

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
November 15, 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
ASHLEY SMITH, 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. Commissioner Burnett was absent. City Clerk Hughs announced there was a quorum present. The invocation was given by Pastor Timothy Green, and the Pledge of Allegiance was led by Commissioner Paul.

APPROVAL OF AGENDA

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

PRESENTATIONS

1. Swearing in of newly hired Alamogordo Police Department Police Officers, Animal Control Officer and the first ever Alamogordo Police Department, Police Service Aide. (Richard Denton, Chief of Police)

Municipal Judge Overstreet administered the swearing-in for APD Officers Daniel Handy, Gavin Johnson, Matthew Magana, Estrella Brown, and Wyatt Skelton. He continued to swear in Police Service Aide Pierson Villa and Animal Control Officer Robert McIntyre.

2. Presentation on tethered dogs inside yards. (Forrest Hancock, Citizen)

Forrest Hancock spoke of dogs tied up, trapped, and lonely on both Walker Street and the streets running perpendicular off Walker Street. He said if the problem involves manual labor, he will volunteer his time and sweat to secure the boundary. He spoke about ordinances and violations for homeowners and asked the Commission to make violators comply and stop the cruelty. He offered more solutions, such as non-violent trustees using their time for this purpose, publicizing addresses needing help, volunteers, or City employees.

PUBLIC COMMENT

None.

CITY MANAGER'S REPORT

City Manager Cesar made the following remarks:

1. He said our contractor is finishing up the Scenic Extension project. Bonito Lake is still on track. Both of those projects are still moving forward.
2. Today, the Directors and Managers that will be inputting our proposed budget for the next fiscal year will be getting their marching orders from Finance Director Evelyn Huff and her staff. We are beginning to prepare our proposed budget for the next fiscal year. He said he believed that during either the next meeting or the first meeting in January, Finance will be coming before Commission to get input on how you would like to see the budget presented, whether it is the same as last year, if you would like to see anything additional, or if you have any requested items to be potentially included in the proposed budget.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Rardin made the following comments:

We have a newly elected representative coming to the office in January and a 60-day session right after that. He said he would like to see if the City would draft a letter to our new representatives, Representative Block, Senator Griggs, and Senator Burton, about the funding for the light at the first of the bypass and also North and South overpasses. They need to start working on that. That South overpass has been that way since they finished it; he said he thought it was about 20 years ago. The North overpass is starting to do the same thing. Some of us pull trailers with equipment over those, and one of these days, that will cause an accident because of the bump in it. He said we had the traffic study done, and the State's study warrants the traffic light. With the number of vehicles going through that intersection, he said he thought we've had several fatal accidents.

City Manager Cesar asked for clarification regarding the letter that will be going to the Senators and Representatives; he asked if Commissioner Rardin wanted this letter signed by him or was this coming back to Commission to be signed by the Mayor, or do you want it signed by all seven members of the Commission. Commissioner Rardin said he thinks it is going to have the same amount of pull no matter what, probably get read and thrown in the trash, honestly, but we will see. It will be whatever you guys think. How about we have the Mayor sign it, that way it is simple and easy. She can sign it, shoot it off to them, and let these guys get to work.

Commissioner McDonald made the following comments:

She said she wanted to thank PNM. She talked with a couple of people on the PNM Staff, and there was a broken streetlight, and they came out, and they fixed it. She said the reason she was saying something tonight is that a resident constituent in that area noticed it, and he wanted to say thank you for fixing the light. There had been wires dangling from it for some months.

Corinth Baptist Church served over 650 dinners in their Annual Thanksgiving Dinner. She just wanted to acknowledge that because there were cars wrapped around a couple of blocks stopping by to pick up those plates. Pastor Forney is the pastor at Corinth, and a lot of people are saying he is doing some good stuff in that neighborhood, so she just wanted to say thank you.

Commissioner Rardin made the following comments:

He said that now that the Scenic Extension is almost completed, he would like to see City staff start putting together a plan or cost estimates as to what is going to run to shoot Fairgrounds through, and or Indian Wells. He said he knew we were out of bartering chips with the Railroad, but if we could see maybe about closing the canal or moving it over to Indian Wells. If they could get some preliminary numbers together as to what that would cost us. He said he knew some developments may be going on in some of those areas; it may be beneficial to get it done or at least look at it.

Commissioner Paul made the following comments:

He said a business owner on Indian Wells called him earlier today about the construction over there. He said he guessed they were replacing some water lines. He said the business owner was a little upset at how long the process was taking. City Manager Cesar asked if that was down below College. Commissioner Paul said yes, just West of College. City Manager Cesar said a business came in, and the fire hydrant was leaking next to the building. Indian Wells has heavier traffic, and they had to remove that hydrant. We were not going to put it back in place next to a building because that is just a lawsuit waiting to happen for us. The fire hydrant had to be moved down the road. On those heavier traveled roadways, we use a cement-stabilized material referred to as slurry. We have had an issue getting material in; this is something a local vendor provides for us. He said he believed that the slurry was applied with both excavations and fully backfilled. He said they have also had an issue getting hot mix; it has been an issue not only with the City but with contractors in the area. He said he could find out in the morning when that would be paved and then send it out to Commission. Once it is paved, we will open it. If we fill it to the top and try to open it to traffic, that will create more of an issue than narrowing it down to one lane. Commissioner Paul asked City Manager Cesar to find out and maybe provide an estimate, that way, he could relay something back to the business owner. City Manager Cesar said he would find out in the morning and send it out to Commission.

CONSENT AGENDA

3. Approve the minutes for the October 25, 2022, and the November 1, 2022 Regular meetings. (Rachel Hughs, City Clerk)

4. Consider, and act upon, granting an easement west of U.S. Highway 54 to PNM for street right-of-way to facilitate an anchor pole and guy wire. (Nancy Beshaler, Public Works Director)

5. Consider, and act upon, approval of Change Order No. 10, to Bohannon Huston, Inc., related to the Engineering & Design Agreement for the Bonito Lake Restoration and Infrastructure Improvements projects in an amount not to exceed \$68,732.60, including NMGR. (Bob Johnson, Engineering Manager)

6. Consider, and act upon, Resolution 2022-47 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 November 15, 2022. (Evelyn Huff, Finance Director) (Roll Call Vote Required)

7. Consider, and act upon, the approval of the transfer of hangar lease E9-A1 from Howard Enterprises Inc. to Dr. Dan Moezzi, located at the Alamogordo White Sands Regional Airport, this is a land lease transfer only. (Jim Talbert, Airport Manager)

8. Consider, and act upon, the approval of the transfer of hangar lease E5-A from Eds Flying Service to Howard Enterprises, located at the Alamogordo White Sands Regional Airport, this is a land lease transfer only. (Jim Talbert, Airport Manager)

Commissioner Paul moved to approve the Consent Agenda.

Commissioner Melton seconded the motion.

Roll Call Vote was taken.

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

NEW BUSINESS

9. Consider, and act upon, the first publication of Ordinance 1665 Case Z-2022-0004(A), a map amendment to change the zoning of the property located at 1004 E. 9th Street from C-1 Neighborhood Business to R-4 Multiple Family Dwelling. (Stella Rael, City Planner) (Roll Call Vote Required)

City Planner Rael presented the case and explained the request of the property owners to change the zoning from C-1 to R-4. She said the main reason the property owners wanted to change the zoning was that Mr. Perez was doing quite a bit of construction, but he did not have any permits to do that, so Construction Industries Division stopped him. C.I.D. also informed him that they would not issue any building permits for him to continue the work as a homeowner because it was in a business district. C.I.D. advised him to see her and see about changing the zoning. She said that Mr. and Ms. Perez felt it was more affordable if they changed the zoning versus trying to hire a licensed contractor to do all the work. City Planner Rael explained her processes regarding the map amendment.

Commissioner Rardin asked why they were going to R-4. City Planner Rael said that was her suggestion because there is quite a bit of R-4 surrounding that area, so she wouldn't create spot zoning. You have all that behind there, across the alley. Commissioner Rardin said so they are going to use it as Single-Family Dwelling. City Planner Rael said they would live there; they planned to purchase that and use it as a retirement home but still allow Ms. Perez to continue her home-based occupation. There will be things they need to adhere to besides the building permits. They have done some work that is going to need to be corrected. Mr. Perez has already cut down the front of the six-foot fence to comply with our ordinances on the height of fences. She said she will work with them and make sure they follow all our ordinances and comply.

Commissioner McDonald said she has a concern about that. It is just the fact that it is going to be congested. She said she knew that the City wanted to be more business-friendly, and she agrees with that, but she is only concerned about when the new development comes in for the small homes. Is that going to take off more of the parking because they will have to work on that area to get it up to standard. Then the fact that you have the equipment will be used there. She said she was fine as long as there was an understanding. She said she has been at the spa next door, and there has been a conflict with the owner next door, and she just wanted to make sure. She said there are five to eight employees in that business next door, and she thinks they also use the street parking, not including the customers. Right now, the customer base is also parking on the North side of the street. She said she just wanted to make sure there was an understanding and that there would be no problems going forward. City Planner Rael said she understood that concern. As far as 105 9th Street where the new development of the manufactured housing park is going to be, we worked very with that developer to make sure that they had ample parking within the park because of that parking issue along the street. Their entrance will be off of Hawaii, so hopefully, that will take traffic away from 9th Street. There will probably be congestion, like you said, when they start working and using equipment, but hopefully, it will all work out. She said she would have a conversation with Mr. & Ms. Perez about the parking there along 9th Street, and make them understand that is a public right-of-way, and anybody can park in front of their home. Normally anybody can use a public right-of-way for parking, as long as you don't block the resident or business entrance, or the driveway. In this case, they don't have that. So, if the salon next door's customers are parking right in front of their house, they have every right to. She said she would have that conversation with the property owners to make sure they understand, so there would not be a conflict between business owners. Commissioner Rardin said unless the owner were to come in and get Resident Parking Only signs put in front of their home. City Planner Rael said yes, but there are regulations for that; they have got to be within so many feet of a gathering place, like a school or church. She said that City Clerk Hughs would have to look at all that, but they do have to

meet those requirements. Commissioner Rardin said he would think that a business with that many customers would be considered a gathering place if it is an issue. He said he is still unsure why they are going to R-4; you said you don't spot zone, but he is a little concerned. If they are going to be a single family living there, why don't we go to R-1. City Planner Rael said she had a little R-1 on the next block, but R-1 in that area would create spot zoning. She said there is an R-4 that has already been approved and has been there for years, which was done before her time. Commissioner Rardin asked if there were plans to make this a multi-family dwelling in the future. City Planner Rael said no, it is just Mr. & Ms. Perez that live there. They are trying to get away from C-1 because, per her conversation with the property owners, they could not afford to hire a contractor. Commissioner Rardin said you are allowed to build residential per our ordinances; he said he thinks you can build a residential structure on a commercial lot. City Planner Rael said yes, but C.I.D. considers it Neighborhood Business and won't issue him any permits. We don't have any control over that.

Mayor Payne said to issue a Resident Parking Only sign, wouldn't they have to come before Commission. City Planner Rael said yes, they do and must meet those requirements. Commissioner Rardin said that if it is an issue, they can do that if they reside there. City Planner Rael said that City Clerk Hughs is the one that reviews all those, and City Clerk Hughs could correct her if she is wrong, but they have ample parking in the rear. That is where all their designated parking is and has been for years. Mayor Payne said those buildings are so close together that issuing a Resident Parking Only sign for something like that could be done, but she is familiar with that salon next door also, and they are right there. The salon next door, that building is small enough that you could maybe park two cars in front of it, so they have to be able to park; it is just not very big. City Planner Rael said the general office also has all their designated parking in the rear.

Commissioner Paul said that with it being R-4, let's say they sell the property down the road; then somebody else could theoretically come in and build another structure in the back. He said he didn't know what else was there currently. City Planner Rael said they would not be able to build another structure because they would not meet the setback requirements, so that would not be approved by her Department. There is no room; there is no way that would happen.

Commissioner Rardin moved to approve.

Commissioner Melton seconded the motion.

Roll Call Vote was taken.

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

10. Consider, and act upon, Resolution 2022-48 authorizing the release of liens that are outside of the 4 year statute of limitations. (Ashley Smith, City Attorney) (Roll Call Vote Required)

City Attorney Smith asked the Commission to approve the release of liens. Twenty-four liens are past the four-year deadline with a total of \$34,616.01.

Commissioner Melton asked if the \$24,000 item was for the demolition of blight. City Manager Cesar said that the property on Rockwood is a small portion of the demolition of that property. He said he believed that was only the asbestos abatement portion, but that is the remainder of the lien on that property. The City has foreclosed on that property and that property has been sold already on the courthouse steps. The person that is listed, Sailor, he believed was the name; she passed away many years ago. This is not something the City would ever be able to collect on. Mayor Payne said that it is the infamous Rockwood House. City Manager Cesar said yes, that is the Rockwood House. City Manager Cesar said that you would see another small batch come before you at one of the future Commission meetings to release liens, but in the Legal Department, Ashley Smith and her staff, there are quite a number of these outstanding liens that are going to be filed in court, and we are moving

forward with collecting those debts. They are starting with the oldest ones, but these today are just outside the time frame. There will be a few others where we will not meet the deadline, but going forward, it is our intention to either collect on those outstanding liens or foreclose on the properties those liens are against.

Commissioner Rardin said that these liens, like the ones for water, are they water bills that were accrued from a renter. Does this go with the property rather than with the renter. He said he had a little bit of an issue with that. If it is a renter that stiffed a landlord with the water bill, he said he didn't want to see us go after them and foreclose on their property over a water bill that they did not sign up for. City Manager Cesar said these are obviously the ones we are asking to be forgiven; going forward, that is a discussion before the discussion that we had earlier yesterday or today. He said we have had that conversation with the Legal Department. They are working closely with Water Billing, so that if in the past, there was a property like you were describing, before the ordinance was changed multiple times, where that could have happened, but that is so far in the past that those liens should have been forgiven. Notices have gone out prior to City Attorney Smith starting with the City to these people that have the outstanding liens to try to collect, and we did collect a number of the past due amounts. The Legal Department will verify with Water Billing what we have in our City to try and prevent that from happening. City Attorney Smith said that after we start the foreclosure process, where we file a complaint in District Court, the Court issues a summons. We sent the property owners the complaint we filed and the summons. All of that gets done within five days after filing the complaint; they will have notice, and they have six weeks to respond, to either come to the Legal Department and work something out to where they are going to pay us, or if no one responds, then we go before the District Court. They will make their ruling one way or another, whether they grant us the foreclosure or not. Commissioner Rardin said he didn't know how the rest of you all feel on that, but he would almost like to see that list before we file those foreclosures, just to see, and it sounds a bit like micromanaging, but you know, and see if it is weeds or water or what it is. He said he didn't want to take somebody's home over \$700, \$600, or \$300, whatever it may be. The majority of these are what, \$200 to \$400. City Manager Cesar said that is why the notices have gone out, and this after they have been billed multiple times, sent to Collections, and have received quite a bit of correspondence from the City. This would be their last correspondence before they go before the judge. Commissioner Rardin said do we have certified letters that have been returned and received, to prove that they received that information. City Attorney Smith said that yes, we do send several notices that are certified mail. The way it goes is we get told hey, we have these liens, or we need to put liens on these properties. We then actually sit on these liens; we have been sitting on these for over four years, which is why her Department is trying to go through the backlog right now. In the future, we are hoping for about a year; when she does the foreclosure process, that also has to be certified mail, so that is another step that will be certified mail. She said she knew that Finance does a lot of their stuff by certified mail. So, we do have multiple certified mail letters. Mayor Payne said we still have a remedy for landlords. Do we still have the paper we can sign. City Attorney Smith said we still have the waiver, yes. Mayor Payne said then they could sign a waiver. Commissioner Rardin said when you are in that business, and you have multiple rentals, make sure you know. Let's say I have a rental and that Commissioner Paul over there has a rental. I have a waiver; my water bill for that customer to move in there is going to be considerably higher than his, who does not have a waiver. Mayor Payne said is it \$50 more. The deposit is \$170 to sign up, and it used to be \$210 or something like that if they signed the waiver. It is not a huge difference. Commissioner Rardin said \$50 is \$50. Mayor Payne said that she thinks that for the landlord to protect themselves, they can't be concerned, especially now when you can't even find a rental. She said she did not think people would complain about paying an extra \$50. Commissioner Rardin said he did not want the City government taking people's homes over \$400 to \$500. City Manager Cesar said that the people that owe, whether for water or weeds or whatever the lien is placed for, have the final opportunity to come into the City and make their case. City Attorney Smith said that even after we do the foreclosure, if the judge grants us that property, the property

owner still has, according to the State, at least three months to get the property back, even after we sell it. There is a lot of opportunity if someone wishes. Commissioner Rardin said that with these, we got to write off, but it is over the four years, but he said he thought on future ones, you got to look at it from our standpoint as well. He said we have to do what is right for the City, but we also have to do what is right for those who vote us into office and not take their homes over \$300. Mayor Payne said she gets it; she owns multiple properties too. Commissioner Rardin said we are not Gestapo police. Mayor Payne said what is the solution, is the solution for us to write off; this would be \$10,000 if it weren't for this big one, which she would like to point out is considerably less than we have seen in the past, but what is the solution. Commissioner Rardin said he did not know. Mayor Payne said we couldn't keep doing \$10,000 here and \$10,000 there because people have received letters, they have received notices, this has gone on for close to four years, and they have done nothing. They do nothing because they don't think we are serious, so what is the solution. Commissioner Rardin said he did not know, but he is not going to be in favor of voting to take somebody's home for \$300. Mayor Payne said she is not either, but she did not think it would come to that. Commissioner Rardin said you never know. Mayor Payne said that if she was a homeowner in this situation and they were going to foreclose on her house over \$200, she would pay the \$200. Commissioner Rardin said he would too. Mayor Payne said that is the cost of doing business, and then she would sign the waiver the next time. Commissioner Rardin said if this is a water bill, like the conversation he had with City Manager Cesar this morning, if it is PNM or New Mexico Gas, that bill goes with the person that signed on the dotted line. It doesn't go with the person that owns the property. We are the only ones that do that, the City of Alamogordo. This is a discussion for down the road when we talk about this.

Commissioner Rardin moved to approve.

Commissioner Paul seconded the motion.

Roll Call Vote was taken.

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

**11. Consider, and act upon, canceling the December 20, 2022 regular commission meeting.
(Brian Cesar, City Manager)**

City Manager Cesar said this is the meeting right before the Christmas holiday. Traditionally, this is a time when we don't see as many bid awards. We put those off until the new fiscal year; it is very difficult to get when we have the projects going out, to solicit those bids, etcetera. We think this meeting can be canceled. If not, we can all come together on the 20th, do the invocation and pledge, approve the minutes from the last meeting, and then adjourn the meeting.

Commissioner Rardin moved to approve.

Commissioner Melton seconded the motion.

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

12. Appointments to Boards and Committees. (Susan L. Payne, Mayor)

Mayor Payne read the openings and appointed Jeff Rabon to the Airport Advisory Board. No one was opposed.

Commissioner Rardin moved to adjourn at 7:28 p.m.

Commissioner McDonald seconded the motion.

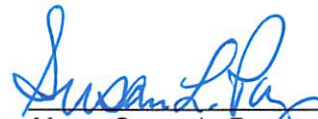
Motion carried with a vote of 6-0-0.

ADJOURNMENT



ATTEST:


City Clerk Rachel Hughs


Mayor Susan L. Payte

(Prepared by Dylan Aleshire, Deputy City Clerk)
Approved at the Regular Meeting held on December 6, 2022.