

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., DONALD E. CARROLL COMMISSION CHAMBERS
June 25, 2024**

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

**MARK TAPLEY, COMMISSIONER
WARREN ROBINSON, COMMISSIONER
RICK HOLDEN, 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. The Invocation was given by Pastor Tyler Grace, and the Pledge of Allegiance was led by Commissioner Tapley.

APPROVAL OF AGENDA

Mayor Pro-Tem McDonald moved to approve the agenda.
Commissioner Tapley seconded the motion.
Motion carried with a vote of 7-0-0.

PRESENTATIONS

1. MainStreet recap of the last fiscal year and explain the projects and plans for FY25. (Nolan Ojeda, Executive Director)

The Executive Director of Alamogordo MainStreet, Nolan Ojeda, presented a recap of the last fiscal year and explained the projects and plans for FY25.

PUBLIC COMMENT

Jim Howard and Lance Grace signed up to speak under Item 3. Josiah Bass signed up to speak under Item 18.

CITY MANAGER'S REPORT

City Manager Holden made the following remarks:

1. Staff have been involved in getting the Bonito Lake situation under control. Additionally, our Fire and Police Departments have been helping our neighbors in Ruidoso. This community rises to the occasion to help others, which is one of our best attributes. Regarding Bonito Lake, we moved quickly in response to the Blue 2 Fire because of experienced staff, and we received federal funding, equipment, and personnel to build twenty-two detention ponds. As you know, the federal government shut down our operation because of a woodpecker. We finally got all the paperwork done, the federal government released us, and the twenty-two ponds were completed. Last weekend, there was a lot of rain up there, and there were fears of burn scars and debris like soot and ash going into the revitalized Lake. The twenty-two ponds did what you would expect; they caught most of the debris and things that came down the mountain with the rain. At this point, the Lake's water quality is in good shape. Fish and Game will be out to see about putting more fish into the Lake. Soot did get into the Lake, but we think we will be okay. Later this week, Utilities Director Nunnelley will meet with the NRCS group. They found more high-impact areas out at the Lake where we can do more ponds to help us further

into the future. We expect additional federal funding for the rotor maker and coffer dam already there, and we may be able to do a refurbishment. The effort, experience, and knowledge that Utilities Director Nunnelley and staff had helped us potentially avert another major disaster for the Lake. We might even be able to open the Lake for recreation in the summer, at least some fishing if we continue to be lucky. Had we sat back and waited, we likely would have had the Lake filled with rubbish, and it would have needed to be dredged out like before. Last time, it took ten years to get that operating.

2. Parks and Recreation Director Bass is scheduling a trip to Las Cruces at 11:30 AM to view the Sprung Structure discussed at the last Commission Meeting. The Sprung Structure could be the type of structure included over the potential Natatorium.

3. Based on last month's meeting, we have talked with real estate companies and other folks about the Fun Center. We are coming up with specific options to be presented to the Commission at a meeting.

4. Next week, July 1st through the 19th, is the Inaugural Event for fallen Officer Ferguson, called the Ferguson Academy. Juniors and seniors can participate in the Academy, working alongside law enforcement and firefighter personnel. Hopefully, they can learn more and potentially choose a career field within our Departments. The maximum number of kids, twenty, have already signed up.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Mayor Payne made the following comments:

I want to emphasize staff and Utilities Director Nunnelley's efforts regarding saving Bonito Lake. It could have been so much worse.

I toured Ruidoso with Fire Chief Ramirez and Assistant City Manager Hernandez. We all know about the devastating South Fork and Salt fires. It was pretty difficult, but there was hope, and I was encouraged. The downtown area and businesses are all there. Some of our neighbors in Ruidoso potentially went back home this week. Ruidoso is setting up a shelter for the displaced families.

Thank you to the Air Force Sergeants Association for the upcoming 4th of July Parade.

Mayor Pro-Tem McDonald made the following comments:

Thank you to the City for the past four years of helping with our cleanups. I appreciate the Utilities Department for helping us on each site. This cleanup will be on Saturday, July 20th, and five sites will be for roll-offs. The sites will be at the Dudley School on 6th and Maryland, Indian Wells and Scenic, Panorama Boulevard next to the Fairfield Inn, Walker Road near the baseball park, and 1817 North Scenic in the New Beginnings Church of Nazarene parking lot. You can bring your junk and dump it at those sites. Districts One, Three, and Six will have their Commissioners present to represent them. This year, there will also be a competition where each dumpster roll-off will be weighed. Whoever's dumpster weighs the most will win bragging rights or even a trophy. We will also do lawn work for seniors, veterans, and the disabled. There will be shredding at the Dudley School site. The cleaning will take place from seven to ten, and the shredding will be from ten to twelve. Lastly, we will have a float in the parade, encouraging folks to help and participate in the cleanup. Sponsors this year include the Sacramento Mountains Foundation, Amy Tillotson from State Farm Insurance, and the Center of Commerce.

CONSENT AGENDA

2. Approve the minutes for the Regular Commission meeting on June 11, 2024. (Rachel Hughs, City Clerk)

3. Consider, and act upon, Ordinance No. 1698, for adoption and final publication to amend Chapter 4, Article 4-06-060 of the Code of Ordinances concerning Fees and Conditions at the

Alamogordo-White Sands Regional Airport. (Troy Orr, Airport Manager) (Roll Call Vote Required)

4. Consider, and act upon, Ordinance 1700 for adoption and final publication, repealing Chapter 8 Article 8-08 "Cross Connection, Prevention, and Control", and amending Chapter 28, "Water, Sewer, and Sewage Disposal". (Bryan Mantz, GovRates Inc. President and Rick Holden, City Manager) (Roll Call Vote).

5. Consider, and act upon, Resolution 2024-33, declaring 1218 Post and 1403 Incredible no longer being ruined, damaged, and dilapidated, or a menace to public comfort, health, peace, or safety. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

6. Consider, and act upon, Resolution 2024-42, declaring 1803 College Ave. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

7. Consider, and act upon, Resolution 2024-43, declaring 1802 Mason Dr. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

8. Consider, and act upon, Resolution 2024-44, declaring 1108 Airport Ave. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

9. Consider, and act upon, Resolution 2024-45, declaring 1104 Lindberg Ave. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

10. Consider, and act upon, award of Public Works Bid No. 2024-002, Basin Sediment Removal Project No. PW2307, to Crosstown Construction related to the Alamogordo Basin Sediment Removal project in an amount not to exceed \$500,000, including NMGR. (Jimmy Vargas, Public Works Director)

11. Consider, and act upon, Resolution 2024-46 authorizing the execution and delivery of a loan and subsidy agreement between the City of Alamogordo and the New Mexico Finance Authority in the total of \$400,000 for the purpose of financing the costs of conducting the inventory/survey of possible lead service lines. (Evelyn Huff, Finance Director) (Roll Call Vote Required)

12. Consider, and act upon, Resolution 2024-41 requesting written approval from the Local Government Division of the Department of Finance and Administration, State of NM for the revised budget numbers computed as of June 25, 2024. (Evelyn Huff, Finance Director) (Roll Call Vote Required)

Mayor Payne removed Item 3 from the Consent Agenda. Commissioner Rardin removed Items 4 and 10.

Commissioner Robinson moved to approve the Consent Agenda as amended.

Commissioner Rardin seconded the motion.

Roll Call Vote was taken.

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

ITEMS REMOVED FROM CONSENT AGENDA

3. Consider, and act upon, Ordinance No. 1698, for adoption and final publication to amend Chapter 4, Article 4-06-060 of the Code of Ordinances concerning Fees and Conditions at the Alamogordo-White Sands Regional Airport. (Troy Orr, Airport Manager) (Roll Call Vote Required)

Public Comment

Jim Howard said he had a land lease at the Airport. There were accusations at the last meeting about the thirty-one land lessees taking advantage of thirty-one thousand citizens. That is not accurate. No land lessee out there has received anything from the City regarding the lease. We pay those leases, put our money into the property, and maintain it out-of-pocket. The land out there, the Airport property, would cost the City more money to maintain because it would be more to maintain if we were not there. It is the same cost whether we are there or not. The lease amount we pay is the icing on the cake for the City. The Airport serves the community and is an economic driver. I researched a private, independent 2016 study from the Alliance for Aviation Across America, which showed this Airport's economic impact was \$66,052,600 for the year. I received a bill for my land lease with a fifteen percent increase. My land lease is a written contract that says CPI will increase it. The standard urban city CPI for 2023-2024 is three-point-two percent. That is in direct violation of the written contract.

Lance Grace explained how he came to be on the Airport Advisory Board fifteen years ago. He said Jeff Rabon came on a year or so later, then another person. The three of them arranged the runway extension, which kept the air tanker base here for the next generation air tankers. Those tankers were used for the Little Bear Fire and for the last few weeks. All of that has nothing to do with the guys here tonight with planes out there, who are supposed to pay for the whole place. That isn't how that works. Between the Airport Advisory Board and the people behind me, we probably have one thousand years of experience in this stuff, and we understand it pretty well. We understand grant assurances and compliance associated with an FAA-funded airport. I do not know what the value of the Airport is now, but it is paid by ninety-five to ninety-seven percent by the FAA with a condition. The condition is it has to be run a certain way. As a Board, I know we have no authority, but we did not see what came to you last month. We had no idea it was coming up. I feel confident that if we get together, we can figure out what needs to be done. I strongly recommend kicking this down the road. Table it. Let's get together, figure out what the City wants, and let's make it happen.

Commissioner Burnett asked if what was being voted on tonight had anything to do with rates. Mayor Payne said it had nothing to do with rates. Rates will come up at a different time.

Assistant City Manager Hernandez said a change needed to be made. On page three, Item K, it says, "The fees referenced in paragraphs (b), (c), (d), and (i) are detailed on the Rates and Fees document". It needs to read, "The fees referenced in paragraphs (b), (c), (d), and (i) are adopted by resolution and detailed on the Rates and Fees document." Mayor Payne asked if that would be a resolution passed by the City Commission. Assistant City Manager Hernandez said correct.

Commissioner Tapley said he had spoken to people about this and asked what reasonable fees were. They said that a rate study was done. Assistant City Manager Hernandez said an appraisal was done. Based on our audit, we got hit for the Fun Center on anti-donation. All City property had to be appraised so they could be done at fair market value. That may be what they spoke of. I do not know anything about a rate study. I just know about the lease appraisal. Mayor Payne said the Airport did not get a rate study, but there were others. Commissioner Tapley said he was told that the fees being proposed were based on a study of other airports. Assistant City Manager Hernandez said they were not proposing anything tonight. We are requesting that the fees be taken off so we can bring them back to you by resolution. I believe what you have been hearing is about the appraisal. All the current lessees with us will be invoiced at that amount, which I believe is fifteen cents per square foot per

year. That was based on the appraisal. When we bring the resolution to do the fees and land leases, we will have that document, the needs assessment for the Airport, all the leases we have, what the effect shall be, and when this all takes effect. If you pass the fees, it will affect everyone differently. I will have a projection for you, plus which leases are not in compliance, the reason why, and any other information the Commission would like to see. Commissioner Tapley said it does not state anywhere in here what a land lease is. At the end of the lease, it automatically reverts to an aeronautical lease. She said the definitions are part of what we have to bring back in a resolution, such as what land leases, aeronautical leases, and parking are.

City Manager Holden said we spoke with Manny Gonzalez of the Airport Advisory Board recently. One of the things we discussed was that we weren't going to present numbers, fees, and structure until we got it prepared. Then, we would get it to Jeff Rabon and the rest of the Board, so they can look at it before the resolution goes to the Commission. There will be opportunities to discuss the numbers and reach some middle ground. That was our last conversation with him a couple of weeks ago. Assistant City Manager Hernandez said that Mr. Gonzalez said he could not be here tonight. We will have more meetings with him to start discussing part of the lease rates and fees coming forward to the Commission. Mayor Payne said to be clear, tonight, we are not talking about fees. We are only talking about this ordinance. Commissioner Burnett said it was just removing the fees.

Commissioner Paul said he was more confused about this now than before the first reading. Meetings have occurred, but I do not know if they were prior to the first reading. I do not understand where the confusion is coming from. Are City staff not communicating with the Board? Is the Board not communicating with the leaseholders or other parties? There is just a lot of confusion here. When the rate sheet was published last time, separate issues and problems were created. All I have heard is concerns about this item. I have not had one call from anybody who said they were on board, and let's get this passed through to talk about rates. Assistant City Manager Hernandez said there was a misunderstanding about the actual agenda item. Airport Manager Orr is at every single Board meeting. I have worked with Manny Gonzalez and spoken to him. There has been communication. When an airport user or Airport Advisory Board member calls Airport Manager Orr, he has spoken to them about the rates and ordinance; Airport Manager Orr is good at communicating with people. I cannot speak to where the confusion is. Commissioner Paul said our ordinances say in the Airport Board's duties, they can act in an advisory capacity and make recommendations to the City Commission. Is it possible to arrange a meeting with the Airport Advisory Board and clear up the confusion? If the Board needs to make a report to the Commission, they can come back and do that. Then, we can address this item at that time. I originally voted in favor of this, but the calls that flooded in after that left me with no choice but to vote against this, simply because I do not feel that questions have been fully answered yet. She said she went to the last Airport Advisory Board meeting and asked Mr. Gonzalez to put the item on the agenda to clear the air. I sat with them but cannot recall exactly who was there. Airport Manager Orr and I can only do what we can. I do not know where the miscommunication is. We can have another meeting, but I do not think it will fix the miscommunication because there is a concept that by approving this and taking the fees out of this ordinance, the fees are going to happen automatically at a rate. Nothing will happen at a rate that the Commission does not approve. As far as taking the fees out of this ordinance, what is in here, we are not currently collecting. It doesn't affect the current Airport Advisory Board members, lessees, or tenants. It does not even affect our revenue. We ask you to clean up the language and remove the fees. We are not asking you to approve anything at this point. The effect on the City is null at this point. No revenue is being generated with the listed fees. Nothing affected anybody here today. Commissioner Paul said there is a ton of confusion, and I do not think that can be pinpointed to any one person. Every call I received asked what was going on and what we were trying to do. People were upset about the rates; others felt the City was trying to give the Airport Manager full and all authority over said rates. Those questions need to be cleared up, answered, and the message delivered, even if it takes another meeting. This doesn't affect us by approving it or not tonight. She said this is the complete opposite, and it takes it out of Airport Manager Orr's hands. We have answered these questions. We are putting it in the Commission's hands. Every

fee change, if adopted by resolution, can only be changed by resolution. We are not giving Airport Manager Orr any additional power. The Airport Manager reports to the City Manager. We are giving it to the Commission and following protocol. As far as the Airport Advisory Board making a recommendation to the Commission, there is confusion that needs to be worked on that. In a Manager-Commission form of government, it was taken by staff that they report through the City Manager to the Commission. We have tried to be transparent. With the fee sheet, we wanted to show you what that would look like, but we should not have put the twelve cents on there. It should have been zeroed out, and that was our error. He said that was a template for, hey, this is what the actual form will look like.

Mayor Payne said if this passes tonight, will that affect anybody's current lease rates? Assistant City Manager Hernandez said no, this ordinance has nothing to do with leases at all. Mayor Payne said I do not think it will change anything if we wait for another meeting or two. I think people are here because they are concerned about lease rates, and I understand that, but we are not talking about that. Whether we pass this or not, we are still going to get something that talks about lease rates. Assistant City Manager Hernandez said we spoke with Mr. Gonzalez, who will head it as the Chair of the Airport Advisory Board. There will be a workshop, as has been said several times. We had one scheduled, but due to the fire, we had to cancel. I did not have the time to prepare it. Mayor Payne said the point is one has nothing to do with the other, whether this passes or not. Airport lease rates are still going to be talked about, which is what the people here are interested in. Whether we pass this or not doesn't matter, and I think that is where the confusion is coming in. Everybody thinks if we pass this, nothing will change. My understanding is that isn't true. That will be a separate vote and decision. Assistant City Manager Hernandez said there will be input from the workshop with the Airport Advisory Board headed by Mr. Gonzalez. There will be a discussion outside the Commission meeting with the stakeholders. Hopefully, we will come to an agreement on that. Then, we will bring that forward to the City Commission on the resolution. Commissioner Robinson said we are just voting on cleaning up language. Assistant City Manager Hernandez replied that this was all this was. He said so clean up the language to work on bigger problems later. She said yes. He said there are communication problems. She said that is correct. He said we are not doing any rates. She said we are cleaning up the language and taking fees out. Mayor Payne said the language that is being cleaned up is in the item.

Commissioner Rardin said I do not understand why we are pulling the fees out of the ordinance and then doing it by resolution. Putting the fee schedule in the ordinance would be just as easy. It would be more transparent for the public because it takes forty-five days for us to change fees by ordinance. It takes one vote to change by resolution. I do not agree with changing the fee schedule by resolution. At the last meeting, staff said we don't normally put them in the ordinance, which is wrong. During my entire time here, most of these fees have been in an ordinance, so the Commission has two readings, and the public has ample time to read through them to see what is being changed and done. Several people have called me and told me that the new leases have already gone out with the new rates. The rates have not been adopted yet. They said they were billed fifteen cents per square foot. Assistant City Manager Hernandez said they get invoiced every year. We are at the end of the fiscal year, and this is not new business. It is based on the increase in the CPI. City Attorney Smith said the leases say that the amounts will increase by the City-determined CPI. It does not guarantee an annual CPI, it is City-determined. Commissioner Rardin asked if we could pick whatever we wanted. She continued by saying that we had done some research to figure out how to determine CPI. We took a market rent analysis we had done; when they did this, they looked at what several other places have for undeveloped land leases. They looked at Alamogordo, Albuquerque, Farmington, Moriarty, Santa Teresa, Belen, El Paso, and Dell City. They also looked at the range of 0.115 to 0.28 per square foot per year for unimproved land. That is what our expert determined across the board for this type of lease. They determined that for Alamogordo, rent for unimproved aeronautical land should be \$0.15 per square foot per year. The audits have hit us for the Airport. Now, because we have this appraisal, that would prevent that. So that is where the City determined the CPI. It wasn't an arbitrary number; it came from an expert who was doing it for us. Commissioner Rardin said instead of using the actual

CPI. Assistant City Manager Hernandez said the \$0.15 are going up, but many are going down. If you take all the thirty-eight leases, the average is 14.6. That means some are below, and others are going to \$0.15. Some are at \$0.165, and some are less than \$0.15. Some will get the benefit; some will have to come up to fair market value. Commissioner Rardin said that after a discussion with some members, FAA rules say we have to charge a reasonable fee. Per that fee schedule put out last time, some of those were not reasonable. The government is non-profit, and we are supposed to charge only the amount of money we need to provide the service. Assistant City Manager Hernandez said if we did that, it would go up to about \$0.10. Commissioner Rardin said it states that it is recognized in their rules that we may not be able to charge what needs to be charged to make it break even. In my eyes, it is more of a hobby. Business is out there, but many users are tinkering with their planes. We have some leeway in that. She said the \$0.125 cents was wrong. We should not have put it in there. We are going to have a workshop to present rates and work with the Airport Advisory Board and the community. What we bring to you will not be the \$0.125, but whatever proposal we bring will have the Needs Assessment. This may be a Commission issue; do you want to make it part of our economic hub? If so, then we need to look at all our funding sources and what we need to do with it. As Commissioner Paul said, the Airport has been neglected. We are trying to put it all in perspective. We are not by any means making a profit or trying to. We are trying to put more money into getting the Airport up to standards, and looking for money and getting shovel-ready projects. The \$0.125 is not the rate. It was the absolute maximum the City could charge. That is not going to come forward. Commissioner Rardin asked why we looked at this backward. Why didn't we look at what we need to improve out there first, get the costs, and then bring it to the Commission? Why are we raising the rates before knowing what we want to do? What we want to do has not been disclosed to us, or at least not to me. Assistant City Manager Hernandez said we could bring you the needs of the Airport, but do you want the needs of every facility? As city staff, that is operational, such as when Facility Maintenance tells us the roof needs to be replaced or the building is sinking. As I said at the last meeting, we broke up the Airport into three sections. The runway/taxiway, the terminal, and the parking lot to the access road, which is the highway. I am going to bring this to you next week before we propose a rate increase. You will have a complete needs assessment for the Airport to get it to the minimum, including funding sources. FAA only takes care of the runway/taxiway. That ninety-five percent that everyone talks about, even one percent, is high for the City. The State covers some things and will give us money, like the ICIP approved last time. They can give us money for the vault. We look for special projects for the State, but everything else operational is City. The Needs Assessment will have things regarding mowers and equipment, potential staff if we grow, and building issues like the roof. This is before the Commission approves the rates. Commissioner Rardin said that typically, in the past, with major improvements done to buildings, we only have to maintain our portion of it, plus the runway and parking lot area. The leaseholders maintain their hangars and portion. The FAA helps us with the other part of it. Typically, if a major repair was needed out there, you would come to the Commission during budget time and say we need to make this repair or we need capital outlay money. Then, the Commission could authorize that as the governing body. Why haven't we done that if there are all these major repairs? Assistant City Manager Hernandez said we just found out the building was sinking either last year or the year before. It was when they were doing the appraisals. Commissioner Rardin asked if the appraiser realized that. She said no, it was our guys that went out there. We have to balance all the needs, and even City Hall needs work. He said we should step back on this. I think the rates need to be included in the ordinance to make it more transparent and a lengthier process, giving the public more time to review it.

Mayor Payne said that in eight years, we had never had a discussion about the Airport like this. I think we have more important things to look at and worry about than the Airport. Last time we discussed this, I know at least one person is making \$2000 a month from having a hangar out there, and the City gets \$2000 a year from that. I have an issue with that. Commissioner Rardin said the gentleman invested \$200,000 to build that property. Mayor Payne said that was fine, but it was still City property. I would like to get a hold of our auditor to confirm that this will be problematic if we do not do something. I would like to get information from an auditor and our Attorney. I hear that if we do not do something,

we will have a problem with our audit, but nobody seems to have a problem with that. Commissioner Rardin said we will have a minor audit finding that we are already in the process of correcting by looking into it.

Commissioner Rardin moved to table this until staff and the Commission can sit down with the Airport Advisory Board.

Commissioner Tapley seconded the motion.

Motion tabled 7-0-0.

4. Consider, and act upon, Ordinance 1700 for adoption and final publication, repealing Chapter 8 Article 8-08 "Cross Connection, Prevention, and Control", and amending Chapter 28, "Water, Sewer, and Sewage Disposal". (Bryan Mantz, GovRates Inc. President and Rick Holden, City Manager) (Roll Call Vote).

Commissioner Rardin said the old water ordinance had a tier system, and the reason for the system was for the very large consumers of water in the summertime during water rationing. I noticed that it was pulled out. Is that something we should look at keeping in there? Finance Director Huff said we pulled it out for different reasons. One, the idea was to simplify things. The other is that while a tier system like that charges more to large consumers during water rationing, it also negatively impacts low-income people. When you get into higher tiers like that, it can be because of something you cannot control. If you are on a lower income and hit the higher tier, it negatively impacts you. Another reason we pulled it out is that the first gallon of water has the same cost of production as the millionth gallon. Keeping the tier system is considered economic inequality because it doesn't cost more to produce more water. He said we have not had to implement water rationing in the last eight years, but I have been here when we had to. I think we got to Stage Two of water rationing. I did not know if it would be good to have it hinted that we are allowed to do that. She said we left the ordinance's water rationing and conservation portions the same, including the penalties. We left the penalties the same on the resolution which will be a later item. We discussed possibly increasing the penalties but felt to bring them the same. If we get into water rationing, we can bring a resolution to you and say we are in Stage Two water rationing and need to increase these penalties. Then, if we see people not complying with water rationing, we are directing it to people who are violating it, not to the customer base as a whole. He asked if the even/odd water schedule would be in there. She said that was still in there. We did not change any part of the conservation aside from removing tiers. He said I have concerns about the number of times this ordinance changes the words City Commission to City Manager. I want to clarify that we still have authority over anything with this or the authority to overrule the City Manager if there is an issue with something in this. She said we understand that as staff. At least once a month, I talk to somebody, and our conversation ends with you always have the right to go to the City Commission. He said I want to make sure this does not tie our hands as elected officials. We still have to answer to them. If they have an issue, they address it with us. Well, now our ordinance reads this, and we passed it that way, and now we have no authority to help you. We are shooting ourselves in the foot. She said Mark Threadgill would say that when someone came in front of you, yes, you have the power and you always have the power per the Charter, but the ordinance allows us to operate for all the customers. He said he wanted to make sure we were good. Later on, it looks like there will be substantial increases in the rate structure. She said at the last meeting, we presented about the increases, and we also presented to you one-on-one. It is a substantial percentage increase. He said on the commercial accounts, my bill has been \$22.10 at my office for about fifteen years. Under these new rates, it will go to \$41.86. She said everything we have on the resolution is the same as what we presented last time, knowing there will be increases across the board to make up for nine years.

Commissioner Robinson moved to approve.

Mayor Pro-Tem McDonald seconded the motion.

Roll Call Vote was taken.

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

10. Consider, and act upon, award of Public Works Bid No. 2024-002, Basin Sediment Removal Project No. PW2307, to Crosstown Construction related to the Alamogordo Basin Sediment Removal project in an amount not to exceed \$500,000, including NMGR. (Jimmy Vargas, Public Works Director)

Commissioner Rardin asked which sediment basins will be cleaned under this contract. Public Works Director Vargas said Griggs Basin and Public Works Basin. Commissioner Rardin said the engineer's estimate was \$306,000, and the lowest was \$391,000. Why is there so much variation? There is also a huge variation between all the bidders. Public Works Director Vargas said those were the only two that came in under budget. The others were higher. Commissioner Rardin said we are about \$85,000 over what we estimated it would be. Public Works Director Vargas said he did not know, but he was standing in place of the Project Manager who helped with that. Commissioner Rardin asked if the contractor was local. Public Works Director Vargas answered this was Crosstown Construction from Las Cruces. Commissioner Rardin said if we are only allocating \$390,000 for the project, including GRT, why are we doing it in an amount not to exceed \$500,000? Public Works Director Vargas said that is the projected budget we have. \$500,000 is the actual budget, and we are trying to stay within that budget. Commissioner Rardin asked if this gave staff the authority to change the contract to \$500,000 without returning to the Commission. Public Works Director Vargas said he was unsure but did not think so. Commissioner Rardin said Utilities Director Nunneley was shaking his head no. I am checking because the numbers did not add up. We had \$390,000, then \$500,000, and it will usually say the amount budgeted, or fund, is \$500,000. Then it will tell us. If you have changed orders, they usually come back to us. Public Works Director answered that we would put it on the agenda if we did.

Mayor Pro-Tem McDonald moved to approve.

Commissioner Rardin seconded the motion.

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

NEW BUSINESS

13. Consider, and act upon, an Energy Performance Agreement with Yearout Energy awarded on the Statewide Price Agreement with the State of New Mexico. (Evelyn Huff, Finance Director and Tara Trafton, Yearout Energy)

Finance Director Huff said this was presented before when we were in the middle of it, but we are now towards the end of the planning phase and entering the phase for signing and starting.

Tara Trafton said we are approaching the end of defining scopes of work and wanted to share what was finally decided upon. You may recall that last time, I told you the final report would be generated and reviewed by the New Mexico Energy Minerals and Natural Resource Department, as well as a third-party engineer. We have our final report as well as facility descriptions. Those are the finalized documents certified by the State of New Mexico and the third-party engineer. They have reviewed all of our calculations, including savings, to ensure they are accurate, plus costs for reasonableness and things along those lines. They acted on your behalf through this process and have done their part. She proceeded with her presentation.

Commissioner Rardin asked if we were borrowing money to do this or what Funds it was. That may have been answered at the last presentation. Finance Director Huff said we were borrowing money to do this. You borrow the funds, and then you pay them back with the savings from the energy. We reached out to the New Mexico Finance Authority, and as Ms. Trafton was saying, we have a better rate than four-point-five because it is through NMFA. Our bond counsel and financial advisor looked at this. We have to guarantee a gross receipts tax. One of the unrestricted gross receipts taxes in Fund 11 was looked at. As Financial Analyst John Archuleta said, you sign a piece saying that if you

miss, you pay it with this. That is the beauty of entering into the contract with Yearout. If we miss the energy savings, they must pay the difference. The City of Albuquerque recently entered into one of these, and they used the same type of GRT match we did. We have to put in \$1,700,000 upfront, and we have identified funds from Fund 49 for that. He asked what Fund 11 was. She said it was the General Fund. He asked which GRT it was. She said the unrestricted gross receipts tax was passed in 2019. He asked if that was the first one-eighth. She said it was the one that was but wasn't really a hold harmless; the first eighth.

Commissioner Burnette moved to approve.

Commissioner McDonald seconded the motion.

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

14. Consider, and act upon, Ordinance 1699 for first publication, repealing Article 09-02 Cemetery Board and Article 02-04-120 through 02-04-180 Mayor's Youth Advisory Council of the Alamogordo Code of Ordinances. (Stephanie Hernandez, Assistant City Manager) (Roll Call Vote Required)

Assistant City Manager Hernandez said that when the boards and committees came to the Commission with their presentations in a March meeting, the Commission directed staff to come back with recommendations to look at them. Some of our boards and committees were passed by resolution, others were passed by ordinance, and some were just created. These two were passed by ordinance and needed to be dissolved by ordinance. The Cemetery Board was suspended a few years ago. Anything that needs to come for the Cemetery can be brought through the Parks and Recreation Board, because the Cemetery is part of Parks and Recreation. The Mayor's Youth Advisory Council hasn't met in quite a while. Those two would be dissolved by this ordinance.

Commissioner Robinson moved to approve.

Commissioner Rardin seconded the motion.

Roll Call Vote was taken.

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

15. Consider, and act upon, Ordinance 1703 for first publication, Amending Chapter 24, Articles 01-010; 01-020; 13-060 Additional Parking restrictions and 12-12-1.3 of the Alamogordo Code of Ordinances Concerning Schedule of Penalty Assessments, Penalty Assessment Misdemeanors; Additional Fees, Mandatory Fees upon Conviction, and Texting While Driving. (Ashley Smith, City Attorney) (Roll Call Vote Required)

City Attorney Smith said several months ago, we talked about how the State was doing away with mandatory State court fees. This ordinance is brought in response to that. The fees went away at the beginning of June. The State is allowing municipalities to do local court fees instead of State court fees, which is what we are doing with these changes. We are increasing some of the fees and changing them to local fees. We added texting-and-driving and parking stuff. We spoke with Chief Kunihiro, and we wanted to increase penalties and penalty assessments based on what the Police Department is seeing on the streets. Texting-and-driving is one of those; it initially had a first, second, and third offense, but we did away with those and made it one offense. I do need to make one amendment. In 24-12-12-1.3, the mandatory fees upon a conviction, I would like to strike out (2) and renumber (3) and (4), so that (2) is the same as (4), but we prefer the wording in (4). We ask to strike (2) completely out, and change (3) to (2), and (4) to (3) for numbering purposes. Commissioner Rardin asked if we changed these fees recently. A young kid came and gave a presentation. City Attorney Smith said yes, we increased fines. There are fines and fees. We are still keeping the increase on fines. Some of the numbers here are decreasing because we are increasing the fees. The overall amounts will be the same. Some were decreased to even them out.

Commissioner Rardin said in 24-12-6-2.7, school zones, I would be in favor of leaving them where they are at instead of decreasing them. That is a problem area. Assistant City Manager Hernandez said we can do whatever the Commission wants, but I wish to clarify something. We are backing out some of these \$60 and putting in the fees. Others were based on feedback from the Police Department. For example, we are keeping failure to abide by traffic control high. We are also keeping speeding and texting-while-driving high because those issues here in Alamogordo are causing major concerns for citizens. Some are being reduced because if you are going five miles over the speed limit, that could be hitting some pretty hard. They have to pay the fine, plus the court cost fee. We are trying to make it more reasonable. Commissioner Rardin said so the court cost fee is the other side of that. She said yes. If you look at speeding, we are backing out the \$60 fees. If you are speeding over ten miles per hour, right now, it is \$90 plus \$60, so you have to pay \$150. He asked what if you just paid for the ticket instead of going to court. Is it just the \$90? Chief Kunihiro said they are combined. Starting July 1st, the State is mandating that the administrative fees, the court fees, go away. We are a home rule, so we get to add \$10 to it. These dropped \$60 and went up \$10. We have identified speeding, failing to yield obedience to traffic control devices, and texting while driving as ones to be bumped up in this ordinance. So, we are dropping by \$60 because we have to add \$10 as a local fee, which we are allowed to do as a home rule. Commissioner Rardin asked what his fee would be for going ten over. Would it be \$35? Here, it says up to including ten miles per hour, going from ninety to thirty-five. Assistant City Manager Hernandez said the fine is \$30, but the fee would be the \$60 added. Commissioner Rardin asked what would happen if he just signed and paid for it. What would the fee be? City Attorney Smith said it is added. If you look at the next ordinance, 24-01-20, it says, "In addition to the penalty assessment established for each penalty assessment misdemeanor, there shall be assessed a fee to be deposited in the city treasury which is calculated as follows:". We are amending that section, too, so the citation in their track system already puts it there. Chief Kunihiro said you are given the one fee. Commissioner Rardin said that the \$60 plus the \$35 will be on the ticket. Chief Kunihiro said yes. You would expect to receive all the fines currently struck through if you received a citation. You are paying for it all. Assistant City Manager Hernandez said instead of paying \$90 plus \$60, you are paying \$90 total now. City Attorney Smith said the fees really play a factor in cases where the judge may defer. The judge has the authority to defer a sentence. For example, if the judge defers a sentence on a traffic citation, the fine goes away, but the mandatory local fees do not. So, with a deferred sentence, you would still have to pay those fees but would not pay the fine. Commissioner Rardin said the fee is essentially the court cost and the fine for the infraction.

Commissioner Burnett moved to approve with the amendment.

Commissioner Tapley seconded the motion.

Roll Call Vote was taken.

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

16. Consider and act upon Resolution 2024-31 Adopting Rates for Water, Sewer, and Reclaimed Water Service. (Bryan Mantz, GovRates Inc. President and Rick Holden, City Manager) (Roll Call Vote).

Finance Director Huff said this resolution goes along with the ordinance from two meetings ago. As you can see, the resolution details all the charges as part of our water rates and ancillary fees. For water service in particular, it is broken down by household/non-household customers, followed by the five-year plan with monthly base and usage charges for 2025 through 2029.

Mayor Payne asked how you know the size of the meter, such as three-quarters or one-inch. Finance Director Huff said that it is currently listed on the bill. Payne said she couldn't find it. Mr. Mantz said the majority of customers have the smallest meter size, like a three-quarter inch. Finance Director Huff said that is typically for household users. Non-household customers go larger, such as big businesses like the hospital. Mayor Payne asked if it would be \$19.37 with a three-quarter-inch meter. Finance Director Huff said plus \$2.88 for every hundred cubic feet used. Mayor Payne asked if that included

sewer and garbage. Finance Director Huff said correct. Mr. Mantz said the average user would be around \$0.02 to \$0.03 per gallon.

Commissioner Rardin asked why the tapping fees were so high. I can see that with the bigger ones, but not a three-quarter or one-inch tap. There is the saddle and labor of digging the hole. Is the City on the hook for compacting the hole and passing asphalt? Is that included in the price? Finance Director Huff said a change for us is we will be providing the parts. Right now, it's a mishmash. Utilities Director Nunnelley said that is correct. Historically, we show up, do the tap, and then we charge back for the labor. Half the time we do not end up charging, which is a loss. Half the time when we show up, they are using random parts. We can't warranty that. The way it will work now is, the City supplies the saddle, valving, and performs the tap. We no longer allow plumbers to tap our water lines, just our certified operators. Regarding the cost, if you run the numbers, the cost of the saddle, storage, maintaining storage, valves, tapping equipment, replacing teeth in the tapping equipment, labor, and generator power adds up. We are not in the market to make money, but we are making it fair for all the plumbers. We are giving an upfront cost. Commissioner Rardin asked if that included backfill and compacting. Utilities Director Nunnelley said no. Commissioner Rardin said so it is basically going in and tapping the water line for the user. Utilities Director Nunnelley said correct. Commissioner Rardin asked who would be in charge of backfilling and excavating. Utilities Director Nunnelley said the contractor. They do the excavation, set up the appointment and account, and then we go out there. We install the saddle, get it inspected, do the pressure testing, tap it, test it again, and then turn it over. Commissioner Rardin asked if a three-quarter-inch tap was on there. Is one-inch the smallest we have? Utilities Director Nunnelley said one-inch is the smallest we go on tap. We go one inch up to a quarter meter. Commissioner Rardin said that seems high. Utilities Director Nunnelley said that is quite lower than most across the nation. Our twelve-inch is significantly lower. I did an average, and most of them were up to \$7,500 across the state. Commissioner Rardin asked how many ten to twelve-inch taps were done in a year. Utilities Director Nunnelley said very few. That is only for big businesses and apartment complexes. Commissioner Rardin asked how many of those we currently have in the community on the six-inch meters. Utilities Director Nunnelley said he did not know. Finance Director Huff said I think we have less than ten. Commissioner Rardin said it is for the large ones like the hospital. Utilities Director Nunnelley said correct. Mr. Mantz said not many people would be paying for the high-inch ones. Most of your taps are small. Commissioner Rardin asked how much additional money this would generate each year. There are about thirteen thousand and five-hundred user accounts. At the end of FY25, how much additional revenue would be generated? About \$3,000,000 to \$4,000,000 a year? Finance Director Huff said it is more than that because the intent is to be able to fund the debt to start handling the \$160,000,000 backlog. The idea is we generate enough to cover the debt service to start issuing large bonds for large projects. Commissioner Rardin asked if we would still do a typical twenty-year bond. Finance Director Huff said she believed that was what Mr. Mantz had predicted. Mr. Mantz said when the financing comes around, you can determine which route makes sense and is affordable. To answer your question, a chart on my presentation details this. For 2025, we would be going from \$11,500,000 to \$14,500,000. Commissioner Rardin asked how much it would be the following year. Mr. Mantz said this chart shows you the total revenues each year. It is increasing. City Manager Holden asked if we needed to put the presentation onto the screen. Mr. Mantz said we could do that. Finance Director Huff said it starts at \$3,000,000 to \$4,000,000, and then it gains from there to cover the debt service at the thirty-year bonds, to start chipping into the \$160,000,000. Commissioner Rardin asked how we knew what the debt service would be. Finance Director Huff said it was assumed based off information from NMFA and our financial analyst and bond council. Commissioner Rardin asked how we planned to borrow to start the improvements. City Manager Holden said there is a slide in the presentation for that. Commissioner Rardin said we have \$160,000,000 worth of infrastructure to fix, but we do not have to do that overnight. It could be spread over twenty to thirty years. Mr. Mantz said we assumed three bond issues over the ten-year period based on arbitrage rules, which basically means you have to spend all proceeds within three years. We assumed about \$107,000,000 additional senior lean debt. Those would be for the projects with long asset lives that will benefit many customers for the next thirty years. You are spreading the useful

life of the asset over the debt payments. We have about thirty-three-percent on a pay-as-you-go basis, which is mainly for routine renewals or replacements. Stuff like vehicles and equipment has a shorter asset life. Finance Director Huff said the bonding, the SMP, is the tanks, the large pipeline replacements. We are still dealing with pipes from the 1950's. Commissioner Rardin said this additional revenue is going to increase our bonding capacity. Finance Director Huff said correct. Speaking with our bond council over the last couple of weeks, they have made it clear that if this resolution passes with the five-year plan, we could go out to the bond market. I talked to them about how long of data we needed to do, and Chris indicated that once it is approved, the bond markets are pretty happy. Once you have a plan approved, you can go out there and start talking about it. We cannot issue all the bonds at once; we can't get all that work done. Mr. Mantz said a chart showed what we needed to recover through our rates, and solid red lines show what revenues under existing rates are. The dark blue bar is the operating expenses, and the green bar is debt. As you can see, we are not even paying under our budgeted 2025 operating budget. We are not paying for all our existing debt. If you are not meeting obligations on existing debt, no one is going to allow you to borrow more. Commissioner Rardin said he was concerned from past conversations. We have \$15,000,000 available in bonding capacity. How are we going to do this? Finance Director Huff said that was our general obligation bonds, the GO bonds that are paid with the property tax. It is completely separate, these are rate-based bonds. These would only be looking at the revenue generated in Fund 81. We are not trying to use GRT or general obligation bonds. Commissioner Rardin asked what our bonding capacity was using. Finance Director Huff said we have not gone out to bonds yet because this is not approved. I cannot go out and talk to bonds about something not approved. Commissioner Rardin said if we borrowed \$102,000,000 off the bat. Finance Director Huff said we cannot do that, we cannot spend \$102,000,000. Commissioner Rardin asked if that would be broken up into three equal pieces. Mr. Mantz said is based on the actual spending curve of when the projects are anticipated to be constructed. In this chart, the debt payments represented by the green bars gradually increase over time. It is staggered over the next ten years. Finance Director Huff said is what we were looking for when we started looking at the capital plan. What is our backlog, and what are our projections for the next ten years to be able to get us to replacing versus trying to catch up. As Mr. Mantz said previously, we talked about the roads, and how you need these rates to be able to systematically fund your road replacements. There are fires going on, so that stresses the need for adequate water infrastructure. There are a lot of good reasons outlined for this in the presentation. Commissioner Rardin said he was concerned because the rate increase could get the Commission recalled. This is a substantial increase I do not think a lot of people know is coming. In July, they are going to get their bill and have shellshock. To some of us, \$26 a month isn't a lot, but a lot of people in our community are on a fixed income. That may be whether they eat that month or not. Mr. Mantz said part of the plan is vetted for affordability. If you look at this chart, you are looking at \$0.012 to \$0.023 per gallon to have water delivered to your house and taken away once you are done with it. The affordability threshold used by the utility industry is four-point-five percent of median household income. You can see, in the last column, you are well below four-point-five percent for the entire plan. By any utility industry standard, this would be considered an affordable and competitive plan. Finance Director Huff said when they brought the rate increases in 1994, there were attempts to recall the Commission based on those increases. There is a legal precedent that says you cannot be recalled for making rate decisions. Mr. Mantz said you can't affect change and address critical capital needs until you have a plan in place. Nothing is set in stone. This is something the City will need to keep track of. There will be a response to the increases. Some may choose to conserve more water. Commissioner Rardin said I pay about \$24 a month in my office. The toilet flushes twice a day and that's it. My bill is going to double, and I will be using no additional water. That is where I was looking at it. Mr. Mantz said there is a lot of infrastructure that looks bad. You do not have a sustainable utility. Customers have benefited from having the same rates over the past nine years. Commissioner Rardin said five years is the revenue portion of this, and I do not know how long the construction portion will last, but have we looked at doing this over a ten-year period instead of a five-year period. Finance Director Huff said what is on the ordinance now is the five years of catch-up adjustments. We looked at ten years in total. The next five years is just the CPI increase. We are not looking at having to raise thirty-five percent every year,

we are going to have to do that for the next five years to catch up. From there, it would be the CPI increase. That is in the ordinance. We are not trying to fit all the capital into five years. The capital is spread out over ten years, and in some cases, fifteen years. We have to get going quicker because we are so far behind.

Mayor Payne asked if a slide showed where we would be at our rates compared to other cities. I believe we are in the middle. Finance Director Huff said yes, this requested increase puts us in the middle. Commissioner Rardin said he understood catching up and COVID increasing costs and pricing, but this is a huge increase. Mr. Mantz said since the last rate adjustment last year, the PVC pipe needed for these replacements has gone up three hundred percent. The utility has to pass this cost onto the customer. To answer the Mayor's question, you would be in the middle of what other New Mexico utilities charge under the proposed rates. You are much lower than the City of Rio Ranch and La Luz. In La Luz, their customers are on the septic systems, but they have higher water rates than what Alamogordo would charge. Mayor Payne said the shock would be that it would all happen at once. I was disappointed when I saw the presentation. This should have been done over the last ten years. Nobody would have thought anything about it if it was \$3 a year over the last ten years. This isn't an easy position to be in, but we have to pay for this stuff. We have serious infrastructure issues to deal with. We have to just take the hit. Mr. Mantz said it would be less if you used less. Commissioner Rardin asked how many units six thousand gallons a month would be. The bill is figured in units. Finance Director Huff said it is eight cubic feet. Commissioner Rardin said mine is usually around three hundred units. How many gallons is that? Mr. Mantz said we try to relate to gallons. Commissioner Burnett asked if anyone received emails in opposition of this. Commissioner Rardin said he did not think anyone knew it was happening. Commissioner Burnett said he had not. Mayor Payne said she had not. Everyone I have talked to understands we have to do this. Commissioner Burnett said yes, I have not had anyone saying this is ridiculous or crazy. Finance Director Huff said the phone calls are coming to us, too. It is going to be intense. Our only other option to generate more revenue is to pass more tax. We have to be able to generate more revenue to cover our debt and operating and capital needs. As a government, the two options are to raise rates or raise taxes. Commissioner Rardin asked how many we cut off on average. Is it every day or twice a month? Finance Director Huff said two to three hundred a month. We do them on cycles, and there are thirteen cycles. It is rotating and constant. It's not like we have a cutoff day. Mr. Mantz said part of this package allows people the option to turn off their service. A young man was here talking about that, and he talked about the trailer park. He appreciated that he would have the option under this plan. Commissioner Rardin said not being able to turn off has been a heated issue. I think that is a separate deal where the bill should follow the customer, not the property owner.

Commissioner Robinson moved to approve.

Mayor Pro-Tem McDonald seconded the motion.

Roll Call Vote was taken.

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

17. Consider, and act upon, Ordinance 1702 for first publication, amending Chapter 25, Article 01, Section 050 Skirting. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

Code Enforcement Manager Sides said skirting has been a constant battle. We have a skirting ordinance; to summarize, if you have a tongue attached to a mobile home, it needs to have skirting. It does not have to be anywhere else. In talks with City Attorney Smith and Chief Kunihiro, rewording it is in our best interest. I researched other cities and the International Property Maintenance Code. The language here comes from Valencia County, as it was clear and concise. Mobile homes should have skirting all around the base within our City. It is not only an IPMC violation, but also a fire hazard should it not be there.

Commissioner Rardin asked what we would do with an existing mobile home that has plastic skirting. That is not flammable. Are we going to tag these people and force them to upgrade? Code Enforcement Manager Sides said we have warnings in due process. Like the weed ordinances, this is about education first. We say the skirting has changed, and we are not enforcing it today, but we are educating them it is going to be enforced in a reasonable amount of time. You can do it now voluntarily, or we will start enforcing this on a certain date. Then, we will do warnings and start our process, up to and including Municipal Court. Commissioner Rardin asked what the recourse was if they could not afford to replace plastic skirting that was not flammable. Code Enforcement Manager Sides said we cite them in Municipal Court, and we will keep citing them. They have to be non-flammable; that is in the Property Maintenance Code, and I believe it is a fire block. From a fire standpoint, it has to be a fire-retardant material. Commissioner Rardin asked if that included an existing structure. Code Enforcement Manager Sides said it is in the Fire and International Property Maintenance Codes. Commissioner Rardin said I do not see how we can force them to improve it. On the Construction Industries Division side of this, CID, we can't enforce improvements. You could not come in here and say this building is not up to the code until you substantially change the building with a building permit and contractor. Code Enforcement Manager Sides said through CID, you cannot. Through IPMC, during inspections, if you do not have GCF/GFCI outlets in a kitchen, I will write you up for it. IPMC has been in code since January 2024 and will be in code until January 2027. Commissioner Rardin said my house was built in 1956. It was built to that standard and has not been altered since then. So, you cannot require them to upgrade to today's code when they met the code when the structure was built. I think we are opening up a can of worms in a lower-income area where people cannot afford to change their skirting. A lot of those have fiberglass panels. I do not know if that is considered flammable material. Code Enforcement Manager Sides said since he started, we have had three fatal fires. Two of those have been in trailer parks, where this is a direct thing we need to do for the safety of trailer occupants. Commissioner Rardin said he did not want to see us fining the same people over and over again when they cannot afford to fix the violation. I think there should be a grandfather clause. Most of this will be in the Walkertown area and others on Florida.

Mayor Payne asked about the mobile homes in parks where we cannot enter. How do we enforce that? Code Enforcement Manager Sides said it isn't impossible for Code Enforcement to get into a trailer park. They either need the property owner or a tenant to give consent. Mayor Payne asked how we got that. Code Enforcement Manager Sides said he has been to Oasis Mobile Home Park about three times in the past week. Evergreen more times than I can count. Mayor Payne asked if he had been to Tinsley lately. He said he had, and it was coming. I have been to Town and Country more times than I can count. Tenants are calling. We can go in as long as we have a tenant giving consent. Mayor Payne said so then you can cite the park owner for those. I see Commissioner Rardin's side of this, and I think this will be problematic. Commissioner Rardin said with CID, you cannot force somebody to bring their house up to code when it has a CFO, a certificate of occupancy that has been issued. The State already says you are legal to live in that home the way it is. Until you do a renovation or modification that goes past a certain dollar amount, even the State cannot force you to bring certain areas of it up to today's code if it meets the code it was at when built. Mayor Payne asked about when you sell it. Commissioner Burnett said it did not matter. Commissioner Rardin said we are getting into an area where we have some say and we also don't. When we had a Building Department, we had say. When the State took that away from us, we lost our ability to have a say in that part of it. We are walking a fine line where we do and do not have jurisdiction. This falls under the Mobile Home Division, some of this is under the State, and we may be overstepping. I do not want to fine and cite people into court that cannot afford to fix it. I understand the intent. Mayor Payne said if they do not have skirting at all, they would have to put skirting on it. Commissioner Rardin said he understood that. If they do not have it, then yes. Should we just grandfather them in if they already have existing skirting but not a non-flammable material? If they ever make an improvement, then they need to fix it at that point. Leave them alone, let them have it.

Mayor Payne asked City Attorney Smith if we do not do this and there is a fire, is the City liable? City Attorney Smith said we could. We could be liable if there are issues we ignore, even on private property. We have seen that. I was trying to pull up the State statute, and I know it talks about skirting. We have had several fires in mobile homes, and that is one of the concerns, too. I know that Code Enforcement Manager Sides has been trying to get mobile homes to comply with smoke alarms. As far as what Fire would need, I will leave that to Fire Chief Ramirez. Fire Chief Ramirez said in 2024, we have had four mobile home fires. Part of this with the skirting is if they do not have skirting, the weeds that grow under the home can catch fire. Once that catches fire, it spreads and catches those mobile homes, and radiant heat just progresses down. Maybe we cannot go specifically after the mobile home resident, but the property owners that have these parks are just as liable for not keeping the mobile home parks. Just like if they let weed growth or sewer go in these parks. Why would they not be held accountable for making sure their mobile home parks have the skirting? It is no different than a building we go into that does not have any type of ceiling tiles. That is a fire retardant for a minimum of a few seconds, but it has to be there. Same thing as skirting. Mayor Payne said the question is about private individuals who own mobile homes and do not have the right kind of skirting. We are going to cite them into court, but what if they cannot afford the skirting? Is the skirting something reasonable or expensive? How are they going to pay? Citing them into court will cost them money when they already do not have it. I want to be reasonable because public safety is important, but how are they going to pay for it? Commissioner Rardin said he was not concerned about the ones that do not have it, it's the ones that have been there for years. They use plastic under skirting on the majority of those trailers back in the '70s and '80s, and the ordinance reading of, "...shall be made of nonflammable materials" will give the authority to go out and force them to change that. They have been complaint for years with plastic. I do not think the plastic is nonflammable, it still melts and burns. The ones that don't have it, let's make them do it. The ones that are already skirted but may be nonflammable is my concern. Fire Chief Ramirez said under the International Fire Code, there is a section that consists of skirting for mobile homes or even homes that act as a protective barrier for that. I do not have the IFC book here, but I can get code-specific information to the Commission. It goes into International Building Code as well. Commissioner Rardin said that we have no authority to get into the IBC and IRC. We do in the Fire, but not in the code side of it. That all falls under the State of New Mexico and CID. I would like a little change in the wording to grandfather the ones that have existing skirting. Ones with damaged or missing skirting, we can make them fix it. Mayor Payne asked if we just gave them more time to replace it. Commissioner Rardin said if they keep the property up and the skirting is in good shape, why make them change it? Just because it is not a nonflammable material? It was compliant when they put it in. Commissioner Burnett said if you buy a house built in the 1950's, they are not making you upgrade all the electrical outlets. You are allowed to buy it as-is. Commissioner Rardin said he wanted either a grandfather clause or leeway in the wording of the ordinance. City Manager Holden said you have the privilege to amend that ordinance. Commissioner Rardin said he did not know how to say that. If it is in existing condition but in good shape, they should be able to keep it. If there is no skirting or OSB that will catch fire and burn, then yes, have them fix it. City Manager Holden said we could reword it and try to put it in a format that is in the middle of what you are describing and bring it back to you at the next possible meeting. Let you review it and see if it meets your needs. Then, we can strike it out or approve it at that point. It is not like you have to do it tonight. Commissioner Rardin said it for future staff and future Commission that are to abide by this. We may get a tyrant that enforces it excessively, but that is not the intent. The intent is to bring it up so it's safe, but do not pick on ones that are well-maintained and may not meet the ordinance. Commissioner Burnett said there has to be a list of approved skirting. Commissioner Rardin said there is. A lot of these properties were built in the '70s and '80s, and those were approved skirting at the time. Commissioner Burnett said as far as OSB, that will not meet the criteria. Commissioner Rardin said that plastic may meet the criteria.

Commissioner Rardin moved to table Item 17 until the next meeting or a future date.

Commissioner Burnett seconded the motion.

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

18. Consider, and act upon Ordinance 1704 Case Z-2024-0004(A) for first publication of a map amendment to rezone 916 & 918 South Florida Ave. from R-1 Single Family Dwelling to C-1 Neighborhood Business. (Stella Rael, City Planner) (Roll Call Vote Required)

Public Comment

Josiah Bass said he wanted to express his strong objection to the proposed expansion of property address 916 and 918 S. Florida, which belongs to the Center of Protective Environment (COPE). As a resident of this neighborhood, I am deeply concerned about the impact this expansion could have on our community's safety and quality of life. Currently, we are experiencing significant disturbances due to the residents of COPE. On a regular basis, we are awakened by women standing at the gate who appear to be under the influence of alcohol or drugs, yelling and causing disturbances. This behavior creates an unsafe environment for our neighborhood residents, including families and children. We understand the importance of supporting vulnerable populations, but it is evident that COPE is unable to effectively manage their residents and ensure they do not disrupt the peace and safety of our community. Allowing an expansion of their facilities would only exacerbate these issues and potentially increase the frequency and severity of disturbances. Furthermore, I urge the Commissioners to consider relocating COPE to an area where there is less opportunity for residents to access illegal substances and where the impact on residential neighborhoods is minimized. Our neighborhood deserves to be a peaceful and safe place to live, free from the disturbances caused by inadequate supervision of COPE residents. I respectfully request that you take into account the concerns of the residents who are directly affected by this proposal. Please reconsider the expansion of COPE at the current location and explore alternative solutions that prioritize the safety and well-being of our community.

City Planner Rael gave her presentation and recommended approval of the map amendment. The City owns the COPE building, but the applicant is Executive Director Veronica Gutierrez with COPE. They are requesting to change R-1 Single Family Dwelling to C-1 Neighborhood Business District to build additional office space needed for counseling staff employed with the Center of Protective Environment, or COPE. COPE is located at 909 South Florida. The employees park along Mimosa Drive, and there are a lot of hit-and-runs. People were hitting employee vehicles or other vehicles parked there, so they were seeking alternative parking methods. They came across these two lots that were for sale, so they purchased those with the intent of fencing it in and using it as parking for staff. Their capacity, as far as office space goes, well, they thought they could use it as a parking lot in an R-1 zoning district. When we spoke, I told them you cannot build a building there and use it as offices. You would have to go through the rezoning process. I suggested C-1 because that limits the type of businesses that can go there and the types of offices. Also, on the map, the light brown surrounding the area is C-1. We have a lot of mixed use there. After our conversation, they decided to apply for C-1 zoning. I provided you with the letter of opposition that Mr. Bass read. Late this afternoon, I received a phone call from the property owner at 619 Kingston, saying she was in opposition. I asked her if she would be here tonight to speak, but she did not think she would. I asked her for the reason to opposition, and she said she did not want a business there.

Mayor Payne asked Chief Kunihiro how many disturbance calls we have had at COPE in the last year. Chief Kunihiro said he looked it up for 2024, and we have had four total calls as of this year. She asked if they were all for disturbances. He said there was a request for an officer, an agency assist, a stolen vehicle, and a second request for officer. There were actually five calls. There was another for suspicious activity. That is just what has been reported.

Commissioner Rardin said if employee's vehicles were being hit, would we have police reports on those? Chief Kunihiro said it depends on what address they use on the crash report. I am not showing any crashes that use this specific address of 909 South Florida. Commissioner Rardin said it may not

come in as that address. Chief Kunihiro said potentially. Commissioner Rardin said hit-and-runs were why they asked to park over here.

Commissioner Burnett asked how big the facility they wanted to build was. City Planner Rael said Ms. Gutierrez was here and would know. Ms. Gutierrez said we still need to get funding for that in the future, but two thousand square feet to put three to four office spaces for counselors and also have an office available for victims where they may continue to have their remote court proceedings.

Commissioner Tapley asked if they could put parking in there as it is currently zoned. City Planner Rael said they could put a parking lot. If Ms. Gutierrez wanted to, she could have someone fence in the two parcels because they own them. As far as the parking lot, they could use it as additional parking. Commissioner Rardin said it only needed to be zoned C-1 if they built a building. City Planner Rael said she suggested that because when we had the conversation, Ms. Gutierrez had said they were in need of additional space. This was not currently the zone where additional space could be built.

Commission Rardin moved to approve.

Commission Tapley seconded the motion.

Roll Call Vote was taken.

Motion carried with a vote of 6-1-0. Commissioner Tapley voted nay.

19. Consider and act upon Resolution 2024-47, A resolution supporting and adopting project R.I.S.E as a framework for guiding principles encompassing respect, integrity, service, and excellence. (Rick Holden, City Manager, and Jerrett Perry, Executive Director, Chambers of Commerce) (Roll Call Vote Required)

City Manager Holden said he had spent time with Mr. Perry and discussed the direction this community was headed. Mr. Perry has a great vision for what the Center of Commerce can do and how the community, county, and school district can work together for the greater good in ways we have not thought of or done in a while.

Mr. Perry introduced Project RISE and said it wasn't his concept but one he had found at the right place and time. The idea of Project RISE is to find a strategy to create a better quality of life for all our people. You do that by using a common language and common goals. Successful businesses use common language throughout the system. Project RISE was initiated through the Center of Commerce and was recently codified. Alamogordo Public Schools and Otero County have also codified it. As decision-makers in our community, you should ask four basic fundamental questions through every endeavor, project, idea, and agenda. For example, does this agenda item have an element of respect, integrity, service, or excellence? Does the endeavor push us in the direction of raising quality of life and standards in Alamogordo? If the answer is yes, push it forward. The 4th of July Parade's theme is Rise as a Community. This also follows the core values of the United States Air Force. We asked what our values as a community were. We are different, diverse, with different political affiliations and churches, but we can collectively say we respect, have integrity, and believe in components of service and excellence. I am asking the Commission to collectively use that tactic to determine the direction you would like to go. There are three elements of success, and one of those is communication. There needs to be a standard and collective road map. I am asking you to support this collective idea for a common language in pushing our community forward.

Mayor Pro-Tem McDonald moved to approve.

Commissioner Tapley seconded the motion.

Roll Call Vote was taken.

Motion carried with a vote of 6-0-1. Nick Paul abstained due to his association with the Center of Commerce.

20. Consider, and act upon, the 4th of July Fireworks Display for 2024. (Rick Holden, City Manager)

City Manager Holden said there was feedback after the fires in Bonito Lake and Ruidoso; people were asking about our 4th of July Fireworks Display. I thought it best to put it on the agenda for the Commission's discussion and give direction to staff as to whether we should proceed with the display or not.

Fire Chief Ramirez said that with the fires burning all over the state and Ruidoso not even being a portion of a percent contained, many of our resources are still up there. We would not have them to assist us on the 4th of July. I do not know when they will be demobilized and returned back to local areas where they can assist us. Another aspect is, as people have been asking me, is it right to have a 4th of July event with everything that just happened? What if something goes wrong and it burns up the side of the Space Hall, or catches the apartments in that general area? Those concerns have been brought to my attention. We are short-staffed. By Chapparral, they are still having a fireworks show. People buy fireworks at the fireworks stand on 54 by the state line. They buy them there and bring them into the City, so we run a lot of calls. On the 4th of July, we had four structure fires amongst all the brush fires. Regardless, we are going to be busy that night. With everything being said, think of this with the potential aspect of what just happened.

Mayor Payne asked if this was just the display at the Space Center, or fireworks within City limits. City Manager Holden said the major display at the Space Center. Mayor Payne said so this does not affect households that want to shoot off fireworks in the street. Fire Chief Ramirez said no ma'am. Commissioner Rardin asked if we still had the county's volunteer groups for mutual aid. Fire Chief Ramirez said we do, but most of them have been deployed to help with additional fires. Now that the big event is happening in Chaparral, most of them have gone down there. We get a few, but I do not have a guarantee as to what we will have here to help us. Commissioner Rardin said you guys typically go up there and saturate the area with water beforehand. I do not think we have started a fire up there in my forty-six years. I think all the other people setting fireworks set off the fire. Chief Ramirez said we have had brush fires up there. You cannot see them in the desert at night, but most of the Hot Shots or Wildland Division are deployed out in the desert at night, so they can get on those that do happen.

Mayor Payne said she had received multiple calls in opposition to a fireworks display this year. I also got Facebook messages on the Mayor's page opposing a fireworks display this year. Their feeling is that it is in poor taste, considering how close it is to Ruidoso. It's a tough call. We shouldn't be banning fireworks completely, just the display.

City Manager Holden said we had visited with our fireworks provider, just in case. They are willing to defer that to another time if there is a better time. He said he would not charge us the full amount. Assistant City Manager Hernandez said our contract normally says that we need to give them ninety day's notice, but they are well aware of the situation. We explained the strain on the Fire Department, and they are willing to push it to another event or just charge us the cost incurred. They are willing to work with us, and are allowing us, in a sense, to get out of that part of the contract.

Commissioner Robinson asked Chief Ramirez if he had a recommendation. Chief Ramirez said that in lieu of everything that happened, I would not have that fireworks show. I can maybe recommend it at a later date. Mayor Payne said a lot of our firemen have gone up to Ruidoso on their own time as volunteers. I would say they are pretty tapped right now.

Commissioner Burnett asked Johnny Powell how this affected the event at the Space Hall. Mr. Powell said we would not have the event at the museum because the event is to tag onto the fireworks show and allow the museum membership to enjoy the parking lot at the museum. It's a venue for observing

the fireworks. It is the only time of the year we allow members to bring guests. The museum is planning on being open during that time. It's an important community event for our membership that we segue onto, but we understand and sympathize with the events in the community. It would cancel our event because there would be no purpose for it.

Commissioner Rardin said he felt this was a safe event on the City's end. It is everybody else keeping the Fire Department busy. I have been here my whole life and watched that display, and I want to see it go on. It's not us being unsafe. We can ask for mutual aid from the county that night.

Commissioner Burnett said Mescalero canceled theirs. Chief Ramirez said they turned the casino area into a refuge for displaced people. Their event has been canceled. This event would be the only one in the Southwest here. With everything that has happened, it is on the fifty-fifty line. Commissioner Rardin asked if Holloman was doing theirs. Chief Ramirez said he did not believe so. They used to do one, but I haven't heard of them doing it in years.

Commissioner Rardin moved to proceed with the display.

Commissioner Burnett seconded the motion.

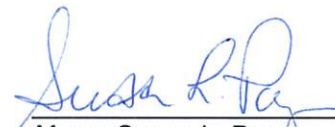
Motion failed with a vote of 3-4-0. Commissioners Rardin, Burnett, and Paul voted aye. Commissioners Robinson, Tapley, Mayor Pro-Tem McDonald, and Mayor Payne voted nay.

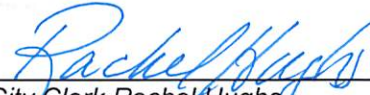
Commissioner Rardin moved to adjourn at 9:37 p.m.

Commissioner Paul seconded the motion.

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

ADJOURNMENT



Mayor Susan L. Payne
ATTEST:

City Clerk Rachel Hughes

(Prepared by Dylan Aleshire, Deputy City Clerk)
Approved at the Regular Meeting held on July 9, 2024.