

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
June 22, 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 6:32 p.m. Roll Call was taken by the City Clerk. City Clerk Hughs announced there was a quorum present. Invocation was given by City Clerk Hughs and the Pledge of Allegiance was led by Commissioner Payne.

APPROVAL OF AGENDA

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

CITY MANAGER'S REPORT

City Manager Cesar made the following remarks:

1. He said this was the first meeting we were back in the Chambers since March 2020. The sound system had been improved, and cameras could be controlled better. There would be some continued improvements including audience seating being brought back in. He thanked everyone involved in getting us back into the Chambers.
2. He said there was a Special Master Sale scheduled for July 23 on the steps of the County Courthouse for the properties that had recently been cleared, including 508 Maryland, the Rockwood property, and the Sahara Apartments.
3. He said on Wednesday, June 30th at the Civic Center, there was a Public Meeting scheduled regarding the Alamogordo Great Blocks, which was the Downtown area. The purpose of the meeting was as follows; "Alamogordo MainStreet in cooperation with the City of Alamogordo is sponsoring this meeting to discuss the proposed Alamogordo Great Blocks design. Residents, adjacent landowners and all interested parties are encouraged to attend and provide comments, concerns and suggestions regarding the completion of the project." He explained that MainStreet had State funding to do design and make enhancements in the Downtown area. This was the public's opportunity to come in and review the proposed project and make any comments or suggestions so the architect could incorporate some of the suggestions into the overall project. After the design was complete, MainStreet would go forward with securing the funding from the State to actually do the project.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Mayor Pro-Tem Sikes made the following comments:

She said over the course of the past year she had the pleasure of speaking with Peg Crimm and Lisa Yale, who were two women who had initiated a program locally called 100 Percent Community. This was the result of a book that was written about adverse childhood effects. They envisioned having committees in Alamogordo get together and try to abolish some of the reasons for adverse childhood effects. All ten committees, or sectors, had met today to share what each had accomplished in the year of Covid, and she and Commissioner McDonald were in attendance. Also, Commissioner Payne was on some of the sector committees, and she, herself, was a lead on transportation and also on the food committee. There were ten committees who were addressing, food, housing medical/dental, behavioral health, transportation, parental support, early childhood learning, community schools, youth mentoring, and job training. If those key areas were not addressed, young people would grow up with "adverse effects" which influenced everything in their lives. She wanted everyone to know that the food sector had put together a 2-page flyer which was available to anyone which listed every single food bank available in Alamogordo. There was a food bank every single day. The transportation sector was putting together a resource guide showing every available public transport in the community. The community schools sector had an RV purchased by the schools which covered many areas of need for children, including services like food, dental checkups, and resources for mental health. She invited anyone who was interested in becoming involved to contact her via phone or email.

CONSENT AGENDA

1. Approve the minutes for the June 8, 2021 Regular meeting. (*Rachel Hughs, City Clerk*)
2. Consider, and act upon, adoption and final publication of Ordinance 1628 repealing Unlawful Possession of Marijuana. (*Petria Bengoechea, City Attorney*) (Roll Call Vote Required)
3. Consider, and act upon, donating 2 (two) Segways to the Alamogordo Public Schools as requested by Alamogordo Public Schools. (*Richard Denton, Chief of Police*)
4. Consider, and act upon, approval of the New Mexico Tourism Department (NMTD) Cooperative Marketing Grant, for the purpose of tourism advertising, up to \$65,991. (*Michelle Brideaux, Communications & Marketing Administrator*)
5. Consider, and act upon, Resolution 2021-24 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 June 22, 2021. (*Evelyn Huff, Finance Director*) (Roll Call Vote Required)

Commissioner Payne moved to approve.
Commissioner Wright seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 7-0-0.

PUBLIC HEARINGS

6. Hearing, and possible action related to Resolution 2021-12 declaring 2414 Telles, Alamogordo, New Mexico to be so ruined, damaged and dilapidated that it is a menace to the public comfort, health, peace or safety, and ordering its abatement. (*Petria Bengoechea, City Attorney*)

City Attorney Bengoechea said today's proceeding was quasi-judicial in nature, which was different than what this Commission normally did. During this hearing, the Commission would act as the fact-finding body, so they were required to consider all the evidence, consider the credibility of the witnesses, as well as the evidence. They would be required to ultimately enforce Resolution 2021-12 or rescind Resolution 2021-12. She was present on behalf on the City of Alamogordo, and Mr. Trexler, the property owner, was present as well. Before testimony, the Deputy City Clerk would swear in all the witnesses.

The witnesses were: William Edward Trexler, Jr., John Stroop, James Baker, and Michael Pasden. Deputy Clerk Gutierrez asked all of the witnesses to raise their right hand, and they were sworn in.

City Attorney Bengoechea said Resolution 2021-12 came before the Commission in April. What was most important to know was some of the statements Mr. Trexler had made to staff the day they arrived to serve the Administrative Search Warrant. He told the City staff that there was mold in the home wall-to-wall. He told them that with all the foot traffic going in and out, it would be stirring it up and that it was likely some City employees would get sick from respiratory infections and that they were "on their own". He also told staff that his daughter had not been in the home in over ten years because it was so dangerous to enter. When staff went in that day, this was a property owner who was already aware that there were some serious issues.

City Attorney Bengoechea asked Lt. Stroop to please state his name and title. Lt. Stroop stated he was John Stroop, Shift Lieutenant with the Alamogordo Fire Department, as well as a Fire Inspector. City Attorney Bengoechea asked if he had any other occupations? Lt. Stroop said he also had 35 years of residential construction experience, with twenty of that acting as a foreman. City Attorney Bengoechea asked if he had occasion to inspect the property at 2414 Telles in April 2021. Lt. Stroop said yes. She asked him what the condition of the structure was on that day, in general terms. Lt. Stroop said the condition of the entire structure was extremely poor. There was no way to secure the property. The roof had failed in many places. It was open to the elements which allowed for persons, animals, and weather to all enter the structure at any time. A structure like this did not just happen overnight for it to become this dilapidated. This had happened for over quite a long period of time. It appeared from just walking through the structure and from the outside of it that nothing had been done at any time to stop the degradation that was happening to the structure.

City Attorney Bengoechea asked Lt. Stroop to speak more specifically about the issues with the structure, specifically the roof and the mold situation inside the home. Lt. Stroop said with the holes in the roof as they currently were, it allowed for any type of weather to come in, including rain, snow, and dust. All of this was accumulating in the home and over time the majority of the ceiling coverings had all collapsed. In photo No. 111, it showed a ray of sunshine coming through the roof and what appeared as dust particles in the air. That was not just dust, as there were hundreds of pigeons that were living inside of this house. The main thing he was concerned about with that was a respiratory disease call histoplasmosis which was found predominantly in high concentrations of bird droppings. The pictures showed inches of pigeon droppings throughout the entire structure. In picture No. 111 which showed the mold and spores that had been disturbed, they were disturbed by wind going through the structure, missing windows, doors that were not secured, including doors on the inside of the building as well, and the roof with a majority of it missing. So anytime a bird flew through there, a person went through there, or the wind blew, it stirred up the histoplasma fungus which was then released into the atmosphere around the house. Signs and symptoms for histoplasmosis were feeling ill, fever, chest pains, and a dry cough. It mainly affected infants under 2 years old and adults over 55 years old, which was going to be the majority of that neighborhood. It was a huge health risk at any time just walking past this building. Staff had on HEPA filtration masks, and he still did not think that was enough. This building was that dilapidated.

City Attorney Bengoechea said in his estimation as both a Fire Inspector and with his years as a contractor, did he believe this building could or should be rehabilitated. Lt. Stroop said it had extended to the point where it would be too cost prohibitive even for that neighborhood. Market analysis of that neighborhood put the houses in the mid-\$90,000 to \$120,000 range, which was approximately \$69.50 per square foot. This house was listed at 2,144 square feet, so even at that cost it put the house in the range of \$140,000 if it was a marketable home. You could not rehabilitate that house for that amount of money as it would be cost prohibitive. That house was built in 1958, and homes built between the 1950's and the 1960's used a lot of asbestos. One of the first things that would have to be done was a test of the house checking for asbestos because that would have to be removed before any remodeling or any abatement of the property could even take place. Predominantly during that timeframe, the ceiling tiles were made with asbestos fiber, and they were throughout a majority of the house. He could not say as a fact that they had asbestos in them, but for the time period of the house, that was something which would have to be checked before any type of abatement could be done. The roof was a tar and gravel composite because it was less than a two and twelve pitch and was not allowed to have any kind of a shingled roof on it. The majority of the roof was already missing. The tar and membrane that was used possibly had asbestos in it. The stucco used on the outside of the house, being from that timeframe, possibly had asbestos in it. A lot of the floor coverings and even a lot of the walls were covered in these asbestos tiles. Before any work could even be done, they would have to do an abatement and come in and test the premises, which was not cheap. Then if there was an abatement which would need to be done on any of those things they found, that was another cost which would be added to it before they could even start working to rehabilitate the property.

City Attorney Bengoechea asked Lt. Stroop to describe the fire risk that existed right now with the status of the power still being turned on, as well as the missing roof and the elements that were getting in. Lt. Stroop said the City of Alamogordo had adopted International Fire Code 2015. There was still electrical power on this house. It had a current, active meter which was open to weather. At any point water was going to be able to infiltrate this system and start a fire. It posed a fire hazard to the properties surrounding it. There were two very large Mulberry trees in the backyard which almost extended to the property behind it. These trees had not been trimmed or maintained like they were supposed to be so fire would easily get up into the trees and extend to the property next to it, as well as the radiant heat to the property to the west of the structure. With the condition of this home and the fact that it had been so neglected over the years and if it were to catch on fire, as a supervisor in the Fire Department, there was no way he would risk his men's lives to go into a home in this shape to try and save it. They would basically be concerned with the structures to the side and behind it and protecting them.

Mr. Trexler asked Lt. Stroop what made him think that the house had any asbestos in it. Lt. Stroop said from the timeframe the house was constructed. He was not an asbestos inspector, but he just knew that from the timeframe the house was built, there was asbestos used in those things. Mr. Trexler disagreed. They were the first people to move into that neighborhood and they moved in on September 23, 1957. They were not using asbestos in that house at that time. Lt. Stroop clarified that asbestos was used in the building products at that time and they did not have to disclose it until 1976 by Federal law. Mr. Trexler asked what building products he was speaking of. Lt. Stroop said the ceiling tiles, flooring material, roofing materials, and stucco. Mr. Trexler disagreed that any materials had asbestos in them.

****Note:** At this point the meeting recording stopped.

Other witnesses to speak included City of Alamogordo Code Enforcement Supervisor James Baker, and Mr. Michael Pasden, owner of a neighboring property.

Code Enforcement Supervisor Baker reiterated the horrible condition of the house, including having to dodge pigeons when he was in the house.

City Attorney Bengoechea asked the neighbor, Mr. Pasden, how living next door to this house had affected him. He replied that it was so bad, and there were constantly pigeons in the house unless a hawk would come in to eat the pigeons. One time he actually saw a hawk grab a pigeon and take it into a tree across the road and pull its head off and then proceed to eat the pigeon. He had to chase kids out of the house at times, and he had to regularly call Code Enforcement to file complaints. He even offered to go and paint the house on the outside just to make it look better. He stated that something had to be done about it.

Mr. Trexler said he grew up in that house and they had moved in there in 1957, so he was partial to it. He said the house is in better shape than people were making it out to be. He said he and his mother had ended up in Las Cruces after his mom got the wrong medication in 2012. During that time, the roof caved in due to the monsoons. However, his mother was his priority and the hospital stay took all of their resources. He stated he knew the roof had to be replaced and the whole house would have to be rebuilt.

Mayor Boss asked Mr. Trexler if he had plans to do that. Mr. Trexler said when the City Attorney brought action against him, he was already planning to rebuild the house, but because of the action of the City he had to put it on hold. He said the house was structurally sound. If you looked at the walls, they were not bowing out and the rafters were not sagging.

Commissioner Payne asked City Attorney Bengoechea to repeat the statements that Mr. Trexler had made to staff regarding the house. City Attorney Bengoechea Petria repeated that he told the City staff that there was mold in the home wall-to-wall. He told them that with all the foot traffic going in and out, it would be stirring it up and that it was likely some City employees would get sick from respiratory infections and that they were "on their own". He also told staff that his daughter had not been in the home in over ten years because it was so dangerous to enter.

Commissioner Payne asked Mr. Trexler if he had made those statements. Mr. Trexler answered yes. Commissioner Payne said if Mr. Trexler would not let his own daughter go in that house, then why would one of our Officers go in there to stop a criminal. She said she did not believe that he would fix that house any time soon.

Mayor Pro-Tem Sikes asked Mr. Trexler how much money he had paid in fines in going to court over the years on this issue. Mr. Trexler said \$300. Mayor Pro-Tem Sikes said any money he had spent on court fees could have been used to repair the home instead.

Commissioner Payne asked when the roof had failed. Mr. Trexler said in 2012. Commissioner Payne asked him if there was insurance on the house. Mr. Trexler said he did not even think about insurance at that time as he only had one thing on his mind, which was his mom. Commissioner Payne asked again if he had insurance. Mr. Trexler said yes, back then but not now. Commissioner Payne asked Mr. Trexler what he would do if someone got hurt in the house. Mr. Trexler said he would lawyer up and challenge it.

Commissioner Rardin asked Mr. Trexler if he had the means to call a contractor tomorrow to secure the house. Mr. Trexler answered that he did now, but he had to weigh the cost to fix it. Commissioner Rardin said he was a contractor and had rehabbed a house close to this one. He knew this house had been a problem for some years.

Mayor Pro-Tem Sikes asked City Attorney Bengoechea what the process would be if the Commission voted to enforce the Resolution. City Attorney Bengoechea said that Mr. Trexler would have a fixed amount of time to appeal and proceed to District Court. Mayor Pro-Tem Sikes asked what the process would be if the Commission voted to rescind the Resolution. City Attorney Bengoechea said all action would stop.

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

NEW BUSINESS

7. Consider, and act upon, award of Public Works Bid No. 2021-003 to La Luz Dirt & Paving LLC related to the Scenic Drive Extension to Mesa Verde Ranch Road project in an amount not to exceed \$2,796,659.72, including NMGR. (*Nancy Beshaler, Project Manager and Bob Johnson, Engineering Manager*)

Project Manager Beshaler said the work in this project would consist of new asphalt roadway construction, including sidewalk, curb and gutter, mass grading, material import, subgrade preparation, base and surface course placement. The roadway would include a new railroad crossing and drainage improvements within railroad right-of-way. New potable water lines and sanitary sewer lines would be constructed below the roadway surface. Each utility would be encased beneath the railroad. Miscellaneous work included seeding, driveway construction, median construction signage, striping, traffic control, and traffic signal modification. Bids were opened on June 9, 2021, and the low bidder was La Luz Dirt & Paving LLC.

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

8. Consider, and act upon, approval of Change Order 2 to Smith Engineering Company in the amount of \$130,159.14, including NMGR, related to the Scenic Drive to Mesa Verde Ranch Road project. (*Bob Johnson, Engineering Manager and Nancy Beshaler, Project Manager*)

Engineering Manager Johnson said the bid opening for construction was June 9, 2021. This Change Order for Smith Engineering Company would provide construction administration and support services for the construction phase, as well as design of negotiated improvements for the closure of the road crossing at 8th Street.

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

9. Consider, and act upon, Resolution 2021-25 authorizing the release of certain liens that fall outside the statute of limitations. (*Petria Bengoechea, City Attorney*) (Roll Call Vote Required)

City Attorney Bengoechea said this Resolution contemplated releasing liens that the City had been unable to collect. State law imposed a four-year Statute of Limitations, and these liens were beyond that as they were filed in 2014.

**Mayor Boss moved to approve.
Commissioner Rardin seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 7-0-0.**

10. Consider, and act upon, the Joint Powers Agreement for a Public Safety Answering Point between Otero County, City of Alamogordo, and the Village of Cloudcroft. (Richard Denton, Chief of Police)

Police Chief Denton pointed out that the Village of Tularosa had not gotten on board with this JPA as they wanted to have their own dispatch.

Commissioner Payne said for the benefit of those listening, would the Chief please explain the PSAP concept and the benefits of it. Police Chief Denton said this was a Joint Powers Agreement to move forward with a public safety answering point, or PSAP as it was known. This would combine the County of Otero, the City of Alamogordo, and the Village of Cloudcroft to have one dispatch center. The County would be the fiscal agent, and he believed that in the long run it would save money for all entities involved.

Mayor Boss moved to approve.

Commissioner Rardin seconded the motion.

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

11. Consider, and act upon, Case V-2021-0002(A) to allow a front setback of 12' 1" (for the residence at the rear of the property which faces Puerto Rico Ave) located at 1101 8th Street within an R-3 (Two Family Dwelling District). (Stella Rael, City Planner) (Roll Call Vote Required)

City Planner Rael said the property owners were proposing to subdivide the parcel located at 1101 8th Street. The parcel was within the R-3 Two Family Dwelling District, and there were currently two separate residential dwellings on the parcel. Both the dwellings would meet all the required setbacks per current Ordinance with the exception of the front setback for the rear dwelling facing Puerto Rico Avenue. In order to approve the replat and allow the subdividing of the parcel, the variance must be approved.

Commissioner Wright moved to approve.

Mayor Pro-Tem Sikes seconded the motion.

Roll Call Vote was taken.

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

12. Consider, and act upon, first publication of Ordinance 1633 Case Z-2021-0001(A) for a map amendment to change the zoning designation of the property with the legal description of College Addition, Replat 1, Block 16 & 17, Lot 1A also known as 1100 Jefferson Ave., from C-1 Neighborhood Business District to R-3 Two Family Dwelling District. (Stella Rael, City Planner) (Roll Call Vote Required)

City Planner Rael said the parcel located at 1100 Jefferson Avenue had been within the C-1 Neighborhood Business District since 1994 when the property owner applied for a map amendment to change the zoning from R-3 Two Family Dwelling to C-1 Neighborhood Business District in order to operate a business currently known as Deanna Brady, CPA. The property owner was now requesting a map amendment to have the property zoned to its original zoning. Through the Business License process, Ms. Brady would apply for a Home Occupation designation.

Mayor Boss pointed out that many years ago in the 1980's, he and Ms. Brady ran a CPA business together. However, he had not seen her or spoken to her in many years, and therefore, he did not plan to recuse himself from the vote on this item.

Commissioner Rardin moved to approve.
Commissioner Wright seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 7-0-0.

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

Mayor Boss read the openings and appointed Nicole Maxwell to her first term on the Airport Zoning Board, and reappointed Susan Hopkins to her third term on the Senior Volunteer Programs Advisory Council. No one was opposed.

Commissioner Rardin moved to adjourn at 8:24 p.m.
Commissioner Wright seconded the motion.
Motion carried with a vote of 7-0-0.

ADJOURNMENT



ATTEST:


City Clerk Rachel Hughs


Mayor Richard Boss

(Prepared by Teresa Gutierrez, Deputy City Clerk)
Approved at the Regular Meeting held on July 13, 2021.