

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., DONALD E. CARROLL COMMISSION CHAMBERS
November 1, 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 Deputy City Clerk. Deputy City Clerk Aleshire announced there was a quorum present. Mayor Pro-Tem Wright was absent. Commissioner McDonald arrived after the Invocation. Invocation was given by Chaplain Brian Bagwell, and the Pledge of Allegiance was led by Commissioner Rardin.

APPROVAL OF AGENDA

Commissioner Melton moved to approve the agenda.
Commissioner Burnett seconded the motion.
Motion carried with a vote of 6-0-0.

PRESENTATIONS

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

Mayor Payne proclaimed November 1, 2023, as "Extra Mile Day" in Alamogordo and urged each individual of the community on this day to not only "Go the Extra Mile" in his or her own life, but to also acknowledge all those who are inspirational in their efforts and commitment to make their organizations, families, community, country, or world a better place.

PUBLIC COMMENT

None.

CITY MANAGER'S REPORT

Acting City Manager Hernandez made the following remarks:

1. She will be out on Friday and likely out of cell phone service. If the Commission needs anything, Finance Director Huff will be the contact person.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner McDonald made the following comments:

There will be a cleanup this week at Dudley School at 8 in the morning. If you would like, come out on Friday and Saturday and help with the window paint and the fence along the property. Joe Lewandowski and Jonathan would welcome you to be there.

Commissioner Paul made the following comments:

He asked if someone would send an overview of the action items from yesterday's Joint Meeting with the County. Acting City Manager Hernandez said she could do that. She had them written down but had not gotten them together. City Clerk Hughs will get the actual minutes. I will put together the action items. City Attorney Smith and I will get the letter started on our side. We will get you all to approve it and all of them to approve it, and then everybody can sign the letter going out to Santa Fe.

Commissioner Melton made the following comments:

Yesterday, I had the pleasure of having a tour of some of our water facilities in town, including the Wastewater Plant. I knew a little going in, but there is a lot that people do not realize regarding the amount of work it takes to get clean drinking water and water for the parks. He wanted to thank City staff. He encouraged the Commission to visit if they had the opportunity.

CONSENT AGENDA

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)

Commissioner Paul moved to approve the Consent Agenda.

Commissioner McDonald seconded the motion.

Roll Call Vote was taken.

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

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)

Assistant City Planner McGranaghan gave his presentation. No letters or phone calls of opposition were received. There was a call received regarding concerns about the condition of the property. In the ordinance, the property owner needs to show there is a hardship with either the way the property is, the surrounding properties, or unusual personal circumstances. The niece is not the property owner, so we recommend denial of the special permit request.

Commissioner Rardin asked if we knew how long the RV would sit on the property. Assistant City Planner McGranaghan said if you approve this, it would be a year, and then they could renew it for another year. Commissioner Rardin said this is very similar to that other situation we had. Where on the lot would that actually sit? Assistant City Planner McGranaghan said it is just north of the mobile home. Commissioner Rardin asked if that was all one lot. Assistant City Planner McGranaghan said our property map shows two separate lots. Commissioner Rardin said so it would actually sit on the one that has the mobile home. Assistant City Planner McGranaghan said it is north of the mobile home and is actually split between the two.

Commissioner Burnett asked what was wrong with the property. What were the concerns? Assistant City Planner McGranaghan said the person who called said they were concerned about the trash and garbage on the property.

Mayor Payne asked Assistant City Planner McGranaghan why he was recommending denial. He replied that it is supposed to be a hardship of the property owner, but it is a hardship of their niece; she is the one living in the RV, so that is why we are recommending denial.

Commissioner Rardin asked if the RV was already there. Assistant City Planner McGranaghan said it was. Code Enforcement saw it and told them they would need to apply for a permit, so they came in.

Commissioner Melton asked if we had only granted one of these in the past. Assistant City Planner McGranaghan said yes.

Commissioner Burnett asked if Code Enforcement had been out there to issue any violations for trash. Assistant City Planner McGranaghan said they issued a violation. He said he talked to a Code Enforcement Officer last week, and they said they were cleaning it up. He said he was unsure of the status. Commissioner Burnett asked the property owner if they were in the process of cleaning it up. Property Owner Bobby Stone said they had already cleaned it up, and she had pictures. Commissioner Burnett asked Ms. Stone how she would address the sewer issue. Ms. Stone said they only had that hooked up to the sewer to empty the tanks. They are trying to get it renovated but are not living in it. They are renovating it for us so we can sell it. Commissioner Burnett said so you guys are renovating the RV. Ms. Stone said they are. Her niece and nephew are renovating the RV. They had to hook it up to empty the septic tanks. Commissioner Burnett asked if it was hard piped or just from the snorkel tube. Ms. Stone said it was the snorkel tube.

Commissioner Rardin said so they are not actually going to reside in the RV. Is it just parked there? Ms. Stone said yes, it is just parked there right now to do renovations. It does not even work right now. Commissioner Rardin asked if they would eventually be living in it. Ms. Stone said no, they are getting it renovated to sell it. Mayor Payne said so why are we here? Commissioner Rardin asked why they needed approval if they were parking it on their property and nobody lived there. Ms. Stone said it was because the snorkel was on the septic tank. They said we needed a special permit. Assistant City Planner McGranaghan said that the submitted application said the reason for the request was for the niece to live in the RV because there is nowhere else to go, and she has no job. Mayor Payne asked Ms. Stone if she was going to live in it or not. Ms. Stone said no; she had been bouncing back and forth from family to family. She will be in there to renovate it and then go somewhere else to sleep. Mayor Payne said so she is not going to live in it. Ms. Stone said no. Commissioner Burnett said so it is basically there for storage. Ms. Stone said yes. They go in there to renovate and leave. Commissioner Burnett asked if they were on septic. Ms. Stone said yes. They had to empty the septic tank. He asked if they hooked up to the City sewer at their home. Ms. Stone said her home, yes, she is on the City sewer. Commissioner Burnett said that you should not have septic in that particular area. So, you are saying you are dumping it to clean out? Ms. Stone said yes. Commissioner Burnett said

they are within City limits and should not be hooked up to septic. There are some areas with septic here, but this is not one of them.

Assistant City Planner McGranaghan said the application says in order to live in the RV. They do not need a special permit if they do not need that. Mayor Payne asked Assistant City Planner McGranaghan what gave him the idea they were living in the RV. Assistant City Planner McGranaghan said that is what their application said. Mayor Payne asked Ms. Stone what gave her the idea that she needed to put that in the application. Ms. Stone said the Code Enforcer came into our yard and saw it hooked up. My niece and nephew were in there working. Mayor Payne said, but you never told him anyone lived there. Ms. Stone said no. Commissioner Burnett said so you guys are not residing in it. Commissioner Rardin said they are just storing it on their property. Did you have to pay fees for all of this? Assistant City Planner McGranaghan said there was a \$250 fee. Mayor Payne said so the Code Enforcement Officer that went out was under the misguided impression that somebody was living in the RV, but that is not exactly true. Acting City Attorney Smith said it was probably because it was hooked up to the septic, which we do not allow. We had the impression that it was being used because it was hooked up to utilities. Mayor Payne said she has an issue with them paying the \$250 if that is not the case. Acting City Manager Hernandez said on the application itself, they wrote it out. Mayor Payne said she thought they did it based on whatever Code Enforcement told them, thinking they had to do that. That is the impression I am getting.

Commissioner Rardin said that if you have your camper hooked up at your property and hook up to the City sewer to dump your tanks, that is not legal. We are not allowed to dump into this system when we pay for it? Acting City Manager Hernandez said no. Not on an RV or temporary hookup. Commissioner Rardin said if I brought mine back from Truth or Consequences and dumped my tanks in my cleanouts that I pay City services for, we are not allowed to do that. Acting City Manager Hernandez said no. City Attorney Smith said, per the ordinance, no on that. Commissioner Rardin said he did not see the difference whether you flush it down the toilet or dump it out of a tube into the line. You are paying for the service. City Attorney Smith said she understood that but did not believe that we allowed any temporary hookups to septic at all. She said she asked that question to Utilities before, and it has something to do with it going through a certain pipe and things.

Mayor Payne said it sounds like they did what they thought they were supposed to do, but there was a misunderstanding. Assistant City Planner McGranaghan said that Code Enforcement said someone lived in it. Commissioner Melton asked why someone would say they would like to live here in their application. Assistant City Planner McGranaghan said under present use it says living in. Mayor Payne asked if the application said that her niece would live there. Assistant City Planner McGranaghan said yes. Mayor Payne asked Ms. Stone why she put that on the application. Ms. Stone said because the Code Enforcer said they had to have a special permit to be there. All they are doing is renovating the RV. Commissioner Melton said that is not what the application says. Ms. Stone said yes, she understood what he was saying. Her husband was there, and she was at work. Her husband told her she would have to have a special permit for the RV to be on the lot. Mayor Payne said we are in a quandary. Commissioner Rardin said we are; it looks like they are just storing it on their property.

Mayor Payne said we do not have to issue a special permit because you are telling us no one will live there. Ms. Stone said no ma'am. Mayor Payne said if Code Enforcement were to go back by two weeks and determine somebody is living there, then what? Ms. Stone said nobody was living there. Kelsie Perry, Ms. Stone's niece, said the whole thing started because there was an A/C unit inside of the window because it was extremely hot. We hooked up the septic tank just to drain it out, and my mother is the one who purchased the RV. My husband and I just fell on short times. We decided to come down and help my mother renovate it because she does not have the health to do it. We were allowed to come and stay between households until we could get on our own feet. We are fairly new,

but when people hook up an A/C unit and septic, you just kind of figure. The RV is not in a working condition. It does not run, and there is no electricity to it. Mayor Payne asked how they ran the A/C. Did you run a cord? Ms. Perry said yes. It is only temporary.

Acting City Manager Hernandez said that Code Enforcement Manager Sides was contacted by Code Enforcement Officer Otero, who was the officer that went out there. Code Enforcement Officer Otero was told that the niece was living there. You can ask Code Enforcement Manager Sides any further questions. Ms. Perry said there was no trash on the property, and the code enforcement officer was more upset about the shrubbery we dug up. It was mostly mesquite, brush, and stuff that was tough for us to get down into the roots. As far as the trash, the RV is usually parked in the alleyway. Most of the trash he is complaining about is from the alleyway. It just blows all over the place. My husband and I do our best to satisfy the needs of everybody. We are not trying to cause any problems.

Commissioner Melton said it sounds like we need to deny this if no one lives there. Commissioner Rardin said he felt like we should refund their money as well. It was pointless to ask for the special permit, and it was based on assumptions. Mayor Payne said in fairness to the staff, it does say on the permit that the niece is living there. That is all they have to go by. She is not saying that they cannot refund the money; that would be a City thing, and she would not be making that determination. Commissioner Rardin said as long as they are not living in it, he has no problem with it sitting on the property. That is not illegal. He asked if they would be living in the camper at any time or if they were just working on it. Ms. Stone said they are strictly working on it.

Commissioner Melton moved to deny the special permit request.

Mayor Payne said the refund is a completely separate issue and does not pertain to this. Commissioner Rardin said it kind of does. He said he does not want to deny it and have Code harassing them that it is sitting on the property. Commissioner Melton said if we approve this, that allows someone to live there. Mayor Payne said she is not in favor of approving this at all. Commissioner Rardin said it is legal for it to sit there. Mayor Payne said right, so they do not need a permit, so why would we approve it? If we approve it, they are definitely not getting \$250 back.

Commissioner Rardin seconded the motion.

Ms. Robin Perry, the mother of Kelsie Perry and sister of Ms. Bobby Stone, said that if they are in the RV most of the time, temporary but not permanent, will that be an issue? Commissioner Burnett asked what she meant by in it. Like remodeling it? Ms. Robin Perry said yes. Commissioner Burnett said the working aspect of it does not matter. Commissioner Rardin asked if they are sleeping in there at night and residing in the camper. Mayor Payne said if their clothes are moved in, they have got stuff in there, a cord running from the RV to the house; if you walk in there, you can tell if someone is living there. There is a difference between remodeling something torn apart and putting it back together versus kicking back and having electricity and clothes in here. The issue is, are they residing in it, or are they not? All we can do is take you at your word. There was an application, a \$250 fee, and a request to have your daughter live in it. Now you are telling us nobody lives in it. We would deny this request if nobody lives in it because you would not need the permit. Ms. Robin Perry asked if it would be different if they got the permit. Mayor Payne said that if you got the permit, we would have to decide whether to approve the permit. She said she had an issue with an extension cord running from the trailer to the house. That is not legal. Commissioner Burnett asked if they had an outlet on the meter. Ms. Robin Perry said that the meter does not work. How do we get that fixed? Commissioner Burnett said they would have to call an electrician. In other words, we are asking if there is a 30-amp service. Ms. Robin Perry said there is an actual box out there, but it is not in working order. She said she did not want to say they needed to stay there from time to time. I live with my parents at the moment, and she has got

her family. We are all here from Texas. Commissioner Burnett said you would need the permit even if they are living or staying there periodically. If that is what they are doing, your application correctly says they are staying there. Somebody will reside there at some point in time, periodically. Mayor Payne asked who lived in the mobile home on the property. Ms. Robin Perry said Ms. Stone and her husband. Mayor Payne asked Ms. Stone if there was a reason why they could not stay with her in the mobile home. Ms. Stone said there was not enough room. They only have two bedrooms. She and her husband have one, and her son has the other. Mayor Payne said so your niece is just her and her husband. There are no kids. Ms. Stone said no ma'am. Commissioner Burnette said so in other words, sometimes, you are staying in the camper. Ms. Robin Perry said she would rather be safe than sorry, yes. Ms. Kelsie Perry said we are not living or residing inside. It is a temporary situation. What she is trying to ask is, in the future. We do not have a place to stay. She will sleep at her grandparents or at her mother's and vice versa. What we are trying to say is once it gets to a livable state. We are renovating it to get money back, hoping we can get on our feet. Mayor Payne said you are saying that you are fixing it up to live in. Ms. Kelsie Perry said she is hoping not, but she has no place to go right now and does not have a job. She said that Ms. Stone needed the money from the RV, and we needed a place to stay. We are staying between families trying to get this up to par. Ms. Robin Perry said there will be times when they have to sleep in it. We just want to be sure our grounds are covered, and we are not doing something illegal. Assistant City Planner McGranaghan said that if the Commission approves this, they would have a year to live in it. If you deny it, they would not be able to live in it. Code Enforcement could cite them for living in the RV. Commissioner Burnett said the first issue is that you guys need to get upgraded electrical to be safe. Commissioner Paul said the camper needs to be functional. If we approve a permit like this, it opens us up to approve anybody and everybody to roll a box onto the property. Mayor Payne said the key is, Assistant City Planner McGranaghan said it is good for a year. If you get it functional, the property cleaned up, the electricity upgraded, and you do all those things, then maybe come back. This is not really a discussion right now. They are admitting the camper is not livable, and they are running a cord, so it is not safe. The other situation was completely different. We would be irresponsible to approve it right now. Commissioner Melton said if we deny this, can they apply again? Assistant City Planner McGranaghan said nothing is stopping them. Acting City Manager Hernandez said she suggested we table this. That way, they do not have to reapply with another payment if they get it up to standards or livable conditions. We can table it for a later meeting. Commissioner Rardin asked how long they needed to get the camper in livable condition. Ms. Kelsie Perry asked if they could get a year. Commissioner Rardin said we do not want to issue the permit since it is not in livable condition. If we issue the permit, you are allowed to live in it. Ms. Kelsie Perry said they were trying to get as much material as possible. The main issue is getting it up to par financially, but she is willing to do the work. She said she did construction for fourteen years so she could do the work, but not having a job is why we are in this situation. We were not even on the lot for twelve hours before this became an issue. Now that we have some material, we can begin stripping down walls. We do not want anybody to see all the material we are bringing out of the year to be seen as trash. We are removing things in there to be hauled off. Mayor Payne said you can tell, there is a difference. Commissioner Burnett said the biggest issue is the safety for you guys. As Commissioner Paul said, it opens us up to issues if we issue the permit and you guys somehow get hurt. Ms. Kelsie Perry said it is not hooked up to power or septic twenty-four seven. Whenever the Code Enforcement officer rolls up, it is going to look like it is being inhabited. That is why we are pushing to get the permit approved, just in case that is an issue in the future. Commissioner Rardin said we could table this and revisit this in thirty days to see where you all are at. Commissioner Melton said aren't they going to need more time than that. Mayor Payne said how about ninety days, three months. Commissioner Rardin said the issue we have is, if we issue the permit, you are allowed to reside there. If it is not safe, then well. Ms. Robin Perry said everything in the RV works if you can plug it into the electricity, but we do not have that access. Commissioner Burnett said right, the ninety days would give you time to get some things situated. Then we will revisit. If we have to table it again, we can retable it. Ms. Robin Perry asked if they could plug it into the mobile home outlet. Commissioner

Rardin said no. Ms. Kelsie Perry said they called the electric company to see how much it would be to replace the meter. Nobody came to look at it for sure, but they threw a price and said anywhere from \$1000 to \$5000 for a new one. An outlet is already there but not functioning. Commissioner Burnett said it has a lot to do with your panel. Ms. Robin Perry said we actually have a panel for the mobile she had bought. Commissioner Rardin said he did not know how everyone else feels, but maybe table this, give them ninety days, and see where they are at. Acting City Manager Hernandez said that as this is a torn decision, tabling it would be the best option right now. She said that ninety days is fair to see the progress on it. That way they do not have to reapply and repay. That would be the fairer option.

Commissioner Melton rescinded his motion and made a new motion to table the matter for ninety days.

Commissioner Rardin seconded the motion.

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

Acting City Manager Hernandez said this would probably take us to the meeting on February 13th. Mayor Payne said it would be incumbent upon them to return to us on February 13th and at least show us progress. Maybe they could coordinate with Assistant City Planner McGranaghan and tell him what is going on. Communication is key. As long as you are communicating, we are willing to try to figure something out.

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)

Code Enforcement Manager Sides said both sections have language that refers to the Department of Public Safety, which, as of about 2012, is no more. Making that the City Manager or his designee, which is the same verbiage from the rest of the articles in that chapter. Also including unlicensed motor vehicles, which is verbiage from International Property Maintenance Code, or IPMC. Those are the only changes coming to outdoor automotive storage and outdoor storage as far as the ordinance is concerned. In outdoor automotive storage, we are including unlicensed motor vehicles, and we are taking out the verbiage of the Department of Public Safety and adding in the City Manager or his designee.

Mayor Payne said unlicensed includes in the driveway, right? Code Enforcement Manager Sides said yes.

Commissioner Melton said so, a designee essentially means any contractors we hire to tow. Code Enforcement Manager Sides said he interprets the designee as the City Manager has the authority to appoint a designee. So, in this case, in the enforcement of these ordinances, that would be Code Enforcement.

Commissioner Burnett asked who was taking care of this before. Code Enforcement Manager Sides said this came up when I started looking at ordinances because we are going to go through full rewrites of several different chapters of the ordinances. We are looking at what needs to be changed, what the ordinance actually says, and what we can and cannot do. We do weed abatements quite frequently because it says the City Manager or designee to abate weeds. These specifically say the Department of Public Safety. He said he assumed, because these were drafted long before him, that when these were drafted, Code at the point was under the Department of Public Safety.

Commissioner McDonald said what about people who have cars in the front yard earning a living. I saw that it said any vehicle sitting in the front yard, and I know of a house with three or four cars on

blocks being worked on. That is his livelihood. Code Enforcement Manager Sides said being on blocks does not fall under outdoor automotive storage. It falls under outdoor storage. Being on blocks is a safety hazard. No vehicle at any time can be up on jacks or blocks. Obviously, if you are making repairs or changing a tire, something like that, you are there by it, and you can. He said he sees vehicles up on jacks quite a bit, and those are safety hazards we address pretty quickly. If he makes a living on that, he needs a business license. We will ask him for his business license and send him to the Clerk's Office.

Commissioner Rardin said we are going to open up a can of worms. There are a lot of businesses that have a lot of vehicles sitting around them. Some of them are repair businesses, and some of them are restoration businesses. Code Enforcement Manager Sides said that it comes down to the letter of the law and the spirit of the law. If an automotive shop has an unlicensed motor vehicle, then obviously, they are an automotive shop working on it, so we are not. Commissioner Rardin said as this is written, it does not matter. If you go down to One Stop Auto, the back of their yard does not have a fence. You guys could have it towed if it does not have current tags. Code Enforcement Manager Sides said that goes back to the letter of the law and spirit of the law. The letter of the law says yes, we can, but does the spirit of it? In that case, would we? No.

Commissioner Melton said it is not targeting those businesses. It is targeting residential areas. Commissioner Burnett said he knew a lot of people who are restoring their cars in their driveway. Code Enforcement Manager Sides said ultimately, if this is denied, he would send them an IPMC letter, bring it before the Commission, and we are doing it anyway. If the body should pass the resolution. If the ordinance does not change, it still falls under IPMC. Mayor Payne said it has always been unlicensed cars.

Commissioner Rardin said Section C says, "Any person, firm, or corporation to store on or permit to be stored or placed on." He said multiple vehicles sit at his place, and sometimes they do not move. One of them is an unlicensed vehicle without tags on it. Technically, that vehicle would be out of compliance, but it is in a commercial yard and used for storage, so the storage is not outside. It is a box truck. Commissioner Wright's yard has multiple semi-trailers that probably do not have tags and are used for storing parts and miscellaneous things. The way this is written, those could be towed and cited. Maybe Payne said, but hasn't this always been like this? Code Enforcement Manager Sides said he has not changed any verbiage other than taking out and adding unlicensed motor vehicles. Mayor Payne said what if there is an unlicensed vehicle, as long as that vehicle is covered? Code Enforcement Manager Sides said we are getting away from coverings. The wind will tear them to shreds, and then they become rubbish or garbage. Instead of having a nice car cover, you now have an accumulation of garbage or rubbish in your yard, and we are back out there telling you that you have to keep all that stuff up. Mayor Payne said this has always been an ordinance, but it also used to be if it was covered. Her son was in the military and stationed overseas. He had an '84 Camero. Why keep it licensed when he was overseas for several years? We stored it. We backed it in and had it covered. That would be something where there are extenuating circumstances. However, there is a difference between that and having car parks all over the place. There is a tasteful way to store a car instead of just having stuff everywhere. That is what this boils down to. It is unsightly. She said her husband was in the business for thirty years, and it was not uncommon for him to bring a car home to work on. At night, it was cleaned up, done, and moved. There is a proper way to store this stuff.

Acting City Manager Hernandez asked the Commission if there was any wording to cover the issues that were being brought up. Is there any suggested wording we can put back in?

Commissioner Rardin said we have OFCU's and Loco Credit Union's Repo Lot. When they bring those in, they often remove the license plates from those vehicles. They are parked and stored there. They

do not have valid registration. We cannot tow those because they belong to that bank. Do you see what we are saying? There are a lot of issues. Mayor Payne said again that does not look distasteful, is not a mess, and is not dangerous. Commissioner Rardin said it sometimes is. It is not about today; it is about down the road. Mayor Payne said nothing has changed that has not been the same. When was the last rewrite of this? Code Enforcement Manager Sides said he did not know. Commissioner Rardin asked if we were in a rewrite of this now. Code Enforcement Manager Sides said no. Our ordinance rewrites for Code Enforcement, like Chapters 8, 14, and 26, would probably not be on there for another year. They are still going through Planning and Zoning.

Commissioner Rardin said we would have an exorbitant number of calls. There are a lot of properties that have vehicles. Some of them are problems, and some of them are not. Mayor Payne said again, nothing has changed, so we should have had the calls by now. Commissioner Rardin said we will start having them as soon as Code starts. City Attorney Smith said the original ordinance was in 1960. Commissioner Rardin said how many times it had been updated. City Attorney Smith said the last update was in 2006. Acting City Manager Hernandez asked if it would fix something if we put a licensed business or an exception to that? Mayor Payne said we can, but again, nothing has changed. This has been the same thing for as long as I can remember. We certainly have not received an exorbitant amount of calls.

Commissioner Burnett asked how often we have towed someone's vehicle? Code Enforcement Manager Sides said we have not yet. Commissioner Burnett asked when the last time was. Code Enforcement Manager Sides said he did not know.

Commissioner Rardin said he understood the intent of this. It is more in the residential areas. There is a gentleman over in my district with an enormous amount of vehicles parked in his driveway, backyard, and street. He said he understood that we do not really have teeth to do anything. We have cited him in court numerous times. He pays the fines and moves on. He said he thought this would create some issues for the outlying areas of town. Commissioner Paul said nothing is really changing. Those vehicles out there are probably dismantled, partially dismantled, or inoperable. You could leave unlicensed out of here, and they could still go and enforce what they can through this or property maintenance. He understood that you do not want somebody to come around, but I never see our Code Enforcement becoming fifty-strong and unleashing on the City of trying to do all that. Commissioner Rardin said he did not have a problem so much in the residential areas. It is more the commercial side, other than the place he mentioned earlier that was a huge eyesore. Code Enforcement Manager Sides said when he was rereading these ordinances, he found some and would send the gentleman a letter tomorrow.

Commissioner Paul asked Commissioner Rardin if his property where he had the box truck was in a business or industrial district, zoning-wise. Commissioner Rardin said yes, it is commercial and zoned C-3. The property across the street has an automotive repair and body shop business. They have a few inoperable vehicles, but they are parked neatly. Commissioner Paul asked if we could exclude certain zoned areas. Commissioner Rardin said not maybe zoning, but maybe registered businesses. Mayor Payne asked if a Code Enforcement officer saw a business with cars on it that were not registered, would they pay much attention to that to even find out if they were registered? How likely is that? Code Enforcement Manager Sides said not very. If they do, they are going to get talked to. That is a spirit of the law thing; could you, yes, should you, no. Mayor Payne said nothing has really changed. It is up to you if you want to add something.

Commissioner Rardin said the paragraph above the added unlicensed motor vehicle part states the exact same thing. Code Enforcement Manager Sides said there is, in ordinance, if we go to a residence that has an unlicensed motor vehicle, they get a warning. A certain amount of days is specified within

the ordinance that says you have this many days. After that many days, it then gets kicked to me. I send them a letter of notice of violation with impending abatement action. That is what I do for weeds right now. That is a new process we started, but for weeds, it has been going on since the new weed ordinance kicked in. The letter says you have fifteen days from this letter to either correct the violations or I will correct them for you. If that is the case, we can correct them, and we can cite them into court. It is not either or one way. There is an appeals process. In automotive storage, there is even a request to go to the City Manager to say why it does not violate the ordinance or undue hardship. Commissioner Rardin said that part of getting a permit or the appeal process with the City Manager is being struck out of this ordinance. Acting City Manager Hernandez said we could put the appeal process back in. Commissioner Rardin said the permit or the appeal process? Acting City Manager Hernandez said the appeal process. She said there has not been a permit ever issued as far as City Clerk Hughs and I could go back. Nobody has ever actually filed for a permit. That is how this one came to my attention. We did not know it existed. Commissioner Rardin said he felt we should leave that in there. He said that Mayor Payne mentioned that when her son was out of time for an extended period, they stored the vehicle. In a situation like that, they should have the availability to get a permit to store it there. Commissioner Burnett said he agreed with that. We do have a lot of military. Mayor Payne said at that time we were just allowed to cover it. Commissioner Rardin said the ordinance had been in place since 1960. Mayor Payne said that is what I am telling you. It was in place, and we were allowed to cover it. Commissioner Rardin said it was not enforced. That is how we used to do it. Mayor Payne said that would solve the problem. There has to be exceptions. What is the point of not allowing unregistered vehicles on a property? Code Enforcement Manager Sides said it was basically for blight. Most of our outdoor automotive storage complaints are on unregistered motor vehicles. Commissioner Melton said he gets calls complaining about that. Mayor Payne said if you cover the vehicle, then it is not so unsightly.

Commissioner Rardin said there is a gentleman in town with a large number of unregistered vehicles parked in a fenced-in lot out in District 5. How do we address something like that? I think there is even an airplane and a couple of boats sitting in that lot. What do we do in a situation like that? Code Enforcement Manager Sides asked if it was visible from the public right-of-way. Commissioner Rardin said it was, it was very visible. Code Enforcement Manager Sides said that we should be out there having a discussion with him about those. Commissioner Rardin said he did not know if he wanted to have a discussion with that man. The issue is that it lies in an older part of town, more of a commercial area, and has businesses. He said he was unsure if he was licensed as a business out there in that particular lot, but knew he had businesses elsewhere. Do you see the can of worms that particular one could open up? There are probably sixty cars sitting in that fenced-in commercial area zoned C-3. Commissioner Burnett asked if it was two lots. Commissioner Rardin said it may be. Mayor Payne asked if he lived on that property. Commissioner Burnett said no. Commissioner Rardin said he just stores stuff there. There are storage buildings. Commissioner Burnett said there was a mechanic shop on the corner.

Acting City Manager Hernandez said we should table this and let Code Enforcement Manager Sides, Public Works Director Beshaler, and herself work on this. Put some wording in there for exceptions and appeal. Commissioner Rardin said our intent is more for the residential areas, correct? Acting City Manager Hernandez said yes. Commissioner Rardin asked how long they needed. Until the next meeting? Acting City Manager said yes, we can probably bring it to the next meeting.

Commissioner Rardin moved to table this until the next meeting.

Commissioner Burnett seconded the motion.

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

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)

Mr. Teddy Rich said he was an intern for the Legal Department at City Hall and was here to present for them. The current fees have not been raised since 2017. Inflation has increased significantly, meaning the value of the dollar has decreased along with the value of the punishment we deal. The current fees do not deter people from breaking our road laws. Nmcourts.gov states that fifty percent of crime is committed by repeat offenders. Fifty percent of crime refers to the generic term of crime. However, this still shows the significant amount of our road laws being violated. Traffic violations cause risk to our residents. According to city-data.com, in 2021, seventeen people were involved in fatal incidents, and five of them ultimately died. This has seriously increased since then. Our fees do not reflect those of our surrounding cities, such as Roswell, Carlsbad, and Las Cruces. To make this change, we looked at the penalty assessment program for the previous cities. We then took our fees, raised them by \$5, and chose the highest between us and the state of the cities so that our fees would be compared to our neighbors. If we make these changes, we hope that we will see less repeat offenders, safer roads, fines appropriate to the offense, and lastly, that the increased fees will help fund City Hall costs.

Commissioner Rardin asked what some of these charges were, like processions and limits on backing. What is the actual violation? Chief Kunihiro said limitations and limits on backing is, for example, if you back up and hit something, then it is your fault. You are supposed to yield to a procession. So, if we are doing a funeral escort, a procession, and you decide to drive past and not yield to us, that would be that. Commissioner Rardin asked what unlawful riding was. Chief Kunihiro said it would be like if you got a truck with running boards on the side and you are riding on the side, hanging on. Commissioner Paul asked what about eye protection and windshields. Chief Kunihiro said he sees cars driving around all the time without windshields. Commissioner Rardin asked what parking for uncertain purposes was. Chief Kunihiro said he did not know; he would have to read it. It is not common. Commissioner Rardin said we can cite for parking in alleyways. Chief Kunihiro said yes, that is public right-of-way. Commissioner Rardin said so permitting unlicensed persons to drive is basically an unlicensed driver? Chief Kunihiro said correct. Commissioner Rardin said so if I let my daughter drive, you can cite me? Chief Kunihiro said absolutely. Commissioner Rardin asked what Basic Rule 2412611 was. Chief Kunihiro said that he would want to read the definition before commenting. We have cited it. City Attorney Smith said that Basic Rule says that no person shall drive a vehicle at a speed greater than as is reasonable and prudent under the conditions and having regards to the actual and potential hazards then existing consistent with the foregoing, every person shall drive at a safe and appropriate speed when approach and crossing an intersection or railroad grade crossing when approaching and going around a curb, when approaching a high crest, when traveling upon any narrow or winding street, and when special hazards exist in respect to pedestrians or other traffic or by reason of whether or highway conditions. Basically, if you are driving too fast for conditions. Chief Kunihiro said it is compared to careless driving in a way. So, like around on Lavelle where the railroad curb is. If you went there and crashed, and we determined how fast you were going, that is something we could cite if you lost control. Commissioner Rardin said it is more likely you guys would cite careless driving. Chief Kunihiro said probably, yes. Commissioner Rardin asked about driving on street lanes for traffic. Chief Kunihiro said operating motorcycles on street lanes for traffic. Well, driving on street lanes for traffic is actually driving on the lane you are supposed to be in. Commissioner Rardin asked if you could be cited for that. Chief Kunihiro said yes. One of the key indicators for driving impaired is if you are driving outside of your lane. Commissioner Rardin said so if you are crossing the lane. Chief Kunihiro said yes.

Mayor Payne said that under new material, I am assuming these are new things that were added. City Attorney Smith said the only thing we are changing is the penalty assessment, so the fines. The violations did not change. We are changing how much it will cost if someone violates it. Commissioner Paul asked if these raised fees were comparable to Roswell, Carlsbad, and Las Cruces. Mr. Rich said yes. Mayor Payne said they went up quite a bit, but we have not added anything new. City Attorney Smith said there are no new types of violations. We did not change any of the other ordinances, just the cost of things. She said that Mr. Rich did a great job researching and looking at other cities and communities. Some of these went up quite a bit because we were very low compared to other communities. We are having a tougher stance on crime, and this is one of those ways. Commissioner Rardin asked when the last time we raised these fees was. City Attorney Smith said the last change was in 2017.

Commissioner Rardin asked what the charge of carrying articles was, 24128-6. Mr. Rich said the charge of carrying articles would be riding a bike, but you are carrying things in both hands making it impossible to use the handlebars. Mayor Payne asked what an unattended motor vehicle was. Is that like if you leave it running? Mr. Rich said he did not know. Chief Kunihiro said for what it is worth, throughout his career, when he has cited somebody, he has feedback saying they would take the penalty assessment all day. In Texas, it would be \$100 more, so they would be willing to take yours, so there is no fear. Commissioner Rardin asked what standing parking on one-way streets or on divided streets. Chief Kunihiro said he would have to read it. Commissioner Rardin said he understood the parking part, but what about standing? I have always wanted to ask you all about these. Chief Kunihiro said there are a lot of ordinances we do not cite commonly. Commissioner Rardin asked if overtaking on a right was permitted. Is that passing on the right? Chief Kunihiro said basically, a lot of these are written when it is safe to do so. Let's say you are driving in front of the high school, and a car is going to turn left into the high school parking lot, and you go around it to the right, and you crash into something. That would be something where you did not perform that action safely. Commissioner Rardin asked about further limits on driving left of center. Mayor Payne asked what stopping, standing, and parking was. Chief Kunihiro said you are basically stopped. I would consider that maybe in a school zone, like a no-parking zone. You are blocking the right-of-way.

Commissioner Paul moved to approve.

Commissioner Melton seconded the motion.

Roll Call Vote was taken.

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

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

Mayor Payne read the openings and reappointed Karen LeComte to a 2nd term on the Mayor's Committee on Aging. No one was opposed.

EXECUTIVE SESSION

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)

Commissioner Rardin moved to adjourn at 7:47 p.m.

Commissioner Melton seconded the motion.

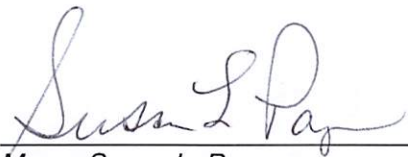
Motion carried with a vote of 6-0-0.

ADJOURNMENT



ATTEST:


City Clerk Rachel Hughs


Mayor Susan L. Payne

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