

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., DONALD E. CARROLL COMMISSION CHAMBERS
January 10, 2023**

**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 Clerk Hughs announced there was a quorum present. The invocation was given by Pastor Marc Jones, and the Pledge of Allegiance was led by Commissioner Paul.

APPROVAL OF AGENDA

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

PRESENTATIONS

1. Information on City Charter. (*Rachel Hughs, City Clerk*)

City Clerk Hughs gave information on the City Charter. She spoke on the purpose and responsibilities of the committee. She stated that the City Charter Committee is established by resolution every ten years to review the effectiveness of the City Charter and give recommendations to the City Commission. She reviewed past years of Charter Committees of how many members and dates of meetings. City Clerk Hughs gave some dates and timeframes for a possible upcoming City Charter Committee. She spoke on the information of the committee member's first meeting.

Commissioner Rardin asked City Manager Cesar if staff could give the City Commission amendments from the 2015 City Charter Committee. City Manager asked what exactly are you asking for, the questions on the ballot? Commissioner Rardin said yes. City Manager Cesar said we had questions from the previous election to the residents in Alamogordo. Not all of those passed, so it was brought back a year or two later and incorporated as one question. So, you probably want both of them. Commissioner Rardin said he remembered the 2011 one; those were all on there as one question. However, he did not remember the 2015 one. City Manager Cesar said he may have that reversed, it may have been one big question that did not pass, so they broke it up into smaller ones, or it was vice-versa. City Manager Cesar said that City Clerk Hughs could get those to you. City Clerk Hughs asked Commissioner Rardin if he wanted both 2015 and 2011. City Manager Cesar said yes, go ahead and send those.

PUBLIC COMMENT

Anthony Tumminaro said he was the guy that owned the benches in town. He wanted to thank the Mayor and Commissioners for all the years we have had business. He said it had been a privilege working with the City. He also wanted to thank City Manager Caesar for giving him extra time with the benches because the contracts ended on the 31st and he could not get all the benches out. He asked the City Commission to let him know if they ever wanted to go in that direction again.

Carol Hernandez said she has recently noticed that the benches throughout the City have been removed. There are many disadvantaged, and some with disabilities, who rely on those benches. She asked the City Commission to please consider replacing those benches.

CITY MANAGER'S REPORT

City Manager Cesar made the following remarks:

1. He said that the Police Department had a very active month. Police Chief Denton will update you on the PSA's coming out and some other activities you have not heard about.

Police Chief Denton reviewed things that the Police Department has recently done, such as solving the murder case on Dewey, interdepartmental cooperation, staff developments, and other significant arrests.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Rardin made the following comments:

He said a gentleman asked when we approved all the rebranding on the City trucks, who brought that up, and what it cost us. City Manager Cesar said he did not have the cost off the top of his head, but it does not cost us any more to do that than it does to put any of the logos on the vehicles. This makes those vehicles more easily identifiable, especially as we get the questions regarding such-and-such vehicle parking over here at the restaurant or wherever. This is opposed to what we had, a generic logo, the same logo on every vehicle except for Police and Fire. You had to try and find the four-digit number on the back of the vehicle. Now you can tell if it is Public Works, Utilities, or Code Enforcement. Commissioner Rardin asked City Manager Cesar to get the cost of that.

Commissioner Rardin asked about the pothole on La Velle Road and wanted to know where we were at on that. City Manager Cesar said there would be someone up soon that could answer that. Commissioner Rardin said what about the one right in front of the Convenience Center exit gate; he asked if we could get that one appropriately fixed.

Mayor Payne made the following comments:

She said that tomorrow at 4 o'clock, we are having the kickoff for the rebranding of the Alamogordo Public Library. It is a 3-day event.

She said that on December 23rd, we had the dedication to change the name of the Commission Chambers to the Don Carroll Commission Chambers. His family was there, as well as several former Commissioners and former Mayors.

She said the Legislative Session is coming up. The opening day of the Legislative Session is January 17th. She may go up a few times during this 60-day session. The consensus is that we need more presence in Santa Fe, and she agrees. She said the difficulty is that they do not know much about Alamogordo. Commissioner Rardin said they are saying that they have a three-and-a-half billion-dollar surplus. Depending on what the Governor decides they will do with that, we should maybe have staff draft letters to our State Representative and two Senators. We have some pipelines that we need to do and other various things. He said he talked to City Manager Cesar about this, and we broke it down into five phases, about five to six million dollars apiece. He said getting the money for that parallel pipeline is very important for Alamogordo. He said that Senator Griggs knows that importance because as soon as Bonito returns online, we will lose that pipeline. Mayor Payne said we need to start talking about more things that Alamogordo needs this year, and the more we talk about it, the better off we will be. City Manager Cesar said we have many projects that could be considered shovel-ready.

Drafting the letters is no issue, and while you all cannot vote because this is not an item to vote on, but it would be more appropriate and carry more weight if Mayor Payne signed it. He said that, more than likely, word will get to the Representatives and Senators on what will be done with the surplus. It will be a very narrow timeframe and likely not hit a Commission Meeting where we can bring an item forward to get you all to authorize the Mayor to sign the letter. It will depend on how they decide their surplus will be used and if we have a project that meets those criteria.

Commissioner Rardin made the following comments:

Commissioner Rardin asked where we were at on the Road Study. Public Works Director Beshaler said she got the data from the consultant yesterday. This data lists the condition of all the roads in the City and has a full list of programming for twenty years of street improvements. She said they wanted her to review it. They are saying that we can't accomplish it in twenty years based on the available funding. She said she hadn't had a chance to review the project list. The report is due in February, so we are getting to the tail-end of it. Commissioner Rardin asked when they were going to see some of that. City Manager Cesar said after we have the completed reports. She is saying the end of February, so it would be right during the budget time. Commissioner Rardin said so we are not going to see it until May? City Manager Cesar said the report is due at the end of February, so March to April, yes. Commissioner Rardin said we will see the report sometime in late February or early March. City Manager Cesar said if there are no major edits, she just received the draft. So, it is dependent upon edits. If we get it at the end of February, as soon as we get it, it will go out to you all. Public Works Director Beshaler said part of that will be the discussion about the programming and how we have a shortfall on funding. Commissioner Rardin said that is probably a decision that the Commission needs to discuss regarding the funding. City Manager Cesar said we need to review it and have our recommendations so that the report can be finalized and put out to you. Then funding could be discussed, and if it could be accelerated or expanded, dependent upon funding availability.

Mayor Payne made the following comments:

She said that during the next meeting, she will be presenting the State of the City Report.

CONSENT AGENDA

2. Approve the minutes for the December 6, 2022, Regular Commission meeting. (Rachel Hughs, City Clerk)

3. Consider, and act upon, the adoption and final publication of Ordinance 1664, amending Chapters 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)

4. Consider, and act upon, the adoption and final 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)

5. Consider, and act upon, the receipt of \$10,254.72 in State Grants-in-Aid funding from the NM State Library for the Alamogordo Public Library. (Kimberly Underwood, Library Manager)

6. Consider, and act upon, Resolution 2023-02 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 January 10, 2023. (Evelyn Huff, Finance Director) (Roll Call Vote Required)

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

Commissioner Paul seconded the motion.

Roll Call Vote was taken.

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

NEW BUSINESS

7. Consider, and act upon, approval of Change Order No. 3, Public Works Bid No. 2021-001, to Smithco Construction, Inc., related to the Bonito Lake Infrastructure Improvements project in an amount not to exceed \$237,731.94, including NMGR. (Bob Johnson, Engineering Manager)

Engineering Manager Johnson said there are primarily two large components within this change order. There was a staff request for the removal and replacement of the valve house walkway handrail; this is the area that staff uses to get into and around the valve house. It is falling apart. The second large item is the correction of different site conditions of the dam cap, which doubles the planned quarry of concrete. There is a slight reduction of a couple of bid items that is inconsequential. This will be the final change order for this project.

Commissioner Rardin asked how we missed the quantities in concrete that far. Engineering Manager Johnson said it was a differing site condition that no one could have anticipated. The contractor was to remove the dam cap, which is the part the public walks on, and replace it. Before that endeavor, the contractor conducted a survey that revealed a six-inch dip that spanned the entire width of the dam. The dam is four hundred and eighty feet long and fourteen and a half feet wide. When this was first brought to our attention, we verified that the survey was correct. Utility Staff reviewed about a century's worth of historical documents. It was also elevated to the State Engineer of the Dam Safety Bureau's Office because they also have historical documents. Those reviews revealed nothing to indicate that it was purposely done. This falls under the jurisdiction of the Dam Safety Bureau, so we asked them what they wanted us to do. They said to rebuild it level. That was half of the differing site condition quantity. They paid \$900,000 of the bill for this contract, so it is hard to say no. The second part of the differing site condition is when the dam cap was removed, the concrete substrate below it was all but disintegrated. There was no stable surface to put a new dam cap on top of, so the contractor had to demo all that out, grind it smooth, make it level, put in concrete at the structure under the cap, and then build the cap back up. Commissioner Rardin asked if they had already performed the work. Engineering Manager Johnson said they did. If we had stopped that project, the cost would have been phenomenal. The funding is available and always has been.

Commissioner Rardin moved to approve.

Mayor Pro-Tem Wright seconded the motion.

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

8. Consider, and act upon, approval of Change Order No. 4, Public Works Bid No. 2021-003, to La Luz Dirt & Paving, LLC, related to the Scenic Drive Extension project in an amount not to exceed \$116,126.80, including NMGR. (Bob Johnson, Engineering Manager)

Engineering Manager Johnson said this is the final change order for this project. As with any project involving estimated quantities, and this was massive with the bid items involved, we reconcile all the actual in-place quantities versus estimated quantities. The result is this increase. Only one significant item increased substantially, and that was in the area of railroad flagging.

Mayor Pro-Tem Wright moved to approve.

Commissioner Melton seconded the motion.

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

City Manager Cesar asked Engineering Manager Johnson to give information regarding the roadway opening. Engineering Manager Johnson said there is no ETA for when it will open. The railroad, Union Pacific, did not initiate a dialogue with PNM to get power to signals until the end of October. Currently, they are looking at pulling power from somewhere around the bypass and bringing it eastward to where they have a maintenance shack that all the power feeds into. The estimated cost is about \$100,000, but that is verbal and not written. The City will be footing that bill per our agreement with Union Pacific. It will take time because many regulations are involved in bringing that much power that far.

9. Consider, and act upon, first publication of Ordinance No. 1668 repealing Sections 24-13-010 and 24-13-020 of Chapter 24 of the Code of Ordinances relating to Resident and Mobility Disabled Parking only. (Nancy Beshaler, Public Works Director) (Roll Call Vote Required)

Public Works Director Beshaler said the purpose of this repeal was to be consistent with our new traffic management policy. We are trying to consolidate all the citizen requests.

Commissioner Rardin asked if there were any issues, could it still come before Commission. City Manager Cesar said yes. We modeled this like leak abatements on the water bills. For this, some signs would come before Commission, and others were done by staff. This is a staff function. A form will be filled out and turned in at Public Works, Public Works Staff will review it, and a determination will be made and given to the applicant. If it is in their favor, we will install it. A fee will be applied in that case for a sign. These will be reviewed every two years to make sure those signs need to stay in place. If Public Works determines that it is not something that should be done, that also will be given to the applicant in writing. Like the leak abatement, if the applicant is not satisfied with that answer, it works up the chain until, ultimately, his office. If it is duly no, then the applicant can still go to Commission. Commissioner Rardin said that is not what it says here; the applicant may appeal the decision to City Manager, who will make a final determination. An appeal must be made in writing within ten business days. It does not state that it is going to come to the Commission. City Manager Cesar said that is exactly what the leak abatement says too. That is staff's final decision. Commissioner Rardin said the City Manager is not the last deal, the Commission is. If there is an issue, he said he still wants the public to bring it to the Commission because that is their job. City Manager Cesar said the public could start with Commission, but then turned around, it will go through this process. Commissioner Rardin said he just wanted to make sure they have an appeals process over and above the City Manager, because you are not always going to be here, and we are not always going to be here. City Manager Cesar said that recently there had been a sewer service line issue that went through staff. Staff made the final determination and said no, you couldn't do this; you have to do something else. That person went before the City Commission multiple times. Commissioner Rardin said he never went officially on the agenda. City Manager Cesar said he never asked to be on the agenda. He said he is just using that as an example, where staff made the final determination, but the person could still go before Commission. They were not banned from going before Commission to plead their case. Public Works Director Beshaler said the decision is collective. Her department will consult the Police Department and come to a conclusion together. It is not just one department making the call. Mayor Payne said she would guess that more approvals are done than denials. At least this will make it quicker. Public Works Director Beshaler said what happened before was that there were multiple points of contact, and it was not consistent.

Commissioner Burnett moved to approve.

Commissioner McDonald seconded the motion.

Roll Call Vote was taken.

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

10. Consider, and act upon, the first publication of Ordinance 1667 Case Z-2022-0005(A), a map amendment to change the zoning of the property located at 1408 Black Street from R-1 Single Family Dwelling to M-2 Industrial District(*Stella Rael, City Planner*) (Roll Call Vote Required)

City Planner Rael presented the zoning map, and explained that parcel was half C-3, and half R-1. That is incorrect; we cannot have two zoning designations within one parcel. She said she could not find any documentation as to it ever being rezoned to C-3. She said the owners of this property were making this request and explained her legal process for this request. She received no letters or phone calls of opposition.

Commissioner Rardin said he owned property within the protest area and asked if anyone had a problem with him voting. The Commission had no issue.

Commissioner Rardin asked what M-2 allows them to do up there. City Planner Rael said it allows quite a bit. The applicant is looking at a cannabis dispensary business for that location. They also want to produce and manufacture. She said she is moving to make a change to the ordinance for cannabis and taking manufactured and production out of R-1 or C-3 zones. Commissioner Rardin asked if she was looking at taking production out of R-1 and C-3, what do we do for all the existing businesses? City Planner Rael said for the existing businesses, we will not be able to make any changes there. They complied and opened their businesses under the current ordinance.

Commissioner Rardin moved to approve.

Mayor Pro-Tem Wright seconded the motion.

Roll Call Vote was taken.

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

11. Discuss advertising on City Property. (*Nick Paul, District 1 Commissioner*)

Commissioner Paul said he wanted to discuss the bench advertising. He had received several calls from people that expressed their concerns. He said he wanted to see if anyone else has any other opinions on those, whether they benefit the community or not. He said the Commission had all received a letter, but the contract expired. He said he felt that they are, in some respects, a benefit to the community. A lot of small businesses here in town utilize them to advertise; it is their main source of advertising, and it is their highest lead generator for advertising. He said some people make use of them when they are walking around town.

Commissioner Burnett said he also received calls from businesses stating that the benches were their primary source of advertisement, and they were upset that the benches were disappearing.

Mayor Payne said she had a discussion with someone recently about it, and she asked the person if they were willing to put the bench on their property. They were not willing to do that. She said the issue is not that we cannot have the benches; the issue was having them on City property. Commissioner Paul said they are in the City right-of-way, and he understands that. He said he thinks the issue was that the customers that had their ads on these benches did not know, and people have been accustomed to sitting on them. Now the City is not willing to renew that contract for different reasons that City Manager Cesar could elaborate on. So now they are just all gone and vanished. Commissioner Paul said he never felt they were a blight or nuisance to the community, but he has not been around long enough to know all the backstory. He asked if anyone might be open to bringing this before Commission again, to bid to have advertising, specifically benches, in the City's right-of-way.

Commissioner Rardin said he also received numerous phone calls on this. Mayor Payne said we all did. Commissioner Rardin said he agreed with Commissioner Paul. He does not see them as an eyesore around the community. He said he does not really care about it one way or another, but it may be something we need to consider. He said he does not see the difference between the Z-Trans bus stops and these park benches.

Mayor Payne said the item is advertising on City property, and advertising is all-inclusive. She said she did not know if we should limit it to just the benches. We need to look at it from a different perspective, where does it stop, where does that end? We had a huge discussion a few years ago about billboards, but where are the billboards? They are on private property. Private property owners are making money. Specifically talking about benches, she said she did not see why that could not happen the same way that billboards do. Generally talking about advertising on City property, if we as a City are to really look at this, we cannot limit that to just benches. Mayor Payne said there had been complaints about people sitting or laying on those benches because it was blocking the advertising. She did not know if those benches were ever intended for this. They are advertising benches intended for advertising.

Commissioner Paul said the issue when he put this on the agenda was to discuss bench advertising, not advertising as a whole. It worked for four years. We did not have, all of a sudden, people coming and putting up two-foot by two-foot other advertising signs. He said that he understands that people that sit on them, vagrants do the same thing in different areas.

Commissioner Rardin said the difference here was that this gentleman had a contract with the City to advertise on those benches and place them. He said he could not take a sign and put it up out there legally. They had a contract. Mayor Payne said right, but that is her point. The point is you cannot just do that; you have to have a contract with the City, so where does that end? Does it end with just benches, and if it does, what do we do when a billboard company or some other sign company says we want to put your signs in your right-of-way, and we say no? Commissioner Rardin said we had that in the past. We had a couple of business owners in the community that would paint their trucks with their logos and then park them around the community in various locations within City right-of-way. It became a problem because they would leave them there for weeks. He said he did not remember what we did to address it. It was probably eight or ten years ago. He said he thinks the City Manager's issue with it was we were leasing out City right-of-way. On the other side, the benefit to the community is advertising for the businesses and giving people a place to sit down. He said he thinks it is worth looking into. If we want to do this as a governing body, we are allowed to do that.

City Manager Cesar said there is not anything that prohibits it. He was here when they first came in, with two different vendors. Staff at that time found a way for these benches to be approved by the Commission. Things have changed since that was originally done. It was done with an RFP, a request for proposal, and no other RFP has ever gone out. RFPs do not last twenty years. As with other lease agreements, we cannot go and say, well, you can put a bench in the public right of way on City property and not receive fair market value for it. Whether it is a bench, a sign, a billboard, or whatever the case may be, something that is on public property. We are going through this right now with the Toy Train Depot, with a Girl Scout Hut, with the Airport Grill; with any number of buildings or locations that we lease out, we would have to get an appraisal. When this RFP went out originally, it should have been ultimately Commission approval on where these things would be placed. It was not left up to the City. It was the other way around. If it is going to be for the public benefit, then they should be placed, using benches for example, they should be placed at bus stops. They should be placed in such a way that the public doesn't have access to them, and the only real value is to the vendor that has the advertising. There are several issues if we go down this road. In limiting it to benches, he would refer to City Attorney Smith, but we get into why we are limiting it to just this.

Commissioner Rardin asked how many requests have we had, to the City, to put advertising in the City right-of-way? Now and then, we will have an election or campaign sign in the right-of-way, an auction sign, or a garage sign, but usually, those are only for a couple of hours. The difference is this is a contract, whereas those are not. City Manager Cesar said this type of contract would need to be opened up to the public. Commissioner Rardin said we could just put an RFP out as they did in the past. City Manager Cesar said we could, but it would need to be a different RFP than what went out fifteen to twenty years ago. Commissioner Rardin said the RFP worked for twenty years. City Manager Cesar said so did any number of leases we had, or even handshake agreements. Times have changed. Commissioner Rardin asked what had changed. City Manager Cesar said State Law and State Statutes. As one of the items you will see when the Annual Audit comes before Commission, that is one thing, not just for Alamogordo, but everyone around the State, that is now an item that is audited for every municipality, county, etcetera. Your agreements, your leases, are they fair market value? To put a value to the corner of 10th and Washington versus the value of 1st and Maryland in the public right-of-way, each one will have a different value. Commissioner Burnett asked if we have an estimate, a guess, as to the value. City Manager Cesar said he did not know. With the appraisers right now that are contracted with the City that doing evaluations, we have gone back and forth with the appraisers for months now, trying to get a final value. The other thing with putting things in right-of-way, and he is not saying this is an issue in the last few months, but over the life of these two agreements, different vendors at different times, benches were out into the area, blocking corner ramps, or shifted back onto private property. There is no standard throughout the entire City where we can say, okay, you go to curb and gutter, or five feet back is City right-of-way. It varies throughout the entire City. Then we throw in things like White Sands Boulevard, that does not belong to the City, that belongs to the State. We have a maintenance agreement, but a prime advertising location, and now, we can do what Commission approves in Alameda Park or the Zoo, the properties we own, but that is not City right-of-way. That is State right-of-way. We have to apply to the State to that right-of-way for utility lines or etcetera. He is not saying it cannot be done, it cannot be done the way it was done. It is not an overnight fix. At the end of the day, the benches are removed. When we finally get the value of the land, and the value of the land is X, here is the benefit that is provided to the community, we cannot just say those two things offset. We have to be able to justify that. If we cannot, there is a value to that property, whether for advertising signs, benches, the Toy Train Depot, etcetera. The Toy Train Depot may not be able to continue doing business. He does not have that number, we are not at that point of the discussion yet, but it is a real possibility.

Mayor Payne said it is her understanding that there has not been a contract on this since last March. City Manager Cesar said that is when it lapsed, yes. He said he gave an extension because the advertising businesses had already paid, and the extension went to this previous March. Now for Mr. Tumminaro, he has removed everything. Some stragglers out there do not belong to him, and those are being removed. We have no idea whose those are. He said nothing prevents Mr. Tumminaro and his benches outside of the right-of-way on private property. Benches, signs, whatever, those can be placed tomorrow. Just like with business residences, as long as it is not a safety hazard, such as blocking the line of sight for vehicles turning into and off of roadways. Mayor Payne said so it is a matter of talking to private property owners. City Manager Cesar said from a City standpoint, that is not something we are going to regulate unless it becomes a safety issue or traffic hazard.

Mayor Payne said that when people call, we are not saying you cannot have them. We are saying that they cannot be in the City right-of-way. There are lots of businesses. She said that City Manager Cesar used the example of White Sands Highway, it would be more beneficial to talk to some of the business owners and perhaps put some of those benches on private property. She said she thinks there is a solution. City Manager Cesar said using benches, staff-wise, we are going to put out in an RFP format. He said that off the top of his head, we have a contract agreement with Z-Trans for the bus service.

At quite a number of their stops, Z-Trans has put up the benches and those structures, but many of them do not have a place for someone to sit. There are number of stops, as you get up to the top of 10th Street, where we would not have the room within the right of way to place a bench and not be on private property. Others that Z-Trans has, you could make the case that it is in the public's interest, to put one on every corner going up 10th Street, 1st Street, and Indian Wells. That is stretching the justification for the need for just that sheer number of benches.

Commissioner Burnett asked how long those benches have been there. City Manager Cesar said since early the 2000's. Commissioner Burnett said that is probably where some people are having the issue, is that they have been there this long, and now all of a sudden it is wrong. City Manager Cesar said no, it has been wrong for a while. Commissioner Burnett said right, which is probably the issue people do not understand.

Commissioner Rardin asked if we could have staff look into the legal side of it as far as us doing an RFP on this again in the future. City Manager Cesar said an RFP could go out. We will have to show that it is in the public interest, which means that we, staff-wise, would need to say okay, here is, using again benches, the benefit to the community. We will have to know what is the value of the area that will have the bench with advertising on it. Commissioner Rardin said there has to be a little leeway in State Law because if you go to Las Cruces or Albuquerque, they have got benches and bus stops. So there has to be some leeway in the law on that. City Manager Cesar said yes, benches and bus stops. Commissioner Rardin said maybe that is the answer, to have them place the benches at each bus stop, and you can utilize the advertising. City Manager Cesar said, but then, there is a value. Commissioner Rardin said that is the value there. They put the bench at the bus stop, that is the benefit. City Manager Cesar said that would not offset the value of what the company is receiving. Commissioner Rardin said we could have you look at it and give us some information. Commissioner Rardin said Indian Wells has several bus stops with benches and little shelters, and those are in City right-of-way. So, what is the difference between an advertising bench, and allowing Z-Trans to put their bench? Mayor Payne said because it is a bus stop. Commissioner Rardin repeated what is the difference. Mayor Payne said that is the difference, it is a bus stop. Commissioner Rardin said we are allowing Z-Trans to put their bench at the bus stop on City right-of-way, but we will not allow this gentleman, that had a contract previously, to do that. Mayor Payne said the issue is advertising; if this wasn't an advertising bench, we wouldn't be talking about this. Regardless of if it is a bench or a sign. She said we would not be having this discussion if it was not an advertising bench. She said she supposed the City could put its own benches up as a service to the community. Commissioner Rardin said we could, but if he is not mistaken, Z-Trans does advertise on those shelters. It is just a discussion at this point, but if we had the legal research, looked at how we could make it work, and looked at a potential new RFP, we might bring it back if the Commission feels the need. City Manager Cesar said that you need to remember that Alamogordo is not the only ones that are dealing with these twenty or thirty year leases. Commissioner Rardin said that all of them need to be looked at. City Manager Cesar said in broad terms, there are a lot of things that we don't have a written policy. This is one of many areas in dealing with existing and future leases where a written policy is under development. Commissioner Rardin said it sounds like there is some interest among the Commission to research this and look into it.

No action required.

12. Consider, and act upon, Resolution 2023-03 to Establish a City Charter Committee. (Rachel Hughs, City Clerk) (Roll Call Vote Required)

City Clerk Hughs stated it is mandated by Article 12, Section 3(B) of the City Charter to appoint a committee every ten years and to make written recommendations within sixty days of its appointment

to the governing body, which is the City Commission. The purpose to make a review to see the effectiveness of the City Charter. The resolution states the Charter Committee shall consist of no less than seven residents, which is by State Statute, and no more than fourteen residents of the City.

Commissioner Rardin said he recommended just appointing one per District. You have fourteen people trying to agree, he thinks smaller is better. This leaves it open where we appoint seven and up to fourteen. Mayor Payne said one per each District, so she would appoint one at-large. Commissioner Rardin said yes.

Commissioner Rardin moved to approve.

Commissioner Burnett seconded the motion.

Roll Call Vote was taken.

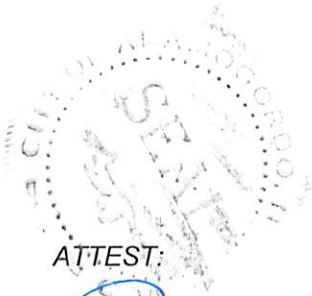
Motion carried with a vote of 7-0-0.

Commissioner McDonald moved to adjourn at 8:20 p.m.

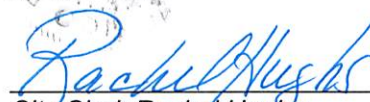
Commissioner Rardin seconded the motion.

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

ADJOURNMENT



ATTEST:



City Clerk Rachel Hughs



Mayor Susan L. Payne

(Prepared by Dylan Aleshire, Deputy City Clerk)

Approved at the Regular Meeting held on January 24, 2023.