

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
SEPTEMBER 14, 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 6:30 p.m. Roll Call was taken by the Deputy Clerk. City Manager Brian Cesar was absent, and Assistant City Manager Stephanie Hernandez was present. Deputy Clerk Gutierrez announced there was a quorum present. Invocation was given by Pastor Michael Beauchamp, and the Pledge of Allegiance was led by Commissioner Payne.

APPROVAL OF AGENDA

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

PRESENTATIONS

1. Presentation by Alamogordo MainStreet giving a program update. (*Mark Garnes, Executive Director of Alamogordo MainStreet*)

Mr. Mark Garnes, Executive Director of Alamogordo MainStreet introduced their new President, Cindy Boylan. He explained that they had been working on a mural program, and they were looking to create some murals based off aircraft spotter cards with aircraft that had been at Holloman Air Force Base. They were trying to bring Holloman a little closer into the community and let them know how much we recognized and appreciated the service of the men and women at the Base. In addition, they wished to invite the Commission to a meeting they would be having with New Mexico MainStreet on September 28th at 5:00 p.m., with the location to be determined. They would inform the Commission once the location was decided and would appreciate if they attended and let them know of anything else MainStreet could help with in the community.

2. Presentation on Otero County Development Economic Council project update quarterly report. (*Laurie Anderson, OCEDC Interim Executive Director*)

Laurie Anderson, OCEDC Interim Executive Director, said they had hit the highest number of people in their outreach campaign. They had done email campaigns and had targeted 2,500 companies in the aerospace and defense industry, manufacturing, and other ancillary companies suitable to our region. They had sent out over 63,000 emails to these 2,500 companies. There were 173 companies that had looked at Alamogordo and decided they were very interested in our area. Presently she was nurturing those relationships to find out their needs. OCEDC was currently working with Project Gold, DAI, and Project Pine, and there were project leads with GSLI as well.

Ms. Anderson said Ultra Health was able to purchase the old Western Baking facility. Twenty years ago, Presto was in that building and there were 150 to 200 employees who were displaced

when they closed. They were running a payroll revenue of \$6 million at that time, and the sales revenues were \$4 million annually. The Ultra Health facility would include cultivation, production, manufacturing, and research and development. She had to look at recreational use in the form of the Legislators passing and legalizing this, and now it was her duty to help businesses see if they would be a good fit for the area. Even if this business moved to Roswell, we would still have the same problems because the State Legislators had approved adult recreational use. It would be better for us to have that operation here. Their goal was to create 300 jobs by the end of next year. By the end of this year, they wanted to create 100 jobs. They anticipated that their sales out of this facility would be \$100 million. Think of the comparison of Presto at \$4 million to something that could create \$100 million in revenue in our community. This facility would be one of the largest in the nation, and it would be right here. Within the first week of licensing, there were over 900 applications sent to the State of New Mexico for cultivation or retail sales, so it was something we would learn to work through. If she could make any type of recommendation to anyone, get involved. If they didn't want to see this happen, get involved with your Legislators. More than anything, when things started turning around and we started seeing things, get involved. She was very excited about this facility, and they were looking at creating this to be a DEA research facility which would create high wage jobs for our area. If they anticipated \$100 million in revenue coming out of that facility, it would be a good return of investment back into Alamogordo.

Ms. Anderson said they had been meeting with local businesses who needed assistance. They tried to partner up with the Small Business Development Center to help facilitate a lot of the needs some of our businesses were looking at which usually centered around a lack of employees. Now that the supplemental income had ended, they hoped to see a turnaround in regard to that.

Ms. Anderson said OCEDC was growing in retail, business, manufacturing, cultivation, at Holloman AFB, and also in trying to get a commercial airline here. They hoped to target the aerospace and defense industry, but they also wanted to touch on the commercial space aspect of it. When Richard Branson and Jeff Bezos went into space, through the OCEDC website they could identify that people were looking at Alamogordo and Otero County. So, they felt that now was the time to showcase that market as well. They also accessed social media through Facebook, LinkedIn, through email outreach, and through their website.

Commissioner Payne said she was concerned about all the jobs being available and nobody to fill them. She wondered what we could do to help our businesses. We had incentivized people to not work for so long that now we were trying to find people to work. She felt we needed to incentivize people who had been working this whole time and stop incentivizing people that hadn't worked, and she wondered whether there was anything they could do. Ms. Anderson said she sat on the Board of Directors for New Mexico IDEA, and this was a problem across the State. They didn't have the answer to that. Commissioner Payne said she had mentioned the facility bringing in 200 to 300 jobs and she wondered about how we were going to do that. Ms. Anderson said she had toured other facilities of this type and they seemed to have zero problems hiring their employees. Commissioner Payne said she was sure it had to do with the industry. She would just like to see some type of a creative solution to help all the businesses to where they could incentivize people to come to work. Ms. Anderson said with the new year coming up and new legislation, this was the right time to think about this and introduce something which could be run through the State.

Mayor Boss said the potential workers out there could not be blamed because they were able to stay home and take care of their children and they were making more money than they would if they were working. You couldn't blame those people as long as they were given the incentive to

stay home. Commissioner Payne said in June 2020 there was an Emergency Special Session where they approved giving more money to people that were already unemployed. There was talk during that Session that in January 2021 they would talk about the existing employees. She paid close attention to that, and nothing ever happened. She kind of knew that it wouldn't, and it was disappointing because if we had instead incentivized those people that continued to work every day and stopped incentivizing people to stay home, we would not be seeing what we were seeing right now. They had cut off the utility moratoriums on July 31st, and she had said August would be fine, but in September we would be swamped, and it was exactly like she said it would be. She hoped that OCEDC was focusing on how we could change that because the damage was done. Now we had to figure out how to get creative and be able to provide 100 employees to a company that needed them. Ms. Anderson said they were addressing that. She wanted to let everyone know that economic development didn't fall on one person, and it didn't fall on one organization; it fell on everybody.

Ms. Anderson said she would like to invite the Commission to contact them and let them know their suggestions, solutions, and to provide feedback. If they knew of a company which they felt would be great here, just contact her and she would pursue it. If they wished to contact a company themselves, she would support them and give them the backup they needed. One thing she did need was commercial properties that were 10,000 to 40,000 square feet. The leads she was receiving right now were requesting 20,000 square feet. She was trying to develop a brochure that would help us sell the City's industrial area because we were able to utilize the LEDA funds to build for companies.

PUBLIC COMMENT

Eugene Downer commented on the following:

Mr. Downer stated that he supported all Covid vaccinations and using masks to prevent the spread of Covid. He felt mandates were very important, especially for children under 12 who couldn't get vaccinated yet. They needed to be wearing the masks because the virus spread very easily. Regarding the Afghan people who were now here, there were several thousand of them out at the Base who probably would like to work. It might be as simple as using a work bus back and forth to town until their program became stabilized. Regarding the property next to the Museum, he felt it was very important that the City continue negotiations with Michael Shyne to try and acquire it somehow. Finally, he felt Mayor Boss had done an amazing job, and he wished to thank him.

Gerald Dodd commented on the following:

Mr. Dodd felt the City was doing a great job maintaining our parks and byways. Unfortunately, he was concerned about the decline in our neighborhoods, specifically between 16th Street and Indian Wells Road and between Washington Avenue and Arizona Avenue. On his street alone, there were eight unlicensed vehicles that were yard ornaments in their front yard. To add to that, there were another twelve in the neighborhood, and we seemed to be oblivious. He called it urban decay. Also, there were unattached camping trailers and unattended, unlicensed cars that sat out in the roadway. He encouraged the Police Chief and his Codes Department to take proactive measures to correct these problems. In addition, there were campers and storage vehicles that were occupying the alleyways, and everyone seemed to be oblivious to it. He asked everyone to please consider eliminating this decay from our neighborhoods.

CITY MANAGER'S REPORT

Assistant City Manager Hernandez made the following remarks:

1. Ms. Hernandez noted that the City Manager would be out for the remainder of the week.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

There were none.

CONSENT AGENDA

3. Approve the minutes for the August 24, 2021 Regular meeting. *(Rachel Hughs, City Clerk)*
4. Consider, and act upon, approval of Resolution No. 2021-34 Certifying the City of Alamogordo Fixed Asset Inventory Count for FY 2021. *(Evelyn Huff, Finance Director)* (Roll Call Vote Required)
5. Consider, and act upon, adoption and final publication of Ordinance 1636, an Ordinance creating Chapter 34 in the Alamogordo Code of Ordinances concerning Marijuana. *(Petria Bengoechea, City Attorney)* (Roll Call Vote Required)
6. Consider, and act upon, accepting capital outlay grant agreement 21-F2820, in the amount of \$300,000.00, to purchase and equip vehicles for APD. *(Richard Denton, Chief of Police)*
7. Consider, and act upon, accepting capital outlay grant agreement 21-F2819, in the amount of \$524,000.00, to purchase and install building security measures for APD. *(Richard Denton, Chief of Police)*
8. Consider, and act upon, accepting capital outlay grant agreement 21-F2818, in the amount of \$490,000.00, to plan, design and renovate Fire Station #7. *(Richard Adler, Fire Chief)*
9. Consider, and act upon, accepting grant agreement from U.S. DOT, FAA, to Alamogordo White Sands Regional Airport, in the amount of \$186,865.00, to design the reconstruction of taxiway A. *(Jim Talbert, Airport Manager)*
10. Consider, and act upon, an agreement with Otero County for Alamo Senior Center Services to County residents, the total amount budgeted is \$34,787.50 (\$22,537.50 for home-delivered meals and \$12,250.00 for transportation). *(Magdalena Morales, ASC Manager)*.

Commissioner Payne moved to approve the Consent Agenda.

Commissioner McDonald seconded the motion.

Roll Call Vote was taken.

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

NEW BUSINESS

11. Consider, and act upon, Drought Adaptation Industries LEDA request. *(Laurie Anderson, Interim Executive Director, OCEDC and Jean and Glenn Bell, Drought Adaptation Industries)*

Ms. Laurie Anderson, Interim Executive Director of OCEDC, said this item was a unique situation because usually by the time a project was brought to the Commission, they had already been vetted, and the request came with a recommendation. The application she had submitted for a LEDA request was incomplete. This presentation was brought forward at the request of Mr. and Mrs. Bell who were the owners of DAI. Right now, their request was for \$913,000 for a new LEDA. They had an existing LEDA in place at this time. As of the last audit they owed \$117,000 on that particular LEDA. Of the current \$913,000 request, \$750,000 of that was for equipment. As a reminder, LEDA was utilized for land, building, and infrastructure, and not to be used for equipment. However, in the past they had allowed for equipment as long as it was built into the facility. When we did that, we made sure they had a Security Bond. So, the existing LEDA would be put on top of the \$913,000, which came out to roughly \$1.1 million. OCEDC had requested Mr. and Mrs. Bell to come forward with a letter of bonding ability. That would basically mean that their insurance company had vetted them and their financials, and that they were bondable for that dollar amount. Unfortunately, the companies they were dealing with were not willing to do that at this time. It was something OCEDC required to be in place before they even came before the Commission. Therefore, at this time, her recommendation as Interim Director of Otero County Economic Development Council was that the Commission not take action tonight because this was an incomplete application.

Commissioner Baldwin asked how long DAI had been in the community. Ms. Anderson said at least three years or more. They had a product they were trying to get going for quite some time now. Commissioner Baldwin confirmed that in the past five years they had paid off half of their commitment to the LEDA funds. City Attorney Bengoechea clarified that this Project Participation Agreement was done in 2018, and the award was \$357,840. Today they owed \$119,534.70 as of the last job audit, which had not taken this year into account quite yet. It was actually probably a little bit less than that amount. Commissioner Baldwin said the point he was trying to make was that they were fulfilling their requirement to the original LEDA request, even to the point of being aggressive to fulfilling that request.

Mayor Boss noticed in the documents there was very little financial information. He didn't know what their total sales or their balance sheet looked like, and that was not customary. Ms. Anderson said that was correct. OCEDC's process was that once they got the application in, it was sent to the State of New Mexico and they were the ones who provided the financial report or their blessing on it, and then it was presented to her due diligence team. However, because of the fact that we did not have security in place, we could not even develop a due diligence team. Mayor Boss clarified that we were way too premature right now. Ms. Anderson said that was correct.

Commissioner Payne asked how many jobs were proposed in the original LEDA Agreement. Ms. Anderson said 17. Commissioner Payne asked how many employees they currently had. Ms. Anderson said as of the last job audit, they had one. City Attorney Bengoechea said according to the Project Participation Agreement they had 14 jobs listed. That Agreement stated, "At the end of year three, they will employ 14 new full time equivalent employees". Obviously with Covid, that was not something we had held any of our LEDA Agreements to. Ms. Anderson noted that OCEDC was not involved in the original LEDA Agreement. Options had been given to Mr. and Mrs. Bell, and they had requested that she be here today due to them wanting to fast track this. Mayor Boss said his opinion was that we wait until we had all the information in front of us, especially the historical financial information before we made any decision on this at all.

Commissioner Baldwin moved to table item No. 11.
Commissioner Rardin seconded the motion.

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

Commissioner Baldwin said the most important reason to table this was so it could come back at a later date.

12. Consider, and act upon, approval of final settlement in the amount of \$468,326.44 from *City of Albuquerque, et al v. New Mexico Taxation and Revenue Department. (Petria Bengoechea, City Attorney)*

City Attorney Bengoechea said this was the much talked about Taxation and Revenue Department settlement that our Counsel was able to negotiate. This had been discussed in Executive Session throughout the various settlement negotiations many times. Finally, it was settled, and the total the City would receive back was \$525,287.28. After our Attorneys received their contingency fee, we would receive a total award of \$468,326.44 in recouped monies. It symbolized our part in a \$50 million settlement from the State to municipalities around the State.

Commissioner Baldwin said for the record, the State was misreporting and misappropriating funds back to multiple communities within this State for a number of years. A number of communities found out about this, including Alamogordo and Otero County, and they had entered a Class Action lawsuit in reference to getting some of these monies back. The State did obviously settle, and this was the money our community got back. So, in reference to your State always being right with your taxes and the taxes that came back to your community, this was a very hard lesson to learn in this process. Because it was under litigation, previously they were not able to even talk about this. The State did do the right thing and gave some money back to the communities. In reference to this money coming back, it was not free money but was money that was earmarked for certain accounts. His recommendation was that certain funds get the money back where it went, and that anything left over go to quality of life.

Mayor Boss clarified that staff did support us accepting this. City Attorney Bengoechea said that was correct. She explained that staff and our attorneys had talked through everything regarding this lawsuit, and it was felt this was the best we could do. If we attempted to go into litigation, there were several defenses that Taxation and Revenue could raise, including laches and Statute of Limitations. Whether or not they would be victorious in those, obviously none of us could ever predict what a Judge or jury would do. Therefore, it was believed that this was the best recovery we could get. We did not accept their first number, nor were we anywhere near the first number offered. They had gone back several times and upped it and they even had to get special permission from the Governor to settle it at this point. It had been looked at by several municipalities and counties around the State and a Federal Judge Mediator had looked at it, and it was believed this was a good outcome. Mayor Boss asked what decision the other municipalities had made regarding this. City Attorney Bengoechea said this was a Class Action lawsuit, so we were all in agreement. This was being decided and brought before Commissions all over the State this week and last week. The Agreement had been signed, and we just needed to ratify it in front of the Commission.

Mayor Boss moved to approve.**Commissioner Rardin seconded the motion.**

Commissioner Rardin said once we got this money in, could staff give us a breakdown on which funds it was going into and where it was going. City Attorney Bengoechea said it had to go into Fund 11 first and then she had to cut a check out of it to the attorneys immediately. Thereafter it

could be distributed to other areas. Commissioner Rardin requested the Commission receive an email detailing where the funds would be distributed to.

Mayor Boss called for the vote on the motion.

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

13. Consider, and act upon, a Commissioner being appointed to the Tularosa Basin Regional Dispatch Authority (public safety answering point). (*Richard Denton, Chief of Police*)

Police Chief Denton requested a Commissioner be chosen to sit on the Tularosa Basin Regional Dispatch Authority. Commissioner Rardin asked if this Board was going to be similar to the Otero County Solid Waste Authority Board which met once a year. Police Chief Denton said in the beginning they would probably have a few more meetings, but their goal was to have one meeting per year, which would be the financial meeting.

Commissioner Payne said she would really like to sit on this Board if nobody else wanted to.

Commissioner Rardin moved to appoint Commissioner Payne to the Board.

Mayor Pro-Tem Sikes seconded the motion.

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

14. Consider, and act upon, approval of Resolution No. 2021-35 Requesting approval for the establishment of a new special revenue fund for the American Rescue Plan Act funds totaling \$7,905,784. (*Evelyn Huff, Finance Director*) (Roll Call Vote Required)

Satender Sarhaya commented on the following:

Mr. Sarhaya said the City would be receiving \$7.9 million under the American Rescue Plan Act fund. He owned different businesses in different cities in New Mexico. Some of the cities had given grants out of this fund. He would like to know if the City of Alamogordo would be distributing some of these funds to small businesses.

Finance Director Huff said the American Rescue Plan Act (ARPA) was passed earlier this year and it made allocations of funding to non-entitlement units which was what municipalities fell under. Our portion of that allocation was \$7,905,784. There were 2 different steps that came around this ARPA money. The Resolution tonight was based on guidance from DFA that it needed to be in its own fund. To make it easier for accounting purposes, reporting purposes, and all the tracking, DFA had suggested that a fund be established. The Resolution tonight was for the purpose of establishing Fund 124, which would keep this money segregated in that fund. The second step that came with this money was regarding the four different options for what this money could be used for. Under those four different options, there was a lot of guidance on what fell under them. City management had held several different conversations about what we would like to use these funds for. The City management's intent at this time was to use those funds to provide utility assistance to qualified households, and to fund improvements in the water and sewer infrastructure. That would be on the Resolution which staff would bring at the next meeting, which would be the Budget Resolution. However, before she could bring that Resolution, she needed to bring this one tonight in order for them to create a fund to put a budget into.

Mayor Boss said everybody had ideas and \$7 million sounded like a lot, but we had some water tanks that needed refurbishing, just to name one issue. However, tonight we were simply voting

to set up the fund. Finance Director Huff said voting on this Resolution tonight did not lock in any of the uses for this money. That would be decided on the Budget Resolution which would come before them at the next meeting. The funding she had mentioned regarding the water and sewer infrastructure included five water tanks.

Commissioner Payne assumed that utility assistance was for qualified families. It was essentially to help families that were behind on their water bills so that the City could get paid back on them. Finance Director Huff said yes, and they would try to help the families that currently had large delinquent amounts. Also, they would like to extend help to those families who owned their home and who were having the same amount of hardship.

Commissioner Payne asked what was meant by the option, "To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers." Was there a clear definition of what that meant. Finance Director Huff said they talked about workers that were considered essential. One of the differentiations they made was that the workers who were considered essential needed to actually have contact with possible Covid people. So even if they were considered essential but they weren't necessarily able to establish that they had direct contact with people who could have tested positive for Covid, then you would not necessarily be eligible for the increased pay. There were options for possible premium pay for essential workers and there were possibilities for some other back-to-work incentives. As far as the City, we'd had a lot of vacancies, but we didn't have a lot of layoffs. Commissioner Rardin confirmed that basically our Fire, Police, Streets, Water, and Wastewater Department personnel would be the group of employees that would benefit from that.

Commissioner Rardin moved to approve.

Commissioner Wright seconded the motion.

Roll Call Vote was taken.

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

Commissioner Baldwin said the fact that our government was giving us basically \$8 million in reference to this was pretty unprecedented. He felt it was very important as a municipality that we use this money for the municipality. As was stated, we had a lot of vacancies, but we didn't have a lot of layoffs. The City would weather this process relatively well compared to most of the businesses here in the community. He felt the focus needed to be on the businesses of the community when it came time to decide how to use this money.

15. Notification of vacancies for Boards and Committees. (*Richard Boss, Mayor*)

Mayor Boss reviewed the various openings and encouraged anyone interested in serving on a City Board or Committee to apply at the City Clerk's office or online at the City's website.

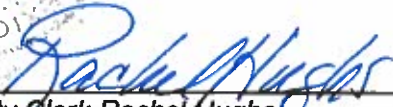
Commissioner Baldwin said he would not be attending the next Commission meeting as he would be on his honeymoon which had been delayed due to Covid. At the following meeting of October 12, 2021, he would be handing in some information to the Mayor and City Manager that he would be resigning his position as Commissioner for District 1. He had moved and although he had not terminated his residence in District 1, by the time he got back most everything would be signed and turned off at that house. He would be back to address everyone and say goodbye at that meeting, but as a citizen and not a Commissioner. Mayor Boss said he had enjoyed working with Commissioner Baldwin and he was sorry to hear this. Commissioner Payne said she enjoyed his insight and he had always been the voice of calm.

Commissioner Rardin moved to adjourn at 7:37 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 Teresa Gutierrez, Deputy Clerk)
Approved at the Regular Meeting held on September 28, 2021.