CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
OCTOBER 26, 2021

RICHARD BOSS, MAYOR
SHARON McDONALD, COMMISSIONER
JOSH RARDIN, COMMISSIONER
DUSTY WRIGHT, COMMISSIONER
SUSAN PAYNE, COMMISSIONER
NADIA SIKES, MAYOR PRO-TEM
BRIAN CESAR, CITY MANAGER
PETRIA BENGOECHEA, CITY ATTORNEY
RACHEL HUGHS, CITY CLERK

CALL TO ORDER / ROLL CALL / INVOCATION / PLEDGE OF ALLEGIANCE

Mayor Boss called the meeting to order at 6:30 p.m. Roll Call was taken by the City Clerk. City Clerk Hughs announced there was a quorum present. Invocation was given by Reverend Warren Robinson, and the Pledge of Allegiance was led by Commissioner McDonald.

APPROVAL OF AGENDA

Commissioner Wright moved to approve the agenda.
Commissioner Payne seconded the motion.
Motion carried with a vote of 6-0-0.

PRESENTATIONS

1. Domestic Violence Awareness Month Proclamation. ***(Richard Boss, Mayor)***

Mayor Boss read the Proclamation which recognized the month of October as "Domestic Violence Awareness Month" in Alamogordo. The Proclamation was presented to Ms. Kay Gomolak, former Executive Director of the Center of Protective Environment (COPE).

PUBLIC COMMENT

Eugene Downer made the following comment:
Mr. Downer said the City owns the gazebo on South Scenic Drive, and he wondered why no one ever went in there. Perhaps the City could consider turning the gazebo into a memorial for the young woman who was recently tragically killed during the filming of a movie in New Mexico.

CITY MANAGER'S REPORT

City Manager Cesar made the following remarks:
1. City Manager Cesar said regarding the gazebo Mr. Downer was referring to, the property was adopted by Keep Alamogordo Beautiful a number of years ago. Originally it was a part of the housing development and was meant as a bus stop for the children in the area and for use by the neighborhood. He would have to pull the agreement on it to determine what it actually said.

2. City Manager Cesar said daylight savings time was next weekend, so beginning with the first meeting in November, the meetings would now be starting at 6:00 p.m.

3. City Manager Cesar said he would give the rest of his time to City Attorney Bengoechea. City Attorney Bengoechea said she and the Code Enforcement Department had been tasked by the

City Manager in really focusing on blight in the City. For this fiscal year, the City had torn down three structures and were looking at more. A press release went out on Friday letting everyone know there was a new way to report blight. The email address was blight@ci.alamogordo.nm.us. Staff was looking for reports of structures that were dangerous to the public and needed to come down. Staff was ready to move on these properties, to tear them down and to start the process. It was not a fast process. As of last Thursday, there had been ten structures reported, eight of which qualified and had already been put into the process. Anyone who reported to that email address would get a response from her.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner McDonald made the following comments:
Commissioner McDonald said she had a couple of people speak to her about the situation with the swimming pool. The Rec Center was closing down for the winter, and the citizens wanted to find out what would be feasible for Alamogordo as far as addressing a permanent swimming pool. City Manager Cesar said this was a project four or five years ago. The last time the bubble came down, it was in such a state of disrepair that we could not put a new one up. Regulations had changed and in looking at purchasing a new bubble, we would not be able to meet the air quality standards the State Environment Department had on that type of structure. At that time, the Commission had budgeted $1.2 or $1.3 million to put a permanent structure over the existing swimming pool. Once that went into design phase, there was not enough funding to put up that permanent structure because they were having to retrofit over an existing pool and building. The project was then canceled. It had come up a number of different times through the budgetary cycle, but the swimming pool itself was actually at the end of its useful life. Last year was when we expected the pool to be closed, but due to the maintenance done by staff the life of it had been extended. Through the next budgetary cycle, we would be asking the Commission to start setting aside a portion of the money in order that we could replace the swimming pool. In that design it would have the permanent structure which should be significantly less than trying to retrofit. The swimming pool would close at the end of this month for the season. The State was currently asking for tourism-related projects, Community Services and the Assistant City Manager had met to discuss various projects. He had given a few suggestions and they had their top five, one of which was the replacement pool and permanent structure.

Commissioner Payne made the following comments:
Commissioner Payne recognized County Commissioner Motherly, who was in the audience.

Mayor Boss made the following comments:
Mayor Boss read a letter he received from former Commission Jason Baldwin: "As of October 7, 2021, I will be resigning my position as Commissioner for District 1. I have officially terminated my residence at 3028 Del Cerro and am no longer eligible to perform full time duties as per our City Charter. I would like to thank all City staff for the last ten years of help, friendship, and timely advice, and I have enjoyed every minute of my time serving our wonderful community." Mayor Boss noted that he had really enjoyed the time he was able to be on the Commission with Commissioner Baldwin. He had always added a real logic to the Commission.

CONSENT AGENDA

2. Approve the minutes for the October 12, 2021 Regular meeting. *(Rachel Hughs, City Clerk)*

3. Consider, and act upon, adoption and final publication of Ordinance 1637 Case Z-2021-0004(A) for a map amendment to correct the current zoning by changing the zoning designation of the property located at 1301 19th Street from R-1 Single Family Dwelling District to R-3 Two family dwelling district. *(Stella Rael, City Planner)* (Roll Call Vote Required)

4. Consider, and act upon, approval of Resolution No. 2021-38, updating the Senior Volunteer Programs Advisory Council to remove any references to the Retired Senior Volunteer Program. *(Neil McFarland, FGP/SCP Volunteer Coordinator)* (Roll Call Vote Required)

5. Consider, and act upon, Resolution 2021-39 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 October 26, 2021. *(Evelyn Huff, Finance Director)* (Roll Call Vote Required)

6. Consider and act upon, Resolution 2021-40, a Resolution changing the current name of Dr. Martin King Jr. Drive to Business Center Blvd. *(Stella Rael, City Planner)* (Roll Call Vote Required)

Mayor Pro-Tem Sikes removed item No. 6 from the Consent Agenda.

Commissioner Payne moved to approve the Consent Agenda as amended.
Commissioner Wright seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 6-0-0.

ITEMS REMOVED FROM CONSENT AGENDA

6. Consider and act upon, Resolution 2021-40, a Resolution changing the current name of Dr. Martin King Jr. Drive to Business Center Blvd. *(Stella Rael, City Planner)* (Roll Call Vote Required)

City Planner Rael said the Board of Commissioners from Otero County had submitted an application to rename the street west of Airport Road to its intended end at U.S. Highway 70, which was currently known as West Dr. Martin Luther King, Jr. Drive. She presented a map which outlined the area of the street which was being requested to be changed. The entirety of this area was in Industrial Zoning. The application was filed on August 23, 2021. The legal notice was published on September 19, 2021. Two letters were mailed by First Class mail to all property owners of record within 200 feet from the property, excluding public right-of-way of the property for which the variance was sought. As of October 15, 2021, there had been no letters returned undeliverable and she had not received any letters or phone calls of opposition. This item was presented to the Planning and Zoning Commission on October 7, 2021, and they recommended approval by a vote of 3-0-1, with one member abstaining. Staff recommended the name be changed to Business Center Blvd., and approval was recommended since this request would not be materially detrimental to surrounding property owners or the public.

County Commissioner Matherly said this had originally started from a group of people who had approached him regarding the matter of Martin Luther King, Jr. Drive ending at the jail. He took the matter to the County Commission, and it passed. Next, they went through the City's Planning and Zoning Department, and now they were requesting the City Commission approve this. Mayor Pro-Tem Sikes thanked him for taking the initiative in getting this item paid for and on the agenda. County Commissioner Matherly said the people behind this were a great group and they had real concerns, so it was worth every penny.

Commissioner Payne moved to approve.
Mayor Pro-Tem Sikes seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 6-0-0.

NEW BUSINESS

7. Consider, and act upon, Resolution 2021-41 declaring the intent of the City of Alamogordo to adopt an ordinance authorizing the issuance and sale of its debt obligations to refund certain outstanding debt. *(Chris Muirhead and John Archuleta)* (Roll Call Vote Required)

Finance Director Huff introduced Chris Muirhead from Modrall, Sperling, Roehl, Harris & Sisk, PA, and John Archuleta from Stifel, Nicolaus & Company, Inc.

Mr. Archuleta said he had a couple of analyses from three of the City's bond issues. First was a Gross Receipts Tax (GRT) bond issue, Series 2011, through the New Mexico Finance Authority. In this particular financing, it could save $557,000 to the City. It was an interest rate transaction. The interest rate was presently around 3.69 percent, and it would be on or about 1.26 percent on this particular transaction. The particulars of the transaction would all remain the same. The only thing which would be changed was the interest rate. On the Series 2012 bond issue which was also a New Mexico Finance Authority loan, the savings would be about $189,810. When two of those GRT bonds were combined, they were looking at pretty close to $700,000 in GRT savings. The next issue was the water and sewer issue, which was also a 2011 issue. On this particular issue, there would be savings in excess of $695,000. Again, they were looking at somewhere around 2.6 percent, which would be brought down to around 1.25 percent. Keep in mind that the interest rates with the New Mexico Finance Authority changed on a weekly basis. Since the first time the rates were run about a month ago, they had experienced a little bit of a drop of about $15,000 in overall savings. The market had moved a little bit, but we were still doing extremely good as far as the interest rate savings on the transaction. By the time we went through the whole process of adopting the Ordinance and getting approval from the New Mexico Finance Authority Board, the closing would be on or about the first of January 2022. This would allow meeting all of the legal publications and notifications, and the rates would be set on or about the first or second week of December. By that time, they should be able to give the exact overall savings. Normally the Department of Finance and Administration required a minimum of 3 percent present value savings. For the water and sewer bonds, they were looking at a little over 11 percent, the smaller GRT bonds were at 5.3 percent, and the 2011 issue was at a little over 12 percent. We more than met the minimum requirements concerning the present value savings for this particular transaction.

Commissioner Rardin asked if the 2011 Bond was the quality-of-life bond. Mr. Muirhead said the 2011 issue closed in December 2011 for various street projects. Commissioner Rardin asked the initial amount. Mr. Muirhead said it was $7,640,000, and we were down to $4,385,000 on that one. The second State shared GRT issue closed in February 2012, and it was for various public projects and some refunding. The refunding portion of the loan had been paid off. It was initially in the amount of $8,130,000, and it was now outstanding in the amount of $3,525,000. The wastewater utility system issue closed in November 2011, initially in the amount of $9,812,674, and outstanding now was the amount of $5,591,000. That one was for wastewater treatment plant improvements, and a little bit of a refunding component which had been paid off. At this point the refunding was really to refund the capital investment from 2011. In terms of refunding capital improvements, this would not extend these loans any longer than they were originally issued, so the useful life of the projects was critical when financing them at a particular time, not only for the Internal Revenue Service but also for State law. At the time they were issued, they were for 15, 20, or 25 years, but that was not being extended. These ones were staying at the same maturities, and the useful life still matched as they were still consistent with the original term of those bonds. This was just to substitute much lower interest rates. The pledges remained the same and the maturities remained the same.

Mr. Muirhead said the Resolution in front of the Commission authorized submitting the applications to the Finance Authority and directing the consultants and staff to move forward and try to maximize the savings. The process was for the first reading of the Ordinances at the next Commission meeting, and probably targeting the first meeting after Thanksgiving for adoption of the Ordinances. At that point everything would be laid out in front of them. The key points would remain the same as they would be pledging the same pledged revenues, they didn't have a lien on the general obligation, and they didn't have a lien on any local option taxes. The joint utility deal didn't have a lien on any GRT as it was solely system revenues. Today they would just be authorizing getting the ball rolling so we could try and strike while the market was the best.

Commissioner Rardin said when he was a Commissioner before, they refunded one or two of these bonds and borrowed additional money since the interest rates were lower. They had done a very large street repaving project in two phases. He wondered if that was something we could look at doing since rates were substantially low right now. There were a lot of roads that needed repairing, but they didn't necessarily have the money to do the infrastructure underneath them. Would we be shooting ourselves in the foot by refinancing it now and getting a lower rate, but then be locking ourselves in to where they couldn't be refinanced in the near future if need be. Mr. Muirhead said each of these bonds had a traditional 10-year call protection which was normal in the municipal market and the Finance Authority required that. Post ten years there was flexibility to do it at any time. The art of what Mr. Archuleta did was to try and figure out when that was, and of course as he mentioned, the markets changed weekly. This was when we first could do it, and generally that was when people did it because if the market was cooperating then they would see the ability to replace the maturities at the far end from the original deal and then bring them back in at the front end at much lower rates. That was what drove it in terms of the timing.

Mr. Muirhead said regarding the other question on whether they should try to move at the same time and the same financing to finance new capital projects because they had now increased the capacity with the GRT, the City now had less debt service it was required to pay from the State shared GRT. Looking at the annual income, they had now created capacity and it was very common and legally they could combine capital improvements with the refunding. The City had done that in the past. In consultation with the staff, this would certainly be a time to look at capital needs to see if there was an opportunity to do that. Commissioner Rardin said he just wanted to make sure we were not locking ourselves in to where we could not refinance down the road. Mr. Muirhead said given the short maturities remaining on these three deals, once they were refinanced the Finance Authority probably would have a prohibition on refinancing because it was within that 10-year period. However, it was unlikely that the interest rates would go much lower than they were now.

Mr. Archuleta said one of the things they could do was an analysis depending on how much money was coming in on the GRT, which was the money being pledged for this debt. What they were looking at now was releasing about $80,000 per year for the next five to ten years. An analysis would give them an idea of what they could actually do as far as additional financing. That would give them a better idea as far as being able to plan for what they could do and when. They would make an analysis available to the Commission. Commissioner Rardin said in the event we did the refunding and got the lower rates, it would probably be two or three years down the road before they could even look at refinancing it again to borrow additional money. Mr. Archuleta said with these particular issues, they would not be able to have an early call because one was a 10-year bond, and normally the New Mexico Finance Authority only allowed calls for ten years or longer. The other one was out for six years, so it would not have a call option on it either. Because of the low interest rate market right now, they were better off just going ahead and doing it instead of waiting and trying to do something else in the future. However, he could come up with something for them to do additional financing and then wrap it around the two issues they presently had outstanding and give the flexibility of doing additional financing.

Commissioner Rardin moved to approve.
Commissioner Payne seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 6-0-0.

8. Consider and act upon case V-2021-0003(A), the property owner of 1714 N. Florida Ave is requesting a Variance to allow a rear setback of eleven (11") feet vs twenty-seven (27') feet required per ordinance for the construction of an addition totaling 817 square feet within the R-4 Multiple Family Dwelling District. *(Stella Rael, City Planner)*

City Planner Rael said the applicant, Richard Young, had applied for a variance to allow the rear setback of 11 feet. There was already a duplex there, and he was wanting to add square footage to the rear of the property. Per Ordinance, it must have a 30-foot rear setback or 20 percent of the lot depth, whichever was less. Because he did not meet that, he had applied for a variance. The property was surrounded by R-4 Multiple Family Dwelling District and R-1 Single Family Dwelling District. The application was filed on August 31, 2021, and legal notice was published on September 19, 2021. Twenty-one letters were mailed by First Class mail to all property owners of record within 200 feet. As of October 15, 2021, there had been no letters returned undeliverable and she had not received any letters or phone calls of opposition. The item was presented to the Planning and Zoning Commission on October 7, 2021, and they recommended approval by a vote of 4-0-1. The one abstention was Commissioner Crabbe because she was a property manager of this property. Staff recommended approval since it would not be materially detrimental to surrounding property owners or the public.

Commissioner Payne moved to approve.
Commissioner Rardin seconded the motion.

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

9. Consider and act upon Ordinance 1640 Approving the transfer for a Local Economic Development Project for secured financial assistance proposed by Ultra Health, LLC. *(Petria Bengoechea, City Attorney)* (Roll Call Vote Required)

City Attorney Bengoechea said she had made a mistake in the Ordinance which referred to "Downtown Venture Corporation", and she would correct it to read "Ultra Health, LLC".

City Attorney Bengoechea said Ultra Health had recently purchased the old "Cookie Factory" at 1301 Lavelle Road. They were opening their business and would soon be manufacturing there. Unfortunately, the previous LEDA project was never secured when it was entered into with Western Baking Corporation which meant they had purchased it without a City obligation on it. Ultra Health understood that this had been a big deal to the City for many years and they had agreed to actually pay off, via job creation, Western Baking's or Sunbaked Biscuits', or Marietta Baking's obligation. This was not going to be secured because it had not been secured for many, many years. However, they had agreed in writing that if for some reason they went out of business and they didn't create jobs, that they would pay the obligation back in cash. We had no reason to believe that they would not do so at this time. They had been very communicative, and she had spoken often with their attorney. Truly Ultra Health did not have to recognize the outstanding LEDA obligation here and in the creation of jobs like they were agreeing to. Therefore, staff was recommending approval.

Mayor Pro-Tem Sikes said the obligation was actually listed and was well over $300,000. She wondered if they had provided a plan on how they would pay this back, number of jobs, hourly rates for the jobs, etc. City Attorney Bengoechea said it was outlined in the Project Participation Agreement, and it worked the same way it always did with the job credit. When she spoke with their attorney, their plan was that they believed they would have the payroll to pay it off within 18 months, if not sooner. Because there currently were hiring challenges within the community, it was written in at 24 months and we certainly would be willing to work with them if hiring employees was a bar to that. When staff sent the first proposal to them with wages set at $9 per hour, they immediately sent back that their minimum starting wage was $13 per hour. They believed they would be able to pay it back more quickly. If they had not agreed to this project, the City's plan was to invoice Western Baking, which was a company that didn't even really exist any longer. It most likely would have gone to collections and then would have had to be written off in a couple of years. This was the best case for the City, even though this unsecured deal had been in place since approximately 2012 to 2014. Mayor Pro-Tem Sikes clarified that Ultra Health had not requested LEDA. City Attorney Bengoechea said no; they had actually been very firm that they did not need incentives and didn't want to take help. They were doing this 100 percent on their own, which they were very proud of, as they should be.

City Clerk Hughs clarified that this was for approval of first publication of the Ordinance, and not approval of the Ordinance itself.

Mayor Pro-Tem Sikes moved to approve for first publication.
Commissioner Wright seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 6-0-0.

Commissioner Payne moved to adjourn at 7:22 p.m.
Commissioner Rardin seconded the motion.
Motion carried with a vote of 6-0-0.

ADJOURNMENT

Mayor Richard Boss

ATTEST:

City Clerk Rachel Hughs

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