

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., DONALD E. CARROLL COMMISSION CHAMBERS
January 24, 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. Commissioner McDonald was absent. 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

Mayor Payne said items 1 and 2 were to be switched in order.

Commissioner Burnett moved to approve the agenda as amended.

Commissioner Melton seconded the motion.

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

PRESENTATIONS

1. Swearing in certified Police Officers, Ryan Blanton & Collier Buffington, and swearing in Police Service Aides, Christopher Redden and David Melendrez. (Richard Denton, Chief of Police and Judge Overstreet, Municipal Court Judge)

Police Chief Denton introduced new Certified Police Officers Ryan Blanton and Collier Buffington, and Police Service Aids Christopher Redden and David Melendrez. Judge Overstreet administered the Oath of Office.

2. Reinstalling public benches. (John Davis, Citizen)

Mr. Davis asked the Commission to replace the benches that the City took down. He said he has vertigo and used the benches to keep from falling. He continued that the benches are helpful to a lot of people, especially those with disabilities. He said it might violate the Americans with Disabilities Act not to have the benches, and he did not intend to let the matter drop.

PUBLIC COMMENT

Carol Hernandez said she is 87 years old with COPD and used the benches. Many people use the benches, not just homeless people or the undesirable. She asked the Commission to reconsider placing the benches.

CITY MANAGER'S REPORT

City Manager Cesar made the following remarks:

1. He reminded the Commission that by February 7th the city charter nominations need to be given to the City Clerk so that her staff could make sure the nominees meet the criteria. There is only one nominee so far.

2. He said the benches were not City benches; they were private benches. The City entered into a contract with the owner of the benches, and that contract has since expired. The only part of benches regulated by ADA regulations is that they are required to be placed in the following facilities: spaces, elements, and rooms, saunas and steam rooms, dressing, fitting and locker rooms, holding cells, and housing cells. With the ADA regulations, there isn't a requirement for sidewalks. One issue we have had over the years with private benches is that we were in violation of ADA standards because they encroached into the area that needs to be clear for ADA access. The only other requirement is if we have a public meeting area; when benches are supplied, and it is four or more people, like for an amphitheater, 50% of those need to be ADA-compliant. Concerning the disposition of real property, our ordinance was last updated in 1984, and the current state statute that we have to meet is 2018. Later we will bring that portion of the ordinance to you with an update, so we become compliant. In the state statute, the value of municipal utility facilities or real property to be leased or sold in exchange, shall be determined by the appraised value of the municipal utility facilities or real property and not by the value of the lease. An appraisal shall be made by a qualified appraiser and submitted in writing to the governing body. We couldn't just extend a contract that wasn't being met. About three years ago, the State updated the Statute that all municipalities and counties have to follow regarding leases. The days of the \$1 lease for one hundred years are gone. We can't do that anymore. We will bring our ordinance into compliance, which staff has been working on and know about. It is something you are going to hear about when the audit is presented to the Commission. We plan to come forward to Commission to address these because we have several leases and agreements that do not meet the current standard. As those leases become due, or the agreement leases are out-of-compliance for whatever reason, at that point, we will be addressing those and bringing them up to the current standard. We have an existing agreement with Z-Trans to provide public transportation. We have been in contact with them, and their contract will be up in June of this year. We can do an additional one-year extension. We also discussed benches and shelters. Z-Trans is more than willing to come and place these items in the City right-of-way. If there isn't enough room in the City right-of-way, then just like anyone else, they would have to have permission from the private property owner to place their equipment on private property. If it is within City right-of-way and we don't violate the ADA standard for the clearance in the sidewalk area, then they will come in and place those. It will be something that will be discussed as we go through negotiations with them on the upcoming contract. That contract will have to go to Commission for approval. There was an earlier question concerning how Las Cruces does it. Las Cruces has an agreement with an outside entity to provide their public transportation like we do. As part of that agreement, that offsets the cost that the City of Las Cruces has to pay for the public transportation service. Z-Trans broached that topic with the City Management and Commission years ago. At that time, the sitting Commission and City Management did not want to go down that road because there were already all these advertising benches, and they didn't want any more clutter. They did not want advertising on their existing benches for Z-Trans or shelters. They currently do not have and have not had any advertising. The only things you will see at their bus stops are the bus routes and the Z-Trans logo, so you know that is where the bus stops. The larger municipalities are extremely protective of the right-of-way, much more than we are. They have ordinances on the books that prohibit any encroachment, including overhead encroachment, into the public right-of-way; the right-of-way is intended to get people back and forth in the future as cities grow. We have done that in several areas in the City; we have used the public right-of-way to widen roadways. White Sands belongs to the State, but it was widened quite a bit. If you go to North Florida just north of Indian Wells, the City has no more right-of-way there. The same thing happened at Indian Wells, where we used up the right-of-ways as the roads were widened. That will probably not happen throughout the entire City, but the right-of-way is also used for utility extensions and etcetera. He said he thinks that answers all the questions brought up at the last meeting. If not, let him know.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Mayor Payne made the following comments:

She said Commissioner McDonald's mother passed away and gave her condolences to the Roberts family. She also said that former Mayor Donald Carroll's wife, Rose Marie, passed away.

Commissioner Rardin made the following comments:

Concerning the railroad at Indian Wells and Fairgrounds Crossing, from what City Manager Cesar told him, we need agreements with them to pursue it further. He asked the Commission if and how they wanted to do that. City Manager Cesar asked if this would be for this fiscal year's budget or the upcoming fiscal year. Commissioner Rardin asked what are we looking at money-wise. City Manager Cesar said the railroad would start at \$10,000 for them to talk to our engineer and review plans. Then we need to get an engineering firm on board because Union Pacific will want to see plans. Commissioner Rardin asked if it would be thirty to forty percent design. City Manager Cesar said at least that for discussion purposes, but we are probably looking at \$130,000 to \$150,000. Commissioner Rardin said we have time; we probably wouldn't be able to get it in until next year's budget meeting. City Manager Cesar said if it was this fiscal year, at a staff level, we would bring that back in a budget resolution, maybe at the first Commission Meeting in February or later as part of the proposed budget for the next fiscal year. We typically don't start those projects until we have an approved budget from DFA. Nothing would start in the new fiscal year until after the first week in September. Mayor Payne asked even if we had that thirty to forty percent design and got nowhere with that, could it be used in the future? City Manager Cesar said it could be, but there would need to be updates as the standards change. Assuming Commission wants to move forward with this, we would need to reach out to NMDOT because White Sands is a State road, not a City road. Mayor Payne said she was open to this. Commission Melton said it was worth exploring. City Manager Cesar asked when they wanted this. The Commission indicated they wished to revisit this for the next fiscal year.

Commissioner Rardin said that the pothole on La Velle Road was better.

CONSENT AGENDA

3. Approve the minutes for the January 10, 2023, Regular Commission meeting. (Rachel Hughs, City Clerk)

4. Consider, and act upon, the award of IFB 2022-10 Internally Illuminated Street Name Signs to Trastar, Inc. in the amount of \$125,792.00. (Paul Bennett, Facility Maintenance Manager)

5. Consider, and act upon, Resolution No. 2023-04 to adopt the required Community Development Block Grant (CDBG) Annual Certifications and Commitments. (Debbie Osborne, Grant Coordinator) (Roll call vote required)

6. Consider, and act upon, Resolution 2023-05 relating to a rate increase of 3.50% effective February 1, 2023, for residential solid waste collection through Southwest Disposal. (Evelyn Huff, Finance Director) (Roll Call Vote Required)

7. Consider, and act upon, Resolution 2023-06 to adopt the required Public Housing Flat Rent Schedule effective January 1, 2023. (Evelyn Huff, Finance Director and Chris Herbert, Eastern Regional Housing Authority) (Roll Call Vote Required)

8. Consider, and act upon, Resolution 2023-07 to adopt the Revised Annual Plan for the City of Alamogordo Housing Authority. (Evelyn Huff, Finance Director and Chris Herbert, Eastern Regional Housing Authority) (Roll Call Vote Required)

9. Consider, and act upon, Resolution 2023-08 to adopt the Revised 5-Year Plan for the City of Alamogordo Housing Authority. (Evelyn Huff, Finance Director and Chris Herbert, Eastern Regional Housing Authority) (Roll Call Vote Required)

10. Consider, and act upon, Resolution 2023-09 to adopt the 5-Year Action Plan and Certification for the City of Alamogordo Housing Authority. (Evelyn Huff, Finance Director and Chris Herbert, Eastern Regional Housing Authority) (Roll Call Vote Required)

Commissioner Melton removed item 8 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 6-0-0.

ITEMS REMOVED FROM CONSENT AGENDA

8. Consider, and act upon, Resolution 2023-07 to adopt the Revised Annual Plan for the City of Alamogordo Housing Authority. (Evelyn Huff, Finance Director and Chris Herbert, Eastern Regional Housing Authority) (Roll Call Vote Required)

Commissioner Melton said on their packet, on page fifty-six, there is a line item requiring all contracts to use affirmative action to award them to minority-owned businesses. He said he knew that our contracts needed to be qualification based. He asked if we were legally required to have that, what it would look like, and what type of contracts. Chris Herbert said the language was included due to the requirements of the HUD Action Plan. These Federal programs are required to have that language. However, we also operate according to State procurement, so qualification folks at work are set out as well. It includes both. Commissioner Melton asked if there was a contradiction between our Code of Ordinances and this. Finance Director Huff said no, this is fully Federal money, so the Federal guidelines take precedence over the ordinances, even if we had something that contradicted this. Commissioner Melton said that none of these contracts are City money. Finance Director Huff said correct. The Housing Authority is under a management agreement with the Eastern Regional Housing Authority and will be moving there, so they are not under City Management right now.

Commissioner Rardin moved to approve.

Commissioner Burnett seconded the motion.

Roll Call Vote was taken.

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

NEW BUSINESS

11. Consider and act upon the first publication of Ordinance 1666 repealing Chapter 23, Article 23-02 Lodgers Tax, and Chapter 2, Article 4-80 thru 4-110 relating to the Promotions Board. (Stephanie Hernandez, Assistant City Manager) (Roll Call Vote Required)

Marianne Schweers commented on the following:

She said she disagrees with the decision to do away with the Lodger's Tax and the dedicated position to promote and market Alamogordo and then give those duties to Departments that are already very busy. What usually happens, if that is not your main focus, is it will fall by the wayside. She said she did not think that Alamogordo could afford to do that.

Nate Mandalia commented on the following:

He said City Manager Cesar spoke to them earlier at the Promotions Board Meeting. He said they have legitimate concerns about the proposal, the Lodger's Tax, how it is dedicated, and the potential solution for this issue. His concern is that tourism will go by the wayside. If we don't have tourism, we will lose many jobs and our community's best people. At the Board's last meeting, he said he didn't hear a plan to solve the issue if the Lodger's Tax was repealed. He said it is difficult to stomach the idea of promoting a tax that is designed to promote our community. We claim to be the gateway to White Sands, but this transient tax promotes many of our activities and outdoor recreation. He said he has documents presenting clear plans to many agencies over the years and has been on the Board since 2018. There are concerns from new hotels in the community if we pull our support for tourism. They employ hundreds of people and have lots of financial responsibility. If you drive down White Sands today, you see every hotel of significance investing heavily in our community. Hundreds of thousands of dollars from his property this year alone. He said he is a capitalist and would like to put more money in their pockets, as there is a slim margin in what we do, but not at the cost of losing untapped potential in Alamogordo. He said he would love to see an actual plan; they shouldn't be pulling this without a plan to replace it. He said he could demonstrate his plans if the Commission would like to see them and email them to anyone that submitted to the Commission in the past. He said the question is, what are the analytics, and did you measure them?

Assistant City Manager Hernandez said the Lodger's Tax is a 5% tax on anybody who rents here in the City of Alamogordo. It is split between 40% to Fund 16, advertising and promotions, and 60% to Fund 20, civic center and special events operations. Over the past three years, she was over the promotion fund, and Finance Director Huff and herself looked at the expenses. What concerned them was that when someone received the revenue, they had to spend it within two years or give it back to the State. That has cost wasteful spending. We are not getting rid of tourism. We are just going to refocus our tourism efforts and get rid of the tax. Getting rid of this tax allows more flexibility for the Lodging Industry. They can charge a lower price than Las Cruces or Ruidoso, or they can charge a service fee and keep that money, or they can invest it into their own advertising or whatever else they need. We felt that it was in everyone's best interest because of the restrictions on the funds. We have a plan; we plan to do the New Mexico Cooperative Grant, which is a 2:1 match. Last year we got about \$300,000, so we spent about \$100,000, giving us \$200,000. That is a really good grant. It has all the digital, print, and micro-influencers. Everything is built into it to where we will still be advertising the City of Alamogordo; we just won't be getting it from the patrons that stay here in Alamogordo. Regarding the part that supports the Civic Center, we will pull that into the General Fund. It is a City building for City citizens, so City funds best support it. We don't feel we can be good stewards of this tax because it has just been wasted. We have a full room of stuff that was bought because we could. We believe in the advertising of Alamogordo and support that. We have a great community, and we want people to come here. It needs to be scaled down to where the money isn't being wasteful, and we have a better handle on it. We had one person doing marketing, communications, and tourism; it was all done by one person. Now we have one individual for each of those, so there is going to be a better focus on communications out to the public and better marketing. Bailey is out there working on the videos, and she is marketing Alamogordo. Then we have the Tourism piece that Evelyn and I have been working on. Staff recommends repealing this.

Mayor Payne said if she reads this right, we end up with about \$300,000 a year from the Lodger's Tax. Assistant City Manager Hernandez said about half a million, and it fluctuates. If you get rid of that year

where we had Operation Allies Welcome, that year was extremely high, so take that out. The average over five years was \$580,000. Of that, about \$220,000 goes to Promotions, with the rest going to the Civic Center. Mayor Payne said it sounds like you have a plan to replace that money. Assistant City Manager Hernandez said yes, a lot of that \$220,000 was done for travel and buying things. We did a lot of advertising, but most of it fell under the Co-Op Grant, which we still intend to go after. That grant came out today, and Finance Director Huff and I were working on the survey. We will also provide some type of video for businesses to submit their photos or their type of advertising, as opposed to having a select few in the magazines. Mayor Payne asked if we knew where we were advertising now. She knew there was New Mexico Magazine. Assistant City Manager Hernandez said we have New Mexico Magazine, the Grand Canyon Magazine, Youtube, West Texas Digital, Texas Monthly, and Instagram. Mayor Payne said we are tracking that. Are you planning on changing that, or do we have a way to know what works and what does not? Finance Director Huff said when you go to DFA, and they train you on the Lodger's Tax, they give you four questions to answer. Those questions are: will the event bring people from out of town, will they stay in motels or other lodging facilities, will they be eating at local restaurants, and will they frequent global sites, stores, and attractions? Those are the four main questions. If you come up with an event that doesn't answer those questions, we can't help you from the Lodger's Tax. What we want to do is move this into the General Fund. The General Fund is very transparent, and this will allow us to have the Tourism program be more accountable to you all because it will be out there as opposed to having to answer those four questions. We have been in a situation a few times where there was something we wanted to support but couldn't because our program was based on the Lodger's Tax. We want to bring that in and do the Co-Op Grant, which has very specific branding concerning New Mexico True. Everything that goes out under the Co-Op Grant has to go through the brand resource hub and be approved. It has very specific words, captions, and a look. The other thing they bring is micro-influencers. We work with a company called Simply Social that hooks us up with influencers that fit our area and allows them to come out and do their social media posts. That is something we need to leverage more. We want to bring that in along with the print media. For those of you that have been on the Commission for a while, you might remember the billboards. At one time, our whole tourism program was billboards. We have scaled that back and gone to print. We need to move harder into social media and partnering with businesses. Moving away from the Lodger's Tax will allow us to move into those areas. Tourism is not going away, and that is not our intention. We want to make it more flexible and transparent. Let the money go back to hotels and let them use it more efficiently. She said she sat down and analyzed the money spent out of Fund 16, the promotions fund, to determine if we see a difference in the Lodger's Tax, and if we could measure the bang for our buck. She said she looked at nine years, and no matter how much we spent in promotions, whether it went up or down, the Lodger's Tax stayed flat until Covid made it take a dip, and then the refugees made it go up. One year we increased expenditures by 8%, and the next year it went up. The next year, it dropped 18%, and the Lodger's Tax went up 8%. She said she did not see a mathematical correlation between what we are doing on the Promotions side and the Lodger's Tax. She said if we remove the Lodger's Tax and let lodging use that how they need to use it, and let us use the General Fund to build a different type of tourism and promotions program, and see how that goes. Mayor Payne said in 2022, several nonprofits received a grant to provide temporary shelters to the homeless. They had to pay that tax too. In that respect, for them, it is a burden. Some other nonprofits and churches also provide hotel rooms. She said she sees both sides and wants to ensure we will still do those promotions and promote our City.

Commissioner Rardin said we could let it go for a few years. If we decide it is not working, we can always repeal Ordinance 1666 and put the Lodger's Tax back in place, correct? Finance Director Huff said correct. Commissioner Rardin asked when these hotels collect this, who do they remit it to, and do they give it to the State? Finance Director Huff said they remit it directly to the City. Commissioner Rardin asked if we don't spend it within two years, we have to give it back to the State? Finance Director Huff said yes. Commissioner Rardin said he didn't care for that; the State had nothing to do

with collecting it. Assistant City Manager Hernandez said that is why it was wasteful. Commissioner Rardin said yes because we are forced to spend it or give it away. We should try this for a couple of years and see what happens. It is a 5% tax decrease for our local businesses. Mayor Payne said maybe we could try it for six months to a year, and then you can come back and give us an idea of how it is going. Assistant City Manager Hernandez said that the NM Co-Op Grant would be the first check of what we are going out and getting; print, digital, social media, all of that. You will probably see that in May. That is when they let us know what we received from the grant. We will be coming to you more, especially if we see something isn't working and we need to adjust the budget. Commissioner Burnett asked if the grants covered the money we would have received with the Lodger's Tax. Assistant City Manager Hernandez said the grant would be a 2:1 match. Digital and social media have become much cheaper compared to billboards and prints. As Finance Director Huff said earlier, we are trying to move towards that part of the industry so that the matching money will go further for us. Commissioner Burnett asked if there were limitations on what they could spend that money on. Assistant City Manager Hernandez said they would have to apply and put what we wanted in there, and then we would be stuck with what we wanted. We will have to put some planning into how we are going to advertise. Finance Director Huff said that is for the New Mexico Co-Op Grant. If we are going to come into the budget and ask for General Fund money, there is going to be fewer limitations. We can ask for money to help local organizations advertise their events. Before with the Lodger's Tax money, it had to be for something that would draw somebody in. Whereas now, if it is something we can help with locally, we can help and not have to worry about the Lodger's Tax and bringing people in from the outside. Commissioner Burnette said he has heard from people commenting on the Lodger's Tax money concerning where it can help the community. Assistant City Manager Hernandez said usage is very specific with the Lodger's Tax. There used to be many events here. We want more sporting events for softball, baseball, soccer, swimming, and more. That will help bring local communities out for these tournaments. You can only use the Lodger's Tax for t-shirts, bottles, and advertising Alamogordo in a very specific manner. She said it is just too restrictive. We want to promote Alamogordo overall and help the local community. She said that City Manager Cesar is very big on quality, not quantity, and that is what we are trying to bring in while letting people know that Alamogordo is a great place to stay.

Commissioner Burnett asked if the Balloon Festival was affected by the Lodger's Tax. Assistant City Manager Hernandez said it wasn't. She said she gave former Public Information Officer Brideaux the paperwork because that and the Gus Macker were very specific events. It would have given them the money to help promote Alamogordo. However, she thought it was too cumbersome for them to apply for it, so we never got it for either the Balloon Festival or Gus Macker. Mayor Payor said then it was something they could apply for. Assistant City Manager Hernandez said yes, but the Lodger's Tax is very restrictive with a lot of paperwork, unlike the General Fund, where it will be much easier for us. Commissioner Rardin asked that if we keep this in place, is it possible to reallocate the money for other purposes? Assistant City Manager Hernandez asked for an example of other purposes. Commissioner Rardin said a convention center. Assistant City Manager Hernandez said the 60% could be used for a convention center, but it has to be used within two years. Commissioner Rardin said so we couldn't let it sit there and build up. Assistant City Manager Hernandez said no. City Manager Cesar said if you remember the 2008 money, we pledged that revenue, about a \$15 million loan. It would have to be something like that. Commissioner Rardin said we could pledge it to a bond or loan or something as a payback source. Finance Director Huff said yes, you could use it towards service like that. She said she didn't think our bonding capacity would get high enough to get that large of a bond because our average is close to \$600,000 yearly. There would be limitations to how much of a bond we could get. Commissioner Melton said he knew there were comments that this was a transient tax, but he didn't think that was fair. If your pipe bursts or your house floods, you will stay in a hotel, so this is a tax on Alamogordo residents. We shouldn't even be considering what-ifs or trial periods. If there is an opportunity to cut a tax, we have an obligation to cut it. He said he wanted to give accolades

to the City because it is rare for them to initiate a tough decision like this. Usually, an elected official would initiate it. He said he is all for this and thinks we should go forward. Mayor Payne said she felt confident in the plan going forward; it makes more sense because it is less restrictive. Commissioner Rardin said if we pass this tonight and then decide it is not working in two or three years, we can always reimplement the tax. Commissioner Paul asked if we would maintain the same level of spending that we have been getting from the Lodger's Tax. Assistant City Manager Hernandez said we would be able to get what we need without buying stuff that is not needed. We have to spend \$220,000, but it is not all for promoting Alamogordo. There is a lot of other stuff. Commissioner Paul asked how much, on average, goes towards physical, tangible items versus Alamogordo's actual advertising and marketing. Finance Director Huff said that in 2022, we spent about \$36,000 on salaries and benefits. Under this plan, salaries and benefits are already allocated, so we are not spending additional money. We spent \$4,700 on travel and \$132,000 on advertising. The biggest chunk went to New Mexico Tourism as our match for the Co-Op Grant. Then we spent \$9,215 on printing, then another \$15,000 on promotional. That was a lower number for promotional. In some of the previous years, we have been closer to \$6,000, but we have a lot of stuff. We don't need to buy any more stuff for a while. There are some other smaller things, like cell phones and \$70 on office supplies. She said as a person who does budget and presents the budget, her idea is to have about the same amount of spending, but she thinks that we will be able to make that money go further. At this point, she would like a new position, but there are some things she needs to get off the ground before it is worth asking for a tourism position. We can take about the same amount of money and make it go further, partially because we have inventory right now. She said she had to move the boxes again today, so she knows we have fifteen boxes of stuff. We have some stuff that we can use to help start some other programs. Commissioner Paul asked for the timetable for someone in that Promotions and Tourism position. Finance Director Huff said because we are in the budget process now, she did not request a new budget or a new person for this budget cycle. Her thought would be to request it in the next budget cycle. By then our new software will be implemented, and it is possible the new software could decrease somebody's job duties. If somebody could work on that, then maybe we can do something there. If that is not the case, then she would request it in the next budget cycle, and we would have the framework of the plan and something they work off. City Manager Cesar said there is nothing that is saying that can't happen sooner. New positions could come before you in the new fiscal year as part of budget resolutions. Finance Director Huff said some frameworks that could be extremely promising have been done, but they just haven't been fleshed out. If we get those fleshed out, then we would do the same thing that we have each Department do. We would come to you, give the presentation, talk about the position, and you all approve it or not. City Manager Cesar said the important thing between now and that point, whether or not this passes tonight, is everything that we did today and yesterday, we are doing tomorrow. What changes is where the funding comes from and how can staff, with Commission approval, use those funds. The question is does the Lodger's Tax go away, and that goes back to the businesses that collect and submit that money to the City.

Commissioner Rardin moved to approve.

Commissioner Melton seconded the motion.

Roll Call Vote was taken.

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

12. Discussion on Industrial Revenue Bonds and other requests by Valencia Real Estate Group. (Brian Cesar, City Manager and Stephanie Hernandez, Assistant City Manager)

Assistant City Manager Hernandez said that Valencia Real Estate Group reached out through the Chamber and made some requests of the City. Specifically, they asked for Industrial Revenue Bonds, IRBs. With an IRB, the municipality issues the bond, and so we are now holders of the project, and that is how they get the property tax abatement. She reviewed the ordinances and statutes, and six

categories qualify, but she couldn't find that this project qualifies. However, we reached out to the local Economic Development Board of the State. They received the information we had, and they said, "If the facility is wholly and solely a residential housing using apartments for rent or sale, it will not qualify for an IRB. If the facility is a long-time care facility with units for rent, it will qualify for an IRB." This project is just for an apartment complex at market, not low-income. After that, we reached out to our bond people, and they knew the lawyer Mr. Valencia was working with. They asked the lawyer about their intentions. After Chris Muirhead, our Bond Council, spoke with their lawyer, they also agreed that this wouldn't qualify for an IRB. It doesn't fall under those categories, is not a 501(c)3, and doesn't meet the manufacturing requirements. We are just bringing this to you as information. City Manager Cesar said Mr. Valencia had several other requests outside the industrial revenue bonds. If Commission wants to consider them, all three requests would require an ordinance change. The first item he asked the City to provide was the sidewalks required in any development; he would like the City of Alamogordo to install and pay for those sidewalks. Right now, the property owner is responsible for installing and maintaining sidewalks in front of their properties. The second item was for the City to perform and pay for the utility line extensions from our main lines into the property. That is not something the City does; the developer or the property owner bears that cost. The third item he requested was that once improvements have been made, the City takes over ownership and maintenance of the water and sewer lines inside the complex. He said he let Mr. Valencia know that these requests would be brought before Commission. If the Commission would like staff to pursue any of this, we are more than willing to do it.

Commissioner Melton asked if there were legal implications if we were to do the sidewalks, for instance. City Manager Cesar said that, in a nutshell, the sidewalk installation and maintenance responsibility is for the property owner. It would be for the developer when they do the initial developments, but once those pieces of property have changed hands, now that section of sidewalk becomes yours to maintain, or if it wasn't installed, for you to install. If we go and install it for Mr. Valencia, we need to repeal or drastically change the ordinance. Then the question becomes, this was a private development; now with the next development that comes in, do the taxpayers of Alamogordo pay for that subdivision or a future subdivision? What about the areas in the City where the sidewalks were never completed? It opens up a can of worms. If that was a direction that the Commission wanted to pursue, then from a staff level, sidewalks would become the City's responsibility. That is a huge responsibility and burden placed on not only staff, but on the citizens of Alamogordo to now pay for everything that may not have been maintained or even installed and any future installations. Mayor Payne asked what would happen if a pipe burst or the sidewalk caved in. City Manager Cesar said that if there is a failure on a City-owned portion of a utility, then yes, the City of Alamogordo will pay for the replacement and repair. If it is the City's fault or problem, we cover it. Mayor Payne said if it was the property owner's fault, and the sidewalk was damaged, we could be paying a lot of money by this logic. City Manager Cesar said yes, that would now be on the City of Alamogordo. Commissioner Rardin said it doesn't sound like anyone is in favor of doing this. Every subdivision in Alamogordo will come to us and say, "Hey, you did it for him; now you got to do it for us." City Manager Cesar said what passing an Industrial Revenue Bond does for the recipient is all the taxes are waived. Commissioner Rardin said that if they default, who does it fall back on? Assistant City Manager Hernandez said the City, because we are the owner of the project. Commissioner Rardin said we don't want that liability. City Manager Cesar said that in state statute, in the City, you can waive all or a portion of the City's overall property tax on the operational portion. Assistant City Manager Hernandez said yes, a Community Development Incentive Act allows municipalities and counties to waive their portion of the property's taxes that is not tied to debt service. For the City of Alamogordo, it would be 5.156% that we could waive of our property taxes. That has to be put on the books as an ordinance resolution, but they could do it. The County could do it as well, but they would have to pass their own. Mayor Payne said that would only be until the project is completed. Assistant City Manager Hernandez said it could go up to twenty years. City Manager Cesar said what Assistant City Manager Hernandez

said was not necessarily specific to this project. Still, if this is something that Commission is interested in, we would bring this forward as a new ordinance so that it wouldn't be just available for Mr. Valencia. This would meet the standards and procedures approved in the Commission's ordinance. That would now open and make other projects for other developers available if they meet certain criteria. Assistant City Manager Hernandez said that if we pass this as an ordinance, the Community Development Incentive Act, developers or whoever came, we would have to bring that specific project to you as a resolution. Mayor Payne said so we couldn't do it like a blanket. Assistant City Manager Hernandez said if you put it in the ordinance, you could. You could give the City Manager approval. City Manager Cesar said he would suggest that if you wanted to go down that road, do it specifically to the project, and then there would be certain criteria. You don't want to waive all property tax. Mayor Payne said she wouldn't want to do it for twenty years, but it may be something to be considered. Commissioner Rardin said something like that would take a year or more to construct. Waiving property tax for a year is not much of a benefit. City Manager Cesar said from his understanding, there are taxes that they pay right now on the vacant property, which are relatively low until the improvements are completed. Then the property tax is going to hike. Assistant City Manager Hernandez said she thinks this is why they encourage projects up to twenty years. Mayor Payne said it would be nice if we could offer an incentive to developers because we have a serious rental housing shortage. She asked if Chris Muirhead and their attorney spoke and agreed and if they didn't think it would work. Assistant City Manager Hernandez said that Chris Muirhead's purpose was to understand what the project was, what they were proposing, and why they felt this could qualify. She said she believed the lawyer said something similar like this was approved in Albuquerque. She said she did some research herself and believed this was in the Sawmill District. The Sawmill District had fifteen apartment units but was a completely different hybrid model where the apartment complex was not the main focus. Mayor Payne said the consensus is that we are not moving forward, right. Commissioner Rardin said the biggest thing is that the City is on the hook if he defaults or decides to leave. Mayor Payne said we have to consider that it would include all the property taxes, not just the City or County portion. She said she felt like we would have gotten pushback.

No action required.

13. Consider, and act upon, the Atari Solar Community Benefits Proposal. (Veronica Ortega, Community Services Director/Hillel Halberstam, SynerGen Solar)

Hillel Halberstam said he is a member of SynerGen Solar and would speak on a brief overview of the company and the proposed community solar project on La Velle Street Landfill. He spoke about SynerGen Solar, similar projects they have done, and the company's history. He presented a site plan for the proposal. He talked about the benefits, such as Level 2 EV charging stations at various City locations, providing a 10% discount on electricity to City facilities, sponsoring a 25-year annual Keep Alamogordo Clean program, and constructing and maintaining a 10-foot-wide pedestrian path around the solar facility. He said Atari Solar would fund these benefits as part of developing the project. Regarding contingencies for our commitment, he said they need to receive an MOU from the City as part of their application with the State. It is a little last minute, but it closes tomorrow because the deadline for them to submit their proposal. To develop this project, they need to be awarded capacity from the State, and the proposals are due on the 31st. We would also need to receive a capacity allocation once we submit our bid. It takes about two months for them to start notifying the applicants if they won an award in the procurement. We need to know if we won that award before moving forward with the project to maintain the commitment to those benefits. The final contingency will be if something stops them from being able to reach commercial operation.

Commissioner Melton asked what the other project locations in New Mexico were. Mr. Halberstam said he had one other in Clovis that was done adjacently to a landfill. Commissioner Melton asked if

that was under development or in operation. Mr. Halberstam said nothing in New Mexico is in operation because the program is relatively new, so there hasn't been an opportunity to do community solar. They just did the Solar Act recently, and the PRC just came out with rules and regulations for the program. It is a brand-new program.

Mayor Payne asked if City staff was in favor of this. City Manager Cesar said there is already an agreement that has been signed contingent upon the State approving the project for the area shown. This is an addition to the packet that gets submitted to the State. The State has a public participation component between the company and the community; that is what this portion is. Staff such as Community Services Director Ortega and Utilities Director Nunnelley and others met with representatives from the company to look at what could be brought to the community, and that is what you have before you tonight. He said he believed he would sign the MOU and the Mayor would sign the letter. That is why it is an action item before you all tonight.

Commissioner Melton asked if the City facilities would take advantage of that discount. City Manager Cesar said he didn't see why we wouldn't. Commissioner Melton asked if it would be a discount compared to what we are currently paying. Community Services Director Ortega said yes. Mr. Halberstam said that it is both supply and distribution that is what is unique about community solar.

Commissioner Rardin moved to approve.

Mayor Pro-Tem Wright seconded the motion.

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

14. Consider, and act upon, the first publication of Ordinance 1669 Case Z-2022-0006(A), a map amendment to change the zoning of the property located at 1218 Michigan Ave. from R-3 Two Family Dwelling District to R-4 Multiple Family Dwelling District. (Sean McGranaghan, Assistant City Planner) (Roll Call Vote Required)

Assistant City Planner McGranaghan showed the parcel to the Commission and explained that the property owner is requesting R-4 Multi Family Dwelling rezoning. He said he sent 32 letters to property owners within 200 feet of the property. Two letters were returned undeliverable, and he received no letters or phone calls of opposition. A legal ad was placed in the Alamogordo Daily News.

Commissioner Rardin asked if that property currently had a multiplex on it. Assistant City Planner McGranaghan said yes, it is not in the correct zoning. It should be in multi-family zoning, but it is currently in two-family. Commissioner Rardin said from the picture, it looks like there are two structures on there. Assistant City Planner McGranaghan said there are four. Commissioner Rardin asked what the outbuilding was in the back. Property owner Adam Hoydysh said the 1218 unit is comprised of four units. However, three are contiguous in the front, and then there is a detached unit in the back; therefore, four collectively.

Commissioner Rardin moved to approve.

Commissioner Melton 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 1670 Case Z-2022-0007(A), a map amendment to change the zoning of the property located at 2500 N Florida Ave from R-1 Single Family Dwelling District to R-4 Multi-Family Dwelling District. (Sean McGranaghan, Assistant City Planner) (Roll Call Vote Required)

Assistant City Planner McGranaghan showed the parcel to the Commission and explained that the property owner is requesting R-4 Multi Family Dwelling rezoning. He said there is already R-4 zoning in the immediate area, as well as industrial and business zoning. He said there are four apartments on the property, so this is also being brought into compliance with the proper zoning. Twenty-four letters were sent out, and one was returned undeliverable. No phone calls or letters of opposition were received. The application was filed, and all fees were paid; a legal ad was placed in the Alamogordo Daily News.

Mayor Pro-Tem Wright moved to approve.
Commissioner Rardin seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 6-0-0.

Commissioner Rardin moved to adjourn at 8:20 p.m.
Mayor Pro-Tem Wright seconded the motion.
Motion carried with a vote of 6-0-0.

ADJOURNMENT



Mayor Susan L. Payne

ATTEST:



City Clerk Rachel Hughes

(Prepared by Dylan Aleshire, Deputy City Clerk)
Approved at the Regular Meeting held on February 14, 2023.