



Alamogordo City Commission

NOTICE OF MEETING

Regular Meeting Agenda

November 1, 2023 - 6:30 PM

Donald E. Carroll City Commission Chambers
City Hall, 1376 E. Ninth Street

Susan L. Payne Mayor
Dusty Wright Mayor Pro -Tem, District 6
Nick Paul District 1
Stephen Burnett District 2
Karl Melton District 3
Josh Rardin District 4
Sharon McDonald District 5

Stephanie Hernandez Acting City Manager
Ashley Smith City Attorney
Rachel Hughs City Clerk

MISSION STATEMENT as Adopted by the City Commission on March 24, 1995.

The City of Alamogordo is a Municipal Corporation that exists solely for the purpose of providing the best possible services to our customers, the citizens of Alamogordo. We are committed to providing these services with honesty, integrity, compassion, fairness, and a commitment to excellence.

We are committed to the long-term financial stability and responsible growth of the City and all decisions will be driven by our commitment to provide the best services possible in a financially sound and responsible manner given the economic realities facing the City.

In accordance with Section 10-15-1.D, NMSA 1978 (2010 Cumulative Supplement), this agenda has been posted on the bulletin board located in the east/west lobby of the City Hall and in the glass case located outside of the north entrance of the City Hall, distributed to the appropriate news media, and posted on the City website: <http://ci.alamogordo.nm.us> within the required time frame. As a courtesy, the entire Agenda Packet has also been posted on the City of Alamogordo website: <http://ci.alamogordo.nm.us>

The Mayor and City Commission request that all cell phones be turned off or set to vibrate. Members of the audience are requested to step outside the Commission Chambers to respond to or to conduct a phone conversation. The Alamogordo Commission Chambers is wheelchair accessible. Other special assistance for disabled attendees must be requested 48 hours in advance by contacting the City Clerk's Office at 575-439-4100.

CALL TO ORDER & ROLL CALL

Announce the presence of a Quorum.

INVOCATION & PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

PRESENTATIONS

1. Extra Mile Day Proclamation. (Susan L. Payne, Mayor)

PUBLIC COMMENT

Residents must sign up with the City Clerk to address the City Commission. The standard allotted time is 3 minutes, but the Mayor reserves the right to change depending on the number of public comments.

CITY MANAGER'S REPORT

REMARKS AND INQUIRIES BY THE CITY COMMISSION

CONSENT AGENDA (Roll Call Vote Required for an Ordinance or Resolution)

All matters listed under the Consent Agenda are considered to be routine by the City Commission and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

2. Approve the minutes for the Regular Commission meeting on October 24, 2023. *(Rachel Hughs, City Clerk)*
3. Approve the statements related to the Executive Closed Sessions held on October 24, 2023. *(Rachel Hughs, City Clerk)*
4. Consider, and act upon, Ordinance 1683, Z-2023-0006(A) for adoption and final publication, a map amendment to change the current zoning of the property at 1111 US Hwy 70 W, from C-3 Business District, to M-1 Light Industrial District *(Stella Rael, City Planner)* **(Roll Call Vote Required)**
5. Consider, and act upon, acceptance of approval of Resolution No. 2023-52 to enter into grant agreement LP20044, from the New Mexico Department of Transportation, in the amount of \$600,000.00, for repair of the 10th Street Concrete Box Culvert. Grant funds total \$570,000, the City match is \$30,000 and any amount exceeding \$600,000. *(Nancy Beshaler, Public Works Director and Debbie Osborne, Grant Coordinator)* **(Roll Call Vote Required)**

ITEMS REMOVED FROM CONSENT AGENDA

NEW BUSINESS

6. Consider, and act upon, Case SP-2023-0007(A), property owner Bobbie Jo Stone is requesting to be granted a special permit to allow their niece to reside in an RV on their property at 1000 Post Ave. *(Sean McGranaghan, Assistant City Planner)*
7. Consider and act upon Ordinance 1684 for first publication, amending Chapter 14, Article 1, Section 140 Generally- Outdoor automotive storage and Section 150 Outdoor Storage *(Josh Sides, Code Enforcement Manager)* **(Roll Call Vote Required)**
8. Consider, and act upon, Ordinance 1685, for first publication amending Chapter 24, Article 01, Section 010, Schedule of Penalty Assessments. *(Ashley Smith, City Attorney)* **(Roll Call Vote Required)**
9. Appointments to Boards and Committees. *(Susan Payne, Mayor)*

EXECUTIVE SESSION (Roll Call Vote Required)

10. Adjourn into Executive Closed Session in compliance with 10-15-1(h) 8, NMSA (as amended) to discuss Real Property - 523 Maryland Lot -Dudley School Lot. **(Roll Call Vote Required)**

ADJOURNMENT

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/1/2023

Report Date: 10/12/2023

Report No: 1.

Submitted By:

Subject: Extra Mile Day Proclamation. (*Susan L.Payne, Mayor*)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation:

Background:

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/1/2023

Report Date: 10/26/2023

Report No: 2.

Submitted By: Rachel Hughs

Subject: Approve the minutes for the Regular Commission meeting on October 24, 2023. *(Rachel Hughs, City Clerk)*

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve the minutes.

Background: This is required by the Open Meetings Act.

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., DONALD E. CARROLL COMMISSION CHAMBERS
October 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
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. City Clerk Hughs announced there was a quorum present. Invocation was given by Pastor James Forney, and the Pledge of Allegiance was led by Commissioner Karl Melton.

APPROVAL OF AGENDA

**Commissioner Paul moved to approve the agenda.
Commissioner Melton seconded the motion.
Motion carried with a vote of 7-0-0.**

Items 1 and 2 were swapped in order by Mayor Payne.

PRESENTATIONS

1. Domestic Violence Awareness Month Proclamation. (Susan L. Payne, Mayor)

Mayor Payne proclaimed the month of October 2023 as Domestic Violence Awareness Month in Alamogordo and urged all citizens to participate in the domestic violence awareness events sponsored by the Center of Protective Environment (COPE) throughout the month of October 2023.

2. Swearing-In of Alamogordo Police Department Certified Officers Travis Jones, Adam Lem, Obed Marte, Jesus Diaz and Non-Certified Officers Christopher Padilla, Dylan Sullivan, Nathaniel Darby, and Tobey Kerlin. (David Overstreet, Municipal Judge)

Acting City Manager Hernandez gave some statistics from the Alamogordo Police Department. In four months, they hired eleven officers. Most have signed up for five years. By the end of the calendar year, we believe we will be at around fifty officers. We have not had that many officers since the last quarter of 2018. Equally as important, we have not lost any additional officers. She stated they had lost three officers; one was the death of Officer Ferguson, and the other two had retired. She wanted to thank the Commission for trusting staff.

Judge Overstreet swore in Alamogordo Police Department Certified Officers Travis Jones, Adam Lem, Obed Marte, Jesus Diaz, and Non-Certified Officers Christopher Padilla, Dylan Sullivan, Nathaniel Darby, and Tobey Kerlin.

PUBLIC COMMENT

None.

CITY MANAGER'S REPORT

Acting City Manager Hernandez made the following remarks:

1. A reminder that the Joint Meeting will be on October 31, 2023, and a regular Commission Meeting will be the next day on November 1, 2023.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner McDonald made the following comments:

She said the work at Dudley School was done on the inside, and they are currently inspecting and signing off on it. The outside is already painted, and they will be moving inside to do painting. They found out that the first two rooms of the Dudley School were built in 1901, making it one of the oldest buildings in Alamogordo. A bond in 1913 added the other rooms in the back. The building is incomplete, but we will put up two Christmas trees in the building. She just wanted to let people know that we are continuing. She thanked the Tularosa Basin Historical Society members and said they were putting everything into this.

She said she rode along with the Alamogordo Police Department on Sunday afternoon. They are getting training to deal with people, especially those with mental health conditions. She saw an officer in action that convinced someone to go to the hospital and get help. That was amazing. They are not on the force just to get the money. They are going through the process of getting certified and other programs that will help them be better on the street. She said she appreciated that.

Acting City Manager Hernandez said that if other Commissioners wanted to do a ride-along, they needed to get with Chief Kunihiro. Hand in hand with the tax, it is important that you see what they are doing upfront. Mayor Payne said she has done them in the past, and they are interesting. With our officers, it is not just about giving out tickets. Nowadays, they deal with a lot of mental health issues and those kinds of things. That is not always easy, and the lack of resources makes it even more difficult. They are doing a really good job under extraordinary circumstances.

CONSENT AGENDA

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

4. Approve the statements related to the Executive Closed Sessions held on October 10, 2023. (Rachel Hughs, City Clerk)

Commissioner McDonald moved to approve the Consent Agenda.

Mayor Pro-Tem Wright seconded the motion.

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

NEW BUSINESS

5. Consider, and act upon, Resolution 2023-50 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 October 24, 2023. (Evelyn Huff, Finance Director) (Roll Call Vote Required)

Finance Director Huff said some of the revisions affect salaries and benefits. Revision 2 is to provide funding for the Assistant City Attorney position. That covers salaries and benefits. Revision 5 removes salaries and benefits that were incorrectly added to the 2024 budget. This was for a grant position that should not have been part of that projection. That should have been added only when the grant approval letter was received. We are just taking that off as part of an error. Revision 8 was related to when, as part of the budget process, we did not budget anything in the Cannabis Fund. Those funds were set aside to pay the sign-on bonuses for the new officers. We needed to get those budget numbers in there.

Commissioner McDonald moved to approve.

Commissioner Burnett seconded the motion.

Roll Call Vote was taken.

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

6. Information for joint collaboration with Alamogordo Public Schools to encourage youth participation in voting. (Stephanie Hernandez, Acting City Manager and Anna Alday, APS District Coordinator)

Acting City Manager Hernandez said this idea came up in 2019. She had approached former City Manager Cesar to see if we could do something to help youth get more engaged in voting. At the last mayoral race, there were about three thousand voters in a city of thirty thousand. Unfortunately, COVID happened, and we were unable to bring things forward. Kids were stuck at home. I envisioned that we get our youth engaged while at a high school age. I had wanted to go down to middle school, but I started with a small scope. We will have a full voting experience for the high school kids. The City's side is to plan the event. The kids will be voting on November 7th. If you look at the demographics of the 2020 election, the eighteen to twenty-nine-year-old group is the least that showed up to vote. We need to start changing that. We need youth engaged so that change can happen. When we approached the schools, we decided to come up with ideas. They approached their student council, and then we got back together to discuss narrowing it down and what was feasible. We want kids to see that the event you chose will come to life if you show up and vote. Three events are on the ballot: Winter Wonderland at the Zoo, Scavenger Hunt throughout the City, and a Valentine's Day Dance on MainStreet. She said MainStreet is fully on board with this. The event is already being advertised at the high school. Community Affairs Manager Vasquez will put the event together. We are trying to make this memorable and exciting so that next year and thereafter, they will get excited about voting and look forward to going to the polls. We will coordinate with the schools to follow protocols and ensure student safety is the top priority.

APS District Coordinator Anna Alday said they are committed to making sure voter turnout continues. It is extremely important for our kids to see the value of voting. We plan on using scantrons to count the votes. As soon as we are finished, we will get with Acting City Manager Hernandez and let her know our results. Hopefully, that will encourage kids to vote and show them their vote matters.

Acting City Manager Hernandez said we would take this to the school board at the next meeting and bring it here to let the Commission know what the kids chose, how we will do it, and the participation.

Commissioner McDonald said this was an excellent idea, and Mayor Payne agreed.

7. Consider, and act upon, reauthorizing the LEDA grant to Learn New Mexico for Ink Well Building. (Stephanie Hernandez, Acting City Manager and Michelle Perry, CEO-Learn New Mexico) (Roll Call Vote Required)

Ms. Perry said the last time she was here, she spoke about a building we would use LEDA funds to purchase. That purchase did not go through. We worked very hard to come to an agreement, but the inspection just revealed too many objections. We have far worse conditions in that building than anticipated. She said she paid out-of-pocket for the building inspection and sewer inspection. The gas was not able to be hooked back up. The reinstallation of the gas meter did not pass the pressure test, and we knew we would have to replace the gas lines. We would also have to replace a bunch of outdated electrics that were arcing inside the panels. There were issues with the roof and holes in the building. Bottom line, it did not work out.

Ms. Perry continued that she worked with Acting City Manager Hernandez to come up with a second, and her opinion, better, plan. The Ink Well property was built in 1950 to be a Safeway. It is around the corner from New York Ave. She said she proposed that we buy that. The information packet Acting City Manager Hernandez provided details about the purchase price and renovations. She said she would get another inspection for due diligence and pay for it. We believe we already know what we will find and have toured it multiple times with multiple contractors. We believe the remodel price is sufficient. The overall ask price is less than what was originally asked for. We hope to have this property as the Ink Well Innovation Center. It would no longer be the Alamogordo Innovation Center. We feel it is important to keep the traditional name because it was an office supply store from way back. We will put effort into creating a coffee bar, coworking, and small office rental spaces. We would have the large conference room, the front area, a display to sell boutique office supplies, the small conference room, multiple office spaces, and a covered east-side event patio. The model will be the same as before, with training, hosting events, and doing membership.

Acting City Manager Hernandez said this is a better plan for us to help bring in more of downtown. The Executive Director of Alamogordo MainStreet, Nolan Ojeda, was excited and onboard with having this there because it is a historic building. I have memories of going over there and getting paper. There is a lot of nostalgia in that building. The ordinance itself does not say the building, but she wanted to bring it in front of the Commission, so you are well aware of what we are planning.

Mayor Pro-Tem Wright asked what the square footage difference was and if that would affect things. Ms. Perry said this is three thousand square feet less. However, it is twice as tall. When we talk about walls, paint, stucco, and demolition, we have a little extra space to deal with there. Mayor Pro-Tem Wright asked if they were going back with the commercial kitchen. Ms. Perry said yes, we would add that. It has a small area where they had some hookups, but that will not do. We are going to demo all of that out. There will be an industrial kitchen on the west side. There will also be a walkup coffee window for the public.

Commissioner Burnett asked if there were any other buildings looked at. Ms. Perry said yes, she had scoured Alamogordo and talked to a lot of people about potential ideas. Sometimes, the money was just too much, and sometimes, the condition of the building was just too poor. We gave it a lot of thought, and it was just happenstance that she learned this one was about to go on the market, and we were first at the punch to land on Ink Well.

Mayor Pro-Tem Wright moved to approve.

Commissioner McDonald seconded the motion.

Roll Call Vote was taken.

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

8. Consider, and act upon, Resolution 2023-45 declaring the building or structure, or the premises located at 1401 Mountain View, to be ruined, damaged, and dilapidated to be a

menace to the public comfort, health, peace, or safety, and ordering its abatement. (Paul Bennett, Facility Maintenance Manager, and Richard Adler, Fire Chief) (Roll Call Vote Required)

Facility Maintenance Manager Bennett said we believe this structure is unfit for human occupancy, and we will show a video as to why. He said that as soon as you walk in, you get a strong ammonia smell, and it is hard to breathe. We are going off the IPMC definition 111.1.3, structure unfit for human occupancy. You are going to see that it is unsanitary in the video. There is imminent danger as well. I did not see this myself, but a couple of children were taken out of the structure on the day we showed up. On 10/19/2023, Officer Silva was conducting an investigation at the residence. Upon what he noticed and observed, he called the Alamogordo Fire Department and Code Enforcement. The Code Enforcement Officer arrived and spoke with Officer Silva, and then the Code Enforcement Officer went out to get an administrative search warrant, which Judge Jessen approved. The Code Enforcement Officer called me, and we executed the search warrant and walked through at approximately 1035 hours. We had to put on suits, masks, and gloves before we could enter this residence. Code Enforcement has two additional cases on this property and has received multiple complaints from the neighbors. We noticed more violations as we did the walkthrough. The accumulation of rubbish and garbage was extensive throughout. It was very difficult to walk through. There were over fifty cats scattered throughout the house. He then showed the 4-minute video taken from the bodycam of the Code Enforcement Officer.

Mayor Payne asked if we knew how old the kids taken out of the home were. Chief Kunihiro said they were elementary age.

Commissioner Rardin asked if there was a lock on the refrigerator. Facility Maintenance Manager Bennett said yes.

Mayor Payne asked why there was a smell of ammonia. Facility Maintenance Manager Bennett said it was because of all the cats, and they have been going all over and throughout the house. We had cat feces up our legs on both suits just from walking through the place.

Mayor Payne said the person who owns this place does not appear to be the person who lives there. Facility Maintenance Manager Bennett said he believed that was correct. Mayor Payne asked if it was a rental or something. He nodded his head. Commissioner Rardin asked if she knew if all this was going on. Facility Maintenance Manager Bennett said yes, our Code Enforcement Officer got a hold of her and let her know. Acting City Manager Hernandez said she believed they would try to do a three-day eviction or a similar proper term. She said that Code Enforcement Manager Sides has been in contact with the actual owner. If you recall, this was the house that she contacted the Commission about a month ago. CYFD was involved and could not get into the house.

Commissioner Rardin asked if the actual homeowner would get it cleaned up after she evicts. Facility Maintenance Manager Bennett said she had ten days from whatever we decided today to decide what she would do. He said we recommend that the structure is unfit for human occupancy, and she needs to get it cleaned. Mayor Payne asked if she had indicated a willingness to do that. Facility Maintenance Manager Bennett said he did not talk to her directly, so he did not have that information.

Commissioner Rardin asked what the prior complaints were for. Acting City Manager Hernandez said it was the same complaints for the smell and the outside of the property. For the specific complaints she did not recall. Commissioner Rardin said so the neighbors were complaining about the smell. Facility Maintenance Manager Bennett said that is what he was told, yes sir.

Commissioner Burnett asked what our course of action was if the owner did nothing. City Attorney Smith said that if she does not clean it, we can abate it and hire someone to get it cleaned. Then I would get the paperwork, and we would place a lien on the property. That is if she does not clean it. Obviously, we would work with the owner to try and figure something out. If she is making strides, we may extend it a little bit. Additionally, as to declaring this, it will actually help the owner in her eviction. It will give her more argument with the judges as to why these people should be evicted, and they should expedite the eviction process.

Acting City Manager Hernandez said the previous complaint was for weeds, outdoor storage, and graffiti. That happened a month ago. That is when they noticed that CYFD was trying to get a hold of them. She was not sure if there was a card outside the door that Code Enforcement saw. We will hire a contractor if the owner does not go in there and do something to clean it up. Mayor Pro-Tem Wright asked if that was what we did on Arapaho Trail. Commissioner Rardin said yes. Facility Maintenance Manager Bennett said that was correct, yes. Commissioner Burnett asked if we knew an estimate of the cost. Acting City Manager Hernandez said not at this time.

Commissioner Rardin asked if the property owner was here tonight or aware that we were doing this. Acting City Manager Hernandez said that Code Enforcement Manager Sides spoke to the property owner. He also tried to get a hold of the tenant today, and the tenant refused to come to the door. She said she thought he would try to meet with the tenant again. The property owner is not here. Mayor Payne said so they are still living in this house. Commissioner Rardin asked if the kids were still in the house. Acting City Manager Hernandez said the kids were not in the house, and she was unsure if anybody was living there. She said that for Arapaho it was about \$16,000.

Mayor Payne said the structure would probably be okay if not for the strong smell and disgusting conditions. Facility Maintenance Manager Bennett said yes ma'am. From what he observed, the structure itself looked like it was intact. Mayor Payne said so it would behoove the homeowner to clean it out, redo it, and move on. Facility Maintenance Manager Bennett said he believed so. Mayor Payne said so it sounds like the owner will probably do that. Commissioner Burnett said he did not know, but it would cost a lot of money. It stains the concrete and gets in the walls and insulation.

Acting City Manager Hernandez said the property owner was told this would be on the agenda today and that they should show up and speak if they could. However, they are not here.

Commissioner Rardin said he was wondering if we should give the property owner time to do something about this. He said he was sure that the owner probably did not know the condition of the interior of the property. Mayor Payne said she did not know how they could not know that. There were ongoing complaints. Acting City Manager Hernandez said there was an ongoing complaint, so the property owner was told back when I let you all know this was happening. Commissioner Rardin said that was several months ago. Acting City Manager Hernandez said it could have been, it was recently. It was when school was already in session. She said she thought the property owner was waiting on us to see what the action was tonight. Code Enforcement Manager Sides has been in communication with the owner, so it is not a shock or surprise.

Mayor Payne said that if we do this and you secure the property tomorrow, the tenants will not be allowed to live there, correct? Facility Maintenance Manager Bennett said that is normally how it would work, yes. Commissioner Rardin said you said they would have ten days to get cleaned up. Facility Maintenance Manager Bennett said once we issue this to them, they have ten days to act, whether that is getting an appeal to come before the Commission and talk or they start to work on the building and clean it up. Mayor Payne said so just to demonstrate they are starting to work on it. Facility Maintenance Manager Bennett said correct.

Commissioner McDonald said she was aware of this house. She had friends who lived on this street and had done a lot of investing in their home, so she did not know if she should not vote. Mayor Payne said she would not worry about it. Commissioner Rardin said that is not financial interests.

Commissioner Rardin said this is not actually condemning it; it is just ordering an abatement and cleanup. Facility Maintenance Manager Bennett said correct.

Commissioner Rardin asked if they were living in that camper. Facility Maintenance Manager Bennett said nobody could live in that camper. It was packed full, just like the house was. There was just a walkway to put more stuff in. Commissioner Rardin asked where the kids and everybody were sleeping. Facility Maintenance Manager Bennett said he only saw one bed on the walkthrough. Commissioner Rardin asked if it had a functioning restroom. Facility Maintenance Manager Bennett said he never made it to the restroom because he just had an N95 mask. Code Enforcement Manager Sides did, though. The water was running, but none of us would want to sit or shower in that. The kitchen was not functioning. The refrigerator was locked for who knows what.

Mayor Pro-Tem Wright moved to approve.

Commissioner McDonald seconded the motion.

Roll Call Vote was taken.

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

EXECUTIVE SESSION

9. Adjourn into Executive Closed Session in compliance with 10-15-1(h) 8, NMSA (as amended) to discuss Real Property - Fairgrounds Parking Lot appraisal and a potential sale. (Roll Call Vote Required)

Mayor Pro-Tem Wright moved to adjourn at 7:25 p.m.

Commissioner Rardin seconded the motion.

Roll Call Vote was taken.

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

ADJOURNMENT

Mayor Susan L. Payne

ATTEST:

City Clerk Rachel Hughs

(Prepared by Dylan Aleshire, Deputy City Clerk)

Approved at the Regular Meeting held on November 1, 2023.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/1/2023

Report Date:

Report No: 3.

Submitted By: Rachel Hughs

Subject: Approve the statements related to the Executive Closed Sessions held on October 24, 2023.
(Rachel Hughs, City Clerk)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: The statement is required per the Open Meetings Act.

Background:

Approve the following statements authorizing them to be included in the minutes of November 1, 2023: "The Governing Body of the City of Alamogordo, New Mexico, hereby states that on October 24, 2023, an Executive Closed Session was held and matters discussed in the closed meeting were limited only to: Real Property - Fairgrounds Parking Lot appraisal and a potential sale.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/1/2023

Report Date:

Report No: 4.

Submitted By: Sean McGranaghan

Subject: Consider, and act upon, Ordinance 1683, Z-2023-0006(A) for adoption and final publication, a map amendment to change the current zoning of the property at 1111 US Hwy 70 W, from C-3 Business District, to M-1 Light Industrial District (*Stella Rael, City Planner*) **(Roll Call Vote Required)**

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact: N/A

Recommendation: Approve for first publication.

Background: Consider, and act upon, Ordinance 1683, Z-2023-0006(A) for first publication, a map amendment to change the current zoning of the property at 1111 US Hwy 70 W, from C-3 Business District, to M-1 Light Industrial District (*Stella Rael, City Planner*) **(Roll Call Vote Required)**



City of Alamogordo

City Commission



Z-2023-0006(A)

Stella Rael, City Planner
October 10, 2023

Zoning Request Case: Z-2023-0006(A)

2

Request:

The property owner is requesting for a map amendment to change the zoning of the property at 1111 US Hwy 70 W, from C-3 Business District to M-1 Light Industrial District.

Requestor/Tenant:

Stephanie Ortega & Brandi Blair
4345 Kachina Canyon
Las Cruces, NM 88011

Owner:

Alberto Cerna
1016 Mike Ct
Chaparral, NM 88081

Zoning Map

3



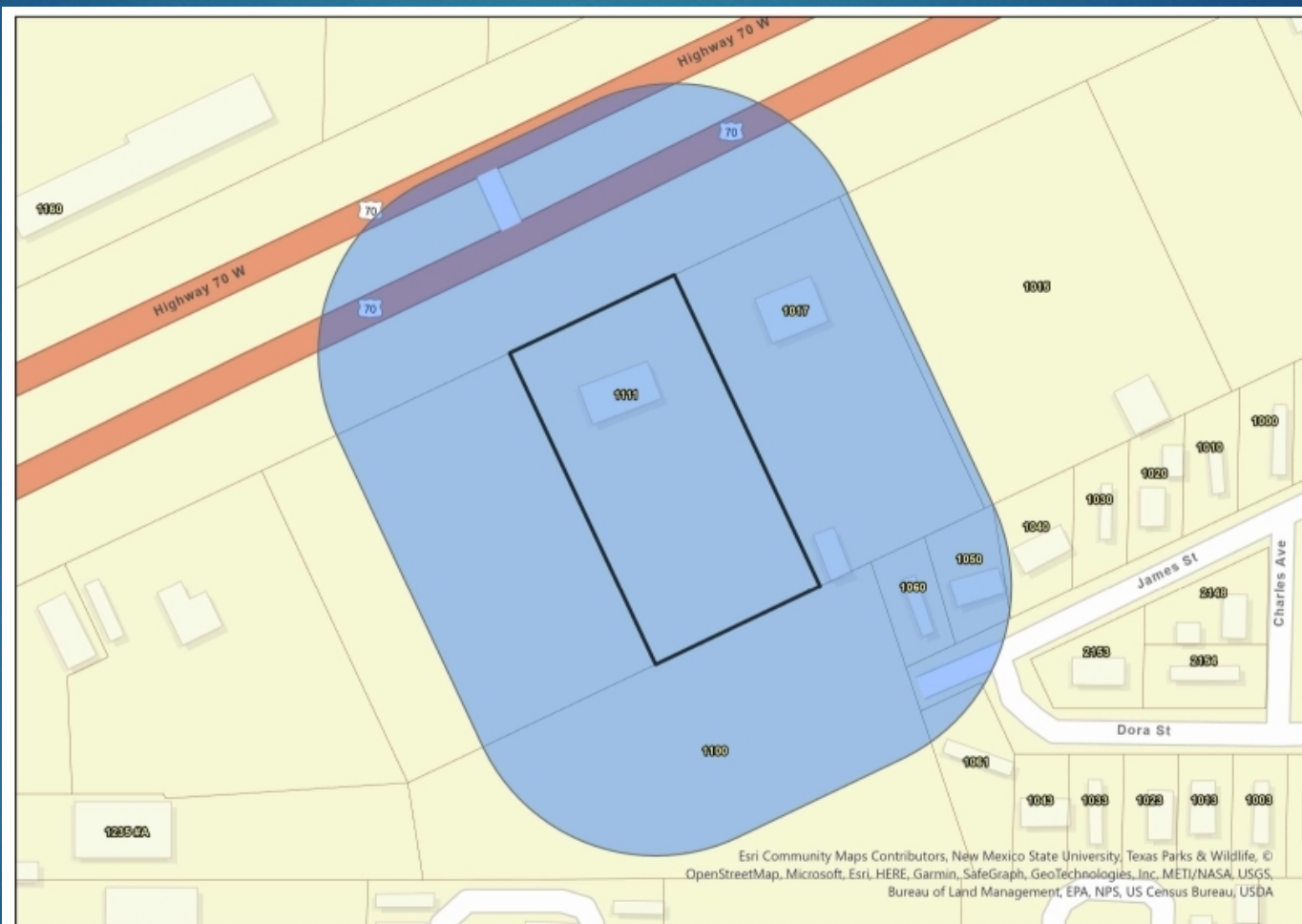
AERIAL

4



Protest Area Map

5



1111 US Hwy 70
Protest Area Map

Findings of Fact

- ◆ 1. The application was filed and all fees were paid.
- ◆ 2. Legal ad was placed in the Alamogordo Daily News
- ◆ 3. Seven (7) letters were mailed by certified/returned receipt mail to all property owners of record within two hundred (200) feet from the property excluding public right-of-way, of the property.
- ◆ 4. As of September 28, 2023, there have been 0 letters returned undeliverable, and I have not received any letters or phone calls of opposition.

Z-2023-0006(A)

7

- ◆ 7. Staff recommends approval.

ORDINANCE No. 1683

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF ALAMOGORDO, CHANGING THE CLASSIFICATION OF A CERTAIN PROPERTY WITH THE LEGAL DESCRIPTION OF S: 2 T: 17 R: 9 TRACT LYING S H/W 70 FROM ITS PRESENT DESIGNATION AND ZONING DISTRICT: C-3 BUSINESS DISTRICT TO M-1 LIGHT INDUSTRIAL ZONING DISTRICT WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF ALAMOGORDO, OTERO COUNTY, NEW MEXICO.

WHEREAS, Alberto Cerna (hereinafter referred to as "the Owner") is the owner of certain real property legally described below (herein after referred to as "the Property") located within the corporate boundaries of the City of Alamogordo, New Mexico, (hereinafter referred to as "the City"); and

S: 2 T: 17 R: 9 TRACT LYING S H/W 70

WHEREAS, an application has been filed in the Owner's name under Case No.

Z-2023-0006(A) to change the zoning of the Property, and

WHEREAS, the City Commission, after notice and hearing, finds and determines that the application for the re-zoning of the Property is in the public interest and is consistent with the proper development of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION, THAT the zoning of the Property, which is more fully described below:

S: 2 T: 17 R: 9 TRACT LYING S H/W 70

Is hereby changed from C-3 Business District to M-1 Light Industrial Zoning District; and the official zoning map and comprehensive plan of the City are hereby amended to reflect this change.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2023.

**CITY OF ALAMOGORDO, NEW MEXICO a
New Mexico municipal corporation**

By: _____
Susan L. Payne Mayor

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Ashley Smith, City Attorney

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/01/2023

Report Date: 10/27/2023

Report No: 5.

Submitted By: Deborah Osborne

Subject: Consider, and act upon, acceptance of approval of Resolution No. 2023-52 to enter into grant agreement LP20044, from the New Mexico Department of Transportation, in the amount of \$600,000.00, for repair of the 10th Street Concrete Box Culvert. Grant funds total \$570,000, the City match is \$30,000 and any amount exceeding \$600,000. *(Nancy Beshaler, Public Works Director and Debbie Osborne, Grant Coordinator)* **(Roll Call Vote Required)**

Fiscal Impact: \$30,000

Amount Budgeted: \$0.00

Fund: 109

Additional Fiscal Impact: This grant requires a \$30,000 match. There are sufficient funds in fund 109.

Recommendation: Approval Resolution No. 2023-52 to accept NMDOT grant agreement LP20044 for the repair of 10th Street concrete box culvert. **(Roll Call Vote Required)**

Background:

In response to a 2024 Transportation Project Fund Call-for-Projects, issued by the New Mexico Department of Transportation, the City submitted a grant application to request funding to repair the 10th Street concrete box culvert. Subsequently, an award was made by NMDOT in the amount of \$600,000; \$570,000 grant funds and \$30,000 match funds. The City Commission approved Resolution No. 2023-11 on March 14, 2023, in support of the application and commitment of the match funds. Resolution No. 2023-52 confirms that the City agrees to enter into the grant agreement with NM DOT's share being 95% or \$570,000.00 and the City's matching share being 5% or \$30,000.00. The City shall pay all costs exceeding the total of \$600,000.00



September 8, 2023

Susan Payne, Mayor
City of Alamogordo
1376 East Ninth Street
Alamogordo, New Mexico 88310

Dear Susan Payne:

We are pleased to inform you that your application for the Transportation Project Fund (TPF) for the project: **10th Street Concrete Box Culvert Repair This project will included replacing wingwalls, repair of the sidewalks, asphalt paving, patch repairs on the CBC, and repair of the retaining wall at the northeast corner of the CBC located on 10th Street at Washington Avenue.** was approved by the State Transportation Commission on August 24, 2023 and will be included in the New Mexico Department of Transportation's FY24 TPF Program.

The total estimated cost for your project is \$600,000.00 the Department has allocated \$570,000.00 in TPF funds, with a local match requirement of \$30,000.00.

The Project Oversight Division will develop a project agreement and forward to you for signature.

If your application indicated that you would be interested in applying for Match Waiver funds, please submit a cover letter and resolution to my office no later than 5:00 pm on September 30, 2023.

If you have any questions or comments, please contact me at (505) 699-9946 or Clarissa.Martinez@dot.nm.gov.

Sincerely,

Clarissa Martinez
Project Oversight Division, State Grants Manager

C: Libby Coslin, District Coordinator
Francisco Sanchez, P.E., District Engineer

**Michelle Lujan
Grisham**
Governor

Ricky Serna
Cabinet Secretary

Commissioners

Jennifer Sandoval
Commissioner, Vice-Chairman
District 1

Gary Tonjes
Commissioner
District 2

Hilma E. Chynoweth
Commissioner
District 3

Walter G. Adams
Commissioner, Chairman
District 4

Thomas C. Taylor
Commissioner
District 5

Charles Lundstrom
Commissioner, Secretary
District 6

Contract No. _____
Vendor No. 0000054303
Control No. HW2LP20044

TRANSPORTATION PROJECT FUND GRANT AGREEMENT

This Agreement is between the **New Mexico Department of Transportation** (Department) and **City of Alamogordo** (Public Entity). This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-78 and 18.27.6 NMAC, the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide Transportation Project Funds (TPF) to the Public Entity for the following project scope **10th Street Concrete Box Culvert Repair-This project will included replacing wingwalls, repair of the sidewalks, asphalt paving, patch repairs on the CBC, and repair of the retaining wall at the northeast corner of the CBC located on 10th Street at Washington Avenue.** (Project or CN LP20044). This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

- a. The estimated total cost for the Project is Six Hundred Thousand Dollars and No Cents **(\$600,000.00)** to be funded in proportional share by the parties as follows:
 1. Department's share shall be 95% **\$570,000.00**
10th Street Concrete Box Culvert Repair-This project will included replacing wingwalls, repair of the sidewalks, asphalt paving, patch repairs on the CBC, and repair of the retaining wall at the northeast corner of the CBC located on 10th Street at Washington Avenue.
 2. The Public Entity's required proportional matching Share shall be 5% **\$30,000.00**
For purpose stated above
 3. Total Project Cost **\$600,000.00**
- b. The Public Entity is responsible for all costs that exceed Project funding.
- c. All allocated funds must be spent by **June 30, 2026**.
- d. The Public Entity represents that no federal funds will be used to finance the Project.
- e. The Public Entity must repay Project funding to the Department if:
 1. The Project is cancelled or partially performed.
 2. A final audit conducted by the Department at Project completion determines the following: an overpayment, unexpended monies or ineligible expenses.

3. The Department:

- a. Shall distribute the funds, identified in Section 2a1, in a lump sum to the Public Entity after:
 1. The Department has received this Agreement fully executed with a Resolution of Sponsorship attached as Exhibit B.
 2. Receipt of a letter requesting funds, which includes the following Project documents: Notice of Award/Work Order and Notice to Proceed for the Project.
 3. If a Department's or another entity's right-of-way is involved, a permit or letter of approval/authorization, from the entity with jurisdiction over the Project right-of-way.
- b. Will not:
 1. Perform any detailed technical reviews of Project scope, cost, budget, schedule, design or other related documents;
 2. Have any involvement in the construction phase;
 3. Be involved in permit preparation or the review or coordination with regulatory agencies.
 4. Conduct periodic assurance inspections or comparison material testing.
 5. Participate in resolving bidding and contract disputes between the Public Entity and contractors.
- c. May perform Project monitoring that might consist of the following:
 1. Review of Project status to ensure that project goals, objectives, performance requirements, timelines, milestone completion budgets and other guidelines are being met.
 2. Request written Project status reports.
 3. Conduct a review of the Local Entity's performance and administration of the Project funds identified in Section 2a.
- d. Reserves the right, upon receipt of the Public Entity's Certification of Completion, Exhibit A, to request additional documents that demonstrate Project completion.
- e. If required, the District Engineer or designee, will conduct a Project review to determine if permit is required from the Department. If there is a determination that a permit is not required, a letter of approval and authorization will be forwarded to the Public Entity.

4. The Public Entity Shall:

- a. Act in the capacity of lead agency for the purpose as described in Section 1.
- b. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances.
- c. Be responsible for all design activities necessary to advance the Project to construction and coordinate construction.
- d. Unless otherwise specified in a letter of authorization or permit, design and construct the Project in accordance with the Public Entity's established design standards.
- e. Have sole responsibility and control of all project phases and resulting quality of the completed work.
- f. If the Project is in full or on a portion of a state highway, on a Department right of way or a National Highway System route:
 1. Obtain from the Department a permit in accordance with 18.31.6.14 NMAC, State Highway Access Management Requirements or a letter of authorization; and

2. Design and construct the Project in accordance with standards established by the Department.
- g. Adopt a written resolution of Project support that includes a commitment to funding, ownership, liability and maintenance. The resolution is attached to this Agreement as Exhibit B.
- h. Consider placing pedestrian, bicycle and equestrian facilities in the Project design in accordance with NMSA 1978, Section 67-3-62.
- i. Comply with any and all state, local and federal regulations including the Americans with Disabilities Act (ADA) and laws regarding noise ordinances, air quality, surface water quality, ground water quality, threatened and endangered species, hazardous materials, historic and cultural properties, and cultural resources.
- j. Be responsible for all permit preparation, review and coordination with regulatory agencies.
- k. Cause all designs, plans, specifications and estimates to be performed under the direct supervision of a Registered New Mexico Professional Engineer, in accordance with NMSA 1978 Section 61-23-26.
- l. Allow the Department to perform a final inspection of the Project and all related documentation to determine if the Project was constructed in accordance with the provisions of this Agreement. At the Department's request, provide additional documentation to demonstrate completion of the required terms and conditions.
- m. Meet with the Department, as needed, or provide Project status reports within thirty (30) days of request.
- n. Within 60 days after Project completion, provide the Certification of Completion, which is attached as Exhibit A, that it has complied with the requirements of 18.27.6 NMAC and this Agreement.
- o. Upon completion, maintain all the Public Entity's facilities constructed or reconstructed under this Agreement.

5. Both Parties Agree:

- a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
- b. Unless otherwise indicated in a letter of authorization, the Project will not be incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
- c. Pursuant to NMSA 1978, Section 67-3-78, Transportation Project Funds granted under this provision cannot be used by the Public Entity to meet a required match under any other program.
- d. The requirements of 18.27.6 NMAC are incorporated by reference.
- e. The inability to properly complete and administer the Project may result in the Public Entity being denied future grant funding.

6. Term.

This Agreement becomes effective upon signature of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on the earliest of the following dates: (a) Department receipt of the Certification of

Completion or (b) **June 30, 2026**. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60) days prior to the expiration date to ensure timely processing of an Amendment. Neither party shall have any obligation after said date except as stated in Sections 2e, 4l, 4n and 7.

7. Termination.

If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement by providing thirty (30) days written notice. This Agreement may also be terminated pursuant to Section 15. Neither party has any obligation after termination, except as stated in Sections 2e, 4l, 4n and 7.

8. Third Party Beneficiary.

It is not intended by any of the provisions of any part of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

9. New Mexico Tort Claims Act.

As between the Department and Public Entity, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, *et seq.*

10. Contractors Insurance Requirements.

The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least \$1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance must be provided to the Department and it must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

11. Scope of Agreement.

This Agreement incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter. All such covenants, agreements, and understandings have been merged into this written Agreement. No prior Agreement or understandings, verbal or otherwise, of the parties or their agents will be valid or enforceable unless embodied in this Agreement.

12. Terms of this Agreement.

The terms of this Agreement are lawful; performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.

The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including, but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.

The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

15. Appropriations and Authorizations.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity and the Legislature this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five (5) years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) days.

17. Severability.

In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

18. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

19. Amendment.

This Agreement may be amended by an instrument in writing executed by the parties.

The remainder of this page is intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____
Cabinet Secretary or Designee

Date: _____

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: _____
Assistant General Counsel

Date: _____

City of Alamogordo

By: _____

Date: _____

Title: Susan L. Payne, Mayor

Attest: _____

Title: Rachel Hughs, City Clerk

EXHIBIT A

CERTIFICATION OF PROJECT COMPLETION

Public Entity:

Control No. LP20044

I, _____, in my capacity as _____ of _____
_____ certify in regard to Control No. **LP20044**:

1. That the Public Entity has complied with the terms and conditions of the requirements under this Agreement and 18.27.6 NMAC.
2. That all work in was performed in accordance with the Agreement.
3. That the total Project cost of _____, with New Mexico Department of Transportation 95% share of _____ and the Public Entity share of _____ is accurate, legitimate, and appropriate for the Project.
4. That the Project was completed on _____ of _____, 20_____

In Witness Whereof, _____ in his/her
capacity as _____ of _____
certify that the matters stated above are true to his/her knowledge and belief.

City of Alamogordo

By: _____ Date: _____

Title: _____ Date: _____

ATTEST:

By: _____ Date: _____

Public Entity Clerk

When completed, send Certification of Project Completion to the District Coordinator, New Mexico Department of Transportation.

RESOLUTION NO. 2023-52

EXHIBIT B

RESOLUTION

City of Alamogordo

**PARTICIPATION IN TRANSPORTATION PROJECT FUND PROGRAM ADMINISTERED BY
NEW MEXICO DEPARTMENT OF TRANSPORTATION**

WHEREAS, the **City of Alamogordo** and the New Mexico Department of Transportation have entered into a grant agreement under the Transportation Fund Program for a local road project.

WHEREAS, the total cost of the project will be \$600,000 to be funded in proportional share by the parties hereto as follows:

- a. New Mexico Department of Transportation's share shall be 95% or \$570,000.00
- and
- b. **City of Alamogordo**'s proportional matching share shall be 5% or \$30,000.00

TOTAL PROJECT COST IS \$600,000.00

The **City of Alamogordo** shall pay all costs, which exceed the total amount of \$600,000.00. Now therefore, be it resolved in official session that **City of Alamogordo** determines, resolves, and orders as follows:

That the project for this Cooperative agreement is adopted and has a priority standing.

The agreement terminates on June 30, 2026 and the **City of Alamogordo** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

Now therefore, be it resolved by the **City of Alamogordo** to enter into Cooperative Agreement for Project Control Number **LP20044** with the New Mexico Department of Transportation for the TPF Program for year 2024 for 10th Street Concrete Box Culvert Repair-This project will included replacing wingwalls, repair of the sidewalks, asphalt paving, patch repairs on the CBC, and repair of the retaining wall at the northeast corner of the CBC located on 10th Street at Washington Avenue.- within the control of the **City of Alamogordo** in New Mexico.

PASSED, APPROVED AND ADOPTED by the Governing Body of the City of Alamogordo, New Mexico, at a Regular Meeting held this 1st day of November 2023.

CITY OF ALAMOGORDO, NEW MEXICO
A New Mexico municipal corporation

By: _____
Susan L Payne, Mayor

ATTEST:

APPROVED AS TO FORM:

Rachel Hughs, City Clerk

Ashley Smith, City Attorney

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/1/2023

Report Date: 10/23/2023

Report No: 6.

Submitted By: Sean McGranaghan

Subject: Consider, and act upon, Case SP-2023-0007(A), property owner Bobbie Jo Stone is requesting to be granted a special permit to allow their niece to reside in an RV on their property at 1000 Post Ave. (*Sean McGranaghan, Assistant City Planner*)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact: N/A

Recommendation: Deny Special Permit Request

Background: Consider, and act upon, Case SP-2023-0007(A), property owner Bobbie Jo Stone is requesting to be granted a special permit to allow their niece to reside in an RV on their property at 1000 Post Ave. (*Sean McGranaghan, Assistant City Planner*)



City of Alamogordo

City Commission



SP-2023-0007(A)

Sean McGranaghan, Assistant City Planner
November 01, 2023

Special Permit Case: SP-2023-0007(A)

2

Request:

The property owner is requesting a special permit to allow for his niece to live in an RV on his property at 1000 Post Ave.

Applicant:

Bobbie Jo Stone

1000 Post Ave

Alamogordo, NM 88310

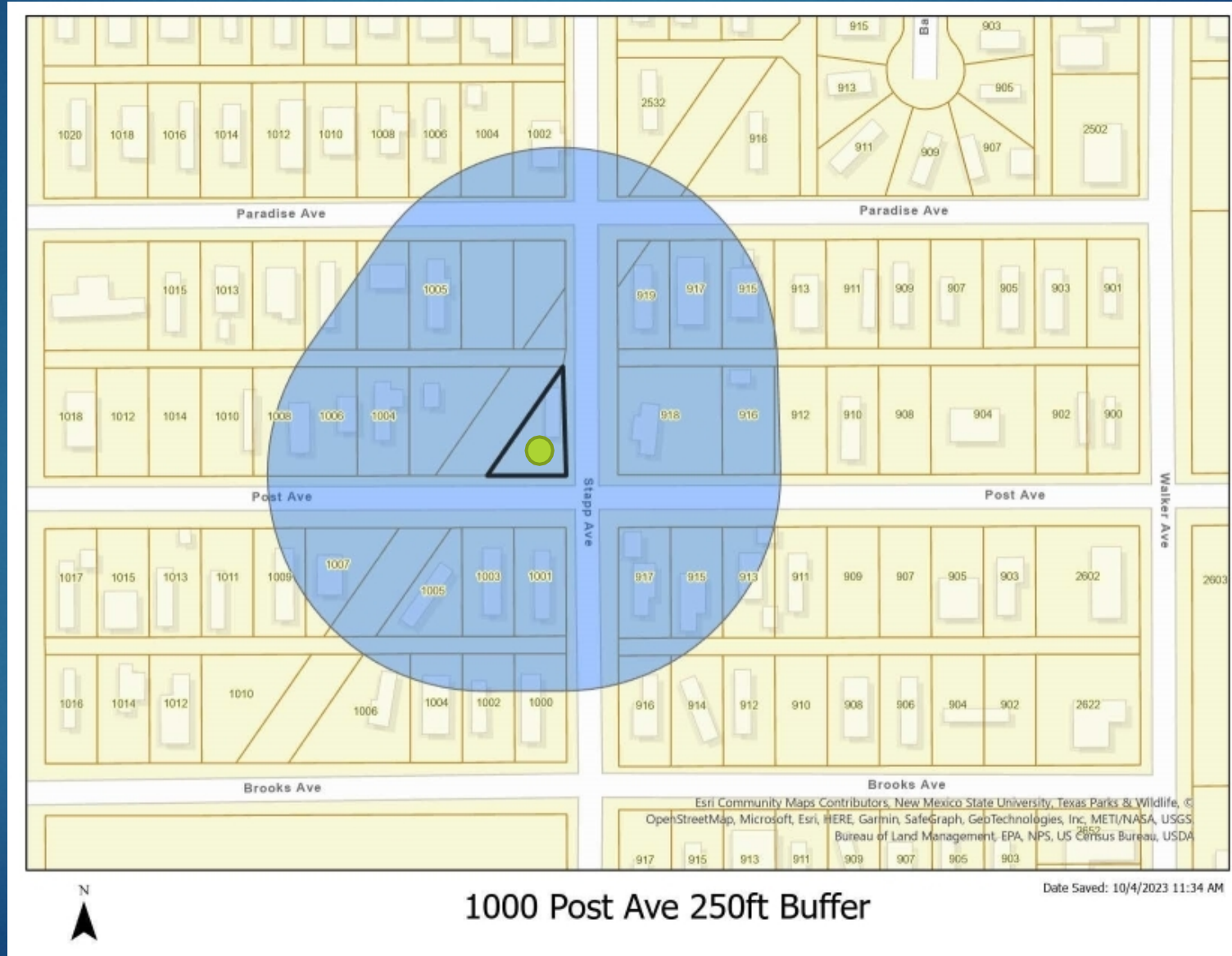
AERIAL

3



Protest Area

4



Findings of Fact

- ◆ 1. The application was filed and all fees were paid.
- ◆ 2. Legal ad was placed in the Alamogordo Daily News
- ◆ 3. Thirty-Three (33) letters were mailed to all property owners of record within two hundred (200) feet from the property excluding public right-of-way.
- ◆ 4. As of October 23, 2023, there have been 0 letters returned undeliverable, and I have not received any letters or phone calls of opposition.

Z-2022-0006(A)

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- ◆ 7. Staff recommends denial.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/1/2023

Report Date: 10/24/2023

Report No: 7.

Submitted By: Josh Sides

Subject: Consider and act upon Ordinance 1684 for first publication, amending Chapter 14, Article 1, Section 140 Generally- Outdoor automotive storage and Section 150 Outdoor Storage (*Josh Sides, Code Enforcement Manager*) **(Roll Call Vote Required)**

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve for first publication.

Background: Updating the language of the ordinances to remove "Department of Public Safety," adding "City Manager or his designee" in Sections 140 and 150 to coincide with other sections of Chapter 14 Article 01, and adding unlicensed motor vehicles to the definitions, removing permit options, and language of the ordinances to align with the International Property Maintenance Code.

ORDINANCE NO. 1684**AN ORDINANCE AMENDING CHAPTER 14
OF THE ALAMOGORDO CODE OF ORDINANCES
CONCERNING GARBAGE, TRASH AND REFUSE**

WHEREAS, the City Commission of the City of Alamogordo, New Mexico, acknowledges the need to update language in ordinances for current language to align with current standards and operating procedures for the citizens of Alamogordo.

WHEREAS, the City Commission of the City of Alamogordo, New Mexico, acknowledges that the process of updating language in ordinances must come before the City Commission.

WHEREAS, the City Commission of the City of Alamogordo, New Mexico, considers it necessary to amend sections of Chapter 14 of the Code of Ordinances; and

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Alamogordo, New Mexico, to amend sections 14-01-140 and 14-01-150 of Chapter 14 of the Code of Ordinances to read as follows:

Chapter 14 GARBAGE, TRASH AND REFUSE**ARTICLE 14-01. – IN GENERAL****14-01-140. - Generally—Outdoor automotive storage.**

(a)Definitions. As used in this section:

Dismantled or partially dismantled vehicle means any motor vehicle from which some part or parts which are ordinarily a component thereof have been removed or are missing.

Inoperable motor vehicle means any motor vehicle which by reason of dismantling, disrepair or other cause is incapable of being propelled by its own power and/or any motor vehicle which does not have lawfully affixed thereto an unexpired license plate or plates.

Unlicensed motor vehicle means any motor vehicle that does not have a current valid registration.

Motor vehicle means any wheeled vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to automobiles, buses, motorbikes, motorcycles, motorscooters, trucks, tractors, go-carts, golf carts, recreational vehicles and trailers.

(b)Declared nuisance. The presence of a dismantled, partially dismantled, ~~or~~ inoperable, **or unlicensed** vehicle or motor vehicle or parts thereof on any street, occupied or unoccupied land within the city limits in violation of the terms of this section is a public nuisance.

(c) Prohibited acts. It is unlawful for any person, firm or corporation to store on, or permit to be stored or placed on, or allow to remain on any public or private property or street or highway within the city limits a dismantled, partially dismantled, ~~or inoperable,~~ **or unlicensed** motor vehicle or any parts of a motor vehicle unless such vehicle is in an enclosed building or on property which is enclosed with a fence or wall and such vehicle is not visible from adjoining or surrounding property or from the street or streets or public ways. This section shall not apply to a vehicle or vehicles on the premises of a duly licensed business in zones where such activity is within the contemplated purposes of such duly licensed business under the provisions of the zoning ordinance of the city.

~~(d) Exceptions. An owner or tenant may store, permit to be stored or allow to remain upon his premises any dismantled, partially dismantled, or inoperable motor vehicle or parts thereof for a period not to exceed sixty (60) days upon receipt of a permit from the city clerk if such motor vehicle is registered in his name.~~

~~(e) Permit. Upon application by the registered owner of a motor vehicle covered by this section, and upon the proof of hardship, the city clerk is hereby authorized to issue the permit provided by this section and shall require the payment of sixty dollars (\$60.00) for each permit issued.~~

~~(f) (d) Removal of vehicles. Upon the later of the expiration of a permit referenced in sub-section (d) or notification of the violation the department of public safety~~ **The City manager or his designee** may, after giving written notice ~~giving and a reasonable amount of time to correct the~~ **violation(s) not to exceed thirty (30) days,** to both the person responsible for the property and the vehicle's last known owner, order the vehicle towed ~~from the premises~~ **or vehicle parts removed from the premises.**

The notice of towing shall inform an interested party that they may request a hearing before the city manager or his designee to show cause why the vehicle is not in violation of the ordinance. Requests for hearing must be filed in writing with the city manager within ten (10) calendar days of the notice of towing. If a hearing is requested, the requesting party shall be given written notice by first class mail of the hearing at least ten (10) calendar days before the hearing.

14-01-150. - Outdoor storage.

(a) Definitions. As used in this section:

(1) Junk means any manufactured good, appliance, fixture, furniture, machinery, vehicle, personal property or any other thing or part thereof, whether of value or valueless, that is demolished, discarded, dismantled, or in such a condition as to be generally unusable and/or inoperable in its existing state. This shall include by way of illustration only and without limitation wood, used lumber, paper, glass, bottles, rags, rubber, scrap metal, tin cans, scrap material, waste, concrete, rubble, boxes, crates, building materials, or machinery parts.

(2) Fence or wall means of solid construction of boards, brick or other similar materials, not less than eight (8) feet in height above the level of the ground and maintained in a sightly, safe, and secure condition.

(3) Junk or automobile salvage yard shall mean any premises, area or piece or parcel of land which is exposed to the weather and which displays junk as defined in section 14-01-150(a)1.

(b) Declared nuisance. The presence of junk on any street, occupied or unoccupied land within the city limits in violation of the terms of this section is a public nuisance.

(c) Prohibited acts. It is unlawful for any person, firm, or corporation to store, or permit to be stored or placed, or allow to remain on any public or private property or street or highway within the city limits any junk unless such junk is in an enclosed fence or wall and such junk is

not visible from adjoining or surrounding property or from the street or streets or public ways. It shall be unlawful for any person to allow any vehicle regardless of condition to be left unattended on jacks or blocks for any length of time. Such activity shall be considered a public nuisance and a danger to the public welfare.

(d) ~~The department of public safety~~ **city manager or his designee** may, after giving notice to both the person responsible for the property and any identified owner of junk, order the junk removed from the premises.

The notice of removal shall inform an interested party that they may request a hearing before the city manager or his designee to show cause why the junk is not in violation of the ordinance. Requests for hearing must be filed in writing with the city manager within ten (10) calendar days of the notice of removal. If a hearing is requested, the requesting party shall be given written notice by first class mail of the hearing at least ten (10) calendar days before the hearing.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2023.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Susan L. Payne, Mayor

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Ashley Smith, City Attorney

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/1/2023

Report Date: 10/24/2023

Report No: 8.

Submitted By: Ashley Smith

Subject: Consider, and act upon, Ordinance 1685, for first publication amending Chapter 24, Article 01, Section 010, Schedule of Penalty Assessments. *(Ashley Smith, City Attorney)* **(Roll Call Vote Required)**

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Staff recommends approving this amendment to Ordinance 24-01-010

Background:

ORDINANCE NO. 1685

AN ORDINANCE AMENDING CHAPTER 24, ARTICLE 01-010 OF THE ALAMOGORDO CODE OF ORDINANCES CONCERNING SCHEDULE OF PENALTY ASSESSMENTS

WHEREAS, the City Commission of the City of Alamogordo, New Mexico deems it necessary to amend Article 01-010 concerning schedule of penalty assessments.

WHEREAS, the City Commission of the City of Alamogordo, New Mexico recognizes that the ordinances regarding concerning schedule of penalty assessments have not been updated in many years.

BE IT THEREFORE ORDAINED by the City Commission of the City of Alamogordo, New Mexico that Chapter 24, Article 01-010 of the Code of Ordinances is repealed in part and amended in part.

24-01-010. - Schedule of penalty assessments.

As used in the New Mexico Uniform Traffic Ordinance adopted by the city, "penalty assessment misdemeanor" means violation of the following listed sections of the New Mexico Uniform Traffic Ordinance, for which the listed penalty assessment is established:

Speeding 24-12-6-1.2

- (1) Up to and including ten miles an hour over speed limit~~\$25.00~~ **\$90.00**
- (2) From eleven up to and including fifteen miles an hour over speed limit~~40.00~~ **\$115.00**
- (3) From sixteen up to and including twenty miles an hour over speed limit~~70.00~~ **\$140.00**
- (4) From twenty-one up to and including twenty-five miles an hour over the speed limit
.....~~110.00~~ **\$190.00**
- (5) From twenty-six up to and including thirty miles an hour over the speed limit~~210.00~~
\$280.00
- (6) From thirty-one and up to and including thirty-five miles an hour over the speed limit
.....~~310.00~~ **\$340.00**
- (7) More than thirty-five miles an hour over the speed limit~~410.00~~ **\$415.00**

Speeding in construction zones 24-12-6-1.2 A. (4):

- (1) Up to and including ten miles an hour over speed limit~~46.00~~ **\$115.00**
- (2) From eleven up to and including fifteen miles an hour over speed limit~~76.00~~ **\$175.00**

(3) From sixteen up to and including twenty miles an hour over speed limit~~136.00~~ **\$240.00**

(4) From twenty-one up to and including twenty-five miles an hour over the speed limit
.....~~216.00~~ **\$300.00**

(5) From twenty-six up to and including thirty miles an hour over the speed limit~~416.00~~
\$421.00

(6) More than thirty-one miles over the speed limit500.00

School zones 24-12-6-2.7

(1) Up to and including ten miles an hour over speed limit~~50.00~~ **\$115.00**

(2) From eleven up to and including nineteen miles an hour over speed limit~~65.00~~ **\$175.00**

(3) From 20 up to and including 30 miles an hour over the speed limit~~90.00~~ **\$420.00**

Flashing signals 24-12-5-8~~35.00~~ **\$100.00**

Passing vehicles proceeding in opposite direction 24-12-6-2.2~~35.00~~ **\$100.00**

Limits on overtaking on the left 24-12-6-2.4~~35.00~~ **\$100.00**

Further limits on driving left of center 24-12-6-2.5~~35.00~~ **\$100.00**

When overtaking on right permitted 24-12-6-2.6~~35.00~~ **\$100.00**

No passing zones (incl. school zones) 24-12-6-2.7~~35.00~~ **\$126.00**

Driving on divided streets 24-12-6-2.14~~35.00~~ **\$100.00**

Vehicle entering stop/yield intersection 24-12-6-4.3~~35.00~~ **\$126.00**

Required position, method of turning 24-12-6-5.1~~35.00~~ **\$115.00**

Obedience to no U-turn signs 24-12-6-5.4~~35.00~~ **\$100.00**

Limitations on turning around 24-12-6-5.5~~35.00~~ **\$100.00**

Starting parked vehicle 24-12-6-5.7~~35.00~~ **\$100.00**

Stopping/standing parking 24-12-6-6.1~~15.00~~ **\$80.00**

Parking regulations 24-12-6-6.2~~15.00~~ **\$80.00**

Parking not to obstruct traffic 24-12-6-6.3	15.00	\$80.00
Standing/parking on one-way streets 24-12-6-6.9	15.00	\$80.00
Standing/parking on divided streets 24-12-6-6.10	15.00	\$80.00
Stopping/standing/parking 24-12-6-6.11	15.00	\$80.00
Angle parking 24-12-6-6.13	15.00	\$80.00
Stopping for school buses 24-12-6-7.3	110.00	\$340.00
Stop when traffic obstructed 24-12-6-7.2	35.00	\$100.00
Eye protection or windshields 24-12-7-5	25.00	\$90.00
School crossings 24-12-6-10	35.00	\$100.00
Driving through safety zone 24-12-6-12.15	35.00	\$100.00
Driving on sidewalk 24-12-6-12.17	35.00	\$100.00
Unhitched trailer 24-12-6-13.3	10.00	\$75.00
Child restraints 24-12-6-13.12	35.00	\$140.00
Seat belts 24-12-6-13.13	35.00	\$150.00
Pedestrians right of way 24-12-6-14.2	35.00	\$100.00
Crossing at other than crosswalks 24-12-6-14.4	35.00	\$100.00
Operating Motorcycles on Streets Laned for Traffic 24-12-7-2	35.00	\$40.00
Carrying articles 24-12-8-6	35.00	\$100.00
Dimming of lights 24-12-10-1.6	35.00	\$100.00
Stop lamps 24-12-10-1.9	20.00	\$85.00
Display current valid registration plate 24-12-10-4	25.00	\$90.00
Evidence of registration 24-12-10-5	25.00	\$90.00
Driving on streets laned for traffic 24-12-6-2.12	35.00	\$100.00

Obedience to traffic control devices 24-12-5-3~~35.00~~ \$140.00

Open container of alcoholic beverage 24-12-6-13.14~~85.00~~ \$150.00

Operator to be licensed 24-12-6-12.5~~55.00~~ \$180.00

Careless driving 24-12-6-12.4~~105.00~~ \$200.00

Following too closely 24-12-6-2.13~~35.00~~ \$140.00

Basic rule 24-12-6-1.1~~35.00~~ \$115.00

Tail lamps required 24-12-10-1.7~~20.00~~ \$85.00

Permitting unauthorized person to drive 24-12-6-12.23~~35.00~~ \$180.00

Parking in alleys 24-12-6-6.4~~10.00~~ \$80.00

Parking for certain purposes 24-12-6-6.5~~10.00~~ \$80.00

Parking adjacent to schools 24-12-6-6.7~~10.00~~ \$80.00

Prohibited activities while driving 24-12-6-12.18~~35.00~~ \$100.00

Stopping/standing/parking 24-12-6-6.1 and 24-12-6-6.11~~10.00~~ \$80.00

Unattended motor vehicle 24-12-6-12.8~~35.00~~ \$100.00

Unlawful riding 24-12-6-13.2~~35.00~~ \$100.00

Vehicle approach/entering intersection 24-12-6-4.1~~35.00~~ \$115.00

Vehicle to be in safe condition 24-12-10-1.12~~35.00~~ \$140.00

When lighted lamps are required 24-12-10-1.3~~35.00~~ \$100.00

Windshield to be unobstructed 24-12-10-1.2~~35.00~~ \$100.00

Drive on right side of street 24-12-6-2.1~~35.00~~ \$100.00

Emerging from alleyways/driveways 24-12-6-7.1~~35.00~~ \$140.00

Headlamps on motor vehicle 24-12-10-1.5~~20.00~~ \$85.00

Obedience to signs designate one-way streets 24-12-6-2.9~~35.00~~ \$100.00

Mufflers/prevention of noise 24-12-10-1.10~~40.00~~ **\$150.00**

Processions 24-12-6-12.20~~35.00~~ **\$100.00**

Limits on backing 24-12-6-12.9~~35.00~~ **\$115.00**

Vehicle turning left at intersection 24-12-6-4.2~~35.00~~ **\$140.00**

Turning and stopping movements and required signals 24-12-6-5.8~~35.00~~ **\$115.00**

Texting while driving 24-12-6-18—first violation~~25.00~~ **\$30.00**

Second or subsequent violation~~50.00~~ **\$55.00**

The penalty assessments shall be deposited in the city treasury.

PASSED, APPROVED AND ADOPTED this _____ day of
_____, 2023.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Susan L. Payne, Mayor

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Ashley Smith, City Attorney

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/1/2023

Report Date: 10/26/2023

Report No: 9.

Submitted By: Beau Dylan Aleshire

Subject: Appointments to Boards and Committees. (*Susan Payne, Mayor*)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: One application was received. Staff recommends one appointment to the Mayor's Committee on Aging.

Background:

Mayor's Committee on Aging

- One upcoming vacancy due to the expiring term of Karen LeComte. An application by Ms. LeComte was received. If reappointed, this would be her 2nd term. She currently serves as the Chairperson of this committee.

Airport Zoning Board

- Two current vacancies.

If interested in serving on a Board or Committee, you may apply in person at the City Clerk's office, or online via the City website.

URL Link: <https://ci.alamogordo.nm.us/353/Boards-Committees>

Print**Application to Serve on a Board/Committee - Submission #6718****Date Submitted: 10/26/2023****City of Alamogordo Application to Serve on a City Board/Committee****First Name:***

Karen

Last Name:*

LeComte

Phone Number:*

5024159113

Email Address:*

klecomte@gcrmc.org

Physical Address:*

27 Villa Virginia

City:*

La Luz

State:*

New Mexico

Zip Code:*

88310

Is the above address within City Limits?*☐ Yes☒ No**Mailing Address:***

27 Villa Virginia

City:*

La Luz

State:*

New Mexico

Zip Code:*

88337

Present Employer:*

GCRM

Job Title:

Physician

**Board/Committee you would like to serve on
(1st choice):***

Mayor's Committee on Aging ▼

**Are you related to anyone who is
presently employed by the City of
Alamogordo?***

- ☐ Yes
- ☒ No

**Board/Committee you would like to serve on
(2nd choice):**

-- Select One -- ▼

If so, what is their relation to you?**Are you related to an Elected Official of
the City of Alamogordo?***

- ☐ Yes
- ☒ No

Is so, what is their relation to you?**Experience and education relating to the Board/Committee:***

Physician Neurologist and expert in Aging and Dementia
Newly elected to Mayors cmt on Aging Board Chairpersonship 2023
This would be my second term on this committee if so appointed.

Please indicate your interest in serving on a City Board/Committee:*

I am committed to the health and wellbeing of the people of this community, especially those over 60 who represent over 60% of my patient practice and 17% of the population of Otero County. As our population ages there are increased needs of the elderly, many here who selflessly served our Nation and this community. Our Senior Centers in Otero county are instrumental in providing and resourcing support in the community.

I bring the perspective as a physician who manages both physical and mental problems of aging, and as a family member who provides care to my parents for the same, and as a "senior" myself over 65 years of age.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/1/2023

Report Date: 10/25/2023

Report No: 10.

Submitted By: Stephanie Hernandez

Subject: Adjourn into Executive Closed Session in compliance with 10-15-1(h) 8, NMSA (as amended) to discuss Real Property - 523 Maryland Lot -Dudley School Lot. **(Roll Call Vote Required)**

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation:

Background: