

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
December 6, 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. City Manager Brian Cesar was absent. City Clerk Hughs announced there was a quorum present. Invocation was given by Pastor Matt Celoria and the Pledge of Allegiance was led by Mayor Pro-Tem Wright.

APPROVAL OF AGENDA

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

PRESENTATIONS

1. Point in Time (PIT) count funding request through 100 % Otero. (*Peg Crim, President of 100 % Otero and Nadia Sikes, Housing Team Lead*)

Ms. Crim said that 100% Otero is a local nonprofit, and their goal is to eliminate childhood trauma in Otero County. We want our kids to grow up in a safe and healthy environment, so they can grow up to be responsible and productive adults. She said they do that by ensuring that all families have access to the ten vital services that they need to be successful: food, housing, medical & dental care, behavioral health care, transportation, parent supports, early childhood learning, community schools, youth mentoring, and job training. She said she was here to talk about one of these services, housing. She said in full disclosure, she was here to ask for money but just a small amount. She said we all have seen people experiencing homelessness as we drive around town. We know it is happening in our community, but do we know how many folks it affects, where they are from, how old they are, what caused them to fall into homelessness, and what could help them get out? Why is it important to know the data, the who, what, where, why, and when? One is HUD, Housing and Urban Development; it is their mandate that we all count the homeless people every year. More close to home, if we want to solve a problem, we have to know what the problem is. We need the data to define the problem, then we need data over time to see if any actions we put into place made a difference. Are we helping people, or are we not? We need the numbers and data to prove it. The other thing is there is funding to work on the homeless issue. There is government funding, foundations, and all sorts of things, but the first step to being eligible to get that funding is you have to know what your problem is. You have to have the data from what is called the Point in Time Count, or PIT Count. We need to have the numbers, and we need to have the data, so we can know what we can ask for. This is like the Census. If we want good data, we need a greater level of organization and coordination to get those good numbers and do some comprehensive surveys. She asked for the Commission's support to get a good count. She said they would need to do this year after year to follow the trends and see how we were doing. She said this year's PIT Count is for the night of Monday, January 30, 2023. For several days

after that, individuals can be surveyed. If they spent that night somewhere not meant for human habitation, we count them as homeless and ask some more questions. 100% Otero is willing to lead this effort, and they have estimated that the cost is about \$2,700. She said they are asking the City Commission for half of that and Otero County for the other half. In the end, she said they would deliver a report so the Commission could see all the data and use it for their planning and decision-making.

Mayor Payne said asked when they wanted to do the PIT Count. Ms. Crim said it was for the night of January 30th, and they have four or five days afterward to interview people. Mayor Payne said that last year when they did the PIT Count, they picked the worst possible day of the year because it was freezing that week. She said she did not know if January 30th would be better or not, it is really hard to say, and it is unfortunate because it is important to our community to get a good count. We don't necessarily see homeless people, but they are there, and we can't truly fix the problem if we can't get an accurate count. Mayor Payne said this was a presentation, not an action item, so there is nothing we can do tonight about it, but she said she thought we could bring it back. Assistant City Manager Hernandez said if you would like us to work with them and get the money, the direction is to bring this back as an item for you. Mayor Payne said it was \$2,700, so half is \$1,350 each. Ms. Crim said yes, that is correct. Ms. Crim said they hadn't heard yet from Otero County, but they are working with them. Mayor Payne said she supported this because it is important for our community. This problem is getting worse and worse, and if we really want to fix this, we need to do what they said and take a critical look at it, otherwise we are just kicking the can down the road.

2. Information about the burned house located on 1301 Greenwood Lane. (Deborah Goldberg, Citizen)

Ms. Goldberg said that on December 23, 2021, the house on 1301 Greenwood Lane burned down. The house sits across from Grace Methodist and is in a good neighborhood. She said the man that lived there died, and the family moved away. After they moved, it became a drug house, and the police came to the house frequently. She said that Code Enforcement and the City Attorney had done nothing; she stated she understands the City has procedures the City must follow when condemning a building or seizing land, but the City is not following them. Not even the beginning steps have been followed to take care of this property. This is now affecting our property values. Ms. Goldberg said she had a copy of the fire reports but could not get it to the City Commission in time. It was easy for her to find out if the taxes were paid and who owned the house; she just needed to visit the County Assessor to get this information. She said when she was sent back to Code Enforcement and the City Attorney after six months of waiting, she was asked if she knew who the owner was. She said this was the second conversation she was having. She said she understood there was a new person in Code Enforcement, and she needed to get her sea legs under her before she got going, but Ms. Goldberg said she gave her another forty-five days and came in and asked her, and they flat out told her they had done absolutely nothing. She asked how she is supposed to get that building taken care of if she could not get City officials to do what they were supposed to do. She said that she and her neighbors need the Commission's help; they are done. This happens to be in Commissioner Rardin's District, but he has left his seat. She said she was going to ask him if he could help with this because it is their property values that are dropping, including his.

Mayor Payne asked City staff to speak on this. City Planner Rael said that after the fire, when Ms. Goldberg first started communicating with our Attorney and our Code Enforcement, she was not the Code Enforcement Manager, and Ms. Smith was not our City Attorney. She said she had researched, and yes, there was a structure fire at that location on December 23, 2021. We have records; she said she has multiple photos of the damage to this home. On December 26, 2021, a fire report was submitted by Primary Investigator William Skaggs, an employee of the City of Alamogordo; he provided everyone with the report, which is on file. She said that we know who the owner of the home

is per tax records and County data, we researched that, and we have all that information. An IPMZ, an international property management code letter, was sent out to the property owner on January 4, 2022. Unfortunately, no one lived at the home, and per County records, that is the only address on record for the property owner. She said she did not know if this gentleman was deceased or not, and the letter was returned. She said that is all they have regarding contact information, the owner's name, and address. She said she started as Code Enforcement Manager on April 1, 2022. She said she had a meeting with Ms. Goldberg and explained the process, the budget, and how she has no budget left this fiscal year and that nothing would be able to be done. There is a process where she has to apply for a search warrant and get that approved by the judge, and we have people go in there and investigate and decide if it should be condemned or what we should do. Then we bring the resolution in front of the Commission. She said on October 13, 2022, Code Enforcement Officer Estrada did a notice of violation for the weeds in the alley, they are pretty tall behind the home; that letter came back also. Mayor Payne asked if it was because we were sending them to that address. City Planner Rael said yes because that is the only address. She said to let you know why she is not legally able to do anything at this point; it is because the house is in foreclosure. She said she is in communication with a law office out of Albuquerque that is handling the foreclosure. They are in the process, and they can't find the owner of the home either. She said they couldn't find whether he was deceased or not; Ms. Goldberg was referring to the fact that he is deceased. So, there is going to be a process there, they filed a complaint, and the complaint is a Notice of Lis Pendens, which is foreclosure. They did that on June 22, 2022. Now, because they can't find the property owner, they will have to serve him per publication. So, they are going to put it in the newspaper for three consecutive weeks in a row, then there is going to be another process of service, and then they have to get a motion from the judge to say they can't find him, he is not responding, now you can start the actual foreclosure process. The mortgage company will determine whether they come and rehabilitate the house or tear it down. City Planner Rael said that as a representative of the City, she couldn't go in and tear people's homes down. She said she knew that is what the neighbors wanted, but there is a process, and she can't just go and tear somebody's home down.

Mayor Payne told City Attorney Smith that she gets that it is in foreclosure right now, but does the mortgage company technically own it? City Attorney Smith said that right now, it would be in a limbo because the mortgage company does not own it until they get that order from the judge saying that he is granting their foreclosure, so yes, it becomes theirs. Right now, it is like what she is doing with the liens. We have been doing a lot of the foreclosure process for some of our liens on properties. Again, it is the same kind of process, where we have to serve the owner, who we believe is the owner, and we have to do that by searching the County records. We have to put it in the newspaper like what they are doing. Theirs is three consecutive weeks, but ours is a little different. Until that process is complete, and until the judge rules that no one is going forth and your notice of foreclosure is valid, it is still technically this unknown property owner's place, and they still own it. Mayor Payne asked how come we can't move forward, as if we knew where the owner was? Commissioner Paul said because the bank still has an interest and that is their collateral. Mayor Payne asked if they trumped us. Commissioner Paul said yes, from his experience in dealing with properties, there is not anything, until the bank takes back ownership, you could probably lean on them to see if they will do anything, but New Mexico is a judicial foreclosure state. The holder of that mortgage currently, whoever it is, has a period to redeem their rights in that mortgage, which is still nine months from the point in time that foreclosure takes place. Mayor Payne said what makes her the maddest is that there was a fire there, and she didn't know for sure but is it a fairly safe assumption that someone may have collected insurance money on that? She said it just infuriates her. City Planner Rael said the same thing with the law office, regarding the gentleman she is dealing with; he is hoping that something will be done by July 2023. Like Commissioner Paul said, until the mortgage goes through the whole foreclosure process, there are somethings she can't do, and they can't do. At this time, the City did board it up back on March 2021. It is safe, and there are no trespassing signs. Nobody should be trespassing on

that property, whether it is to take pictures or whatever the reason is, nobody should be going on there. She said that she herself, and her Code Enforcement Officers, have not even been on the property. She said the pictures they have are from the street. We follow every legal step that we are supposed to. As far as the rear yard, she said you all have pictures that Ms. Goldberg provided you. The only pictures that she had were of the rear yard and what was provided during the investigation of the fire. Another thing is a tall, blocked wall and a locked gate in the back. By law, if she can't see what is on the property by just standing there, then she has no business there. That is the whole list of events that have happened, and this is where we are today. Mayor Payne said it sounds like you are doing everything you can, and she said she knew it was frustrating, but it doesn't sound like we can do anything else about it. City Planner Rael said that she has an understanding with the law office out of Albuquerque that as soon as things are happening on their end, they promise to make her their first point of contact and let her know what is going on. They want to work with the City, but until it goes through the foreclosure process, they can't do anything more than what they are doing now, and neither can she.

PUBLIC COMMENT

None.

CITY MANAGER'S REPORT

Assistant City Manager Hernandez made the following remarks:

1. Our Christmas Tree lighting is this Friday.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Mayor Payne made the following comments:

As a reminder to everybody, at the last City Commission meeting, we voted to cancel the last City Commission Meeting of the year on December 20, 2022. So, this will be the last meeting of the year.

Commissioner McDonald made the following comments:

She spoke about the Dudley School Community Center and Park. She said if you are driving down Maryland, drive by slowly and see the sign. It is so nice, and the pillars are going up soon. This Saturday at 9 o'clock, will be a workday for any volunteers that want to come. We still want to have history. We want the volunteers to come for repair work, so this Saturday they will be prepping walls and painting the interior. There will be some work done outside, but not as much. If you can, please come out. She wanted to take this time to thank the City of Alamogordo, and the Tularosa Basin Historical Society for all the work that they have done to make this happen. We are getting a lot of positive comments in the sense that they have been waiting for something like this to happen. We are pleased and looking for people to come out; if you can come out for an hour or so, that is fine, but we will let you know the other dates we will be working on at the School.

She spoke about the Sacramento Family Park Playground and said it was coming along very well. They have covers over the playground area; they just finished the cement and the cover over the seating area. The basketball courts are done and once you replace the nets on there, those are all new; and the blacktop has dried. She said she thought that they were going to be finished later this month, so that is something that is happening in District Five, and we are very pleased with the Alamogordo Public Schools Superintendent and Board that approved that.

She said she was at Oregon Street Park, where Kid's Kingdom is, at the tennis park, being introduced to pickleball, and she noticed how well-kept that Park is. She just wanted to say to Veronica and her

staff that it is amazing. She said she has seen some tennis nets, and they are not as good as that. She said she was actually pushing up against the nets, and they are strong. There is a tennis group that is helping out, and they have done an extraordinary job, and Kids Kingdom can be used for older adults, too, not just kids. She said she guessed we get to be kids twice.

She said she attended the Christmas Time on Mainstreet, and the only reason she is mentioning this is because she had her nephew and niece in town from Pensacola, and they were very impressed with the activity in the downtown area, and they compared it to their own in Pensacola. People that are coming into town are noticing the changes in the park area. She said she saw the work at Alameda Park that is being done, and that is looking good too.

There will be a parade on Saturday, December 10th, from 5:30 to 6:30, and there will be forty-five floats.

Mayor Payne made the following comments:

This past weekend they had Old Fashioned Christmas Downtown. She said she spent some time out there, and the weather was perfect. Vendors were out there, and the store owners had their stores open.

CONSENT AGENDA

- 3. Approve the minutes for the November 15, 2022 Regular Commission meeting. (*Rachel Hughs, City Clerk*)**
- 4. Consider, and act upon, Resolution No. 2023-01 determining reasonable notice of meetings of the Alamogordo City Commission (Open Meetings Act). (*Rachel Hughs, City Clerk*) (Roll Call Vote Required)**
- 5. Consider, and act upon, the City Commission Regular Meeting Schedule for calendar year 2023. (*Rachel Hughs, City Clerk*)**
- 6. Consider, and act upon, the Investment Report for the quarter ending September 30, 2022, in accordance with the City of Alamogordo Investment Ordinance. (*Sue Ashe, Accounting Manager*)**
- 7. Consider, and act upon, an Airport State-sponsored grant in the amount of \$15,000 with a \$15,000 City match. (*Jim Talbert, Airport Manager*)**
- 8. Consider, and act upon, the transfer of Airport Hangar Leases E-12A and E-13A1. (*Jim Talbert, Airport Manager*)**
- 9. Consider, and act upon, approving requests for City water service and water meters at 16 & 17 Indian Maid Ln., Alamogordo, NM 88310. (*David Nunnelley, Utilities Director*)**
- 10. Consider, and act upon, approval of a grant agreement from the New Mexico Department of Finance in the amount of \$314,000.00, to purchase and equip vehicles and equipment for the Alamogordo Police Department. (*Debbie Osborne, Grant Coordinator*)**

11. Consider, and act upon, approval of a grant agreement from the New Mexico Department of Finance in the amount of \$340,000.00, to plan, design, and construct a block wall and replace perimeter fencing at Monte Vista Cemetery. *(Debbie Osborne, Grant Coordinator)*

12. Consider, and act upon, approval of a grant agreement from the New Mexico Department of Finance in the amount of \$300,000.00, to plan, design and construct improvements at Alameda Park Zoo. *(Debbie Osborne, Grant Coordinator)*

13. Consider, and act upon, Resolution 2022-49 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 December 6, 2022. *(Evelyn Huff, Finance Director)* (Roll Call Vote Required)

City Clerk Hughs removed item 5 from the Consent Agenda.

Commissioner Melton moved to approve the Consent Agenda as amended.

Commissioner Burnett seconded the motion.

Roll Call Vote was taken.

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

Mayor Payne stated Commissioner Rardin had to leave the meeting.

ITEMS REMOVED FROM CONSENT AGENDA

5. Consider, and act upon, the City Commission Regular Meeting Schedule for calendar year 2023. *(Rachel Hughs, City Clerk)*

City Clerk Hughs said the wording for the November commission meetings should read the first Wednesday and the second Tuesday. We have a municipal election on the 7th, so while the calendar is correct, the wording was incorrect.

Mayor Pro-Tem Wright moved to approve.

Commissioner McDonald seconded the motion.

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

NEW BUSINESS

14. Consider, and act upon, award of Public Works Bid no. 2022-007 to Mountain Air Heating & Cooling, related to the Replace 40 Ton HVAC Unit - Alamogordo Public Library project in an amount not to exceed \$86,686.20, including NMGR. *(Bob Johnson, Engineering Manager)*

Engineering Manager Johnson said this is the large unit you see when you first walk up to the front of the Library if you look up to your right. It will consist of removing and replacing the 40-ton packaged unit, including disconnection and reconnection of power, gas service, and condensate drain line. We advertised the project on October 9th & 16th, opened bids on November 9th, and had three bidders. The first bidder Mountain Air Heating and Cooling is local, the second bidder MGS is also local, and the third bidder, CAC, is out of Albuquerque.

Mayor Pro-Tem Wright moved to approve.

Commissioner McDonald seconded the motion.

Roll Call Vote was taken.

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

15. Consider, and act upon, the first publication of Ordinance 1664, amending Chapter 5, 17, and 34 of the Alamogordo Code of Ordinances concerning Alcohol and Cannabis Licenses and Fees. (Brian Cesar, City Manager and Rachel Hughs, City Clerk) (Roll Call Vote Required)

City Clerk Hughs said the City Manager wanted this ordinance brought forth as the State regulates the two licenses. However, the information you see on the background of the agenda report is incorrect. The correct information is that this ordinance removes licenses and fees, for Alcoholic Beverages, thus repealing Chapter 5, which is Alcohol, removing Cannabis Licenses from Chapter 34, which is Marijuana including the fees, and removing the reference to the two license fees in Chapter 17, Business Regulations and Licenses. There will still be a Cannabis Business Registration, so we can see how many we have in the City. However, there will be no Alcohol Business Registrations, as each place of business already has a business registration for either a restaurant, a convenience, or a grocery store. We will create a business registration for a liquor store, just in case one ever comes back to the City.

Mayor Payne said if they already have a business, they will not have a separate license is what you are saying. City Clerk Hughs said that is correct, but as far as alcohol, there will be no license or registration for it. Mayor Payne said we are still going to track cannabis. City Clerk Hughs said that is correct, through business registrations.

Commissioner Burnett moved to approve.

Commissioner McDonald seconded the motion.

Roll Call Vote was taken.

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

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

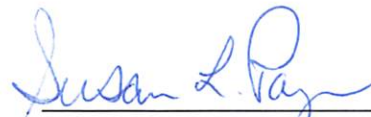
Mayor Payne read the openings and appointed Russell Solano to the Senior Volunteer Programs Advisory Council. No one was opposed.

Mayor Pro-Tem Wright moved to adjourn at 7:20 p.m.

Commissioner McDonald seconded the motion.

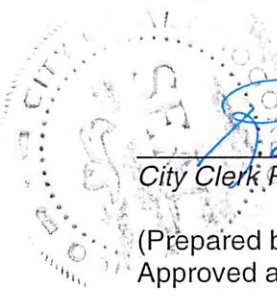
Motion carried with a vote of 6-0-0.

ADJOURNMENT



Mayor Susan L. Payne

ATTEST:




City Clerk Rachel Hughs

(Prepared by Dylan Aleshire, Deputy City Clerk)

Approved at the Regular Meeting held on January 10, 2023.