

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
April 26, 2022**

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

**DUSTY WRIGHT, MAYOR PRO-TEM
KARL MELTON, COMMISSIONER
BRIAN CESAR, CITY MANAGER
PETRIA BENGOCHEA, CITY ATTORNEY
RACHEL HUGHS, 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 City Clerk. City Clerk Hughes announced there was a quorum present. Invocation was given by Pastor Jeff Sowers and the Pledge of Allegiance was led by Commissioner McDonald.

APPROVAL OF AGENDA

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

PRESENTATIONS

1. Alamogordo Station Presentation by the Alamogordo Center of Commerce. *(Marianne Schweers, Co-Owner of Heart of the Desert)*

Mrs. Schweers said her family was brought here by the Air Force in 1969 and they chose to stay. Of all the community projects over the years, this project we are going to talk about tonight is probably one of the most exciting that we have ever seen, a new Center of Commerce complex. She said that with her is Michael Shine, who would tell you about the generosity of the Sheldon trust, Jim French would talk about the community impact, Randy Regan would address the funding path, and G. B. Oliver will conclude the presentation. She said we are asking the Commission's approval to authorize City staff to take the lead role and work with the Center of Commerce to make this project a reality.

Mr. Shine said that he and Teresa Keeland are co-trustees of the Sheldon Trust. The Sheldon Trust has committed \$1,000,000 to this project. He said let me tell you a little about the Sheldon Trust; Evan and Ester Sheldon moved to Alamogordo in 1977 after they sold their company in Ithaca, New York. Evan was a wholesale sporting goods dealer that covered the whole of North America, he had one hundred and fifty employees. What is really sort of odd is, he loved trains, and so they bought a double-wide mobile home adjacent to the railroad between Alamogordo and Tularosa so they could sit in their living room on their couch and watch the trains go by every day. This was just one of his passions. They both died in 1999. They had no children, so they left the Sheldon Trust. Mr. Shine said that Teresa Keeland and he were thinking okay, what is the right project for this. Well, Evan loved trains; think about how important the railroads were for Alamogordo, it founded Alamogordo. Alamogordo wouldn't exist if there hadn't been a railroad. With Evan's interest in trains and the history of the railroad, we thought, hey, lets look at the toy train museum, how could we work with those folks and build something special out of it, so that it would be more self-supportive, make more revenue for itself, and attract more tourists. He said then we thought okay, how we could mold that, instead of the Toy Train Museum, into a Train Museum. He said then we thought okay, if we could succeed at this, more

tourists will come, it will build our economy. He said he did not know if any of you could remember, but a number of years ago, the centerfold in New Mexico Magazine was some kids riding that little bitty train at the Toy Train Museum. The fella that built two of the hotels down in El Paso Airport told him that one day, he said, I hate that damn Toy Train Museum, my kids will not let me drive past it, we have to stop every time and ride the train. Mr. Shine continued that well, that is what we want to hear, that is the stuff that really builds our town in little ways that add up; so, we really thought, we are on the right track here. We hired an architect named Bill Helm who specialized in historic structures, he is from El Paso. Bill developed the plans you see, the plans are extensive, but the plans that generate this architectural product that you see in front of your screens and that we are looking at here on the ceiling. We spent about \$200,000 to date working with him of that \$1,000,000. To complete the plans, engineered, heating, cooling, electrical, everything engineer, literally shovel-ready, would be another \$375,000. Now remember, we got about \$800,000 left of that \$1,000,000. While these plans were developed, Brian Cesar participated in them, and watched everything, and was conscious of the entire process. With \$1,000,000 that the Sheldon trust has committed, we really believe this could be one of the best things that Alamogordo could ever have. He said that as you know, when you drive through Alamogordo, there is really not anything striking, any memory that we really want people to take home with them. This would change that. It is a thirty-five-thousand-foot structure that is absolutely stunning. What the Sheldon Trust would like to commit to is, if the City will pass a resolution to confirm this project, to assume it as one the City's top projects and to become the lead agent. When you pass that resolution and it becomes real, thirty days has to pass or however that works, the Sheldon Trust will immediately jump forward and start the completion of those plans and put out the \$375,000 to do so.

Jim French said that he came, along with this committee, to you about three years ago. He said that instead of him regurgitating of what he told you then, things have changed since then. We went through COVID, and economics have changed our country, our state, and local community. He said that what is it we need now, we need recovery. When you are looking at this building, there are a few things that he has learned over time: activity breeds activity and success breeds success. He said he believed that this is our opportunity to show our own community, and other others outside our community, that we can get through this; we have gotten through this, and this is an iconic building, as Michael said, that we can be proud of for years and years to come.

Randy Rabon said that he is the past Chairman of the Alamogordo Chamber of Commerce. Through his time as Chair, through a strategic planning session, we knew we needed to get focused on something. He said his theme was the one thing. Unanimously, the Alamogordo Center of Commerce Board voted for this project to be their one thing. This facility is an iconic building that truly would be the gateway to this community, or the storefront for our community. It is going to be a multi-purpose facility. This would be the first public-private partnership of this type that he said he knew the Center of Commerce has engaged in. He said he felt that with the Sheldon trust offering \$1,000,000 of their money to build a Train Museum in the Visitor's Center; what a great opportunity. This is where we can truly see how a public-private partnership works. The challenge we've got, obviously, is raising the capital for that. When we look at the uses for this facility, we've got: the Alamogordo Zoo, we've got the Train Museum, the Alamogordo Visitor's Center in support of tourism, the Alamogordo Center of Commerce itself, we use this for their business, the Small Business Development Center, Office for the Economic Development. It is a two-hundred-and-fifty-person special event center which will open up out into the Zoo and Alameda Park, so we can showcase those facilities that we've got. A new film office, you know, we are always looking to see where they might be. We've got over seven agencies that could be housed in this one stop shop, if you will, for this community. This truly will become the new hub or town plaza, he said he thought, that everybody can identify with. From a funding side, you know, he said he currently serves on the New Mexico State Land Office Advisory Board, and the State right now, is seeing record income from oil and gas and a number of other things. He said he felt like, if we could get our local state delegations, state legislatures, behind this this project, then with your

support, it is a great opportunity to go ask the State for capital alloyed money to help us put this thing together. He said he thought that the Center of Commerce will need to hire a state-level lobbyist to help with this, so the funding needs to come from multiple places. We need to engage a grant writer, he said he knew that this is fixing to go to the Board for the Center of Commerce here shortly on that process. There are these CDBG grants, community development grants, that are out there available. We've got private fundraisers that can continue also. He said he thought if we build the support, there is other people, like the Sheldons, that may have an interest in putting some of their money behind a project like this as well. Railroad, we are adjacent to that railroad property, has grants for this purpose. Obviously, the Zoo itself; there is additional funding that he said the thought could be asked for.

G.B. Oliver, Executive Director for the Center of Commerce, said that you have heard about this project. He could tell you that in his personal opinion, there is no project anywhere that will reach the point where this be. It will be absolutely the most iconic building in Alamogordo. He said he thought it set a new standard for the citizens of this community, and it sends a new image of this community for those coming in here looking to do business. He said he could look back through his calendar today, and in the last thirty days, we have entertained eleven commercial enterprises that have visited our office looking for information on the City of Alamogordo, looking for a place to set up a footprint. We also have had one hundred and ninety people come through the Visitor's Center in the last thirty days, so you can see the kind of impact it would have. He said he did not know of any project on the horizon that could potentially impact the growth and economic viability of this community more than this building will. As you have heard here tonight, never before in the history of this community has a private entity ever stepped up with a \$1,000,000 or any amount even less than that, to put into a building or project belonging to the City of Alamogordo. As Randy indicated a while ago, May 15th, our Board Meeting; he will be going before their Board and asking our Board to designate money to go step forward and hire a grant writer. They have already interviewed a grant write in the hopes that grant writer will establish a background and maybe work in concert with the City Grant Writer as we move forward on this project and look for additional funds that are available in other places. He said that we respectfully request, as Marianne said a while ago, that you endorse this project. We respectfully request that you consider this to be one of the top projects over the next coming years, because nothing would be more forward from an economic viability standpoint. We request that the Council turn this back over to Brian Cesar. Brian worked hand-in-hand with us along this, and we would like to continue doing that; we know that he has the City's best interest, and he could guide us, and send us in the direction we need to go. Mr. Oliver continued that he would also mention to you ladies and gentlemen; to come back on a regular basis and provide you with accurate, up-to-date information as we move forward with this project.

Mayor Payne said that she was not sure about this at first; we've got a lot going on, I don't know. She said she has to tell you, some of the concepts she really liked, and she said that she thought that she could see the vision for sure. This is not an action item, but perhaps, in the very near future, we could bring that back for some kind of discussion. Maybe we could have you back at that time, any of you, all of you. Let's kind of keep that in the back of our head, and maybe we could bring that back soon.

PUBLIC COMMENT

None.

CITY MANAGER'S REPORT

City Manager Cesar made the following remarks:

As you are all aware, there was an email sent out, your budget materials are in your mailbox. A number of you have already picked up the book. By the end of the day tomorrow, the wage study will be

available in your box, along with the presentation, the slides that will be given, beginning on Monday. As a reminder, this Monday, at 6:30pm, in this room, is the beginning of the Budget Hearings for next fiscal year. He said he is not sure if they will make it in one night as we have for the past several years. There is a lot of new faces up there, so probably some new questions that we have not heard before.

Commissioner McDonald said that this weekend, it was told to her that the 808 house was coming down. She took pictures and sent them in to Brian and Stephanie, to let them know that they were working on it. She said that all it took was like this, but it was a little bit more. They actually have all of it down to the foundation today, and they are loading it up in the dumpsters, and it is being carried off. Mayor Payne asked if this was the lady that was here a few weeks ago. Commissioner McDonald said yes, Jackie Stackhouse. Mayor Payne said that was exciting news, even more exciting that she actually did what she said she was going to do. Not that she ever had a doubt or anything. Commissioner McDonald said they took it down, yeah. Mayor Payne said that someone told her the other day that they loved to watch her live videos, because they love how excited she got when talks about dilapidated structures and the start of tearing them down. She said yeah, that is one of the highlights of her day, don't you know.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Rardin made the following remarks:

He said he was talking to the City Manager; he had a call over the weekend about our Animal Control. He said he guessed on Facebook or something, they mentioned that we are full, and we are going to have start euthanizing. He said he didn't know if we could have Brian look into the ordinances on that, to see, as far as the fees and structure for adoption. He said he is not sure how it works; he has never been to a pound. If we could look into that, and maybe see if staff could start holding a low-cost adoption deal once or twice a month or something to get some of the animals out of there, before we have to euthanize them. Commissioner Rardin continued that was a sore spot for a lot of people. Mayor Payne said she agreed with him, she hated to read that. Commissioner Rardin said he did too, and he had a call about it this weekend. If we could have Brian start looking into that, what we can do to offset some of the costs so that we could get them adopted out rather than euthanize them.

Commissioner Rardin continued his second thing is, all of us, when everybody kind of got on, we talked about wanting to be business friendly in the City of Alamogordo. He said he'd liked to see if we couldn't maybe update our mission statement to include something along those lines of being business friendly, how our elected officials and City staff want to be business friendly. He was not sure how you would word it, but you all can make that sound good, he was sure. Mayor Payne asked when the last time we looked at our mission statement. City Manager Cesar said Bob Stockwell was the City Manager, and Commissioner Rardin said no we looked at it, and City Manager Cesar replied that was the last time it was updated. Commissioner Rardin said no, we looked at it with Commissioner Baldwin at one time. City Manager Cesar said that was the goals. Commissioner Rardin said that was the mission statement too. City Manager Cesar said it was not updated. Commissioner Rardin said okay, we can look into that. Mayor Payne said so it has been a while. City Manager Cesar said that it is on the front page of the agenda, so it was adopted by City Commission on March 24, 1995. Commissioner Rardin said if we can look into that.

Commissioner Burnett made the following remarks:

Commissioner Burnett said he got a phone call from a lady, and she just wanted to commend the City on how well Alameda Park looks, and the rose bushes. Mayor Payne said thank you, we need to hear more positives, she liked that, it is looking good. We have a lot to be proud of in our City. We get a lot of grief, but she said she thought that people kind of spewed the same rhetoric for so long, that they

haven't actually come out from underneath their rock to look around and see what has been done in this City. Mayor Payne said if you have your head buried under a rock, you should look around, because there have been a lot of amazing things that have happened in this City.

City Manager Cesar made the following remarks:

He said that he did want to remind the Commission and the public that Thursday, at the Willie Estrada Civic Center, we are having at six o'clock, the public meeting on the technical standards. Mayor Payne said that if you are in the room, or you are online, and you have been talking about our technical standards and you don't show up, shame on you, you should be there. Mayor Payne said she will be there, and she doesn't even know how to read the technical standards, but that is okay, she is going to learn. It is important, it is really critical. Kudos to our staff, they are really taking a look. She said she will tell you this as a side note, she has had a lot of positive comments about how we are really starting to update things and really looking at things and take things seriously. She said she knew she appreciates that, and she is sure everybody else appreciates that as well. We don't always agree, and not everybody agrees with everything, but you know, at least we are doing something about it; isn't that what is really important. Everybody will have a different idea of what to do, but the point is, we are doing something, and she said she thinks it is about time, so we don't have a mission statement from 1995 anymore.

CONSENT AGENDA

2. Approve the minutes for the April 12, 2022, Regular meeting. (Rachel Hughs, City Clerk)

3. Consider, and act upon, award of the RFP 2022-004 Water Storage Tank Inspection & Cleaning services to H2O Solutions, LLC. (David Nunnelley, Utility Director)

4. Consider, and act upon, approving the award of IFB 2022-04 Traffic Cabinets & Camera Replacement to Cubic Transportation Systems. (Paul Bennett, Facility Maintenance Manager)

Mayor Pro-Tem Wright moved to approve the Consent Agenda.

Commissioner McDonald seconded the motion.

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

UNFINISHED BUSINESS

5. Consider, and act upon, Resolution 2022-21 giving the City Manager and City Attorney limited authority to waive fees, costs or requirements of certain ordinances for a limited time. (Brian Cesar, City Manager and Petria Bengoechea, City Attorney) (Roll Call Vote Required)

City Manager said that we had an extended discussion on this last time and he did say he would bring back some information. He, along with other staff, had our kickoff meeting with Smith Engineering, that is the firm that is going to be looking at the five ordinances in our right-of-way excavation regulation. What they will be reviewing and bringing up to current standard is Chapter 8, which is Building and Building Regulations, Chapter 22 which is Subdivision Regulations, Chapter 25 which is Trailers, Mobile Homes, and Recreational Vehicles, Chapter 29 which is Zoning, City Ordinance 924 which is the Utility Installation Permit Guidelines which were adopted in 1994; the City right-of-way excavation regulations that were adopted in 2007. A lot of these ordinances are obviously tied together. The first two they will be looking at, revising along with City staff, and then eventually, we will follow the same process that we've used, unless Commission directs differently, with the technical standards. It will go out to the public for thirty days. We will have at least one public meeting; if we

need additional ones will have additional ones. The first two they will look at are subdivision regulations which is Chapter 22, and then Chapter 29 which is Zoning. Total worst case for how long to get through all these ordinances and have them ultimately adopted by Commission; they are looking at, worst case, sixteen to eighteen months. We are not going to roll all those out at one time. As they are completed, they will be going out for public review and comment, and then ultimately adoption by Commission. For the first two, Subdivision Regulations and Zoning, they are looking at a timeframe, again, worst case, four to six months; they said they could do it much quicker, but from the staff side, we would have to devote, this would be our full-time job, looking, reviewing, and responding to comments and questions from them. There is just no realistic way that we could do that. That goes to Commissioner Rardin's question from the last meeting. So, for those first two, the majority of the fees are in the Zoning ordinance; that was one of the topics of discussion last time. For those two ordinances, to full adoption, we are looking at a timeframe of about four to six months at most.

Commissioner Rardin said that if it is only going to be for six months, he thinks we just leave it alone and ride it out. People can pay the fees that are there.

Commissioner McDonald said she moved to adopt it, to allow them to have that opportunity, to be the contact people for this; the authority to waive the fees and costs of requirements. If it is four to six months, that is not that much time. Mayor Payne said it does specifically say waive fees, it doesn't say work costs or requirements.

Commissioner Rardin said he thinks we are setting ourselves up for a lawsuit. Mayor Payne said okay, she genuinely wanted to hear how. Commissioner Rardin said that if he came in, and she came in, and they waived her fees but not his fees, you got special treatment and I didn't. City Manager Cesar said anything the Commission decides is fine, he is not trying to politic one way or another, but just so you all are aware, anything that comes in will be in writing. Any decision that is made, to waive a fee, standard, whatever the case may be, will also be in writing. It will be documented, it is not going to be ex-contractor called in and said hey, I want this fee waived, or this standard waived, and the approval is given over the phone. It will all be documented and subject to IPRA, everything will be as transparent as we are. Commissioner Rardin said you are waiving fees and costs, he can understand, but in requirements of certain ordinances, we are basically giving the authority to violate the law. City Manager Cesar said that is these ordinances, and this is really no different than, some of you were on Commission at the time and some of you weren't, back when you had members of the public before you for water fee adjustments, sewer fee adjustments. As that ordinance was being revised, rewritten, and brought back to you, Commission verbally granted him the authority to look at those, make the decision, and move forward as that ordinance was being rewritten. This actually puts it in writing, makes it a bit more official; when we are audited, we have the documentation and paper trail to follow. For requirements, he said he is most familiar with Public Works, so he will use service line as an example. It is something that has been done, just not been done officially. Right now at a staff level, what we have on the books is what staff is going to follow. He has said up to this point, awaiting your all decisions, if there was any deviation from what we have on the books, that had to come to him, and he would make the decision, and face the consequences of that decision or decisions. In the case of a water service line, our current, and he said he is going to probably quote this incorrectly, but in our current technical standard, water service line comes into a property, that is where the driveway is going to be placed, our technical standard says don't set the meter there. What has happened is that the line has been adjusted on the City side. From a maintenance standpoint, that is not what we need, that is not what we want. To deviate from that, here is what it says in writing; we need the ability to work on the City side, but also work on the developer or contractor side. If we stick, and we can, what the previous Commission passed, the current technical standards, passed all these ordinances, passed all the fees we have in these ordinances; he just did not see where you come in as a private citizen, you've hired a contractor to do some work on your property, we are going to assess you a

series a fees for stuff that as a City, we don't go out and inspect. It is on private property. From a City standpoint, we really don't have any skin in that game, there is really no reason for us to go out and look at that, so why should you, as the homeowner, property owner, or contractor for that matter, need to come into the City, file your permit, be assessed whatever the fee is, just to have that paperwork then turned over to CID, which would do the inspection on a reroof or windows or whatever the case may be. Again, it is ultimately up to Commission, and if you want us to just continue following what we have, we are more than happy to do that as the ordinances are being revised, rewritten, and brought through for your final approval.

Commissioner Rardin said that if we went ahead and passed this tonight, and gave you the authority, you are going to allow us to snake the water lines over, to move the meter cans out of the driveway. City Manager Cesar said there would be each, and Mayor Pro-Tem Wright said case-by-case, City Manager Cesar continued it was going to be case-by-case, everyone is different. He said he has been here a very long time, and he has just about seen it all, until tomorrow, when there will be something new. Each one he will have to look at individually. During this time, as was stated earlier, he didn't have anything better to do, so he might as well be doing this too.

Commissioner Melton said he is leaning towards approving this, mostly because the reasoning behind this bill seems to address two of our biggest issues we are facing right now, trying to be more business friendly and then encourage more housing. He said he knew there might, or might not be, a risk of a lawsuit, but he trusts that City staff has a good feeling of the risks involved. Even though it is just six months, if we can waive some fees on a case-by-case basis, that might result in new homes.

Mayor Payne said she agreed with him. So, on a case-by-case basis, but obviously if it is apples to apples, then they are both going to be treated the same way right. She said she did not know enough about what would be different about one thing, she would have to be given some kind of an example before she got that. She said personally, it is six months, and let her just say how she feels about this. She said she is anxious to be more business friendly, and she said she thinks the way we are set up now, she did not feel we are business friendly enough, and she is anxious to do more of that. She said wanted to make it as easy as possible. She said that we had one contractor she knows that is coming in, that is building apartments. He is new to our City, and he is building apartments which we desperately need; her concern is that because of the way we have our ordinance set up now, if staff has to stick exactly to it and we are not giving anybody any mechanism to do anything different, then how is that going to affect new people coming in to our City. She said she is not a builder, but she has sure learned a lot. One of things, when she elected, was that she was determined that she was going to learn construction, because she has always joked that she does not know construction. She said she certainly knows more than she did, but she wants to do whatever we can to make it easier for people to build, to make it easier for contractors to do their job. Will this take care of that, she did not know, but she is banking on the fact that it will. She said she understands Commissioner Melton's side of it, and Commissioner Rardin's side of it, but she said she is more willing to take that risk in hopes that it actually works for us rather than backfires on us. It is only six months. She said that she is hoping that within six months, this will all be resolved. It is not like taking sides or anything, she said she is really on the side of the contractor. If this will help; Brian and her, in full disclosure, had many discussions. Some had been a little heated, okay, a lot heated, she said she has got a temper sometimes and can't help it. That is because she truly does want to be business-friendly, she really wants to be on the side of our businesses, whoever they are, and in this case, it happens to be contractors. She said she understands what you are saying. If this is an opportunity to override some of these ridiculous things that we have on the books, that we all know shouldn't have been there, then she is for it. She said she just wants to make sure, that when we are talking apples to apples, that everybody gets treated fairly. Feeling more comfortable knowing that Brian is the ultimate decision, she said she thinks she is a little more comfortable with that because Brian is our employee right, the

rest of them are not. We can communicate, and if there is a problem, the truth is, if there is a situation where a contractor does not feel like he is being treated fairly, what is he going to do. Commissioner Rardin said call us, and Mayor Payne said exactly. Mayor Payne continued that then we can look into it at least. One thing she said we think we have all gleaned from all this is opportunity to figure out where the problems really are. She said that she thinks we can all agree, we have seen some, what she thought, were very serious issues that need to be addressed. She said she is glad we are looking at the ordinance, she is glad we are spending the money and time to do that, because she thinks it is important. She said she felt like there are some serious issues that should have been addressed a long time ago, and she has been here six years so she will certainly take some responsibility for that, but she has really tried to educate herself. She said that she guessed in that sense, for six months, she is comfortable with it knowing that if a contractor still has a problem, they are still going to call us regardless, but at least that mechanism is there. If a contractor calls us and there is a problem, and we don't have that mechanism there, literally, we are probably going to have to wait to the next Commission meeting to resolve it. That is the part she does not like, that people have to wait to get in front of them to get some of this stuff done, that is part that, it is just time, that is all that is.

Commissioner Rardin said that the only issue he sees with it, and he knows it is six months, it that it almost seems a bit more like micro-managing the department. It is another level that it has to go. If we can guarantee us that will have this stuff in six months, and here you got until the end of the year, but if we can guarantee us that we will have this in six months, let's go for it.

City Manager Cesar said that the reason it goes to the end of the year, we talked about the first two that they are looking at in revising. There are quite a few more. Commissioner Rardin said you said sixteen to eighteen months, which is going to put us about towards the end of next year right. Mayor Payne said we could review this any time, so if in six months, if you see you are getting a ton of phone calls and we are not getting resolution, then we can look at this again and go hey, you know what, this isn't working out. Commissioner Rardin said we only literally have six months before the end of the year.

Commissioner Paul said this just applies to people that are actually submitting in writing that they want the fee waived or reduced. Anybody not understanding that, and Mayor Payne said that is not even an issue, yeah. She continued that it is really just, she said she thought it was more just because some of these issues that have come up, you know, underground utilities or whatever, some of those issues. We know some of those things, that are not going to be, that are in the old technical standards we already know, are not going to be in it, we know that right. Now we have seen the new technical standards. She said she thought, for her, that it is kind of like, okay, we've got a mechanism to implement it, even though it is not technically approved yet. Mayor Pro-Tem Wright said that he thought we talked last time that this would be also reviewed by Legal before a final decision. City Manager Cesar said yeah, they would be. Mayor Payne said that is even better, because now we know that we have our Attorney looking at it, and that makes her feel even more confident.

Commissioner McDonald moved to approve.

Commissioner Melton seconded the motion.

Roll Call Vote was taken.

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

NEW BUSINESS

6. Discuss and provide direction on commercial solicitor licenses. (*Rachel Hughs, City Clerk*)

City Clerk Hughs said that this was bringing issues that we have with applications for commercial solicitors, in particular those that are going door to door. We can't do extensive background checks for them, so we are doing what we can. The Police Department is running a check for arrests locally. The Legal Department is doing the check for the driver's license, but that is just for New Mexico. The City Clerk's Office really has no way of going in and checking the courts for fifty states; she said she also runs the check on the sex offender's website for the applicant. This is pretty concerning when we are having to do this minimal check but giving those licenses to solicitors that are going door to door, whether they are solicitors, or whether they are peddlers. She said she is just bringing this before you. Staff is recommending to remove the door-to-door solicitation and peddling for the safety of our citizens. They still would have the option of being solicitors, but not door to door. Currently, there are some solicitors that get their licenses, and they are stationary. So, they ask, for instance, Margo's for permission to be there, and then they get their licenses for thirty days. Obviously, they are not there for thirty days, but they get to set up their table and sell whatever it is they are selling.

Mayor Payne said she had a question. She said she completely agreed with you first of all, but how does this apply to kids coming to the door selling, I don't know, do they go around door to door selling Girl Scout cookies anymore. City Clerk Hughs said they are allowed, adolescents eighteen and under are allowed to do that, as long as they are not acting on behalf of an adult. The adult could be with them, but as long as they are not acting on their behalf. She said that honestly, she has not seen a Girl Scout solicitor in the eleven years she has been with the City Clerk's Office. Mayor Payne said she would not let her kids do it in this day and age, that is for sure, but you know, it is a question.

City Clerk Hughs said that she just wanted to give you an idea of the solicitors that do go door to door, the majority are either solar, alarms, or vacuums. For this year alone, for 2022, we have had eighteen applicants, of which eleven of them were solar, and they never came back for their actual badges. However, we were getting many complaints. The Police Department did contact them and had to tell them they weren't supposed to be soliciting without a license, that is when the eleven came in, but they never came back for their badges. We do have a lot of that happening; we do get a lot of complaints at the City Clerk's Office; the Police Department gets the complaints also. The majority of the complaints we get are from elderly citizens. Mayor Payne said yeah, it is pretty annoying, they want your utility bill, and she supposed, especially to an elderly person, that can be pretty intimidating.

Commissioner Melton asked if she had a rough estimate of the number of complaints we have gotten in the last year. City Clerk Hughs said that she did, for this year, we have nine; seven of which of which came to her office and two came to the Police Department. In 2021, there were four to her office, and one to the Police Department. In 2022, there was three to her office, and one to the Police Department. In 2019 there were three for her office, and three for the Police Department. In 2018 there were four to her office, and one to the Police Department. Commissioner Melton said that in the background research you mentioned doing, is that mandated by City ordinance or is that state law. City Clerk Hughs said our ordinance does say that will shall check, and so we compile what we think that check should be, and this is what we have come up with. We are trying to be very extensive about our check, because sending people out door-to-door, saying we have checked them thoroughly, that could be pretty scary, especially for the elderly. Mayor Payne asked if this only applies to people that are trying to sell you something. City Clerk Hughs said well no, we do have in our definitions; a peddler is someone that is actually carrying goods, whether that is food, transporting wares or merchandise, and then you have the solicitors, which are just taking the orders or trying to solicit your business without actually taking that merchandise to the door. Mayor Payne said that like people campaigning or something like that, it doesn't really apply to them. City Clerk Hughs said no, it does not apply to them, however, we do get a lot of complaints about people campaigning.

Commissioner Rardin said that out on our jobsites, you have ladies or men that go around and sell burritos, is that going to apply to them as well. City Clerk Hughs said that she has not gotten any complaints about people going door-to-door trying to sell food, is that what you are talking about. Commissioner Rardin said no, over here in this one subdivision where we are framing a house, there is a lady that comes every day through the construction sites in those neighborhoods where they are building, and she sells burritos between nine and ten o'clock every morning. City Clerk Hughs said that is a different license, that is a food vendor license. Commissioner Rardin said so this won't affect, and City Clerk Hughs responded no. Commissioner Rardin said you were going to have a lot of mad constructions workers if they can't get their burritos.

City Manager Cesar said to clarify what is being asked, right now we have this ordinance on the books. He comes in, he turns in his application to the City Clerks Office. He could be coming from Las Cruces; it could be Florida. The checks that the City is doing to see if he has a criminal record, does he have a valid license, etcetera, we don't have the ability to check outside of Alamogordo, or a State of New Mexico license. We are not saying that this is now going to prohibit door-to-door sales, where staff's concern has come in is, I am from Florida, the City has no way to check my record, the City issues a license to me, I have a badge from the City of Alamogordo, I go knock on your door, and when you open it, I storm my way in and do a home invasion. What is going to come back, whether the City is liable for that, that is for the courts to decide. From a public perception standpoint, City-wide, we do not check these people that you are issuing a license to, and we do not have the ability to do that. Now there is an FBI check, and Rachel can talk about that if you want to hear about it, but that is, as he understands it, a long process that goes into weeks. We have solicitors right now that will turn in their application, and if they don't get their badge the same day, they go out and start selling, and don't wait for it anyway. We are not going to stop anyone that really wants to go door to door. What we are looking at is, do we want to keep this on the books and issue these licenses to people that we can not check.

Commissioner Paul asked what the repercussion is if we pass this, and people are still out there doing it; nothing. Commissioner Rardin said why pass it. City Manager Cesar that is what we have on the books, what Rachel is asking for is, taking your all's direction, we would like to come back at a future meeting and strike portions of the ordinance so that we are no longer in the business of issuing door-to-door licenses. Mayor Payne said she thought the biggest mechanism would be to get the information out there to the public, because if they come to your door and they don't have a license, we can call the police, is that right. City Clerk Hughs said right. Mayor Payne continued that she remembered having a magazine salesman arrested in her driveway, and she about had a heart attack, because she didn't know it was illegal, but apparently it is if you don't have a license. So, we do have a mechanism is what she is saying.

City Attorney Bengoechea said that to state our concern more simply, is that we don't want a citizen to see a badge that we have issued, and to assume that person is safe. We can't guarantee that, we can't guarantee that they are not a serial killer, they don't have convictions for murder, or other heinous acts. We don't have access to run those background checks, so we don't want to give a citizen the impression that because they have some badge issued by the City, that they are completely safe to let in your home and do a vacuum demonstration, she said she guessed that still happens. That is all we are saying, what does the Commission want to do, because we don't want to take that on, to have something bad happen, and have someone come back and say, well, the City issued the permit and said they were a safe person. Mayor Payne asked if one of our options was just to repeal it altogether, to just not allow door-to-door sales, is that one of the things you possibly are asking. City Clerk Hughs said yes, to remove the door-to-door, but not necessarily the soliciting; like she said, we do have some that will apply, but they want to be just stationary on a table, on private property without permission. City Manager Cesar said that is not where Commission is, in this revised ordinance that would come

back before you, we are not asking Commission, unless that is the direction of the Commission, to ban all door-to-door sales. It is the issuing of a City license for those door-to-door sales. Door-to-door sales would still; someone could still knock on your door and say hey, I got this wonderful vacuum, can I come inside and show it to you. They would not have a City badge that says we have checked them when don't have the ability to check them. So, it would be you as the property owner, you as the homeowner, do you want to answer the door or not. Which you have the ability to, if the person has a City badge; because we can not check these people that are going door-to-door, we are not saying they are bad people, but we don't have the ability to check. If something were to happen, that comes back on the City; the City gave them the badge, why did you not fully vet them.

Commissioner Rardin asked if this was a completely new ordinance that we have written. City Clerk Hughes said no. Commissioner Rardin continued if this was existing, is this what we currently have. City Manager Cesar said this is an existing ordinance. City Clerk Hughes said the last update was in March 25, 2003. Commissioner Rardin said okay, this is basically our existing ordinance, it is just revised. City Manager Cesar said it hasn't been revised yet, we would like to bring it back and have it revised, so that section is stricken, and we no longer issue a license to a door-to-door salesperson. Mayor Payne said right, but that does not mean that they can't do it. City Manager Cesar said that does not mean that can't do it. Commissioner Paul said that we are just taking the City's liability away. Mayor Payne said she liked it better when we just said they can't do this. City Clerk Hughes said part of the ordinance, the entire section and article also, is the exemptions for minors, for charitable organizations, and then prohibiting solicitation by banks and by other places. So, if we strike the whole thing out, we are going to strike that out also. Mayor Pro-Tem Wright said so we just want to provide direction, saying remove door-to-door sales, and salvage the City's liability. Commissioner Rardin said provide direction to staff, to rewrite it to what you all think, bring it to us, show us the changes. Commissioner Melton said that would still leave commercial solicitors affected by the ordinance. Mayor Payne said she wants to make sure she understands, we are saying the City will not issue a badge anymore for them, she gets that, they won't do a background check, we won't do a badge, that kind of thing, right. City Clerk Hughes said for door-to-door. Mayor Payne said for door-to-door, but are we saying that it is illegal in our City. City Attorney Bengoechea said we are not; she said she thought, what she was hearing from Commissioner Rardin, and she didn't want to put words in his mouth, but he is saying make the changes and bring them back to us that you want and let us look at what you are actually asking for. Commissioner Rardin said yes, bring the ordinance back, with the changes like they normally do, they squiggle out the parts they want to change, because this is exactly what we have on the books currently. Mayor Payne said exactly, so then we can look at that, and then make a decision. Commissioner Rardin said he was a little confused too, he thought we were re-writing the whole section. City Clerk Hughes said no. Mayor Payne said can we do that, can we strike everything out that you are talking about, and then bring it back to us.

7. Consider, and act upon, Resolution 2022-18, declaring 323 Railroad Road to be so ruined, damaged, and dilapidated that it is a menace to the public comfort, health, peace or safety and ordering its abatement. (Jim Baker, Code Enforcement Supervisor and Stella Rael, City Planner) (Roll Call Vote Required)

Code Enforcement Manager Baker said that he has two properties that he is bringing to you tonight, one is 323 Railroad, the other one is right next to it. We sent a certified letter out on November of 2021. As of March 3, nothing had happened, so we served an administrative warrant at that address. The property belongs to Toby and Christina Juarez with the address listed as 323 Railroad; that is a vacant address. The property taxes haven't been paid for 2019, 2020, 2021. Code Enforcement Manager Baker proceeded to show a presentation with photos concerning this property.

Mayor Payne asked if this wasn't the one that guy was living in, was it. Code Enforcement Manager Baker said that no one was living there, there was a trailer out front where they were staying at. Commissioner Rardin said that somebody did reside in this place, probably maybe five, six, years ago. There was a gentleman, actually the owner, resided there. Commissioner McDonald asked if this was the one on the corner, and Code Enforcement Manager Baker replied yes ma'am. Commissioner McDonald continued that there is somebody there. Mayor Payne said he is in a trailer. Commissioner McDonald said no, he is in the house, he has got two cars parked out in front. Code Enforcement Manager Baker said he thought those cars belonged to the person that is staying in the trailer there, but that residence, that house, is really not livable. Commissioner McDonald said she did not see the trailer, but she did see the cars parked. Mayor Payne said yeah, there is a trailer, and then they sort of built on to the trailer a little bit or something, and Code Enforcement Manager Baker said yes. Commissioner Rardin said there is another structure to the south of that is collapsed right, and Code Enforcement Manager Baker responded that is the adobe in the presentation.

Commissioner Rardin said he knows the gentlemen that owns that place, he used to live there five or six years ago, but he hasn't seen him in years. His name is Toby. Commissioner Rardin said we've had no response from him, and Code Enforcement Manager Baker replied no. Code Enforcement Manager Baker continued that our letter went to the vacant address, we don't have another address for him, that address is the one he just showed right there.

Mayor Payne said the person living in the trailer, are they still living in it. Code Enforcement Manager Baker said they were staying in it; they were carrying off some debris and whatnot. Mayor Payne said she was assuming that if we knock this down, they would have to vacate the property. Did he just take up residence there. Commissioner Rardin said that is what he was wondering. He said he wondered if he has water or, do we know. Code Enforcement Manager Baker said they were running something into the sewer system, he did not know if they had water hookups. Commissioner Rardin asked if this is the one he called in, where there was a water line or something running across Railroad Drive right. City Manager Cesar said yes, that is the same property. Commissioner Rardin asked if they were running sewer, running water, or what. Code Enforcement Manager Baker said they were running sewer lines. City Manager Cesar said when he was there, he could see where there was raw sewage running across the ground. Commissioner Rardin said into the ditch over there on the west, okay, that is where it was.

Commissioner Rardin said he would reach out to somebody to see if we could get in touch with the owner of this, but whatever you all decided, it needs to come down. It is falling down. He said he would reach out to somebody tomorrow and see if they know if he was even still alive or what, he was probably sixty, seventy years old, the guy that lived there. Makes you wonder if these are not squatters living in there, in that property. Commissioner McDonald said it is squatters. Mayor Payne said she thinks so too. Commissioner Rardin said we don't have any repercussions to do anything to them until after we take action and tear it down, correct.

Mayor Payne said we all know she is all for tearing this down, but what happens to the property taxes, since they haven't been paid in three years, does the City pay that. City Attorney Bengoechea said yes.

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

8. Consider, and act upon, Resolution 2022-22, declaring 318 Railroad Road to be so ruined, damaged, and dilapidated that it is a menace to the public comfort, health, peace or safety and ordering its abatement. (*Jim Baker, Code Enforcement Supervisor and Stella Rael, City Planner*) (Roll Call Vote Required)

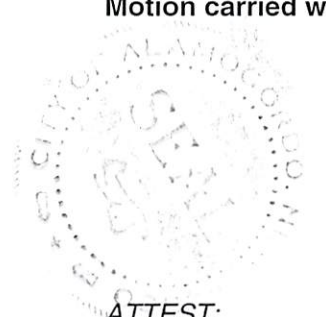
Code Enforcement Manager Baker said that this is property that Commissioner Rardin commented about collapsing on the side there. We sent a certified letter out at the same time as the other address, they are both owned by the same persons, Toby and Christina Juarez. Same thing on this one as far as property taxes, they have not been paid since 2019. Code Enforcement Manager Baker proceeded to show a presentation with photos concerning this property.

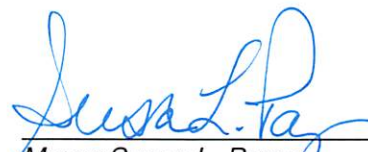
Mayor Payne said these are incredible. She said that if you look at picture #13, Commissioner McDonald, she said she thinks you can see that trailer right there, with that car you are talking about, if you scroll down. Commissioner McDonald said she is going to get there. Commissioner Rardin said he thinks that is the car, and he thinks that is the trailer. Mayor Payne said she thinks that is the car you are referring to, one of them, yeah. He was there that day. Actually, you can see somebody standing at the door.

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

ADJOURNMENT

Commissioner Rardin moved to adjourn at 7:43 p.m.
Mayor Pro-Tem Wright seconded the motion.
Motion carried with a vote of 7-0-0.





Mayor Susan L. Payne

ATTEST:



City Clerk Rachel Hughes

(Prepared by Dylan Aleshire, Deputy City Clerk)
Approved at the Regular Meeting held on May 10, 2022