

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:00 P.M., VIRTUAL MEETING
February 23, 2021**

**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 6:00 p.m. Roll Call was taken by the Deputy Clerk. Deputy Clerk Gutierrez announced there was a quorum present. Invocation was given by Commissioner Payne, and the Pledge of Allegiance was led by Commissioner McDonald.

APPROVAL OF AGENDA

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

PRESENTATIONS

1. Presentation for Alamogordo Police Department's Mobile Crisis Response Team and Crisis Intervention Calls. *(Richard Denton, Police Chief and Jeanette Borunda, Mobile Crisis Response Team Clinician)*

MCRTC Borunda gave a PowerPoint presentation (included in agenda packet backup). Ms. Borunda stated that she was a social worker and therapist. As a Licensed Clinical Social Worker, she could independently make diagnosis and work on her own. Her team also included Officer Charlene Ashe who was a full CIT Officer, and Peer Support Specialist Tracy Rivera. Together, the three of them made up the Mobile Crisis Response Team.

Mayor Pro-Tem Sikes asked if the Dispatchers were trained in CIT to know when a call came in, where it was to be directed? Ms. Borunda said yes, at this point almost all their Officers had been trained. Mayor Pro-Tem Sikes said these numbers were almost alarming. How were the other Officers of the Police force accepting the Mobile Crisis Team? CIT Officer Ashe felt they liked the fact that they had someone to call and it was a quick turnaround time for them because once the Crisis Response Team arrived, the Officers could leave to attend to other calls. Once an Officer put someone into protective custody, the Response Team could take over which meant not tying the Officer up for two to six hours at the hospital. Ms. Borunda added that she was able to do a mental health assessment in the field so that by the time they got to the Emergency Room, she could give her assessment to the provider on duty at the hospital. Another benefit was that her team would deal with individuals presenting signs of needing help in the moment, which they could relay to the Emergency Room staff.

Mayor Boss thanked Ms. Borunda and her staff and stated that this was a service which was very much needed in our community.

2. Presentation of Stats within the Alamogordo Police Department, 3-year comparison. *(Richard Denton, Police Chief)*

Police Chief Denton gave a PowerPoint presentation (included in agenda packet backup).

Mayor Boss asked if the increase in domestic disputes was a direct result of the Covid impact? Police Chief Denton said he could not make a direct prediction, but he assumed that was most probably why.

Commissioner Payne asked if these figures were just between spouses, or could it be any domestic dispute? Police Chief Denton said they had no way to identify the exact types of relationships involved. They had gone live with their Spillman accounting system back in August, so that system more accurately kept track of all the reporting. That in itself would make the numbers go up on everything now.

Mayor Boss said it seemed like over the past five years the number of drug charges had gone up. Police Chief Denton said yes, and a lot of that resulted from general traffic stops. He could look into it further and present more specific comparisons over the past few years. Mayor Boss said he would appreciate seeing that.

Commissioner Payne said it seemed like almost every week there was at least one unattended death. Police Chief Denton said the assumption on his part was that there were more deaths during the winter months. Commissioner Payne noted that a lot of these deaths involved younger people which was alarming to her. Mayor Boss felt like the majority of them were older people. Police Chief Denton said that was also something he could further look into for them as well.

Mayor Pro-Tem Sikes asked if Spillman tracked crimes that were solved. Police Chief Denton said he could not give a direct answer on that. They could look into the charges of their cases and see from there. He could probably run a report that showed the status of their cases. With the Spillman data because they had just gone live in August, they found that they really needed a bunch of data in there before they could get accurate trends from it. The struggle was real with how many reports they could run in there. Of course, getting the Otero County Detention Center on board with it as well would really help. They had reports of those cases which were closed pending further leads which indicated that particular case was not solved. They could have a crime where no one was charged, which could turn out to not be a crime after all, but just a civil matter.

Mayor Boss thanked the Chief for his presentation.

PUBLIC COMMENT

Deputy Clerk Gutierrez read the following two public comments into the record:

1. "Esteemed Mayor Boss, City Commissioners, and City Manager Brian Cesar:

I was honored to be a member of the Advisory Council during planning for the Mobile Crisis Response Team and the Crisis Intervention Training program. I commend and thank Jeanette Borunda, Officer Ashe, and Chief Denton for implementing this vital program. The important on-going work of the MCRT has been recognized by local professionals and our public alike. I know this is lifesaving work and lifts up our police department among their peers for utilizing best practices. Additionally, thank you for the great work of regularly holding Crisis Intervention Trainings and making these available to other law enforcement and first responders in our region. This is excellent leadership in practice and example.

Thank you, Maureen Schmittle,
Health Promotion Specialist for Otero County
with NM Department of Health, Southwest Region"

2. "Dear City Commissioners:

We want to thank you for your support of the Alamogordo Crisis Intervention Team (CIT) program in general and the APD Mobile Crisis Response Team in particular. We all want people living with a mental illness or substance use disorder to get the support and services they need in our community, and we all want our officers to have the resources and training they need to safely respond to people in crisis. Supporting and sustaining the CIT initiative in our community is a Health Council priority, and is an important part of improving our community mental health systems. On behalf of the Otero County Community Health Council, thank you for your service and for your commitment to our community.

With gratitude,

Holly J. Mata (President, OCCHC)
Otero County Community Health Council"

CITY MANAGER'S REPORT

City Manager Cesar said City staff had started their budget reviews. They were on track with that and planned on holding the budget hearings with the Commission in May. By that point they should know from a Federal or State level where they needed to be with the possible passing of minimum wage bills, as well as regulatory bills involving water/wastewater, etc. He felt this year they needed to plan on these hearings running at least two, if not three nights. Once staff reviews were finished this week, Finance could commence putting a budget together taking into consideration capital requests, equipment requests, and personnel requests.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

There were none.

CONSENT AGENDA

3. Approve the minutes for the February 9, 2021 Regular meeting. *(Rachel Hughs, City Clerk)*

4. Consider, and act upon, the amended State Grants-in-Aid award from the New Mexico State Library for local library support, the additional fiscal impact is \$3,456.62 of which \$2,106.13 is from CARES Act funds and \$1,350.49 is from additional state funds that became available after the original estimated grant amount was announced. *(Sharon Rowe, Library Manager)*

Commissioner Baldwin moved to approve items 3 and 4 of the Consent Calendar.

Mayor Pro-Tem Sikes seconded the motion.

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

UNFINISHED BUSINESS

5. Consider, and act upon, Case V-2020-0002(A) to allow the placement of a 14x46 manufactured home that has been placed in the rear yard of the property located at 818 8th Street, within an R-3 Zoning District (Two Family Dwelling District). *(Stella Rael, City Planner)* **(Roll Call Vote Required)**

City Planner Rael gave a PowerPoint presentation (included in agenda packet backup). She noted that Armando Ortega, son of the property owner, was present to answer questions.

Commissioner Payne clarified that the two-page letter was from the next-door neighbors. City Planner Rael said yes, it was.

Mayor Boss asked if we had done anything similar to this for others in the past? City Planner Rael said no. She had recommended denial of the case due to the fact that it did not comply with the current zoning requirements within an R-3 zoning district.

Commissioner Payne asked if the City knew about this ahead of time, or was there any request to place the mobile home there? City Planner Rael said in May 2020, she had received paperwork for placement of a 12 foot by 40 foot building to be placed in the back yard to be used for storage, as an accessory building. After several conversations with Mr. Ortega, she explained that the contractor who was going to be moving the building would need to submit paperwork and apply for all the proper permits. There were a few more conversations after that, and then her office received a complaint in late September of the building being placed there. So, she reached out to the property owner and his son and had explained that this building did not belong there, and they were going to have to remove it. They asked for other options, and she explained that they could ask for a variance. This conversation took place on October 9th, and shortly thereafter she had received the paperwork for the variance. So basically, her office had learned about it through the complaint from a neighbor.

Commissioner McDonald asked if the building was going to be used for storage or was someone going to be living in that trailer? Mr. Ortega said he would like to give a quick synopsis of how this had all transpired from his point of view. On April 27th he contacted Planning and Zoning about a building his dad had purchased from Tip Top Trailers. This business sold construction trailers, and not manufactured homes. His dad used this trailer as his office; it had no kitchen or shower or anything else except a toilet. He contacted Planning and Zoning and City Planner Rael was out of the office at that time, so he dealt mostly with Shelbe Abbott (P&Z Administrative Assistant), and he had several emails. His dad owned two other houses on that same block, and he had purchased this trailer to use for construction purposes only. It was not going to be used for a dwelling. His dad had connected water and sewer to it so he could use the bathroom of it only. He had finally contacted City Planner Rael, and his last correspondence with her was that whoever was going to move that was going to have to pull permits. He may have misinterpreted it, but to him, if someone told him that, then he was assuming if someone had to move it, then they would have to go pull permits. His dad had hired a person from Las Cruces, and he had called Construction Industries Division (CID) himself. They told him they could not pull a permit because the person pulling the trailer had to be the ones to do that. So, they hired someone to move it for them, and to this day he was not sure whether they had received the proper permit because he could not get ahold of the guy. So, they had gone through the proper channels to get this trailer moved. It was in the City limits and was not the right zoning. They'd had to turn that paperwork in two or three times, and they showed setbacks. Everything was done by the book. They got an electrical permit and put electricity in it. They were kind of surprised that this issue had come up. He also wanted to add that 23 letters were sent out. They (property owners) had a deadline to either return a letter or go in person to the Planning and Zoning Commission meeting and complain. Why was this stuff being brought up after the fact, after the Planning and Zoning meeting? Anything after that meeting should not even be admissible to what was happening today, because they had a deadline. Planning's letter had given them a deadline; he knew because his dad had also received a letter. He had 17 signatures from other people around there who did not have a problem with it because just a block and a half away from that property was a mobile home park. They could see the pictures, and that workshop was going to look better than half of the houses on that block. He understood it could have been a miscommunication, but when someone told him the permits needed to be pulled to move it, he was assuming they were good.

Commissioner Payne asked if they had stated it was going to be used for storage? Mr. Ortega said yes, they had to put that on the application. Commissioner Payne clarified that nobody was living in there. Mr. Ortega said no, absolutely not. Commissioner Payne said it was her understanding that somebody was living in there. Mr. Ortega said that was not correct. They could send someone over tomorrow and there was absolutely no one living in there. City Planner Rael had done a site visit, and he was pretty sure she had walked inside it. There was no kitchen or shower, only a toilet. Mayor Boss asked if that was correct? City Planner Rael said she did perform a site visit when she first got the complaint. At that point they had recently moved it in, and there were construction materials like sheetrock in there like they were going to be doing some work. She could not say whether it was going to be a storage unit or a home. All she knew was that at this point in time it was a manufactured home, and it did not belong in an R-3 District. Mayor Boss asked if it had a kitchen? City Planner Rael said it had a cabinet, but not a functioning kitchen.

Commissioner Rardin asked what kind of foundation it had? Mr. Ortega said it was sitting on a permanent foundation, but it was blocked. It was concrete because there used to be a home there. Commissioner Rardin confirmed that through FHA rules, and as long as it had the concrete runners, had a blocking permit, and was strapped down correctly it was considered a permanent foundation. Mr. Ortega said, no, then it was not. Commissioner Rardin said he actually knew that structure because he had dealt with Mr. Tapley too, and Mr. Ortega was not lying on that. There was one main room, a bathroom, and an office in the back. In the event that this did remain and we were going to approve this, were they going to underpin it and all of that so it would look more presentable? Mr. Ortega said absolutely. If they looked at it now, it was already an improvement over what it was when it was at Tip Top Trailers previously. The reason he did that was because that was the type of person he was, and he did not want the neighbors to have issue with it.

Commissioner McDonald said she had gone by the property and seen the trailer and where it was parked. She looked at all the other properties in there and noticed that there were brand new fences, and they were wooden fences. So, they had a certain look, and she just could not understand why the trailer was put there before it was approved. She was looking at the look of the neighborhood, the reason the trailer was there, and the way it was so close to the fence. If something were to happen in there such as a fire or any type of

accident, there was no chance for any of the neighbors to salvage their property. She had heard from a couple of the neighbors. When she looked at something being put on the property before it was approved, and pretty much in this district people let things go. Of course, now they were saying something about it. Right now, she would be against it. She did not know the property owner, but right now the look and the way the trailer was in there jarred, she felt if something happened, it would be very difficult for the other neighbors to salvage their homes and fences. Mr. Ortega said it actually met all the setback requirements of the City.

Commissioner Rardin said if they considered that an accessory building, did it meet all the setbacks for the back yard? City Planner Rael said the setback requirements were 2 feet from the rear and 2 feet from the side, and the building must be no closer than 10 feet to the main structure. Commissioner Rardin asked if they met all those setbacks? City Planner Rael said yes. She wanted to explain a little bit about the permitting process because Mr. Ortega was saying that she did inform him that permits needing to be pulled and they needed to be pulled by the mover. That was correct. CID would not accept paperwork from a homeowner if a structure like this was being moved by a mover. It was the homeowner's responsibility to make sure that all proper permits were pulled. When moving a manufactured home, the mover had to obtain a Transport Permit from the State. Once that Transport Permit was issued, they came to her department for a blocking permit or a placement permit. At that time, the property owner or the mover had to submit a site plan indicating where it was going to be placed and what the setbacks were. They also had to pull the proper plumbing, mechanical, and electrical permits. Then, the CID manufactured housing inspector would come out and inspect and make sure it was blocked properly and that it was meeting the setback requirements per the site plan. The inspector was also looking at whether the water, sewer, and electrical were connected properly. If they were and it passed inspection, then he gave the utility company permission to release the utilities. None of this was done when she was speaking with Mr. Ortega. All the paperwork indicated putting a 12 foot by 40 foot building in the backyard. His site plan for the backyard of 818 8th Street stated: "The building will be 10 feet from the alley, 7 feet from the east neighbor's fence, and 25 feet from the existing home". They were now talking about a 14 foot by 46 foot manufactured home.

Commissioner Payne said she was glad to hear someone was not living in it, but her biggest concern was that it was still a mobile home and if they approved it, they were approving a variance for a mobile home. If they did that, were they setting a precedent? Were they going to find other houses in that neighborhood that had mobile homes backed up into them? How would they set that apart, because she would not want to set a precedent.

Commissioner Rardin said regarding the argument that it was a mobile home, it was more of a mobile office. For CID to classify it as a home, it had to have a working HVAC system, a functioning kitchen, and a functioning shower. Basically, it did not have everything to consider it a home. You actually used buildings like that as mobile job site trailers because they were portable. They had offices and a restroom. Essentially it was not technically a home, but an office. He was kind of torn on it. He understood they did not pull the correct permits and that kind of stuff, but they could go back and pull those and get the required inspections if they needed. Commissioner Payne asked if those things could be installed at some point? Commissioner Rardin said yes, you could very easily go in and install a kitchen and shower down the road. He had been in that building before, and it did not look aesthetically bad. It just sat out on that property for 20 years because the owner had built himself a new office. It used to be Big Guy's Auto Sales, and when that owner passed away, Mr. Tapley bought the property and turned it into the trailer sales. Commissioner Payne clarified that she had a concern about it, and she was really torn about how to proceed with that.

Mayor Pro-Tem Sikes said as a Commissioner for a number of years, she relied on the Planning and Zoning Director and the Planning and Zoning Commission to give them advice so when they walked into a City Commission meeting, they could look at what they had looked at, look at what they had investigated, and look at the work they had already done in order that the City Commission could better vote. Why did the Planning and Zoning Commission vote against this? City Planner Rael clarified they had met in December and they had voted against it because they were seeing it as a manufactured home. At this present time, it might not be a home, but since it was a manufactured home, in the future it could become one. The Planning and Zoning Commission were going along with the Ordinance in that it was a manufactured home and did not belong in that zoning district. Mayor Pro-Tem Sikes said she respected the process and so often when the process was not followed, it caused the City, the Planning and Zoning Commission, and the City Commission problems. Had the process been followed properly, would we even be here discussing

this? Mr. Ortega said as far as he was concerned, the process was followed accordingly. Maybe he misunderstood or took it the wrong way, but when he handed in all the paperwork, they told him it was fine. Once they told him the person who was moving it needed to get a permit, he assumed that was the next step. He did not disrespect the process. He contacted Planning and Zoning and had turned in the site plan with the setbacks. His not following the entire process was not on purpose.

Mr. Ortega requested to add something. Who did the minutes for the Planning and Zoning meetings? City Planner Rael said her Administrative Assistant. Mr. Ortega said what he wanted to bring up was that there were a couple of incidents that happened in the Planning and Zoning Meeting. One of the incidents was that they had to remind City Planner Rael that there was a quorum at the time, and she was texting with some of the board members and giving them information. One of the board members found out and they explained to City Planner Rael that because there was a quorum, she could not do that because of Robert's Rules of Order. It was in the minutes. But in the minutes that were in the packet, it was not in there. The reason he was bringing this up was because it did have an effect on how they voted. Another thing was that people had the opportunity to complain in person and they had the opportunity to complain in writing. She had brought up the fact that she had had people call her. When she talked to them it kind of swayed a couple people on their vote, in his opinion. They had rules they had to follow in these meetings for a reason. City Attorney Bengoechea said she appreciated Mr. Ortega's advocacy, and she was sure City Planner Rael had a response. But at this point they were so far beyond talking about a variance, she was not sure we would conform with the Open Meetings Act. She felt they needed to skip this. If Mr. Ortega had an issue with an Open Meetings Act violation, she would be happy to discuss it with him. She felt what she was hearing from some of the Commissioners was that there was some confusion that an original application was received that was for a building which was a different size than this one was. So perhaps Mr. Ortega could talk about why when he filed his original application, the dimensions were different than what was there today. She felt that would clear a lot up, and that had not quite been addressed yet. Mr. Ortega said the only reason he had brought it up was because Mayor Pro-Tem Sikes had asked him if he had gone through the process. He wanted it to be fair across the board. Yes, he had contacted Mark Tapley about the size of the building, and those were the dimensions he gave him. He was in the process of doing the application prior to getting the actual Title in hand. Part of the big issue was that the County had gone over there, and they had not transferred the Title yet.

Commissioner Baldwin asked City Planner Rael if water and sewer were hooked up to the structure? City Planner Rael said yes it was. Commissioner Baldwin asked if that was permitted or not? City Planner Rael said no, it was not. She had contacted CID to see if they had actually issued any mechanical, plumbing, or electrical permits, and the response was that no mechanical or plumbing permits had been issued. Also, they told her that in 2019 there was an electrical permit pulled, not for this manufactured home, but for the main residence. Commissioner Baldwin asked if there was electricity going to the structure now? City Planner Rael said she had no idea. Commissioner Baldwin felt everyone was trying to decide whether this was a big deal or not. They got these situations all the time where someone was asking for a variance after the fact, which he was not very appreciative of. It sounded like if it were not a mobile home but just an actual office, that there would be less of an issue here. Was that correct? If it were just a square and was an office, would this be less of an issue because that would be allowed on there, but a manufactured home was not? City Planner Rael said that was correct. If it were an actual accessory building and did meet all requirements, including setback requirements, there would not be an issue. Commissioner Baldwin said he had a problem with the size being different, but he would chalk that up to the information given to Mr. Ortega being wrong, as long as it met all the setback requirements stated by Mr. Ortega that it did. He had a real issue with it being hooked up to water and sewer prior to permits. They were getting into that territory of let's just get it in there and get it hooked up, and then there was really nothing the City could do. He was not putting words in anyone's mouth, but just talking about other cases they had dealt with. Once this process was done, was there any way we could make sure it stayed an office building or storage building and not turned into a home? If we said yes to this variance, was there any recourse the City had if somebody moved into that structure later? That was what was going to get them in trouble. Was there anything we could do, other than the word of the homeowner, which said this had to stay this kind of structure for the rest of its existence without having some other kind of process to go through? City Attorney Bengoechea said they could approve the variance, they just had to put a contingency on it. Essentially, they would want to say it could be used for any use as long as it did not involve someone living there. Commissioner Baldwin felt this was the biggest issue to the Commission right now, because the visual of it was that we should not be putting a mobile home in there. They had evidence from people who had seen it and from the person

who put it down that it was not a mobile home, but basically was an office. If he were to say yes to this, he just wanted to make sure that in a year or two from now or when the home was sold, that it did not turn into a home for somebody else at some point. If there was legal recourse for that, then he would be willing to move forward. City Attorney Bengoechea thought legal recourse was always going to be a lawsuit and nobody would win in that kind of litigation. But if they went with a nonconforming use, we would have to take them to court in order to have it removed. That would have to be a Commission decision, and obviously it could happen even 50 years in the future. Commissioner Baldwin clarified it would pass with the property and not with the owner.

Commissioner McDonald said she did not have anything against Mr. Ortega or anyone doing anything in the area, but she felt one of the things they would want to look at was through the Comprehensive Plan and the designated area and the way it was set up, the zoning, and all those things. She kept looking at the fact that they wanted the area not to look different, but to be what it said so when it was looked at, they did not have to keep coming to the Commission for variances. They wanted everything in the area to be aligned with what it was zoned. So, when they had all these little piecemeals come in, it set a precedent. She did not see how they could put a building that big in the back yard and not see issues that were happening. If they looked just one block over, if they were hooking this up to some of the water and sewer, there was an issue right down the street with sewer which was open, and the sewage was not being handled by the system yet. She just kept looking at them adding things onto the sewage, how things were happening, and just making sure they got things right before they kept adding things on. That was her objection. She did not have anything against anyone, she just wanted to make sure for the area that it was all looking the same. Everything was zoned R-3, so let it be R-3 and not go any place else. Just for the sake of looking like we care about an area instead of adding stuff on that made it look like people could do anything. That was what she was looking at right now. As the Commissioner for that particular area, right now it was a struggle making sure that the area looked like somebody lived there.

Commissioner Wright said he had some personal issues on this, so he would abstain from voting on it. He felt if they looked at the entire neighborhood, there were mobile homes for a block and a half to the east, cinderblock buildings for commercial use at the end of that block, and there were camper trailers in other back yards. This was an issue not just for this one residence. They would be seeing this all around this entire neighborhood, so if they went after one then they needed to go after all of them to clean up their properties and take down buildings that were bigger than stated. It would just be opening up a big can of worms. There were some permitting issues that maybe could be reconciled legally, but he felt they should look at it from both directions to see if something could be worked out to and to make sure it stayed a storage building. With that being said, he would abstain from voting on the issue.

Commissioner Rardin said in the event this variance was approved, would the property owner be building a fence around the back yard once everything was said and done? Mr. Ortega said absolutely. Yes, they would be building a fence. And just so the Commission was aware, his dad owned the property just south of this one, on 7th Street. Commissioner Rardin felt that if this were approved and once the fence was up, it would look just like a structure in the back yard and not so much a trailer house. Once it was underpinned and set correctly and the fence was up, you would basically just see the pitched roof and a portion of the walls was all.

Commissioner Rardin moved to approve the variance with the stipulations that they would go back and get it permitted correctly for the electrical, plumbing, and blocking, and that it would only be used as an accessory building and would not be inhabited or lived in.

Commissioner Baldwin seconded the motion.

Commissioner Rardin asked if those stipulations would suffice to keep it legal? City Attorney Bengoechea said yes, that it remains an accessory building and never be occupied. Commissioner Rardin said sometimes you could hire a contractor and they did not always follow the rules as far as the permitting. So, he may have thought he was getting a blocking permit, but the contractor may or may not have pulled them. So, if he went back and got all the required permits and inspections done on the electrical, plumbing, and blocking then he personally did not have an issue with it. City Attorney Bengoechea said she just would like to personally hear from Mr. Ortega if that were okay and something that could be done, that they could go back and get all those permits. She did not want the Commission to vote on something that Mr. Ortega may say was impossible. She did not want to see it set up to fail, so she would like Mr. Ortega to weigh in on it.

Mr. Ortega said he would pull any permit he needed to make everything right. Commissioner Rardin said with the understanding that he may need to hire somebody who had the mobile home license to pull the permits. Mr. Ortega said yes.

Commissioner Payne asked how long they had to do that because there had to be a time limit. City Attorney Bengoechea said the motion belonged to Commissioner Rardin, so if he would like to put a time limit on it. Commissioner Rardin said he really did not want to give them a 100 percent time because right now permits were taking awhile through CID with Covid. They were taking 30 days now just to get a permit pulled through the State, plus the City's side of it. They could give them 90 days to get it taken care of. Did that sound reasonable to everybody? Mayor Pro-Tem Sikes said actually, no. This had been going on since October. It was on the agenda in January, and then on again in February. She felt Mr. Ortega understood the fact that the permits had not been pulled. This could have been in process by the time this meeting was scheduled. She did believe they were setting a precedent, and she just had a problem with that. We were going to acquiesce and roll over and accept this even though it went against Commissioner McDonald's idea of how a neighborhood could be preserved or go forward being more uniform. She believed they needed to put some legs on this and have it happen more quickly, or they needed to vote against it. Commissioner Rardin said the reason for the 90 days was due to the fact that he did this every day and he dealt with their timeframes. He had one which had been sitting over at CID for 30 days now. And then it would have to go to the City for their portion of it, and probably take two weeks over there. Then they would need time to coordinate with a contractor who had a mobile home license, which was a special license they had to pay extra for. After coordinating with the contractor, they would have to get permits pulled through the City, then shipped off to CID and get those pulled, get the work performed, and get the inspections performed. So, 90 days was not really all that unrealistic to get that done.

Commissioner Payne said she understood what Commissioner Rardin was saying, but she did have the same issue. This had been going on since that building was placed in October. Commissioner Rardin said in their defense, would she want to spend all that money? They were probably looking at \$1,000 by the time all the permits were pulled, plus hiring a contractor, plus the work. Commissioner Payne said she realized that. Commissioner Rardin said he understood why they had not spent it yet. Commissioner Payne said no, she did not understand it because it was part of the process. You had to be permitted. This was something that should have or could have been done quite awhile ago. But here we sit, so she did not understand that. Commissioner Rardin said they had hired a gentleman to move it who should have pulled the required permits to block it and move it. He may or may not have done that, but they could not get ahold of him.

City Attorney Bengoechea said all this really got lost in the making of a motion. She would like to clarify the motion for the official minutes, find if there was still a second, and then all the discussion could take place and they could follow Robert's Rules. Mayor Boss said Commissioner Rardin had made the motion, and Commissioner Baldwin had seconded it. City Attorney Bengoechea just wanted to clarify that the motion had a time limit on it because there was a lot of question about that.

Commissioner Rardin amended his motion to include that it be done within ninety (90) days.

Commissioner Rardin clarified that the 90 days was just due to Covid; if it was not for Covid and all the nonsense going on, then he would shorten the timeframe. He just knew that right now it was taking a little bit of time to pull permits.

Commissioner Baldwin seconded the amended motion.

Roll Call vote was taken.

Commissioner Baldwin, Mayor Pro-Tem Sikes, and Commissioner Rardin voted "aye". Commissioner McDonald, Commissioner Payne, and Mayor Boss voted "nay". Commissioner Wright abstained. The motion failed with a vote of 3-3-1.

City Attorney Bengoechea clarified that the motion failed, so the Commission declined to approve the variance. If the zoning did not fit and that was not allowed there, then unfortunately, the Ortega's were going to have to deal with it. If Mr. Ortega wanted to call City Planner Rael or herself, then they could discuss next steps and what needed to happen now. But it was a nonconforming building in a zoning district, so they

would require it to either come into compliance or it be removed. If Mr. Ortega would like to talk about it, she was available tomorrow.

NEW BUSINESS

6. Consider, and act upon Ordinance 1627 Case Z-2021-0001(A) for first publication for a map amendment to change the zoning designation of the property located at 911 Mescalero St. from MH-1 Manufactured Housing Subdivision to MH-2 Manufactured Housing Park. (*Stella Rael, City Planner*) (**Roll Call Vote Required**)

City Planner Rael gave a PowerPoint presentation (included in agenda packet backup).

Commissioner Baldwin moved to approve.

Mayor Pro-Tem Sikes seconded the motion.

Roll Call vote was taken.

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

7. Consider, and act upon, Case V-2021-0001(A) to allow to continue to have the existing number of spaces (57) within the existing park. (*Stella Rael, City Planner*) (**Roll Call Vote Required**)

City Planner Rael gave a PowerPoint presentation (included in agenda packet backup). She said one of the things she wanted to bring to the Commission's attention was that Mr. and Mrs. Smith had owned this park for 25 plus years and they had always complied with pulling the proper permits, whether they were blocking permits or permits for foundations, for additions, electrical, and plumbing, and yet no one had ever corrected this variance issue. Current Ordinance indicated that our manufactured housing parks should be no smaller than two acres and should only allow eight manufactured homes per acre. They were all aware of the fact that when we annexed in a piece of property, we accepted it as is. So, at the time this was annexed, it was annexed in with 57 spaces. Now that Mr. and Mrs. Smith were in the process of selling the property, if she were to make them comply with current Ordinance, it would probably lose about 24 spaces. So, this variance request was to continue to have the existing number of spaces within this manufactured housing park. She had spoken to the potential buyer and she had made it very clear to them and to Mr. and Mrs. Smith that she would be requesting a park plan because there currently was not one and they needed to look at that as part of her effort to try and clean up the area in the Walker Subdivision.

Commissioner Baldwin moved to approve.

Commissioner Rardin seconded the motion.

Roll Call vote was taken.

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

8. Consider, and act upon Ordinance 1625, for the first publication, authorizing the Repeal of Ordinance 1439 Housing Authority Advisory Board and Create Resident Advisory Board. (*Marissa Ruiz, Housing Authority Manager and Evelyn Huff, Finance Director*) (**Roll Call Vote Required**)

Finance Director Huff said the Housing Authority Advisory Board was created in 2013. As some of them may remember, the City Commission used to convene separately prior to the City Commission meeting as the Housing Authority Board. The Housing Authority Advisory Board was created so that it could meet in place of the Commission. The Board would approve items, and then those items would be taken to the City Commission for approval. However, HUD had changed several of its rules and allowed for the Commission to be the governing body of the Housing Authority. They had been told many times by HUD that the Housing Authority Board was not only obsolete, but also redundant. They had suggested several times to stop doing double work by presenting items to the Housing Authority Board first and then presenting them to the City Commission a second time. They had suggested that there be a Resident Advisory Board developed which be made up completely of residents from both complexes. That would allow residents to review the five-year plans, the annual plans, and other things in order that their input would be received before it came to the City Commission for approval. Over the years there were variations of the Housing Authority Advisory Board, but there was just one time when they had a full board.

Housing Authority Manager Ruiz said obviously in recent months the Board had not been able to meet. But before that they normally could not even get a quorum. It was redundant, and the City Commissioners were recognized as our Housing Authority Board in the eyes of HUD. With this Resident Advisory Board, there would be three members from Plaza Hacienda, and three from Alta Vista. That would help bring more community to the residents in feeling like they had a say and take them in a different direction for the Housing Authority. Obviously, they would have more input as far as knowing what was in their five-year plan and some of the projects that were coming up at the Housing Authority. They would have a Board that would meet and which they could bring to the Commission for voting.

Mayor Pro-Tem Sikes said they had had a difficult time of getting people on the Housing Authority Advisory Board to meet and get a quorum. What would be different and would make them think that the residents would be more enthusiastic about embracing the idea of being on a board where they could finally meet and get a quorum and discuss things for them to vote on? Finance Director Huff said in the past, the board included one resident. They'd had residents resign because they felt overwhelmed by the professional people on the board. They had not felt like they could join in because there was someone on the board who was the Vice President of a bank or a successful real estate agent. Whereas with the Resident Advisory Board, they would definitely feel like they were with their peers and would therefore be more willing to be involved and feel more comfortable. Back when they had the board which reconvened as the City Commission, they had one resident on the board, who did not want to come to the Commission Meeting because he did not think he had nice enough shoes to come to the City Commission. So, they hoped that by just having a complete resident board, that it would be very non-threatening, and they would be willing to give their opinion in a situation where they felt comfortable.

Mayor Boss asked what other municipalities that had Housing Authorities in New Mexico were doing? How were they structuring their organizations? Finance Director Huff said for Housing Authorities that were part of the City like we were, the City Commission would be their governing board and then they would have a Resident Advisory Board. For Housing Authorities that were stand alone or had different types of components, they would have their own board that handled everything. Even though they were in that city, they were stand alone and so they handled everything, including budgets, salaries, hiring, firing, etc. The City Commissions at those types of Housing Authorities had no input. We were a little different because our Housing Authority was a fully involved department within our City. That was where the Commission became the main authority.

Commissioner Payne felt this made a lot of sense and doing something like this gave the residents more buy in. She felt it was a fabulous idea.

Commissioner Payne moved to approve.

Commissioner McDonald seconded the motion.

Roll Call vote was taken.

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

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

Mayor Boss read the openings and appointed Svitlana Chernova to the Airport Zoning Board, appointed Billy Childs to the Alamogordo Public Library Board; and Susan Poore to the Senior Volunteer Programs Advisory Council. No one was opposed.

Mayor Boss clarified that anyone interested in serving on a City Board or Committee could always apply online as well.

Mayor Pro-Tem Sikes asked if the residents who wanted to apply to be on the Housing Authority's Resident Advisory Board would have to apply the same as all other board applicants? Finance Director Huff said yes, and the Housing Authority staff would help them with the application process and would have the applications at the Housing Authority.

EXECUTIVE SESSION (Roll Call Vote Required)

10. Adjourn into Executive Closed Session in compliance with 10-15-1(h)(8)(7), NMSA (as amended) to discuss Real Property - Land around the Bonito Lake area and to discuss Threatened or Pending Litigation - Taxation and Revenue Department lawsuit and discuss Threatened or Pending Litigation - Union Pacific Rail Road/8th Street Crossing.

ADJOURNMENT

Commissioner Payne moved to adjourn into Executive Session at 7:53 p.m.
Commissioner Baldwin seconded the motion.
Roll Call vote was taken.
Motion carried with a vote of 7-0-0



ATTEST:


City Clerk Rachel Hughes


Mayor Richard Boss

(Prepared by Teresa Gutierrez, Deputy Clerk)
Approved at the Regular Meeting held on March 9, 2021.