

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
February 8, 2022**

**SUSAN PAYNE, MAYOR
SHARON McDONALD, COMMISSIONER
JOSH RARDIN, COMMISSIONER
STEPHEN BURNETT, COMMISSIONER
NICHOLAS PAUL, COMMISSIONER**

**DUSTY WRIGHT, MAYOR PRO-TEM
VACANT, COMMISSIONER
BRIAN CESAR, CITY MANAGER
PETRIA BENGOCHEA, CITY ATTORNEY
DYLAN ALESHIRE, DEPUTY CITY CLERK**

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

Mayor Payne called the meeting to order at 6:30 p.m. Roll Call was taken by the Deputy City Clerk. Commissioner Burnett joined by phone. Deputy City Clerk Aleshire announced there was a quorum present. Invocation was given by Pastor Jeff Sowers and the Pledge of Allegiance was led by Commissioner Sharon McDonald.

APPROVAL OF AGENDA

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

PUBLIC COMMENT

Michael Gallegos said he was concerned about a light installed on Ridge Crest and 10th Street. It is not on the corner, but in the alley, and Mr. Gallegos lives in the second house over. Behind his house there is a car wash that lights up that whole area. This new light was installed around the 14th of January and lights up his backyard like daylight. He stated that he could read the newspaper in his backyard at two in the morning. He looked up light pollution and read that light pollution may constitute a legal nuisance; a nuisance is a type of conduct that disturbs a neighbor's use or enjoyment of property. He said he could bring a lawsuit, but he would not. The light does not face the street, it faces the alley, which in turn faces the backyard. His wife and he enjoyed chimney fires, sitting and relaxing in their backyard, but they can't do that when there is daylight outside. It is not needed for security for that area as the car wash does that. He would like the light either turned off or at least aimed to the street like a streetlight is supposed to be. Mayor Susan Payne thanked Mr. Gallegos.

City Manager Cesar said that Finance Director Huff would take Mr. Gallego's information, as this was the first they were hearing about it. He said this was going to depend on how that light was installed; the City through PNM pays for the street lighting, but any property owner can have a light installed and they will be responsible for the payment. He stated Mr. Gallegos said it was in alleyway, and Mr. Gallegos responded that this was a streetlight. City Manager Cesar continued that he would have one of the city staff members contact him, then they would go out and see where the light is pointed and try to get it resolved for him. Mr. Gallegos said he appreciated that and thank you.

CITY MANAGER'S REPORT

City Manager Cesar made the following remarks:

1. Next week the majority of staff and he will be somewhat unavailable for the first review of proposed budgets by departments for the upcoming fiscal year.
2. The City Commission approved through the HR Department to contract with Municipal Solutions; they were going over and doing a salary study comparing the city of Alamogordo to like-sized

communities and communities that influence our hiring in this area. They were also looking at the way we grade positions, what grades they fall into, and then benefits that the City of Alamogordo offers employees compared to communities that we have to compete with. By Thursday of this week, we will have the draft report, and over the next couple of weeks we will be working with them to get that finalized. At the end of the month, we will have the final report which will be provided to Commission. He said that wished to have this earlier, but it took a little bit longer for them and this was fine as we want a quality product. In the proposed budget that will be going to Commission in the next couple of months, dependent upon the outcome of this study, plan to have this incorporated into the proposed budget. There are a number of areas in the City right now, such as Water, Wastewater, and the Police Department where we are facing some critical shortages. He knew that the police officers that are on the street are pulling in a lot of overtime and this has led to burnout; we have already lost a number of officers. We are having the same issues are in Water and Wastewater. Dependent on how that comes back in, without having the dollar figures in front of him, he can't say that we are going to propose to have it implemented in one fiscal year, it may be multiple fiscal years. We may be coming back to the Commission prior to the budget hearing to implement in some of the areas a little bit earlier, especially the Police Department, Water, Wastewater, and other critical areas where we need those employees.

Mayor Susan Payne said we are all very mindful of the Police Department and we appreciate all they do. It is on her mind all the time because it is such a critical area.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Mayor Payne made the following remarks:

Last week she had the unique opportunity to do a ride along to serve administrative search warrants on some alleged dilapidated homes. Several were in Commissioner McDonald's district, and it was pretty nasty. Pictures were on her Facebook page and the City Attorney's Facebook page. She really wanted to emphasize the amount of personnel it takes to serve these search warrants. It is not a simple process, there were a lot of hands involved from Police Officers, Fire Department, Code Enforcement, the City Attorney Bengoechea, the City Manager Cesar, Utility Construction Manager Burnis Davis; about fifteen City Employees just to serve these. They served four and Mayor Payne said it was not an easy process and even worse was having to go into these homes. She will be wearing flats next time. We should really give a shoutout as our officers have to go in first and clear the house, and Lord knows what you are going to see in there. She wore a mask and would not go in without one because it was really that bad. She said that was four more with many more to come as we try to get our City cleaned up; thank you to everybody and it was a learning experience for her.

CONSENT AGENDA

1. Approve the minutes for the January 25, 2022, Regular meeting. *(Rachel Hughs, City Clerk)*
2. Consider, and act upon, adoption and final publication of Ordinance 1644 amending Chapter 29, Section 01-090 of the Alamogordo Code of Ordinances regarding the regulation of special events. *(Petria Bengoechea, City Attorney)* (Roll Call Vote Required)
3. Consider, and act upon, awarding Charlie Lee Solar, LLC a land lease at 501 Lavelle Rd, Alamogordo, NM 88310 for purposes of a solar field. *(Petria Bengoechea, City Attorney)*
4. Consider, and act upon, the award of IFB 2021-01 1" Base Course to Aggregate Technologies, LLC in the estimated amount of \$84,183.00. *(David Nunnelley, Utilities Director)*

5. Consider, and act upon, accepting the NM State Library American Rescue Plan Act (ARPA) grant agreement in the amount of \$17,828.00 for the Alamogordo Public Library for FY2022. *(Kim Underwood, Library Manager & Veronica Ortega, Director of Community Services)*

6. Consider, and act upon, approving the award of RFP 2022-001 On-Call Utility Services to General Hydronics Utilities LLC. *(David Nunnelley, Utilities Director)*

7. Consider, and act upon, Resolution 2022-09 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 February 8, 2022. *(Evelyn Huff, Finance Director)* (Roll Call Vote Required)

City Attorney Bengoechea pulled item 3 off the Consent Agenda.
Mayor Pro-Tem Wright pulled item 6 off the Consent Agenda.

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

ITEMS REMOVED FROM CONSENT AGENDA

3. Consider, and act upon, awarding Charlie Lee Solar, LLC a land lease at 501 Lavelle Rd, Alamogordo, NM 88310 for purposes of a solar field. *(Petria Bengoechea, City Attorney)*

City Attorney Bengoechea stated that the reason she pulled this off was an address issue; we had several properties that were 501 Lavelle Road including the Desalination Plant. We just realized that after the Agenda was closed, so this needs to be modified. Instead of 501 Lavelle Road it should be 243 Charlie Lee Memorial Relief Route in Alamogordo. If any motion is made, either way she would just ask that we do it with that amendment.

Commissioner McDonald stated she had questions about the lease. Does the City of Alamogordo receive any benefits because the panels are going to be on the land, will that decrease the amount of electricity, or does that go to PNM. City Attorney Bengoechea responded that the city itself, as an entity, won't see any benefit other than the monetary benefit we get from leasing the land.

Commissioner McDonald asked that, if for instance, if we have a month of cloud weather, does the City have to pay this company money for not having any solar energy. City Attorney Bengoechea responded that no ma'am, the only way that we are involved is that we are leasing them the land. We can't control the sun and this document doesn't require that the sun shine x number of days, that is a risk that this company is taking by putting their panels here. The only thing that they require is access to the property and the ability to put the panels on the property itself.

Commission McDonald wanted to know if there was any Acts of God, damage, or anything like that, if they would occur on the land, would that be something that the City would be taking care of. City Attorney Bengoechea responded that the only thing we are liable for is negligent acts of our employees or of the City itself. As an example, if City Manager Cesar went out there in his city vehicle during business hours as the City Manager and smashed some solar panels, the City would be liable for that. He would never do that, but other than that; if a tornado hits, or a thunderstorm, or a lighting strike, that is nothing that the City would be held responsible for, only negligent acts of the City. We are not responsible for securing the site either, so if John Q. Public went out and did something terrible to their

property, we would respond with charges if we knew who it was, but we are not responsible for that. The only thing we are providing is the land and the ability to put things on the land.

Commissioner McDonald asked if there was a timeframe on the construction period because that determines what type of money the City will receive. City Attorney Bengoechea responded that there was no cap on how long the construction will take, and that is something that we have discussed. Given supply shortages right now, they weren't comfortable putting a cap on that, but they have assured us that they profit by having panels on the land. So, they want to get their panels up and running as fast as possible as this behooves them, there is just some concern if they can get everything they need to make it happen. We all know the supply chain shortages that this entire country is facing currently.

Commissioner Rardin moved to approve item 3 with the amendment of address being changed from 501 Lavelle Rd. to 243 Charlie Lee Memorial Relief Route.

Mayor Pro-Tem Wright seconded the motion.

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

6. Consider, and act upon, approving the award of RFP 2022-001 On-Call Utility Services to General Hydronics Utilities LLC. (*David Nunnelley, Utilities Director*)

Mayor Pro-Tem Wright stated that the reason he wanted to pull this was that it was a sister company of his; he had no financial ties but would abstain from voting tonight.

Commissioner Rardin asked if this was the only responsive bid that we had. City Manager Cesar responded yes.

Commissioner Rardin moved to approve.

Commissioner McDonald seconded the motion.

Motion carried with a vote of 5-0-1. Mayor Pro-Tem Wright abstained from voting.

EXECUTIVE SESSION

8. Adjourn into Executive Closed Session in compliance with 10-15-1(H)(2) NMSA (as amended) to discuss limited personnel matters: City Manager Evaluation follow-up and contract extension negotiations. (Roll Call Required)

Commissioner Rardin moved to adjourn into Executive Closed Session at 6:50 p.m.

Commissioner Wright seconded the motion.

Roll Call Vote was taken.

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

ADJOURNMENT



Mayor Susan L. Payne

ATTEST:


City Clerk Rachel Hughes

(Prepared by Dylan Aleshire, Deputy City Clerk)
Approved at the Regular Meeting held on February 22, 2022.