bill 356. *(Brian Peete, Alamogordo Police Chief)*

Police Chief Peete showed a Power Point Presentation. He presented the opinions of the Department based on the research they have conducted and based on speaking with other Police agencies that do have legalized marijuana usage. He said they have provided the information to the Commission and the public so that folks can make an informed decision or position to the legalization of recreational marijuana. (See Blue Book for Power Point Presentation).

2. Presentation on Alamogordo MainStreet general overview and annual report. *(Cam Wilde)*

Mr. Wilde showed a video from New Mexico MainStreet, which was part of a Power Point Presentation. He gave an overview of the MainStreet organization. He also spoke on the Metropolitan Redevelopment Area (MRA) Plan, 2018 and 2019 events, 2019 initiatives and the 2018 Annual Report. He briefly talked about some upcoming challenges. (See Blue Book for Power Point Presentation).

Mayor Boss thanked everyone involved with MainStreet.

3. Presentation and update of current projects. *(Bob Johnson, Engineering Manager)*

Engineering Manager Johnson showed a Power Point Presentation. He gave a brief overview of various active City projects. (See Blue Book for Power Point Presentation).

Engineering Manager Johnson said the North Scenic Drive Extension to Mesa Verde Ranch Road has been in design for some time. The current design is between 85 and 90 percent complete. He said they are currently awaiting Union Pacific Railroad (UPRR) to termination approval to move forward with the City's request to go to bid and construct the new intersection at Scenic and delay the closing at the 8th Street crossing until after the end of January of 2021, due to an existing agreement that was signed between the Sheffield's, the City and Union Pacific Railroad many years ago.

Mayor Boss asked if staff has heard anything from the railroad on that. Engineering Manager Johnson said they have a verbal only. He said he spoke with Mr. Peters at Union Pacific who indicated that staff above his level is receptive to the City's request, but he could provide anything in writing at that time. Mr. Peters said if they continue on their current course of being okay with the City's request, that they would amend the agreement between UPRR and the City as far as the amount of funds the City will have to expand for UPRR to construct a crossing, the railroad portion of it, and they would have the City something in writing about the end of March. He reiterated that was verbal only at this time.

PUBLIC COMMENT

Richard Merrick commented on the following:

He spoke on the County Commission meeting he attended last night. He said it was amazing to see 600 people come together for an issue like that. He asked the City to draft a Resolution to support the County on what they are doing in trying to stand up to the bad legislation that is going through our State.

Michael Gallegos commented on the following:

He said his question had already been answered prior to public comment.

CITY MANAGER'S REPORT

Assistant City Manager Cesar made the following remarks:

1. He cautioned the public to try and avoid the area around 1501 Cuba Avenue beginning next week. The structure is scheduled for asbestos abatement and demolition.
2. He said on February 22, 2019 the Water Filter Plant Operators were able to temporary repair and secure the cover on the East Raw water storage in La Luz. He said their efforts saved the citizens of Alamogordo, not only in a monetary way but also saved millions of gallons of water.
3. He said if you recall the Commission gave the City Attorney permission to foreclose on the Premier Pellets facility to recoup the LEDA (Local Economic Development Act) funds. The Commission also directed the City Attorney to work with Premier Pellets to recoup the LEDA award. He announced that the City Attorney was able to get Premier Pellets to fulfill their complete LEDA obligation and the award was paid off a few weeks ago.
4. He said Pop-Up City Hall is an opportunity for City Staff and Elected Officials to interact with citizens outside of City Hall. These Popup City Halls will be in conjunction with community events. The upcoming events where they will have a Pop-Up City Hall will be April 20th at Easter in the Park at Washington Park. On May 24th, June 28th, July 26th and August 23rd they will do Pop-Up City Hall in conjunction with Fourth Fridays at the Zoo.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Rardin made the following comments:

He echoed Mr. Merrick's comment about the meeting at the Flickinger Center. He said it was an amazing turnout for Otero County. He said he personally supports the County on their decision on doing that.

CONSENT AGENDA

4. Approve the minutes for the February 12, 2019 Regular meeting. *(Rachel Hughs, City Clerk)*

5. Approve the statements related to the Executive Closed Session held on February 12, 2019. *(Rachel Hughs, City Clerk)*

6. Consider, and act upon, Resolution 2019-06 to apply for the New Mexico Department of Tourism Clean and Beautiful Grant for FY 2020 for funding for the Keep Alamogordo Beautiful program. (*Joshua Sides, Acting Special Events Manager*) (Roll Call Vote Required)

Commissioner Hernandez moved to approve item 4, 5, 6 of the consent calendar.

Mayor Pro-Tem Baldwin seconded the motion.

Roll call vote was taken.

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

PUBLIC HEARING

7. Consider, and act upon, Application No. 1116622 575 Brewing Company, LLC a Small Brewer Liquor License, with on Premises Consumption and Package Sales with Patio Service at 234 W. 8th Street. (*Rachel Hughs, City Clerk*)

City Clerk Hughs advised the Commission that Mr. Arnold was present in the audience if they had any questions for him.

Commissioner Hernandez moved to approve.

Commissioner Wright seconded the motion.

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

NEW BUSINESS

8. Consider, and act upon, Ordinance 1586 for first publication to amend sections of the City Charter pursuant to the new State Election Law. (*Rachel Hughs, City Clerk*) (Roll Call Vote Required)

City Clerk Hughs said this is to amend the City Charter to coincide with the new Election Code, as it supersedes sections of the City Charter. She explained each of the changes to the Charter. She said, according to the Secretary of State and outside legal opinion, in the New Mexico 2018 Election Code Section 1-22-3.2 B. A municipality may change its charter by ordinance or as otherwise provided by the municipality to conform its election schedule with the requirements. She said it would be meaningless to take this to the qualified electors, this special election would cost more than \$30,000, for something that if the voters were to come back and vote no; it still cannot be changed according to State Law.

Mayor Pro-Tem Baldwin moved to approve.

Commissioner Rardin seconded the motion.

Roll call vote was taken.

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

9. Consider, and act upon, first publication of Ordinance 1588 for a map amendment to the official zoning map to change the zoning of 1516 New York Ave from R3 Two Family Dwelling District to R-4 Multiple Family Dwelling District. (*City Planner Stella Rael*) (Roll Call Vote Required)

City Planner Rael said the owners of the property are requesting a map amendment to the official zoning map. She showed the Commission the area to be rezoned by Power Point Presentation. She said the property is located within the Two-Family Dwelling District and the request is to amend the official zoning map to R-4 Multiple Family Dwelling District. The application was filed on January 8, 2019 and the legal notice was published in the Alamogordo Daily News on January 13, 2019. She sent out 30 certified letters by return receipt to all property owners of record within 200 square feet from the property excluding public right of way. The Alamogordo Planning and Zoning Commission considered this item on February 7, 2019 and recommended approval to the Alamogordo City Commission by a vote of 5-0. As of February 19, 2019, there has been one letter returned as undeliverable and no objections. She said staff recommends approval. (See Blue Book for Power Point Presentation)

Commissioner Rardin asked how they are going to utilize that. City Planner Rael answered Ms. Hendricks has a home based day care business and for the City's Home Occupation Ordinance you are only allowed 5 children per home in the current zoning that she is at. By rezoning to a Multiple Family Dwelling she meets the International Fire Code. Commissioner Rardin said it is basically to cater to a business that she has. City Planner Rael answered yes, so that she can have more than 5 children at that location.

Commissioner Rardin asked how the other area around this property is zoned. City Planner Rael showed a zoning map of the area and described the different zones.

Commissioner Rardin moved to approve.

Commissioner Hernandez seconded the motion.

Roll call vote was taken.

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

10. Consider, and act upon, Resolution 2019-05 requesting written approval from the Local Government Division of the Department of Finance and Administration, State of NM for the revised budget numbers computed as of February 26, 2019. (Evelyn Huff, Budget Analyst) (Roll Call Vote Required)

Budget Analyst Huff said this a budget revision to revise the budget figures that the City currently has. The biggest items on this revision is to add the \$2.5 million in LEDA funds that was approved through Ordinance. The other big item on this revision is to approve a grant that the Fire Department was awarded to allow them to purchase \$99,945 of new equipment. The other items are smaller items including a donation that the Senior Center received through one of their participants who passed away.

Mayor Pro-Tem Baldwin moved to approve.

Commissioner Wright seconded the motion.

Roll call vote was taken.

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

11. Consider, and act upon, a Memorandum of Understanding between the City of Alamogordo and KATO Foundation/Kitty City NM Re: Community Cats Program: Return to Field (RTF). (Petria Schreiber, City Attorney)

City Attorney Schreiber said she needs to add the standard termination clause to the Memorandum of Understanding (MOU). This MOU has to do with the presentation that came before the Commission at the last meeting. She said Best Friends Animal Society has agreed to fund this program for a year through Kitty City. Kitty City will pay the Veterinarians to vaccinate any cats, as well as the Spay/Neuter cause. This will be done through a grant with Best Friends Animal Society. The MOU talks about the number of cats and what the Alamogordo Animal Control agrees to do which is essentially transport within the City limits. After treatment, the City will return the cats to where they were picked up at.

Mayor Boss stated he loves cats. He said every Commissioner was listed as receiving the letter. He said PETA is opposed to the program and they gave several reason why. He said they've had a lot of problems in Albuquerque. He suggested that everyone go back, take a look at it, and just consider it.

Commissioner Sikes said the day that Ms. Denton and the Best Friends Sanctuary Representative were here, they actually talked about the program in Albuquerque and she had definitive statistics about the success of the Albuquerque program. She does not recall seeing the letter, but there is a good chance that her brain just went right over it because she usually in opposition to some of PETA's suggestions.

Mayor Boss said he agrees with that, but they have the letter and they did cite some things that he went back and looked at, like a lawsuit recently filed because there was property that has been diseased in Albuquerque. He thought they should have Animal Control call Cities that have done this and talk with them to see what their experiences have been.

City Attorney Schreiber stated it is her understanding that Best Friends Animal Society has done this program in Albuquerque and they have seen a 38 percent reduction in the feral cat population. She said what the City of Alamogordo is doing now, is not working. They are trapping feral cats and they are ultimately being euthanized, and they are not controlling the population. Mayor Boss said we are controlling the population if they are euthanizing cats to some degree. City Attorney Schreiber said Kitty City has over 300 cats at any time. She said what she has heard from all the players in this is, is that what they are doing isn't working. She said this is an idea that they can try and if it ultimately doesn't work, they can terminate this. She said this has an education component, so something that Ms. Denton has been clear with us, is to educate the public. She believes this is something that Animal Control would really like to try at this time to see if they can make headway.

Mayor Boss stated he is not saying that they shouldn't do that, but it is not all about controlling the population of the animals. He said last year, Albuquerque City workers had to be monitored for signs of plague after a stray cat had been found dead on a residents property tested positive for the disease. He said he is not saying they shouldn't abandon it at all, but he thinks they should check with other places and see what problems they've had. He said he loves cats, but he loves humans more. If some of these things are happening, then they should be aware of it.

Ms. Denton agreed with Mayor Boss. She said we need to address the accusations in the PETA letter. She said according to Best Friends that they did look at all of those issues. She will get all that research for the Commission, but she is going to echo what the City Attorney said about what we are doing right now, is picking up cats and killing them, new cats come in and reproduce and they have the same problem perpetrating. It isn't working other than the fact that they keep getting more cats. The idea is to control the population. She agreed to look into the accusations in the letter. She thinks that they will find that some of those things may not be as dire as they are stating. She said the idea of this program is to put back healthy cats eventually having the population stabilized. She said she will look into it and get back to the Commission.

Commissioner Rardin moved to approve as amended.

Commissioner Sikes seconded the motion.

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

12. Accept the resignation of City Manager Maggie Paluch. *(Richard Boss, Mayor)*

Mayor Boss stated for the record this statement is his opinion, he is not speaking for or on behalf of this Commission. He said the position of the City Manager is a tough one. The average per job life of a City Manager position is from three to five years. In our City form of Government that being City Manager/Commission structure, the City Manager position is by far the most influential and significant in that daily operational responsibilities and decisions for the City are made by the City Manager for the City as a whole. The City Managers responsiveness to meetings and responsibilities, to those responsibilities and making decisions many times difficult ones is truly tested on a daily basis. Over the past almost three years he has worked very closely with City Manager Paluch and witnessed our community move forward as a result of her leadership and management skills. He is going to vote to accept the resignation of City Manager Paluch. It is with regret that he does so, however circumstances require him to make a decision. It is the right decision. He wanted to personally thank City Manager Paluch for her service to our community and wish her all the best in the future.

Commissioner Rardin asked if the Commission really needed to vote to accept the resignation. Mayor Boss said he thinks they voted on the resignation of Dr. Straface. City Clerk Hughs stated the

Commission did vote on Dr. Straface's resignation. Mayor Boss said then he thinks that they should vote on this one.

Commissioner Rardin moved to approve.

Commissioner Hernandez seconded the motion.

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

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

Mayor Boss read the openings and appointed Rhonda Devine to the Housing Authority Advisory Board. No one was opposed. He read the vacancies.

EXECUTIVE SESSION

14. Recess into Executive Closed Session in compliance with 10151(h) (2)(7), NMSA (as amended) to discuss Limited Personnel Matters (Acting or Interim City Manager) and Threatened or Pending Litigation (Graham v City of Alamogordo) and (K9 Brutus).

Peter Villa commented on the following:

He said the Mayor is absolutely right in his comments about the City Manager's position. He said one of the items to be discussed in Executive Session is threatened or pending litigation of at least one former City employee. He believes that is possibly a result of some of the actions that he himself underwent under the direction of the City Manager previously. He said mistakes happen in life and the issue has become that there have been numerous personnel that have been crucified. He said his hope is that the City Commission is going to find a road forward that is going to allow for rectifying some of the issues to prevent more of these litigation issues showing up on Executive Sessions continuously down the road. He said it is only a matter of time that the rest of the personnel that has had an issue in this situation, take advantage of it. At what point are the taxpayers going to be able to say how do we get ahead of this and stop this mess, to be able to make it right with the people that got crucified for a mistake.

Commissioner Rardin moved to recess into executive closed session at 7:52 p.m.

Commissioner Wright seconded the motion.

Roll call vote was taken.

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

RECONVENE INTO OPEN SESSION

Commissioner Hernandez moved to reconvene into open session at 8:30 p.m.

Commissioner Rardin seconded the motion.

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

Mayor Boss stated the governing body of the City of Alamogordo, New Mexico hereby states that a closed Executive Session was held and matters discussed in the closed meeting were limited only to personnel matters, that being Acting or Interim City Manager and threatened or Pending litigation, that being Graham versus the City of Alamogordo and K-9 Brutus. The only action taken was the Assistant City Manager Brian Cesar was appointed Interim City Manager and they will open a nationwide search for a new City Manager immediately.

City Clerk Hughs asked Mayor Boss if the Commission was going to consider and act upon and do the motion. Mayor Pro-Tem Baldwin asked if the Commission needs to do a motion. City Clerk Hughs answered yes.

Mayor Pro-Tem Baldwin moved to appoint the Assistant City Manager to Interim City Manager and to enact a nationwide search for our potential new City Manager.

Commissioner Wright seconded the motion.

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

Commissioner Hernandez thanked the sitting Commission. He said although they did not agree on the circumstances that led them to this, they all held their professionalism and worked together to get through this. He appreciates that from all of the Commission.

ADJOURNMENT

Commissioner Rardin moved to adjourn at 8:33 p.m.

Commissioner Hernandez seconded the motion.

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



ATTEST:


City Clerk Rachel Hughes


Mayor Richard Boss

(Prepared by Eric Barraza, Deputy Clerk)

Approved at the Regular Meeting held on March 12, 2019.