

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
August 13, 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 BENGOCHEA, 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 absent. City Clerk Hughs announced there was a quorum present. Invocation was given by Pastor Vaden Gilloth and the Pledge of Allegiance was led by Mayor Pro-Tem Baldwin.

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 of the Parks and Recreation Board. *(Tony Gonzalez, Community Services Executive Assistant)*

Community Services Executive Assistant Gonzalez gave an overview of the Parks and Recreation Board, he said the board had one meeting in the last six months. They had a lot of volunteers for the cemetery. The next meeting will be in October.

2. Presentation on the new Train Depot/Alamogordo Center of Commerce Building. *(G.B. Oliver, Chamber of Commerce President)*

Mr. Oliver said they are excited to bring this project to the Commission. He said it has been a combination of a lot of meetings including City staff. He said if this is completed it will represent the most iconic multi-purpose building in Alamogordo.

Ms. Schweers said the Chamber of Commerce is housed in a 65-year old building owned by the City. She said they are proposing to replace that structure with a 35,000 square foot structure. She requested for the City Commission's approval to move forward with the project. She also requested for permission to have City staff work with them on the project.

Mr. Shyne talked about the Sheldon Trust. He said the Sheldon Trust is committed to give its million dollars to this project. He gave a background of the Sheldon's.

Mr. French talked about having a venue for important events. He said this project could be the flagship for the MainStreet movement.

Mr. Rabon said the Alamogordo Zoo, the Train Museum, the Alamogordo Visitor Center, the Alamogordo Chamber of Commerce, the Small Business Development Center, the Otero County Economic Development Council would all be housed at this facility. He also mentioned that a Special Events Center is going to be created as a result of this and it would house up to 250 people. He said this new facility would be known as the "New Town Plaza". He talked about possible funding sources.

Mayor Boss asked if they have come up with an estimated cost. Ms. Schweers said the architect gave them a quote of \$350 a square foot, which is turnkey including the furniture. This comes out to \$12 million.

Commissioner Rardin asked if that estimate includes any scale wages. Ms. Schweers verified with someone in the audience that it does include scale wages. Ms. Schweers said again they are asking the Commission for approval to move forward with the project. She said it would not have to be tonight. Mayor Boss explained that approval would have to be a future meeting.

Commissioner Hernandez said there were a lot of funding sources mentioned. He would like to tie some of those down to dollar amounts. He feels the estimate is low, but thinks those things are workable and depends on timeframes. He wants to make sure they have the ability to do this, if they are going to do it. He wants to make sure the numbers are right and the funding sources.

Mayor Pro-Tem Baldwin said he is excited about this and thanked them. He thought this meshes with a lot of different visions and missions.

Commissioner Sikes echoed Mayor Pro-Tem Baldwin. She asked if they are eliminating the Toy Train Depot. Mr. Shyne answered they would not be eliminating it, but it will not be a building that the public would be able to enter. Commissioner Sikes said the City has talked about putting a restroom at the north side of the park, so knowing that these artist renderings are here now, they do not want to put a restroom where they will have to knock it down later. She hopes the Commission does not take a lot of time to determine when to put this on the agenda.

PUBLIC COMMENT

Eugene Downer commented on the following:

He honored Commissioner Sikes as he held up a Thank you for Keeping Alamogordo Beautiful sign and said she knows how to get things done. He said there is a lot of money in the State's account from mineral contributions, so he thought it would be a good time to look at land acquisition. He also spoke of Operation Round Up in Cloudcroft and said he would like to see that here in Alamogordo. He complimented Interim City Manager Cesar for creating the trimming project on White Sands Boulevard. Interim City Manager Cesar credited Parks Supervisor Marion for the idea.

CITY MANAGER'S REPORT

Interim City Manager Cesar made the following remarks:

1. He said the Elementary School teachers in El Paso requested postcards or cards to give to the children, after the tragic shooting, to boost morale and let the children know that we support them. There will be a drop box in the City Clerk's office for the cards.
2. He said the contractor for the Desalination Project has passed the testing stage that was required by NMED (New Mexico Environmental Department). The City is now entering the 30-day Operational phase. The City is looking at doing a ribbon cutting and bringing the facility on-line in September, barring any issues.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Mayor Boss made the following comments:

He said the day after the shooting in El Paso, he called the number El Paso had listed, and he was able to give them the City of Alamogordo's condolences.

Commissioner Hernandez made the following comments:

He said the hospital celebrated 70 years with the community. He said they recently had the groundbreaking for the new construction, and that project is close to \$70 million. He has worked for the hospital for 20 years and he appreciates the community support they have received.

Commissioner Sikes made the following comments:

She said the hospital is doing 70 projects for 70 years for the community. She said they just received a \$750,000 grant to help them search for specialties. She said they are very fortunate to have a Regional Hospital like Gerald Champion here. She stated the City initiated a program for people to keep their yards beautiful. She said Special Events Manager Sides was able to find some money with Keep Alamogordo Beautiful to get signs printed. These yard signs are to thank the residents for keeping Alamogordo beautiful. She asked the Commission as they are driving around town to note the address when they see a beautiful yard. She talked about recognizing the residents and yards.

Commissioner Rardin made the following comments:

He complimented the grounds for the Pregnancy Health Center on White Sands Boulevard. Commissioner Sikes said they should not limit it to just residential but to include businesses in their beautiful yards search.

Commissioner Hernandez made the following comments:

He said he receives complaints on Code Enforcement about cleaning up yards. He said it is not that hard to keep your yard up.

CONSENT AGENDA

3. Approve the minutes for the July 23, 2019 Regular meeting and the July 29, 2019 Special Meeting. *(Rachel Hughs, City Clerk)*

4. Consider, and act upon, Leak Abatement Request for Roger Woodle, 1805 College Ave., in the amount of \$4,017.56. *(Mark Threadgill, Customer Service Manager)*

5. Consider, and act upon, final publication of Ordinance 1597 amending 11-04-020 of the Alamogordo Code of Ordinances regarding Unlawful Possession of Marijuana. *(Petria Bengoechea, City Attorney)* (Roll Call Vote Required)

Commissioner Hernandez asked to remove Item # 4 from the Consent Calendar.

Commissioner Hernandez moved to approve item 3 and 5 of the consent calendar.

Commissioner Wright seconded the motion.

Roll call vote was taken.

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

ITEMS REMOVED FROM CONSENT AGENDA

4. Consider, and act upon, Leak Abatement Request for Roger Woodle, 1805 College Ave., in the amount of \$4,017.56. *(Mark Threadgill, Customer Service Manager)*

Commissioner Hernandez said he pulled it off to make it public because it is an abatement request.

Commissioner Hernandez moved to approve.

Mayor Pro-Tem Baldwin seconded the motion.

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

NEW BUSINESS

6. Consider, and act upon, first publication of Ordinance 1598, an amendment to the City Charter for submitting Candidate Disclosure Statements. (Rachel Hughs, City Clerk) (Roll Call Vote Required)

City Clerk Hughs said this is part of the City Charter under Candidate Disclosure Statements. These statements are to identify the real properties that a Candidate may have in the State of New Mexico when they are filing for candidacy. With the City of Alamogordo opting-in to the Local Election Act, the County Clerk agrees that it makes sense that these are filed with the County Clerk, along with their candidacy forms, to cause less confusion for the candidates. They are wanting to remove the wording where it states, "with the City Clerk" and replace it with "the candidate shall file for disclosure statement at the time for filing for Office".

Commissioner Sikes asked if the City will still provide the forms and instructions to candidates or will everything run through the County Clerk's Office. City Clerk Hughs answered everything will go through the County Clerk. She also said that this and the next item are the only two paper works that will not be taken to the County Clerk, if the Commission chooses not to.

Commissioner Rardin said typically the Commission cannot make changes to the Charter without a vote of the people. He asked if this was part of the powers that were given to them in that Local Election Act. City Clerk Hughs answered yes. She said this is not something the Local Election Act told them to change, but the County Clerk thought it just makes sense. City Clerk Hughs wanted to bring this to the Commission to see what they wanted to do.

Mayor Boss said it would make sense. Commissioner Rardin said he agrees with the change, it is just the fact that they are changing the Charter, and the Charter can only be changed by a vote of the electorate. He said in the Local Election Act they gave Municipalities the authority to change whatever they needed to by Ordinance. City Clerk Hughs said that is correct.

City Attorney Bengoechea said the City Clerk's Office got outside legal opinion on this issue, and the opinion did say that it could be changed to be in compliance with the Local Election Act.

Commissioner Hernandez stated one of the issues they have had is the lack of candidates for the positions, several people complain but come election time nobody show up. He asked if this could be advertised throughout the City. City Clerk Hughs said you should be seeing in the water bills the positions that are open and they should be going to the county clerk, you will also see it in the newspaper, city Facebook, and the city website.

Commissioner Hernandez moved to approve.

Commissioner Rardin seconded the motion.

Roll call vote was taken.

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

7. Discussion on Municipal Election Campaign Disclosure Ordinance 1466. (Rachel Hughs, City Clerk)

City Clerk Hughs explained that this another set of forms that need to be submitted. She stated this is the election Campaign Disclosures. This ordinance came to Commission in 2014 and was passed. The forms show where the funds are coming from, what the money is being spent on and then the closing of the actual disclosure reports within six months up to twelve months if the funds are still there. She said they are proposing that these reports are also taken to the County Clerk, the County Clerk said she is willing to take these reports. City Clerk Hughs said they would also like to make a change to the filing dates. This is currently by Ordinance and not in the Charter. They would like to see it changed to twelve days prior to the election and no more than 45 days to file the final.

Mayor Boss asked if the County Clerk did said they would perform that. City Clerk Hughs answered yes, it would actually be easier for her so that she is not waiting for someone to close out their financial disclosures.

Commissioner Sikes said the only problem she has is if a candidate wins the election and they anticipate running again, why they should close out their campaign fund. Mayor Boss said they do not have to close it out. Commissioner Sikes said if they are not going to close, they should have to report it. She also said she understands wanting to reduce the number of times to report, but maybe add an annual report if they are going to keep the account open.

City Clerk Hughs said normally candidates close them out within two months. Commissioner Sikes said maybe for City elections, but she knows of campaign accounts that are open for years. City Clerk Hughs said this ordinance was modeled after Las Cruces, Santa Fe and jurisdictions outside the State. She said a lot of it is coming from General Elections because currently Municipal Elections don't have to have these type of disclosure statements. Commissioner Sikes said she would never consider removing campaign disclosures all together but reducing the number of times to report is fair.

Commissioner Hernandez stated at the last election where a candidate followed the disclosure form and filed zero, but yet the candidate had several 4 x 8 signs out. He said the reason to know who gave what money is to see who is supporting that candidate, so it is not working. He said this is unenforceable. It is a rule on the books that nothing is going to be done about whether you report or don't report. It is a useless ordinance.

Commissioner Sikes asked aren't all election laws enforceable by the Secretary of State. City Clerk Hughs said this is the City's ordinance. City Attorney Bengoechea said the City will enforce their ordinances and the Secretary of State will enforce the State Statute.

Commissioner Sikes said if they wanted to enforce the fact that somebody had 4 x 8 signs out there, then she thinks all they have to do is bring it up and talk about it. Commissioner Hernandez said it was brought up. Commissioner Sikes said she doesn't think that anybody reviewed the campaign filing forms after the fact. Commissioner Hernandez said it was. Commissioner Sikes asked if they chose not to do something because the candidate lost.

Commissioner Hernandez said he is not sure, but he doesn't think it would have mattered. He mentioned that there is a specific ordinance on sign placements, but yet they never enforce it. He said this is just another ordinance that he thinks is a good idea, but what good is it after the election. If they are putting zero 12 days prior to the election and then the election happens and 30 days after they are putting that someone contributed \$10,000 to run in a City election. He said that is lights on for him, if he was looking at that, and certain people will look at that. Commissioner Sikes said she thinks the consequences would be different if they won. Commissioner Hernandez said it shouldn't matter. Commissioner Sikes said once somebody loses; it is like oh well. Commissioner Hernandez said that report could change an election if somebody is looking at that.

Commissioner Sikes asked if they need to amend this ordinance. Commissioner Hernandez said if they are going to have it, it needs to be enforced. Mayor Boss said they are not going to know about it, if they turn it over to the Clerk.

Commissioner Rardin said they need something in their ordinance that if the candidates take it down to the County Clerk's Office and files it, the City has no records of it. He said if someone comes in and files a record's request for those campaign contributions, the City will not have a record of it, so they need something in the ordinance that states that the County will forward the City a copy of it. He agreed with Commissioner Hernandez that this is not being enforced, and maybe they should look at it and put some teeth in it so that it can be enforced.

Commissioner Sikes said her recommendation would be that they look at how they enforce an ordinance like this. Mayor Boss asked if the County Clerk will be responsible for that information and not the City.

City Attorney Bengoechea answered that is correct. She said in response to Commissioner Rardin, if the City received an IPRA (Inspection of Public Records Act) request for any County records, that is forwarded to the County and then they disclose. Commissioner Rardin said it is a technically a City record. City Attorney Bengoechea said it is in care and control of the County and because they are in control of the election, they will have it. Commissioner Rardin asked if the City wouldn't want that information. City Attorney Bengoechea said she is not saying that the City wouldn't, but she is just saying that it will still be accessible to the public, if the public wanted it, but it would still be the same turnaround if they get it from the County. She told Commissioner Sikes that the Attorney's Office could enforce that. They could also look at criminal complaints and filing that into Municipal Court like they enforce any other ordinance. The penalties are set out in the ordinance. They can work with the Governmental Code of Conduct and State agencies to look at enforcing it. Her Office works at enforcing every ordinance as long as she is made aware of something and they have enough evidence to proceed with filing it.

Commissioner Hernandez asked if the penalty would be up to 90 days in jail or a \$500 fine. City Attorney Bengoechea said they have an ordinance that says if any of the City codes are broken that is the maximum penalty.

Commissioner Rardin said in Section 2-16-110 there is a section, as far as penalties, in the ordinance. Commissioner Hernandez said the filing on that particular one, was a false filing. Commissioner Rardin said he agrees with Commissioner Hernandez in that they should look at putting some teeth in there to enforce that in the event that they received a false report.

City Attorney Bengoechea said if they do that, she would say that they would want to look more to the State agencies. They would want to report to the Secretary of State and the Attorney General under the Governmental Code of Conduct under their election codes. She also said they still have 1-1-100 which is entitled general penalty in continuing violations which says any violation of any of our ordinances is punishable by a fine of not more than \$500 or imprisonment for a period not to exceed 90 days.

Commissioner Rardin asked how that would work with the Secretary of State's Office because the City is a non-partisan election. They have control over the election portion of it, but they don't really care about City elections. City Attorney Bengoechea said that is something that they would work with them on. Commissioner Rardin said maybe the City could put their own penalties in their own ordinance and enforce it themselves.

Commissioner Hernandez said he knows it is too late to do a lot of that stuff for this election, but if they can look at doing it for the election two years from now. He said the conversation is good because they do have some teeth in it. He said to move forward with sending this over to the County for now and then see what needs to be done if they are going to keep it on the books to make it usable in the future; for what it's intended for.

Interim City Manager Cesar said this is just for discussion and would be brought back to Commission. He clarified the changes to be made are penalty added and the proposed language of reporting 12 days prior to the election and no later than 45 days. Commissioner Hernandez said he thinks the time frames are fine, but on the last election somebody didn't make a true statement. Interim City Manager Cesar clarified that the ordinance should include the language proposed plus the penalty.

Commissioner Rardin said it does state that if the candidate fails to do that and is elected, that their Certificate of Election will be held until they actually file it. He said if they are elected there is some

teeth to it, but if you are not elected there is not a whole lot they can do. He said this is just more of transparency.

8. Consider, and act upon, Resolution No. 2019-35 adopting an Infrastructure Capital Improvement Plan (ICIP) and identifying the top five (5) recommendations projects for Fiscal Years 2021-2025. (Debbie Osborne, Grant Coordinator and Sue Ashe, Accountant) (Roll Call Vote Required)

Debbie Osborne gave the overview of the 5 top projects they are recommending, new fire brush trucks, computers for police and fire vehicles, police vehicles and equipment, restrooms at public parks and Civic Center renovations.

Mayor Pro-Tem Baldwin asked about the Snake Tank transmission line, he stated it was number 15 on the list. Interim City Manager Cesar explained that they have a lot more opportunities through the Water Trust Board and other State and Federal agencies to acquire funding. He said they looked at the areas that don't have the same opportunities that they have with water and sewer or streets that has dedicated gross receipts taxes. He also said potential projects, such as the Snake Tank, has to be identified on the ICIP list to request funding from any State or Federal agency.

Mayor Pro-Tem Baldwin asked him if the same opportunity would apply to the City's storage facilities. Interim City Manager Cesar said for the storage reservoirs, they will have an application in with the Water Trust Board for a rehabilitation of one of the reservoirs. The Snake Tank transmission line funding will also go before the Water Trust Board. He said those are moving forward but they are not requesting the State Legislators to approve it in the ICIP request. Grant Coordinator Osborne mentioned that the Water Trust Board does require to have it on the ICIP list because it shows planning.

Commissioner Rardin told Interim City Manager Cesar he spoke with a couple of Senators that said if the Capital Outlay looks like it did last year then \$500,000 is what they can give. Commissioner Rardin said if they can get their two Senators and one Representative to give a half a million each towards the Snake Tank transmission line and then they go to the Water Trust Board, it all kind of adds up. Interim City Manager Cesar said the only issue they have with it this cycle is they have approximately twelve additional miles to install. He said any one agency is not going to give the City \$12 to \$15 million dollars. He said in the application going forward to the Water Trust Board is just for the design. They are breaking it up into two-mile segments because it roughly fits in with what they can receive from the Water Trust Board, the Legislators, etc. and have the six phases designed, all of the right of way acquisitions completed or easements that they need through the various areas. He said they also have the design of the remaining phases going to the Water Trust Board, plus the construction of the first of those six phases. At this point they do not have the design done, so asking the State Legislators for construction, the City is not there yet. Commissioner Rardin said they could ask for the design money. Interim City Manager Cesar said traditionally the legislators want to see something beside a set of plans. Commissioner Rardin asked if the City currently has an Engineer on staff. He said this an easy project, it is just a straight line. Interim City Manager Cesar said it is a straight line but there are a lot of elevation changes, crosses a lot of arroyos, a majority is in the State right-of-way, the Engineer will have to deal with Union Pacific and then also the major fiber optic line that runs up through that area.

Mayor Boss asked if it has to go beside the existing line. Interim City Manager Cesar said they would want it parallel. Mayor Boss asked if any of the right of ways include a big enough area to put these lines. Interim City Manager Cesar said where the Bonito pipeline went through the right-of-way was acquired when that was put in, but it was not for additional pipelines.

Commissioner Hernandez said they are getting further and further away for quality of life projects. He said it is getting harder to fund these items because the City is having to use their actual monies on just running the City. He said one of things he would like to look at is possibly start looking at quality of life projects for this.

Grant Coordinator Osborne said in the Resolution in Section 1 and 2 she put an extra zero in 2021, and that would need to be corrected if this is approved.

Mayor Pro-Tem Baldwin moved to approve as amended.

Commissioner Sikes seconded the motion.

Roll call vote was taken.

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

Commissioner Sikes thanked City staff for the presentations at the public meetings.

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

Mayor Boss read the openings and appointed Allan Kuchinsky to the Mayor's Committee on Aging. No one was opposed.

Commissioner Hernandez asked if there is a list of names and addresses to send the postcards to for the children in El Paso. City Attorney Bengoechea said she would send that information out to the Commission.

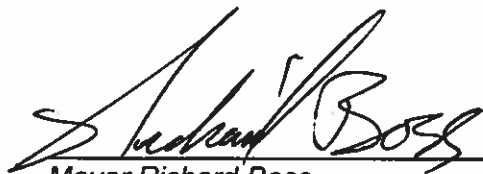
ADJOURNMENT

Commissioner Hernandez moved to adjourn at 7:59 p.m.

Commissioner Rardin seconded the motion.

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




Mayor Richard Boss

ATTEST:


City Clerk Rachel Hughs

(Prepared by Eric Barraza, Deputy Clerk)

Approved at the Regular Meeting held on August 27, 2019.