

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., DONALD E. CARROLL COMMISSION CHAMBERS
June 13, 2023**

**SUSAN PAYNE, MAYOR
SHARON McDONALD, COMMISSIONER
JOSH RARDIN, COMMISSIONER
STEPHEN BURNETT, COMMISSIONER
NICHOLAS PAUL, COMMISSIONER**

**DUSTY WRIGHT, MAYOR PRO-TEM
KARL MELTON, COMMISSIONER
STEPHANIE HERNANDEZ, ACTING 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. Commissioners Melton and Paul were absent. City Clerk Hughs announced there was a quorum present. Invocation was given by Pastor Hank Charles and the Pledge of Allegiance was led by Commissioner Sharon McDonald.

APPROVAL OF AGENDA

Commissioner McDonald moved to approve the agenda.
Commissioner Burnett seconded the motion.
Motion carried with a vote of 5-0-0.

PRESENTATIONS

1. Presentation on the renewal of the Alamogordo/Alliance of Regional Military Support agreement. (John Baily, Alliance for Regional Military Support)

John Baily and Lance Lehr of the Alliance for Regional Military Support gave their presentation.

Mayor Payne asked how long we have had this contract. Mr. Lehr said this is the first review of the contract, so for two years now. Mayor Payne asked how much Las Cruces contributes. Mr. Baily said they are at the same level. El Paso and El Paso County are higher, but all of our counties in New Mexico are at \$10,000 a year.

Mayor Payne asked them to elaborate on "Develop City of Alamogordo priority list as it relates to Holloman Air Force Base". Mr. Baily said they get understanding and information from MainGate and some other folks here, but we have not been able to get Alamogordo's participation in our meetings. That is what we are looking for, so we understand what the City of Alamogordo is looking for concerning Holloman. We talk with the Commander at Holloman and get their priority list, then we bounce it against the City of Alamogordo priority list to make sure we are working in conjunction and all trying to take care of it. An example is off-post housing. One of the biggest issues with stationing new airmen at Holloman is if they have off-post housing. Can we accommodate those? We make sure the City knows those so they can be addressed outside the gates. Mayor Payne said she has been on a few of those calls, and she didn't find them to be super productive in terms of the City of Alamogordo. She said if she were to support the renewal of this, she would expect a lot more for what we get. She said she needed it to be relevant for us, or she could not take the time to do it.

Mayor Payne asked them to elaborate on "Advocate for defense contractors to use Alamogordo facilities for training and testing." Mr. Baily said they meet with the defense industry on a regular basis. They work with them to understand who is at Holloman already and if they have a presence here. If

they do not, they will work with them to develop a presence and figure out training or testing they could use Holloman for. That way, they can start putting more people into this location. Mayor Payne said both of those are important. She said she if we did this, we would expect a lot more of that, and she is good at accountability. We need housing desperately here. Acting City Manager Hernandez said she has been working with this contract. We are wrapping up the 3rd year. It was originally written at \$10,000 a year for three years. She redid the contract for accountability. It will not be \$10,000 upfront; it will be quarterly payments based on the report. She said she told them she would like to be involved in the meetings at first so she could understand, and then maybe have a sit-down or bring back to Commission what she was told, discuss the Commission's priorities, and what she could communicate with them. Mayor Payne said she felt better about that. If we are to do this, we need something. She said she has jumped on these meetings before and wished they were structured so everyone could chime in. Now that we have done this for a few years, going forward, maybe now we all understand what our expectations are. Mr. Baily asked for somebody from Alamogordo to be dedicated to being part of this. That way, we can reach out to them and discuss what they were hearing from Holloman and how it affected Alamogordo. A bit of the issue is they have not gotten the responses needed from folks here. He said that Lance and himself have not been engaged with Holloman as much as they should be, but they need the commitment from Alamogordo to ensure that we have the right person. If it is Acting City Manager Hernandez, that would be great because she has been fabulous to work with to get this set up. Many times, we get a phone call about something people are hearing, and we just need the right person to call and ask what that means for Alamogordo, and how we help with the next step of that. Mayor Payne asked what the next step regarding this contract was. Acting City Manager Hernandez said it is a presentation, so as long as we have your approval to move forward and continue to work with them. It will be a \$10,000 contract instead of a \$30,000 contract, which is within our authority. Mayor Payne said that sounds good. Commissioner Rardin asked if that would be brought back as an action item or if they were just giving direction to staff. Acting City Manager Hernandez said you will see it on a budget resolution. If you wanted, we could highlight it. Commissioner Rardin said we did it differently in the past, where it was brought back as an action item. Acting City Manager Hernandez said we have a lot of contracts that we do not bring forward, but if you want us to bring it forward at the next Commission meeting, we can. Mayor Pro-Tem Wright said if they brought it back as an action item, it would just take a few minutes. Acting City Manager Hernandez said she would bring it back as an action item.

2. Presentation and overview of how Alamogordo MainStreet works with the City per the MOU and Contract changes, plus initiatives undertaken during FY23 and future projects in FY24. (Nolan Ojeda, Executive Director Alamogordo MainStreet)

Executive Director of Alamogordo MainStreet, Nolan Ojeda, gave his presentation along with the Organizational Specialist of New Mexico MainStreet, Mr. Edwardo.

Commissioner Burnett asked how much of the \$1,900,000 in Capital Outlay comes to Alamogordo MainStreet. Mr. Ojeda said the way that works is, as the City proceeds with the construction project, they will actually send all of that to the State, and the State will reimburse them for money spent on the contractors.

Mayor Payne asked when the expected completion was. Mr. Ojeda said he did not know. The last he heard from the Engineering Manager for a start is January 2024. The grant period ends in October 2023. Realistically, we will probably have to apply for an extension on that grant.

PUBLIC COMMENT

Robert Sedillo said he lived in the Panorama Circle area and saw some time ago that they were planning to close some parks around town. He said he put a small comment on Facebook, and over one hundred and eighty people in the area commented on the closure of a park. It is a very small park and requires little maintenance. There is not even a trashcan there; it is a picnic table and barbecue grill. Mayor Payne asked if he saw this on social media. Mr. Sedillo said he posted it on social media. He said he saw the children in the neighborhood visit and play there, mothers reading to children, and others sitting there and enjoying it. He said he got a verbal commitment from Gonzalez Lawn that they would take over the maintenance at no cost to the City. He said he saw the City come out two or three times a year and would see City employees go out there and take breaks during lunch. He said this small area might not be important to the City or this Commission, but it is part of the community and has been there for years. We are just trying to save one small part, which means a lot to the people of that area. He said he posted it on Alamogordo City Watch, and they asked him to speak to the Commission on behalf of those who made the comments.

Mayor Payne asked Acting City Manager Hernandez if she knew of any plan to get rid of this park. Acting City Manager Hernandez said she saw the same comments on Facebook regarding the Panorama Park. She couldn't find it on the map, so she asked Parks and Recreation Director Bass what Park it was, and they both went out there that day to look. She said they had no plans to close it and did not know where that rumor originated. She said Parks and Recreation Director Bass and herself cleaned it up because there were bottles and coke stains. She said they asked Parks Supervisor Erik Marion to put a trashcan out there because there wasn't one. She said it is on a weekly rotation for Parks.

Mayor Payne asked Mr. Sedillo where he heard about the rumor that the park would be closed. He said it was posted from the City on Facebook. Mayor Payne said Facebook is not a reputable news source. She said she encouraged everyone listening tonight and the two hundred posters to call or ask if they have a question. Verify the information because it is from somebody on Facebook, it is probably not true. It is an unfounded rumor; your park is safe and has a trashcan now.

CITY MANAGER'S REPORT

Acting City Manager Hernandez made the following remarks:
None.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner McDonald made the following comments:

She thanked Communications and Marketing Specialist Sabrina Padilla and Librarian Rashal McElderry, who helped give out information in regard to the cleanup. If anyone wants to help with the cleanup as a volunteer or knows of somebody elderly, sick, or in the military, there is a form that needs to be filled out for us to come onto the property. You can go to her email address and do that form, and it will go directly to her. The cleanup is on July 15th from seven to twelve. We are getting properties to clean up, but we lack volunteers. If anyone would like to volunteer, please do so. We may have someone that can do the shredding and may be able to reinstate that.

They still need volunteers for the Dudley School. All the contractors were out today to get everything set up. They want to get a completion date by the end of August. The 1st and 2nd of September are the scheduled days that the school will have an opening celebration. The painting will happen in the next two weeks, and they will need volunteers. She asked anyone that wanted to participate to talk to her or anyone on the Commission.

Commissioner Rardin made the following comments:

Regarding the Street Maintenance program that will hopefully come before us soon, Ridgecrest and Desert Lakes were mentioned. For the last five years, he was told that Oregon Avenue would be on that. He wanted to know where we are at with that. He said they have been telling people in his district that for the last five years, that Oregon Avenue, from basically 1st Street to Indian Wells, was going to be repaired and replaced. Acting City Manager Hernandez said that the budget was very expensive at \$5,000,000. Commissioner Rardin asked if staff could get it to him in an email. It has been on the Street Maintenance rotation since between 2009 and 2014. It was on the Five-Year Plan, and now it looks like we will bump it or do it in phases. Phases are okay because he understood that money is an issue. She said the \$5,000,000 was pre-COVID, so she didn't know where it would be now. Commissioner Rardin asked for an update on where Oregon Avenue is in the rotation, because that road has not been touched since the mid 80's. Acting City Manager Hernandez said she spoke with Public Works Director Beshaler. Public Works Director Beshaler will send an email sometime during the month with the raw data and some issues she has. The consultant is working on it. Commissioner Rardin said as it gets closer, the Commission needs to be briefed on what we will start, how we will look at it, and what we are doing. He said he understood that we have a plentiful amount of roads that need to be fixed, and Public Works needs to pick and choose. Acting City Manager Hernandez said that Public Works would not be deciding; it would be the two consultants on the utilities and the streets coming together to determine where the highest priority needs are.

Commissioner Rardin said that in the past, we used to get a weekly report from staff to the Commission. Sometime during COVID or earlier, that went by the wayside. He said he would like to bring back the City Manager's weekly report to the Commission until we hire the new City Manager. Acting City Manager Hernandez said she has been responsive to Commissioner Rardin's questions. Commissioner Rardin said it would eliminate a lot of questions, such as with the park on Panorama. It is just a brief overview of what everybody is working on so the Commission is aware of what is going on. Acting City Manager Hernandez said she is doing two jobs; she is more than happy to address any issues they have, but she does not have the time. Commissioner Rardin said he would like to see a report, and it does not have to be anything in detail. Before, the Department heads would put it together and then give it to the City Manager. They gave it to us once a week. She said that is going back to picking and choosing what the Directors feel is important, as opposed to what the Commission feels is important. That is why she sent an email to the Commission asking them what they wanted updates on. That way, she could give them meaningful information on the record. Commissioner Rardin said there are many things that have happened that they may not know about. How do we know to ask if we do not know about it? There is a new fence around the Cemetery, but he did not remember hearing a word about that. Acting City Manager Hernandez said that was on the ICIP that you all approved, and it came twice to the Commission. He said he did not remember seeing that on there. We do not live and breathe this like you guys do. He said he does not know how the rest of the Commission feels and may just be being picky. It would help alleviate some questions and concerns, especially if we had been doing that all along with the previous City Manager.

CONSENT AGENDA

3. Approve the minutes for the May 23, 2023, Regular Commission meeting. (Rachel Hughs, City Clerk)

4. Consider, and act upon, Resolution 2023-22, giving notice to the Otero County Clerk of the local government positions to be filled at the next Regular Local Election on November 7, 2023. (Rachel Hughs, City Clerk) (Roll Call Vote Required)

5. Consider, and act upon, Resolution 2023-24 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 June 13, 2023. (Evelyn Huff, Finance Director) (Roll Call Vote Required)

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

Commissioner McDonald seconded the motion.

Roll Call Vote was taken.

Motion carried with a vote of 5-0-0

NEW BUSINESS

6. Consider and act upon Resolution 2023-20, declaring 308 N. White Sands Blvd. to be so ruined, damaged, and dilapidated that it is a menace to the public comfort, health, peace, or safety and ordering its abatement. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

Code Enforcement Manager Sides gave his presentation. He said he talked to the property owner Mr. Christopher Douglas, who is here tonight and wishes to rehabilitate this building. He told Mr. Douglas that should the Commission pass this resolution, once it is signed, the property owner would have ten days to start doing something with this building. He said Mr. Douglas had already started with this building. After that, he has a year to complete it; it does not mean that if he has made substantial progress on this building, that does not mean we are going to go through and tear it down.

Mayor Payne said with all due respect, this building has been awful for a very long time. She said she found it curious that they executed an administrative search warrant, and now the owner is ready to rehabilitate it. She said she is concerned about that, how that happened, and what this will look like.

Commissioner Rardin asked if the previous owner passed away not long ago. Mr. Douglas said that this was his father's building, who used it to do antique cars, and yes, he neglected it tremendously. Mr. Douglas said he was not going to do that. It is ugly, but it is coming back. We need space for businesses in Alamogordo, and an out-of-state gentleman is buying up the entire block. Any proceeds from that will leave New Mexico and Alamogordo. He said he wanted to keep the money here and has done a great deal of work on the building. The first thing he needs to do is shore the roof to prevent more damage. He said he had done that and got the front of it stripped. There are holes now because he has not replaced some of the wood, but he has ordered the material to reroof the front of the structure. He will use a membrane roof that will last thirty years. He said he has memories of his dad and working with him in the building. His father was taken to the hospital this morning, and we do not know what is going to happen. He said this building was dumped on him because one of his brothers was supposed to take care of it, but he got tired of it, and they gave it to him. He said he is a teacher in Deming, so he has two days every week to come to Alamogordo, visit his family, and work on the building. As soon as he got the letter, he started working on it, and has made progress. He has a plan on how to get it done. He said he didn't want the building condemned and would have it taken care of. He said he would like some faith from the Mayor and City Commission in his ability to get it done. He would give them a timeline and tell them what he is doing. He said he is not going back to teaching until this is resolved. His career is in STEM, and he teaches 8th grade Science. He just wants time to allow him to get this done to either get a tenant or get it into shape where he can get some value out of it. His building was damaged by the dilapidated and burned-out structure next door. A diseased tree fell on the corner of that building. It was previously damaged, but that increased the damage. He said he went to talk to the owner, and he didn't think she had any way to compensate or pay for any of the damage. The tree also took out the electricity, and that was \$3000. He was willing to spend the money,

but that also slowed down the rehab because he has no power. He said he borrowed a generator and is using electrical tools. He is getting ready to paint it and has already purchased the paint. He said they are going to clean up that side. He said he would like to put up a mural to greet people through Alamogordo. Maybe they would stop and spend some money here. He said he did not have a business, but that neighborhood has dispensaries and things. It is not in a good part of town; he has witnessed drug dealings and was accosted. Exiting the building with a flashlight, he saw a gentleman closing the door to his car. We need to address these drug issues and enforcement.

Mayor Payne asked Code Enforcement Manager Sides if he had seen progress on the building. He said there had been some progress, but as far as it being safe, no, it is not safe. By passing this resolution and condemning it, condemned placards would go up only, allowing City staff, contractors, or the property owner to go in to do maintenance only. That way, if this building were to collapse, the assumed casualty rate would be minimal.

Mayor Payne asked City Attorney Smith what they did last time with a property like this. Commissioner Rardin said they gave them six months. It is not like the building is open to the public. Mayor Payne said that is questionable. Commissioner Rardin said if they are in there illegally, and the building collapses and kills them, that is on them, especially if the property owner puts up no trespassing signs. Mayor Payne asked City Attorney Smith asked how they could pass this and give him time or what they could do. City Attorney Smith said they could give him a timeframe. They have done that in the past. For example, we want this or that done by however long. Mayor Payne said getting back to Commissioner Rardin's comment, if someone were to take up residence in there or seek shelter in there, and the building collapsed, or someone was hurt, is there any liability on the City? She said she thought there was probably going to be some. City Attorney Smith said it would be on the property owner because it is not City property. Mayor Payne said so there is no liability on us, even if we gave him an extension. City Attorney Smith said correct, yes. Mayor Payne said so we are not putting the City at risk. City Attorney Smith said no. Commissioner McDonald said that the previous one on 3rd was not extended; she got it done in time. Commissioner Rardin said with that lady it was a classic example. Usually, the property owner does not come and talk to us. In that lady's case, she talked to us, and we gave her an extension, and she did what she said she would do. We did not have to spend taxpayer money removing the structure. This gentleman came to us and is asking for an extension. The building has been standing for probably the better part of a hundred years, and he said he did not see it coming down anytime soon. Again, if they break in illegally, and they are in there and get hurt, it is on them. They could probably sue him, but they should not be in there. Mayor Payne said she understood that, but she wanted to be sure that if someone gets hurt in there, we are not liable. Now we have all been made aware, and she was fine with it as long as we are not. Commissioner Rardin asked if the building was secure for normal, law-abiding citizens. The property owner said yes. When they inspected it, they put the City lock on it. The day we took the City lock off, there was paperwork taped to the window and it basically invited people in. They took a survey stake from that parking lot, punched a hole in the wooden door, and entered the structure. He said he did not find out about that until Monday. The gentleman buying up the block called him on Monday and said he was there Saturday, and his building was full of transients. He would have loved to have known that on Saturday. He said he was able to recover quite a bit of the stuff taken out, which was put into the yard of 310. That diseased tree came down again, and he had to cut his way through to get into the building. He said he has talked to Ms. Fisk about it, and she says fifteen people are interested in that lot. If there is any way possible, he will purchase the lot because that thing is so ugly, he will never be able to get any revenue off that building if he rents it until that is taken care of. If it takes him buying the property to tear down the structure, so be it. There is not much room between the buildings, and that guy attached his roofing to his building, which has caused more erosion. He said he could not fix that side of that building until that structure was removed.

Commissioner Rardin said the next item is the building next door. If we declare that and remove that, are we going to compromise the structure of his building by removing the other building? Mr. Douglas said no, but there is no way you can do anything with four inches of space between the buildings. Commissioner Rardin asked if the roofs were connected. Mr. Douglas said he was roofing on it earlier, and his roofing material was actually attached to my building.

Mayor Payne asked Mr. Douglas if he was going to be able to fix the cracks where the cinderblock is. Mr. Douglas said yes, he has a firm plan for repairing them.

Commissioner Rardin said we should table this item for six months to give Mr. Douglas time. In the event he does not get this done in six months or does not have a substantial amount of repair done, then we continue with what we were going to do. Mayor Payne said the only way she supports that is with a firm date, very specific items such as the building needs to be safe. Mr. Douglas suggested the end of the year. Commissioner Rardin said he didn't really think we could stipulate his schedule. We just say we can give him x amount of time, and if we don't see substantial improvement, then you know. It is not our property, and we cannot dictate that. Commissioner Rardin said he would rather give the property owner the opportunity rather than having us spend taxpayer money. Mayor Payne said she wanted to know a specific date and what we could do. Mr. Douglas said he could meet with Code Enforcement Manager Sides on a regular basis and give him updates. Acting City Manager Hernandez said if you prefer to give it teeth, you pass the resolution with a six-month extension. That is what we did for 3rd Street. Commissioner Rardin said he thought we tabled that and brought it back. Acting City Manager Hernandez said no, because if the property owner had not made progress, and it was already deemed unsafe and a hazard, so after that specific time period, the City could go in. Mayor Payne asked if that is one where she cleared it? Acting City Manager Hernandez said yes. Commissioner Rardin repeated that we tabled that. Mayor Payne said we did not; we gave her a specific extension date. Commissioner Burnett said we gave her sixty or ninety days to start. Commissioner Rardin said he did not remember passing the resolution first. Mayor Payne asked if we would do this by passing a resolution with an extension. Acting City Manager Hernandez said a resolution as amended with the date or six-month extension. Mayor Payne asked what we would say in that timeframe. Acting City Manager Hernandez said that would be a Commission decision. What specific progress are you looking for? The other one was pretty straightforward; the building was going to come down. It was very specific. Mayor Payne said it is basically a menace to public safety. Commissioner Burnett asked Mr. Douglas what his plan was regarding the structure. Mr. Douglas said he planned to rebuild that corner, cut the foundation, repour that corner, and then put new cinder blocks up. The roof is going on, and he said before that he decided to go with a membrane roof. It has to be shipped from back east, and it should be here within a week, and then the roof will be done. He said he wanted to paint it prior to doing that corner. He said he is devoted to this and will get this done. He said he would appreciate putting this back six months. He said he was concerned that if it was condemned, what would happen when it was time to sell or about getting a tenant. He said he did not know how to get it uncondemned and wanted a chance. Mayor Payne said that six months from today's date is December 13th. Could we say December 13th? City Attorney Smith said we could. We can either table it or pass this. We could have Code Enforcement Manager Sides do a presentation in three months to update the Commission on improvements he has seen. Mayor Payne said so we can pass the resolution, give him six months with an update in three months. Could we do that? City Attorney Smith said yes. Commissioner Rardin said if we pass the resolution tonight declaring it dilapidated, and then he gets it back into useable condition, do we have to go back and resend our resolution? It would be cleaner if we just tabled it, staff kept an eye on it, we gave him six months, and in three months, if Code Enforcement Manager Sides comes back and says no progress was made, we call the owner and say we are putting this back on the agenda because you did not keep your end of the bargain. We are going to go ahead and declare it. Like Mr. Douglas said, if he gets it back into useable shape and we have already declared it dilapidated and ruined, then well. Acting City Manager Hernandez said we

could do another resolution to undeclare it or table it. Doing a resolution gives you teeth now to make sure it gets done, but it is the Commission's choice. Commissioner Burnett said we could bring back the resolution in ninety days if he had not done anything. Commission Rardin said that or at least some progress. If we do not have something substantial showing that he is making an effort in ninety days, we bring this resolution back. We can table it for tonight. If he has done things, we give him six months, or if he needs additional time, we can give him that. This building has looked this way for forty years, and Mr. Douglas was not the one in control of it; it was his father. Mayor Payne said that is the whole problem. Commission Rardin said we have more buildings like that on White Sands than we do useable buildings. Mayor Payne said she understood that, but we need to clean those up. Mr. Douglas said that it is the oldest part of town. Mayor Payne said she got that, but we are doing a lot on MainStreet, as you heard earlier. Mr. Douglas asked how far MainStreet went, and he was within five blocks of it. Could he get assistance? Acting City Manager Hernandez said the boundaries do not go that far. Mr. Douglas said the City has fenced the Fisk property to keep people out of it. Acting City Manager Hernandez said to keep this going, we should agree to table this and bring it back. Mayor Payne said she agreed and that we need to move on. We need a motion to table this for ninety days. If, within ninety days, he has made progress, we still need to continue monitoring that. Commissioner Rardin said we would table it again in December. If he has not made substantial progress, we will bring it back. Code Enforcement Manager Sides asked the Commission meant by substantial progress; what violations need to be cleared to be considered substantial progress? Commissioner Burnett said he did not know if we could stipulate that. Commissioner Rardin said he did not know if we had the current breakdown. Acting City Manager Hernandez said you have the current breakdown of what is wrong with it, so she would guess it is how much of that was taken care of. Commissioner Rardin said there was a building four doors down from him with a similar situation. They went in with steel plates and secured the corner. Mr. Douglas explained his plan for the building. Mayor Payne said she would like to see it safe. What you are doing now with that building is putting the public at risk. Homeless, transients, and even drug people are part of our population, and their lives matter regardless of what they are doing. We need to make sure that nobody is at risk. She would say, in ninety days, can we demonstrate that we have made progress, so the building is made safe, and so we would feel comfortable knowing that people are not going to get hurt. Mr. Douglas asked if the Commission could provide a fence like they did for the Fisk house, so that way he would not have to do it. Mayor Payne said she does not know about that, but you can talk to the City. Acting City Manager Hernandez said we are concerned because if we do this, then he does not show significant progress according to the Commission, it would be difficult for us to get another warrant to go through that process. Commissioner Rardin asked if we needed another warrant to go through this process. City Attorney Smith said to access the building or go onto the property, we would have to. Commissioner Rardin said we already have photos of everything. Acting City Manager Hernandez said but to show he has made improvements. Commissioner Rardin said the gentleman is here and he will let us in. He said was he was sure that Mr. Douglas would allow us in to show us what he has done. Mr. Douglas said he would be more than happy to do a PowerPoint presentation in ninety days to show what he has done. Commissioner McDonald said it is not six months now; it is three months. Commissioner Rardin said it is ninety days. Commissioner Burnett said it is ninety days to show progress. Commissioner McDonald asked if we were going to indicate what needed to be done. Mayor Pro-Tem Wright said we cannot stipulate exactly what has to be done. We can say it needs to be made safe and secure. Mayor Payne said she needs a date, what is ninety days. Acting City Manager Hernandez said September 13th. Commissioner Rardin asked if we had a Commission meeting around there. Commissioner Burnett said on the 12th. Mr. Douglas said he could present on the 12th.

Mayor Pro-Tem Wright move to table for 90 days, by September 12th with the expectation of progress made on the building.

Commissioner Rardin seconded the motion.

Motion carried with a vote of 5-0-0.

7. Consider and act upon Resolution 2023-21, declaring 310 N. White Sands Blvd. to be so ruined, damaged, and dilapidated that it is a menace to the public comfort, health, peace, or safety and ordering its abatement. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

Code Enforcement Manager Sides gave his presentation.

Mayor Payne asked if we had the property owner here. Code Enforcement Manager Sides said no. Mayor Payne said you mentioned it was in probate. Code Enforcement Manager Sides said yes, he met with the property owner's relative, who said it was in probate and they would like to demolish the building. Code Enforcement Manager Sides said he told them it was already in this process. They want to demolish it, and this process would give them a timeline to do it.

Commissioner Rardin asked City Attorney Smith if we could we legally tear that down since it is in probate. He said he did not think we could because they are trying to decide the ownership of it right now when it is in probate. If we go in and demolish it, are we liable for damaging what is left of their structure? He said he agreed that this needs to come down, and this is the second time this house burnt. It burned once before, and they repaired it. There was a gentleman that lived in it, and then it burned that time. He said he thought he had passed away since then. The dilemma is that it is in probate, and he has seen that drag out for ten years. Mayor Payne said that is what she is questioning too, and that is why she mentioned it. We have been down this road with one before. City Attorney Smith said she is not sure and would need to research to see how quickly we would be able to do that. We can pass it, but how quickly we can demolish it is the question. It also depends on how many people or parties are in the probate. Code Enforcement Manager Sides said fifteen. City Attorney Smith said that is going to drag that out longer. She wanted to do research to confirm, but as long as notify all the parties, they would be on notice. One of the questions would be, were all of them notified? Commissioner Rardin said we could reach out to the probate judge and ask her. City Attorney Smith said she would send an email out to her. Commissioner Rardin said he thought this was going to throw a wrench in the plans.

**Commissioner Burnett moved to approve.
Commissioner Rardin seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 5-0-0.**

8. Consider, and act upon, Resolution 2023-23, giving notice to the Otero County Clerk of a Ballot Question to be submitted to the Qualified Voters during the next Regular Local Election to propose amendments to the City Charter. (Rachel Hughs, City Clerk) (Roll Call Vote Required)

City Clerk Hughs said this is a resolution giving notice to the Otero County Clerk of the ballot question to be submitted to the voters at the next Regular Local Election in November. These recommendations were brought to you by the Charter Committee. The question will consist of the candidate with the most votes running for mayor to be elected, thereby removing run-off elections for the mayor we have on our current charter. We are also adding the language of "their final" to the charter committee submitting their written recommendations to the commission. Right now, it is not clear; it just says "written recommendations", and they wanted to add "final". Those are the only two going before the voters, but it will just be one question.

Commissioner Rardin moved to approve.

Commissioner Burnett seconded the motion.

Roll Call Vote was taken.

Motion carried with a vote of 5-0-0.

9. Consider, and act upon, first publication of Ordinance 1678 to amend sections of the City Charter to mirror State Statutes and the New Mexico Election Code. (Rachel Hughs, City Clerk) (Roll Call Vote Required)

City Clerk Hughs said this is an ordinance with the rest of the recommendations the Charter Committee brought before you in May. In Article 8, we are just adding the language of November elections, which the Commission opted-in back in 2018. The amendments in Article 10 are to mirror State Statutes and the New Mexico Election Code. There are also a few grammatical errors in the charter that will be corrected.

Commissioner Rardin asked City Attorney Smith if we made that, are allowed to do this ordinance? He said he knew the Local Election Act allowed us to make changes when we initially adopted it, but he wanted to make sure we do not need to put these on the ballot for changes. Are we okay to do this by ordinance? Does this still give us the authority? City Attorney Smith said she looked into that, and we are good to go with just the ordinance. The Act still gave us the authority to be able to do that. We are just basically making all the languages the same, versus contracting language; like if you go to the Charter it says one thing, etc. We are just trying to make it uniform, that way, if someone looks at the Charter it is one hundred percent accurate, and they will not have to go and then look elsewhere.

Mayor Payne said there were questions about term limits, and we were sent information. She asked City Attorney Smith if she sent that information to the Municipal League. City Attorney Smith said she did; she sent two different emails and called. They never responded to her. She said they reached out to other municipalities and got a lot of responses from them. Additionally, she read the case law several times, more specifically *Cottrell v. Santillanes*, which she sent to the Commission. That basically says that home rule municipalities cannot do term limits. Mayor Payne said she thought that had something to do with an omission in the State constitution. Is that what they based it on? City Attorney Smith said the case was based on the Home Rule Act. They said the Act did not give home rule municipalities the authority to do term limits. Mayor Payne said she thought that could be challenged. City Attorney Smith said it is a 1995 case; she looked into this in-depth because she found it interesting, because a lot of other governments can do term limits. As it stands, with the case law as it is, unless this issue goes before the Supreme Court again, this is what the courts will rule with until it is overturned. Mayor Payne asked if we could stay on the Municipal League about that because she would challenge that. She said she would be in favor of pushing that. Most of the time, with the home rule, it would be the opposite, where we are allowed to do something that other municipalities that are not home rule cannot. This case is an interesting ruling. She said she is not a lawyer, but that is disappointing because she favors term limits. She said she thought it was a good idea. City Attorney Smith said she would continue to reach out to the Municipal League. As she put in the email to the Commission, she thought that the Municipal League would be the appropriate ones to push back on this and start advocating for legislature change. If the legislature changes, this case would no longer be good case law because the law changes. That is something we can continue to try to reach out to the Municipal League and other municipalities, to see if we can get more of a consensus and have all of us push back on it. The only way to get this overturned would be to go that route, to have the legislature try to change it. Mayor Payne said she would be following that. Commissioner Rardin said that was weird because it governs the Governor, Secretary of State, and all of those offices, and also the Otero County offices, but it has nothing to do with State Legislature or us. Our State Reps and Senators do not have term limits either. Yet our higher-up and elected County officials do. In a way, elections are

term limits as long as you get voters out to vote. Mayor Payne said as long as there is not a lot of voter apathy, which, unfortunately we have.

Commissioner Rardin moved to approve.

Mayor Pro-Tem Wright seconded the motion.

Roll Call Vote was taken.

Motion carried with a vote of 5-0-0.

10. Consider, and act upon the first publication of Ordinance 1679 adopting a municipal gross receipts tax. (Stephanie Hernandez, Acting City Manager & Richard Denton, Police Chief) (Roll Call Vote Required)

Acting City Manager Hernandez asked the Commission to increase the City's GRT by .125%, or an eighth of a percentage. Everyone is aware of the issues APD has continued to face with retention and recruitment. She said she is not bringing this forward lightheartedly and believes in fiscal responsibility. Every dollar spent should be purposeful and for the benefit of the City. Additionally, she said that tax revenue should be implemented to provide essential and quality-of-life services for all of our citizens. She said she struggled with raising the tax but believes we did our due diligence in looking at everything, including policies and incentives. She said it was a good time not only for officers but our citizens too. The State has reduced its tax by .125%, and we are requesting an increase of the same, so it is not an additional hardship on our community. She said she knew there was a lot of concern that the City was getting into a bidding war with other law enforcement agencies. She had that concern herself and had to step back to take a look at the bigger picture. She said her financial background helped her see it was almost like basic supply and demand. There is a limited supply of officers, and we all have the demand and need the officers. In essence, it is basic economics. The other part is if you look at the officers here, the men and women are tired. They are facing burnout. When the Chief leaves, they will be at thirty-seven officers. We are twenty officers down right now. With the exception of a handful, these people are in charge of patrolling one hundred and ninety-one miles of City streets and over thirty thousand citizens. We need to do something to help and get that number back up. Chief Denton, Finance Director Huff, Human Resources Director Torres, City Attorney Smith, and herself have been going over this, and it has been a conversation for the past eighteen to twenty-four months. We are at a point where she personally felt it was needed and felt comfortable bringing this to Commission.

Police Chief Denton gave his presentation.

Commissioner Rardin said he looked at and agreed with the sign-on bonuses for new officers to some extent, but what are we doing to retain the existing officers we have? Is there anything we have in the plan? Police Chief Denton said right now, they would all receive a significant pay raise. Some wouldn't be very much, maybe \$2-3 dollars an hour. If you take the budgeted positions out and just figure out what they are at, we have got \$846,000 up there. That is quite a bit of money going to that many positions. He could get the average number for you by tomorrow. Commissioner Rardin said since he has been in office, we have had a problem retaining officers. It goes up and down and varies and is a nationwide problem. He said he believed the sign-on bonuses were a good idea to attract new candidates, but we have good employees. \$2-3 an hour is a good little increase, even \$5-6, getting \$10,000 as soon as you are hired and then another \$10,000 after your probation is over is a good chunk of money. Police Chief Denton said he did not disagree with Commissioner Rardin, but he did disagree with one thing. You said there is a shortage across the nation, and you are correct, but the percentage of our staffing level is much shorter than many departments. Is there a shortage of five to six officers in many departments? Absolutely, but you don't hear twenty in cities comparable to ours. Albuquerque is three hundred and fifty officers short, so there is a difference, but if you need to figure

out the percentages of where we are at. It is no secret that I disagreed with sign-on bonuses. They have tried retention incentives, and this is the only thing that we can think of. We have got to do something large and try it. It worked in Las Cruces; they put large hiring incentives and upped their pay scale. Look at their staff now. Commissioner Rardin asked how long ago they did that. Police Chief Denton said it was shortly after our Compensation Study went into effect. Commissioner Rardin said he did not know their criteria was, or how much they did, but in a year and a half or two, after that sign-on bonus is met, are they going to see a decrease in staff when they are allowed to leave? Police Chief Denton said he did not know but was sure they had some sort of commitment. That is why we have a three or five year commitment with this. At five years, you are invested. He is not saying that people do not leave after five years. Mayor Payne said so this is not a one-time thing, this is an ongoing program. Commissioner Rardin said until staffing levels are full. Police Chief Denton said yes, until we reach a full staffing level. Mayor Payne said if you reach staffing levels, and you drop off five officers, are we still offering this? Acting City Manager Hernandez said we will offer it until we are fully staffed. If we get fully staffed, and we drop off, we will look at it at that point. City Attorney Smith said she went on the Las Cruces website, and they require a three-year commitment. Commissioner Rardin asked if Las Cruces had a minimum they had to serve and if it was prorated at that point? City Attorney Smith said she did not know, and it does not say on the website. Commissioner Rardin said we just did the salary study not long ago. City Attorney Smith said that we decided on something a little unique. Say that someone does the three-year commitment. You would have to serve eighteen months for the prorated stuff to kick in. If you leave in month seventeen, you have to pay back that whole \$20,000. We broke it down to quarterly, and each quarter it gets deducted down \$2000 or something like that, depending on which contract they choose. It is also determined by whether you are certified or uncertified. If you leave between quarters, it reverts back to the last quarter you met. Commissioner Rardin said you mentioned uncertified officers. What happens when you get one that takes the \$10,000 bonus, they go to the Academy, and they do not cut it? Do they have to pay all that back to us? Police Chief Denton said absolutely. Acting City Manager Hernandez said voluntary or involuntary termination. Police Chief Denton said he had to get rid of some for their personal conduct. He said he did not recall terminating anyone for work ethic; they were all for personal conduct. He said that some of it is our hiring. We are kind of to the point where if you walk through the door with a heartbeat and you do not have any felony arrests, hey put a uniform on. Some of them wash out over time.

Commissioner Rardin said you stated that an eighth of a percent would generate \$1,200,000. About ten years ago, an eighth of a percent used to generate around \$750,000 in the City of Alamogordo. If we have an economic downturn, which it looks like we are heading for in terms of the worldwide economy, we will be able to sustain this pay increase based off of this tax we are looking at passing to fund this? We have to look at the large picture, not just this piece of it, if that makes sense. Acting City Manager Hernandez said if there is an economic downturn, we will do as we have always done. Step back, pivot, and start looking at every area, including looking at anything funded from the General Fund. She said she wanted to emphasize that with the sign-on bonuses, it is a lot of money. We will definitely go after it if you do not meet your commitment to the City of Alamogordo. It is not just invoicing them, we will file with the court, and you will have to pay us back, or we will garnish your checks in future employment.

Commissioner Rardin asked if we knew how much the cannabis money was and where we were at. Acting City Manager Hernandez said it has been steady at about \$17,000 a month. He asked what they equated to a year. She said about \$300,000. Commissioner Rardin asked if that was all we are generating off the twenty cannabis stores in Alamogordo. Acting City Manager Hernandez said as we have discussed numerous times, just because you a store does not mean we are all going to hop to it. You are fighting for the same consumers. At this moment, it has been pretty consistent at \$17,000. Mayor Payne said maybe the problem is that we have twenty cannabis stores. Commissioner Rardin asked if it was the State that remitted that back to us. Acting City Manager Hernandez said yes.

Commissioner Rardin asked if we knew if we were getting our fair share of the cannabis money. Acting City Manager Hernandez said that is always the question. Mayor Payne said we are not. Commissioner Rardin said he could guarantee that we are at more than \$17,000 a month in tax money. Mayor Payne said with all due respect, there is a lot of cash business there. He said he had seen the way those guys have to get permits and document everything, and there is not a way for them to siphon cash out of that business. The State has made it very difficult. He said he worried about us being able to sustain that wage. Acting City Manager Hernandez said we always worry about sustaining anything. Mayor Payne said if the County can do it, we can certainly do it. Commissioner Rardin said they have a larger budget than we do. Police Chief Denton said let's say this works. We can take this cannabis money, turn it over, and put it towards the salaries to assist. We would not do the sign-on bonuses anymore if the staffing level could stay up. Those would go away, and you could use that money to assist with the salaries.

Commissioner Rardin said that you said we are generating \$1.1 to \$1.2 million, then we are going out and spending \$847,000 of it. What are we doing with that additional revenue? Acting City Manager Hernandez said that as mentioned, we have eleven vacant budgeted positions, but we have ten additional non-budgeted positions. The \$849,000 only includes the eleven, not the additional ten. In a perfect world, and we get that additional ten, that would cover those additional ten positions. Commissioner Rardin asked if that was another \$250,000. She said no; we have also talked about should we have excess, we would have to put it towards PSAP, because PSAP has been a big money suck. It is for the greater good, and it is beneficial to our citizens, but we are paying more than we did with having our own dispatch. We recently went to the budget, and we had the board meeting approve the budget, and it is about \$250,000 more than what we are paying now, and that is just year one. The contract clearly states that it will go off call volume. Mayor Payne said they wanted more than that, and that is what they got. Acting City Manager Hernandez said that if we go off of call volume, that money is going to go up. The priority is officer pay. Commissioner Rardin said this is on PSAP, but have they been contributing at the State and giving us the money for PSAP that we were promised? Acting City Manager Hernandez said the County is the fiscal agent, and she said she believed they have been giving it to the County. Our part is just what we agree to pay to put into PSAP. Commissioner Rardin said because we knew it was going to cost more than what we were currently spending before we went there. Acting City Manager Hernandez said correct.

Commissioner Rardin said this was a huge deal. We just dropped an eighth of a percent, getting our tax rate back down. When he started in office, we were at around seven and a half, and here we are at eight, eight, and eight. We just got it down an eighth, and now we are bumping it right back up. Acting City Manager Hernandez said she agreed. Earlier, Finance Director Huff and herself stood before the Commission against the Lodger's Tax. We do not like taxes and do not take them lightheartedly. Commissioner Rardin said that in the event we get into some trouble and need to pass something, we only have another additional eighth to pass, correct? Acting City Manager Hernandez said as of today, we have .2375% that the Commission can pass without going to voters and an additional .3125% that we can take to referendum. He said so we have an additional eighth that we can pass after this. Acting City Manager Hernandez said that the Commission could pass, and then we have an additional that we can take to referendum. Commissioner Rardin said so we have roughly three-eighths that we can take to the voters. How come we did not mention this in budget hearings? She said because this has been a conversation for about two years, and we have not brought anything to Commission. The County just did a three-dollar increase, they might be getting six additional positions, and they might be having three people retiring. We are at a point where it feels necessary and the right time because of the State taking it down that one-eighth percent. We have not hidden the fact that we have been having trouble; that is what the whole incentive was. Police Chief Denton did not put up the proposal during the cannabis tax because we were still in discussions at that time with former City Manager Cesar.

Commissioner Rardin asked if this would mainly affect the lower-level staff. Police Chief Denton said this is what you see across the country. Everybody is frontloading everything to get people in. You can call it a bidding war if you want, and that might be what it is. With no disrespect to anybody, this is a cheap thing. You are talking \$1,000,000 to pay these people and get staffing in here. Commissioner Rardin said hopefully. Acting City Manager Hernandez said no disrespect to the County, and she understood why they were increasing, but she has asked Police Chief Denton over and over what happens when they take all our officers. It feels like they are sabotaging us. She said she knew that was not true, but it is what it feels like from our perspective. We are either going to pay our officers or pay the County their wage rate. They will help us for a period of time because we are in the County, but they are not going to do it for free. Commissioner Rardin said they are obligated to. Police Chief Denton said they are not obligated to. The Sheriff can charge the City by contract and make the City pay. Commissioner Rardin said we are still Otero County. Police Chief Denton said we are. Mayor Payne said it is not free though. Commissioner Rardin said he disagreed. Police Chief Denton said he has had this conversation with the Sheriff. In Tularosa, the Sheriff provided Tularosa with a number because they also went to him. It is not just because they are in Otero County; he is helping them out right now.

Commissioner Rardin asked how this would bring our wages up in comparison to what the Border Patrol is paying. Police Chief Denton said it is not even close. Commissioner Rardin asked if that is where we have lost a lot of people as well. Police Chief Denton said no, we have lost people all over the place. We have lost thirteen police officers to the Sheriff's Department alone. We have lost to other agencies and Holloman Air Force Base. Commissioner Rardin asked if they had given reasons on their exit interviews. Is it all money? Police Chief Denton said in their exit interviews, a few have put money down. Some of it is quality of life or family; it varies. It is all over the place. Mayor Payne said that all ties in because we are down officers, and she assumes they are working a lot of overtime. Police Chief Denton said that if you pay people where they cannot afford to leave, they are not going to go. They are going to stay here. Commissioner Rardin said we have to look at the bigger picture. When the economic downturn does come, can we sustain this? Once we give it, we cannot take it away. That is where it puts us in a difficult situation where we have to be careful. In 2008, when that hit us, he was here in 2009 and 2010 when it finally hit Alamogordo. It was very difficult; it sucks to have to go in and furlough people. Police Chief Denton said he was here. Commissioner Rardin said it was very difficult for the Commission and staff on the upper levels as far as budgeting goes. He said he is not against this and agrees that they need to be paid for their service. Right now, many businesses are overworking their employees because we do not have enough. That is the case here with DPS, Fire, Public Works, all of them. Mayor Payne said if you look at our budget, we are in a better position now. Commissioner Rardin said we will see. Mayor Payne said fiscally, we are more responsible now with what we have. Acting City Manager Hernandez said we are also very conservative. Mayor Payne said incredibly conservative, and she loves that. The County is increasing, and if an economic downturn is going to happen, it is going to happen to both the County and the City, and so they will feel what we feel. It was important enough for them to do that, regardless of the risk. When she looks at those numbers, we are fifty, sixty, or seventy percent more in some cases for calls and arrests and crashes compared to the Sheriff's Department. We should all be alarmed about that. She said her concern is burnout, that is why she mentioned all the overtime, if that is what it takes just to make enough money. She said that when she was first elected, she had commissioners that said well, if you look at benefits, they really make more money. However, you cannot take your benefits and make a house or car payment. You need money to do that. She said she thought it was twisted a little in the past when they looked at everything. She said we have tried everything else, we need to do something, and this is a good time to do it because it is a wash. In the grand scheme of things, that one-eighth of a percent is not that big of a deal, not for something like this.

Acting City Manager Hernandez said she wanted to add that the County has talked in open meetings about increasing the tax because the governor has done it. If that do that and keep raising the taxes on the officers, it will be catastrophic for our department. Commissioner Rardin said they cannot raise theirs; they have already taken all of their three-eighths. She said that we do not do eighths anymore. The State has changed that. He said they took all of theirs all at one time. Acting City Manager Hernandez said the State has unrestricted some of these, so they do have the ability to pass them. They just did a House Bill in 2019 where they redid the whole tax structure; they gave a max that the commissions can do without going to voters, and they changed the whole one-eighth amount.

Commissioner Burnett moved to approve.

Commissioner McDonald seconded the motion.

Roll Call Vote was taken.

Motion carried with a vote of 5-0-0.

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

Mayor Payne read the openings and appointed Shirley Dakin to the Mayor's Committee on Aging, Adam Montorio to the Parks and Recreation Board, and John W. Davis to the Alamogordo Public Library Board. No one was opposed.

EXECUTIVE SESSION

12. Adjourn into Executive Closed Session in compliance with 10151(h)(8), NMSA (as amended) to discuss a possible land swap of real property located at 1402 College Ave. (Roll Call Vote Required)

Commissioner Rardin moved to adjourn at 8:55 p.m.

Mayor Pro-Tem Wright seconded the motion.

Roll Call Vote Taken

Motion carried with a vote of 5-0-0.

ADJOURNMENT



Mayor Susan L. Payne

ATTEST:



City Clerk Rachel Hughs

(Prepared by Dylan Aleshire, Deputy City Clerk)

Approved at the Regular Meeting held on June 27, 2023.