

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., VIRTUAL MEETING
May 26, 2020**

**RICHARD BOSS, MAYOR
SHARON McDONALD, COMMISSIONER
JOSH RARDIN, COMMISSIONER
DUSTY WRIGHT, COMMISSIONER
SUSAN PAYNE, COMMISSIONER**

**NADIA SIKES, MAYOR PRO-TEM
JASON BALDWIN, COMMISSIONER
BRIAN CESAR, 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. City Clerk Hughs announced there was a quorum present. Invocation was given by Commissioner Payne and the Pledge of Allegiance was led by Commissioner Baldwin.

APPROVAL OF AGENDA

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

PUBLIC COMMENT

None.

CITY MANAGER'S REPORT

City Manager Cesar made the following remarks:

1. He said the Senior Center has served a little over 19,000 meals through the Grab and Go and Meals on Wheels since the Governor passed the orders on March 16th through today. They have doubled the amount of seniors they are serving and are averaging 400 meals a day.
2. He said the Zoo has opened to the public to an extent. They are restricting the number of people in the Zoo at one time. They have had about 1,000 people from Thursday to yesterday.
3. He said the Library will do curbside service and have it up and running in a couple of days.
4. He said the Governor's newest order will last until Monday and expect she will have a press conference and then they will let the State know where we are going next.
5. He stated today is Katie's last meeting. She is retiring on Friday.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Mayor Pro-Tem Sikes made the following comments:

She gave a shout out to Commissioner McDonald, on May 16th she put together a Complete Count Zoom meeting for the Census and it is important to be counted. She stated she was impressed that she ran into City staff not from the Senior Center, delivering Meals on Wheels. She thanked Katie for her 30 years with the City.

Commissioner Rardin made the following comments:

He said on the last Commission meeting he did not have the agenda in front of him, so he wanted it on record that he meant to vote no on item number 2. Item 2 was the repealing all new taxes have to be passed by a vote of the people, the ordinance from back in the 80's.

Commissioner Payne made the following comments:

She said to remember the Barraza family, they lost their son Marques. His father is one of our own, they are in our prayers.

CONSENT AGENDA

1. Approve the minutes for the May 12, 2020 Regular meeting. *(Rachel Hughs, City Clerk)*
2. Consider, and act upon, the COVID-19 Families First Coronavirus Response Act (FFCRA) Federal contract to provide disaster relief activities specifically for congregate and home-bound meals. *(Magdalena Morales, ASC Manager)*
3. Consider, and act upon, Resolution No. 2020-13 requesting the approval of the Housing Authority Police Officer Occupancy Plan. *(Marissa Ruiz, Housing Authority Manager)* (Roll Call Vote Required)
4. Consider, and act upon, Resolution 2020-16 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 May 26, 2020. *(Evelyn Huff, Finance Director)* (Roll Call Vote Required)
5. Consider, and act upon, the Direct Purchase of Services Vendor Agreement - Amendment #1 with the New Mexico Non-Metro Economic Development District. *(Magdalena Morales, ASC Manager)*
6. Consider, and act upon, the MOU with Kity City and Best Friends Animal Society to keep the cat life saving program in place. *(Richard Denton, Chief of Police)*

Mayor Pro-Tem Sikes moved to approve items 1,2,3,4,5,6 of the consent calendar.

Commissioner Baldwin seconded the motion.

Roll Call vote was taken.

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

NEW BUSINESS

7. Consider, and act upon, approval of a preliminary plat for 2080 Hamilton Rd, the request is to create twelve lots from one existing parcel which are currently seven storage units. *(Stella Rael, City Planner)*

City Planner Rael said the applicant and property owners, Lance and Laure Grace have requested to create 12 lots from this parcel, per ordinance is it is increasing by 2 lots, it has to come before Commission for approval. She said there are 6 storage units at this time, she has already passed this through Engineering, Public Works, and Fire and everybody is in approval of this change.

Commissioner Rardin asked which of the lots are being divided up. City Planner Rael answered at 8020 Hamilton Road, it is on whole parcel and they are spitting them up into 12 lots. He asked why they did not run this through Planning and Zoning Commission like they typically do. She answered because of the issue of setting them up on Zoom and since it is just a recommending board, she felt it was ok to go straight to Commission. He said he understands the circumstances, but he was just wondering. She stated, unfortunately sometimes she does not have a quorum for Planning and Zoning, and it was going to be much of an effort, so she brought it straight to Commission.

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

8. Consider, and act upon, first publication of Ordinance 1613 to amend the Food Vendor Ordinance. (Jim LeClair, Fire Chief and Rachel Hughs, City Clerk) (Roll Call Vote Required)

Fire Chief LeClair said there is always some fine tuning along the way. He went through the changes of the ordinance.

City Clerk Hughs explained the drivers fee was taken out of Chapter 27 of the Vehicle for Hire because they no longer give permits for the divers.

Commissioner Payne said the reason she wanted to hear the big changes is because she gets a lot of phone calls. Fire Chief LeClair said the big changes are to the insurance and Farm Stand operators, the only time they will have to deal with the Environmental Department is if they are preparing food in any way for public consumption, so if they are cutting or slicing food. He said the other change for that section is group of temporary farm stands may operate under one organizer for a specific location which was a concern the last time the ordinance was brought to them. The insurance will be submitted to the event coordinator.

Commission McDonald asked if they now have to go to the Environmental Department to be approved. Fire Chief LeClair answered, they have always had to go to the Environmental Department, that has always been part of the processes. Commissioner Payne added, that is because it is food handling so has to go through the Environmental Department. Commissioner McDonald asked if the Environmental Department determine if you can operate even if you have a license. Fire Chief LeClair answered yes, they have a big in whether a food vendor or food establishment can do business, there are certain things they require.

Commissioner Wright said in section F has the prohibited of 300 feet of an established business and section H is from permitted special events of 500 feet and asked if there is a reason they can be set up closer to the door of a restaurant than further away from a special event. Fire Chief LeClair said the only reason is to protect brick and mortar businesses that has spent money on their business and the other part of it is if the City has a special event. Commissioner Wright asked if they align with each other, so a food truck does not sit outside a restaurant like Hi-D-Ho. Fire Chief LeClair said they can if that is what they want, the only reason they set up those parameters is because this is what a lot of other communities were doing. City Clerk Hughs said special events will not happened next to restaurants like Hi-D-Ho, typically restaurants in downtown will be involved in the special events.

Mayor Pro-Tem Sikes moved to approve.
Commissioner Payne seconded the motion.
Roll Call vote was taken.
Motion carried with a vote of 7-0-0.

9. Consider, and act upon, Resolution 2020-12 Cancelling all Existing Gross Receipts Investment Program Contracts. (Brian Cesar, City Manager Petria Bengoechea, City Attorney) (Roll Call Vote Required)

City Attorney Bengoechea said with the COVID-19 pandemic has hit the City hard, has closed many local businesses and has devastated our business community. With what has happened the City's financial future is somewhat uncertain. The Budget they have seen and should approve later this evening, projects the loss of over 6 million dollars which has eliminated many non-essential services. As of May the City did lay off all part-time and seasonal employees and looking into whether further reductions in the operational budgets are necessary. The direction of City Manager Brian Cesar for all the directors is to project a 20 percent cut in the budget. She said the GRIP, Gross Receipts Investment

program, monies that are out going are just untenable at this time as an expense. If these GRIP agreements were to be paid, the City would have no choice but to lay off full time employees and reduce the services that we are currently providing citizens. She said there is an appropriation clause in them, so she cautioned the Commission not to discuss any contracts or litigation.

Commissioner Rardin asked if they cancel these, can these entities bring them back once this is all over with to reapply once the budget has leveled off. City Attorney Bengoechea stated the ordinance just changed a couple of meeting ago, the entities have to apply prior to starting their project, at this point the answer would be no. City Manager Caser cautioned against that, he said the last down turn they had in the economy in 2008/2009, they were just starting to come out of it a year ago and they do not want payments on the books to potentially pay years down for something that happened five, seven, eight years ago. Commissioner Rardin said that was not what he means, he means if they see a huge increase in the gross receipts toward the end of this year and these companies reapply within a certain timeframe. City Manager Caser said you are the Commission, but he would not put it forward and say things look good and we are collecting additional gross tax receipts taxes that is above the reduction that we projected. He said not only did they reduce revenues and lay off certain positions, they also did away with two of the reserves, at least for this upcoming fiscal year. So just because gross receipt taxes are coming in higher than the 25 percent, that they reduce the revenue projections. They need to make up everything to include the two reserves. Mayor Boss said he does not think the economy is going to are ever catch up to what they have lost doing the Corona virus.

Commissioner Rardin said in the past they done these and have had no problems paying them. Down the road, they can let them apply and pay them some of the money. He said some of these are smaller business, the larger ones are the ones are the ones that are hurting us. City Attorney Bengoechea said if they are going to open it up for anybody, they are going to have to open it up for everyone. He said he understands.

Commissioner Payne said by doing this, they are suspending the program, and asked how they are handling that. City Attorney Bengoechea said that is completely different, there has been talk of one Commissioner wanting to bring that forward, but that it is on hold right now. Commissioner Payne asked how they are going to handle they get another application. City Attorney Bengoechea said her office would process has normal, they did receive a few prior to COVID but she does not believe they are going to go forward, they have been withdrawn. If they got one tomorrow, they would process it and put it on the next agenda, assuming it is complete. She would talk to the City Manager Cesar and Finance Director Finance Director Huff to see what finances look like. Ultimately if it is untenable for the City to fund that money and they are going to have to layoff employees to do it, they would get it with a recommendation of do not approve.

Mayor Boss asked if they should consider suspending the program for a period of time. City Attorney Bengoechea said that is up to the Commission. Commissioner Rardin said they would have to bring it back to a future meeting, right. City Attorney Bengoechea answered yes.

Commissioner Baldwin said Commissioners Rardin and Payne brought up some of his concerns. He would like to see this brought back to suspend future applications, because it does not seem right to negate the contracts they already have and assign contracts to smaller people. He would like to address this at a future date, with the companies that have applied.

Commissioner Rardin asked City Manager Cesar and City Attorney Bengoechea, if they do approve this resolution tonight, can they bring those projects back. City Attorney Bengoechea said they passed an item cancelling all gross receipts investment contracts that they can, so if they send out a letter to every contract notifying they are cancelled, it does not make sense legally speaking, it would need to be the GRIP agreement is suspended. Commissioner Rardin said he would feel more comfortable suspending it because it if they cancel these and they get five more applications before the end of the year and they approve them, it is not right to the people they told they can't do it. City Manager Cesar said there would not be five more, they would bring suspending the GRIP program for the end of this

year and the next fiscal year. He stated it is a Commission decision to revisit the handful of current GRIP agreements that they have, if that is the direction of the Commission. City Attorney Bengoechea suggested, if the Commission decides not to pass the resolution and they want to keep these obligations on the books, they could put it out a year, that it happens in the next budget cycle.

Mayor Boss asked City Attorney Bengoechea if it would be her advice to suspend the program for a period of time and bring it back. She said that is not legal advice, and her boss is nodding his head yes, so she is going to say yes. City Manager Cesar said they can bring suspending future applications to the next meeting. The economy is going to really bounce back and be going better than prior to the virus to make up what we lost since the shutdown.

Commissioner Payne said she would be comfortable doing this if they suspend the program. If we get this windfall of money, we are not only going to be obligated for this if we come back and look at it, but we are going to be obligated for any new applications and do not approve but we come back and we fulfill this obligation, it is going to be bad either way and that is my biggest concern. It is important to honor your commitment, but if it is a choice between honoring this commitment or keeping employees, I am in favor of keeping our employees. She stated her concern is, if we come back and look it in a year, they are talking about fulfilling this obligation plus any new applications.

Mayor Boss said the purpose of this fund is aid people in building new buildings for economic development and we are not going to see that in the future right away. He asked if management was suggesting adopting item nine and two weeks from now, they suspend the program for a period of time. City Manager Cesar answered yes and when they bring it in two weeks, they would recommend they suspend it for the rest of the fiscal year and the next. City Attorney Bengoechea said they cannot suspend an ordinance; they will repeal the ordinance and at some point, they will bring it back.

Mayor Boss moved to approve.

Mayor Pro-Tem Sikes seconded the motion.

Roll Call vote was taken.

Motion carried with a vote of 4-3-0. Commissioners Baldwin, Rardin, Wright voted nay.

10. Consider, and act upon, Resolution No. 2020-17 requesting interim approval from the Local Government Division of the Department of Finance & Administration, State of New Mexico, to adopt the Preliminary 2020-2021 Budget as of May 26, 2020. (Evelyn Huff, Finance Director) (Roll Call Vote Required)

Finance Director Huff said this is the Budget she presented several weeks ago during the budget hearings and explained the interim submission to DFA.

Commissioner Baldwin moved to approve.

Commissioner Rardin seconded the motion.

Roll Call vote was taken.

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

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

Mayor Boss read the openings and appointed Manuel Gonzales Jr. to the Airport Advisory Board, Dana R. Wilki to the Airport Zoning Board and Neetan "Nate" Mandalai to the Alamogordo Promotions Board. No one was opposed.

Commissioner Rardin moved to adjourn at 7:33 p.m.

Commissioner McDonald seconded the motion.

Motion carried with a vote of 7-0-0

ADJOURNMENT



ATTEST:


City Clerk Rachel Hughs


Mayor Richard Boss

(Prepared by Rachel Hughs, City Clerk)
Approved at the Regular Meeting held on June 9, 2020.