

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
August 9, 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 PENNINGTON, CITY ATTORNEY
RACHEL HUGHS, CITY CLERK**

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

Mayor Payne called the meeting to order at 6:31 p.m. Roll Call was taken by the City Clerk. City Clerk Hughs announced there was a quorum present. Invocation was given by Pastor Joe Bryant and the Pledge of Allegiance was led by Commissioner Melton.

APPROVAL OF AGENDA

Commissioner McDonald moved to approve the agenda.

Commissioner Wright seconded the motion.

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

PUBLIC COMMENT

Thomas Harrison said he resides at 2095 Calle de Oro in Alamogordo. He said he has an issue with the property located at 2065 Calle de Oro, which is currently operating as an Air, Bed, and Breakfast in R-1 Zoning. He said his objection is using a home designed and intended for single family use that is instead being used as a lodging business; this violates the zoning in section one of that ordinance that specifies lodging uses of this type are not allowed. Airbnb's have flourished within our City, just Google a map and ask for them, and it lights up like a Christmas tree. How an exception occurred to allow lodging bed and breakfast in an R-1 zoning is a bit of a mystery, because no exception to zoning provisions is available to the public. He said his question is why and who authorized this type of use, and for what reason did they think this would be compatible with family neighborhoods of R-1 zoning. He said that we the owners, in the subdivision, in the zoning, request that allowing short-term rental of any sort not be allowed. Real estate trusts and hedge funds are buying up homes all over the country and are turning them into bnb's for interim income as they speculate before resale. Airbnb's have become a cottage industry at the expense of disrupting the family life in R-1 zoning in many of our neighborhoods. Many cities that have allowed short-term rentals established special tourist zones as an amendment to the R-1 zoning, so bars can be forewarned, and understand short-term rentals can occur in their neighborhoods. R-1 zoning was created for good reasons, a buyer can and should expect what the zoning laws permit, and do not permit. He said that we, who are living in the R-1 zoning homes, object to exceptions that allow commercial use of this type, otherwise why bother to zone the land. Instead of high-invest use, it seems that Alamogordo is taking apparent to highest and better use, a concept by allowing Airbnb's to flourish in our City, thereby disrupting the harmony of family-zoned neighborhoods. He said he has lived at his address for sixteen years and never recalled being advised about any amendment to R-1 zoning in his area. He said he was under the impression that any zoning change being made that could affect property owners and public hearings, would be published. He said if there is an amendment to the R-1 zoning, that is if one exists, he said he would like a copy of that. The Zoning Department has not offered one; it just told him verbally that this is allowed in any R-1 zoning. He said who made this amendment, when was this done, where is the documentation, what was the basis for the zoning exception, why has not one ever been advised or

allowed input for this amendment, why was not the zoning ordinance when amended rewritten to included Airbnb's so buyers of homes would know about lodging businesses being permitted in their neighborhood. This multiple-use policy within standard R-1 zoning can affect real estate values; this use creates risk and nuisance for residents. It is like living next door to a motel, that is all.

Bryan Swain said that he has lived in Alamogordo most of his adult life, since '83 with a short stint out-of-state. He said they moved back to Alamogordo two years ago just to come home. We had fine neighbors, we made friends with neighbors very quickly, and now he lives right next door to the commercial bnb. He said he had no inclination or no indication by the buyers that they weren't going to live there. He said he has been pretty much on alert ever since this started a couple of months ago, just to be aware of who is coming and going over there and are they acting like responsible families and adults. He said to keep it short, there is no reason why a residential area like this should be allowed to have a bnb, strangers in and out pretty much every weekend, and just living in an unsettled feeling to the residents that do live there. He said he felt this was something that should not happen, and no one was ever informed, or any inclination, not even so much as a visit from the neighbors, that hi I am your new neighbor. He said that he knew that they did not move in because they hauled in all-new furniture and set it up, and then strange cars started showing up from out-of-state. It is not a very nice thing, to have to live right next door and stay on alert for what is going on.

CITY MANAGER'S REPORT

City Manager Cesar made the following remarks:

1. He said he would like to thank the Police Department, the Fire Department, and Public Works; we had a few flooding events a week and a half ago, we are still in the process of clean-up and removing stuff from the northern side of town in the various drainage channels. In the very near future, we have a number of projects that have been moving forward through the design phase, so the lower portion of the Dry Canyon Arroyo, that is the area just to the west of Florida, roughly Indian Wells, past Canal, up the 24th Street, that phase is just about ready to go out to bid for actual construction. On the southern portion of town, Desert Lakes, that is very close to coming to Commission for bid to improve that drainage channel. The others, this is monsoon season, we have this every year; he said he has not seen what we saw a week ago in the time he has worked for the City, where we didn't have a drop of rain in town but we had Florida, Scenic, White Sands, all these streets, overflowing and flooded. It hit up in the mountains and we have had a prolonged dry spell, a drought, and two inches plus of rain in that short a period of time hit us hard.

2. He said on a positive note, this last Saturday, the Tularosa Basin Historical Society and some City staff had the introductory first meeting over at the Dudley School to talk to some potential volunteers and give them an overview of the project, where we are going, where the Historical Society is going with the building. We passed out information and tried to solicit some of the stories from people that had gone to the school or their parents, etcetera. The actual first work session will be this coming Saturday for the volunteers starting at 7 AM. All the materials will be provided, although if you have stuff, please bring it from home. At this point, the City is still getting the quotes in for the asbestos and lead testing that needs to be performed before any actual demolition work occurs. The first type of work that will go on at the Dudley School will be more of the cleanup of the outside, some of the brush that still needs to be removed and tossed into the 40 yard container. There is a lot of debris and old furniture that is inside the building, so that will be cleared out, but nothing that would potentially disturb anything that may contain asbestos. We won't mess with the floor tiles, ceiling tiles, anything that could potentially have asbestos. It will be more of a cleanup until we can get that testing done, and then any remediation that needs to be done to remove any asbestos-containing materials.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Rardin made the following comments:

He said about over on 10th Street and Florida, by the old Save-O-Mat, we had that water leak there in the westbound lane; they did a patch. City Manager Cesar said at this time, that is just a temporary patch. That whole area if you notice, it has really sunk. Commissioner Rardin said we need to fix the curb and gutter. City Manager Cesar said they are letting that go down, so that is just a quick skin patch, because it was potholing out so bad that the material was getting kicked out. That is just a temporary patch. As it continues to settle, they are going to go back in and take out a much larger area; go back in with a cement-stabilized material, bring it back up, curb and gutter, and then do the real patch. Commissioner Rardin said fix it right, okay. That looks pathetic down there right now. City Manager Cesar said that was just because the amount of traffic on that road was kicking out the base so quickly that someone was going to lose a tire or axle or something.

Commissioner Rardin said and what about the one on Lavelle Road, right before you cross the railroad track, the old railroad spur where they have that sinkhole that has been filled but has never been patched. City Manager Cesar said that one he would have to ask about. Commissioner Rardin said if we could look into that one.

CONSENT AGENDA

- 1. Approve the minutes for the July 26, 2022, Regular meeting and the August 2, 2022, Special meeting. (Rachel Hughs, City Clerk)**
- 2. Consider, and act upon, adoption and final publication of Ordinance 1653 reaffirming that the City's districts are compact in area and as nearly equal in population as possible. (Stella Rael, City Planner) (Roll Call Vote Required)**
- 3. Consider, and act upon, adoption and final publication of Ordinance 1654 to amend sections of Chapter 5 of the Code of Ordinances concerning Alcoholic Beverages. (Rachel Hughs, City Clerk) (Roll Call Vote Required)**
- 4. Consider, and act upon, adoption and final publication of Ordinance 1655 repealing Article 2-09 of the Code of Ordinances concerning the Department of Housing Authority. (Stephanie Hernandez, Assistant City Manager, Chris Herbert, Eastern Regional Housing Authority) (Roll Call Vote Required)**
- 5. Approve Resolution No. 2022-36 authorizing the Mayor to execute the agreement for membership in the Southeastern New Mexico Economic Development District/Council of Governments (SNMEDD/COG). (Rachel Hughs, City Clerk) (Roll Call Vote Required)**
- 6. Consider, and act upon, an agreement with Otero County for Alamo Senior Center services to County residents, the total amount budgeted is \$44,669.00 (\$26,294.00 for home-delivered meals and \$18,375.00 for transportation). (Magdalena Morales, ASC Manager and Veronica Ortega, Community Services Director)**
- 7. Consider, and act upon, approving the award of RFQ 2022-05 Engineering & Design Services for Expansion & Upgrade of Ed Brabson Balloon Park to Souder Miller & Associates. (Veronica Ortega, Community Services Director)**
- 8. Consider, and act upon, approval of an agreement with the New Mexico Economic Development District, Non-Metro Area Agency on Aging (NM-AAA) for the Nutrition Services**

Incentive Program, the total amount budgeted is \$57,166.00. (Magdalena Morales, ASC Manager and Veronica Ortega, Community Services Director)

9. Consider, and act upon, grant funding from the Non-Metro Area Agency on Aging FY23 contract for Direct Purchase of Services for senior programs, the total amount budgeted is \$484,825.86. (Magdalena Morales, ASC Manager and Veronica Ortega, Community Services Director)

10. Consider, and act upon, the approval of the biannual airport state maintenance grant. (Jim Talbert, Airport Manager)

11. Consider, and act upon, nominating Dudley School to be placed on the National Register of Historic Places so we are able to apply for a National Park Services grant for repair and rehabilitation of historic properties. (Debbie Osborne, Grant Coordinator)

Commissioner Rardin removed item 7 from the Consent Agenda

Commissioner Rardin moved to approve the Consent Agenda as amended.
Mayor Pro-Tem Wright seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 7-0-0.

ITEMS REMOVED FROM CONSENT AGENDA

7. Consider, an act upon, approving the award of RFQ 2022-05 Engineering & Design Services for Expansion & Upgrade of Ed Brabson Balloon Park to Souder Miller & Associates. (Veronica Ortega, Community Services Director)

Commissioner Rardin said he had some questions. He said he was reading through the background on here and it says we are doing water and sewer line upgrades and extensions, and then restroom facilities; didn't we just build permanent restroom facilities. Community Services Director Ortega said we got one very small restroom out of that. Remember we were supposed to get two restrooms and one at the Zoo, and we could only afford the one restroom. She said for the design, that is what we are asking for, is to upgrade and get another restroom. Commissioner Rardin said where is that going to be out there. Community Services Director Ortega said she didn't know exactly; where we had it originally was one on the north side, and one on the south side, so right now it is on the north side. Commissioner Rardin said so we are planning on adding additional restrooms out there. Community Services Director Ortega said yes. Commissioner Rardin said he had some questions as far as how much that one costs that is out there right now. He said he didn't know if you all remember when that item came up, he said he knew it was a grant, he said he thought it was from the State, to do it. Community Services Director Ortega said yes, and were supposed to have gotten three, two restrooms out there and one for the Zoo, but the prices came in high, so we only got that one small one.

Commissioner Rardin said we were talking about drainage issues when they did the Desalination Plant across the way, the way they built that asphalt up for the entrance, it has created some ponding and draining right across from the Balloon Park. He said are we going to look into addressing some of that, because it runs across the road, but when it rains pretty good out there, it puddles up on either side and then potentially, if you hit those puddles hard enough, it will throw you into the mud on that side. Community Services Director Ortega said she was sure we could address that in the design. City Manager Cesar said it will be addressed.

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

NEW BUSINESS

12. Consider, and act upon, appointing a board member and alternate to the Southeast Regional Transportation Planning Organization (SERPTO). (Rachel Hughs, City Clerk)

City Clerk Hughs said this was for the Southeast regional Transportation Planning Organization known as SERPTO. They are asking to appointment a board member and an alternate for the next two years. SERPTO has combined the two committees. There used to be the Policy and Technical committees, they have combined them into one board. City Planner Rael was the member for both of those committees.

Mayor Payne said so we need two. City Clerk Hughs said you need one board member and the alternate. It is not two boards anymore; it is just one.

Commissioner Rardin asked if it had to be a Commissioner, or if it could it be a staff member. City Clerk Hughs said she believed the alternate used to be Nadia Sikes. Mayor Payne said so the board member can be a staff member, is that correct. City Clerk Hughs said if that is what the Commission chooses, yes. Mayor Payne said so if we wanted to keep City Planner Rael on there, because she was sure she was doing a good job on that, we could do that, right. City Manager Cesar said yes. Mayor Payne said so now we need an alternate. Commissioner Rardin said aren't those meetings in Roswell. City Planner Rael said Roswell and Ruidoso. Mayor Payne said the alternate would just be if you couldn't go right. City Planner Rael said correct. Commissioner Rardin said how often do they meet. City Planner Rael said we are there quarterly usually, unless something else comes up; Nadia used to go with her all the time just because she was interested in what was going on. Commissioner Melton said he would volunteer.

**Commissioner Rardin moved to appoint City Planner Rael as the board member and Commissioner Melton as the alternate.
Commissioner Burnett seconded the motion.
Motion carried with a vote of 7-0-0.**

13. Consider, and act upon, first publication of Ordinance 1657 to amend Chapter 11 of the Code of Ordinances Section 11-05-270 Unreasonable Noise to remove the permit for noise notification. (Rachel Hughs, City Clerk) (Roll Call Vote Required)

City Clerk Hughs said staff recommends removing the permit for noise notification. This permit was created more than 20 years ago to notify the Police Department of unreasonable noise. The permit has proven to be ineffective through the years because the police still have to respond to unreasonable noise complaints according to the Unreasonable Noise Ordinance. They still have to enforce the ordinance. We are also recommending removing the word phonograph and adding comas where they were missing.

Mayor Payne said just so we are clear, they would not have to apply for a noise permit anymore. City Clerk Hughs said that would be correct, because all it is, is a noise notification. Mayor Payne said they are still going to be making noise, absolutely. City Clerk Hughs said exactly. She gave stats on the permits. In 2022 there have only been 30 permits issued, where 3 were not open to the public, whether it is a wedding or somebody is at their home and they are going to have noise. In 2021 there was 51

permits issued, 9 were not open to the public. In 2020 there was 23 permits issued and 3 were not open to the public, that is when COVID hit, and so all our permitting went down. In 2019 there was 57 permits, and 6 were not open to the public. In 2018 there was 42 and 7 were not open to the public.

Commissioner Wright moved to approve.

Commissioner Rardin seconded the motion.

Roll Call Vote was taken.

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

14. Consider, and act upon, Commissioner Melton joining and representing the City of Alamogordo in the American City County Exchange, America's only non-partisan free market forum for village, town, city and county policymakers. (Karl Melton, Commissioner)

Commissioner Melton said he found out about the A.C.C.E. a few months ago and brought it to City Manager Cesar. He said he did not believe that we had any current representation in that group. He said you could think of them as a New Mexico Municipal League, except nationwide. It is a non-partisan forum of different county and city local officials that get together, share things that work, and share things that didn't work. They release draft ordinances. This item needs to get passed to become a member. He said he will be paying for the dues himself, but he will also be abstaining from the vote.

Commissioner Paul said his concern is that this is not a non-partisan organization. He said he did not know that is in the best interest that a Commissioner represents the City in that capacity. If you look into the A.C.C.E. in the American Legislative Exchange, you will see that they are tied to a political party. Given the course of events that have transpired over the last week, he said that he just did not see that the City should be taking a position and joining this. If Commissioner Melton wants to join himself, then by all means. But to represent the City, he said he honestly thinks puts us in a position of being partisan when we are a non-partisan board. Commissioner Melton said in reply to that, it is a 501(c)(3), so it is forbidden by law to get involved in politics. For those municipalities that are partisan, they have democrat and republican members, but the vast majority of members are, like Alamogordo, non-partisan and not behind any party. He said from his understanding, by representing, it is just that he can apply for membership as a City Commissioner. Commissioner Paul said so why are you representing the City of Alamogordo. He said his concern is that it is definitely a political organization if you look into it, the bills, and the things they have sponsored, and their memberships. Commissioner Melton said they don't sponsor bills. Commissioner Paul said they are basically a bill mill; he said his personal opinion is that he feels this is a partisan group. Commissioner Melton said he thinks that is valid, but he will stick to the fact that is nonpartisan and 501(c)(3), but what we mean here by represent is that he can go online and submit an application for membership. In representing Alamogordo, they are going to ask what is your elected position. Mayor Payne asked if he had to have an elected position. Commissioner Melton said yes, that is one of the qualifications for membership. He said he thinks this will be an asset, but it our decision as a Commission on whether or not to utilize it. If they send us a draft ordinance that he thinks may be a good idea, he will bring that before the Commission, and we will vote on it. This wouldn't change anything. He said he thinks this will give us access to resources we did not have prior. City Manager Cesar said as a clarification, any member of the Commission, you are free to join whatever you want to join. Why this has to come before the Commission is if any one of you, including the Mayor, wants to join an organization and represent the City of Alamogordo, then a majority of the Commission has to authorize that Commissioner or Mayor to do that. Just as you did with SERPTO. For any of you to join and be a private citizen paying, you all are free to do that. He said he just wanted to clarify that, that is why this is an item coming forward, the difference is, if you are going to represent the City of Alamogordo and use your title as part of an organization, it takes a majority of the Commission's authorization to do that. Commissioner Melton said that is a requirement for membership, he can't apply as a private citizen.

Commissioner Rardin said given some things that have happened in the past when we have done things similar to this, he said he feels more like Commissioner Paul, a little reluctant on it. He said just because they may say they are a 501(c)(3), but it is probably more partisan towards to the right. He said we are part of the League, they kind of do the same thing for us, but it is geared more for just New Mexico. He said he did not mind him joining it, but the representative of the City part of it is where he has the issue, especially with us being nonpartisan.

Commissioner Rardin moved to not approve.

Commissioner Paul seconded the motion.

Motion carried with a vote of 6-0-1. Commissioner Melton abstained.

Commissioner Rardin moved to adjourn at 7:06 p.m.

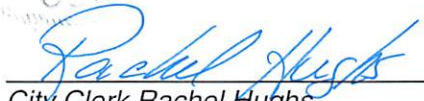
Commissioner McDonald seconded the motion.

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

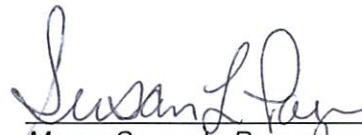
ADJOURNMENT



ATTEST:



City Clerk Rachel Hughes



Mayor Susan L. Payne

(Prepared by Dylan Aleshire, Deputy City Clerk)
Approved at the Regular Meeting held on August 23, 2022.