



Alamogordo City Commission

NOTICE OF MEETING

Regular Meeting Agenda

January 28, 2025 - 6:30 PM

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

Susan L. Payne Mayor
Sharon McDonald Mayor Pro-Tem, District 5
Vacant District 1
Stephen Burnett District 2
Warren Robinson District 3
Josh Rardin District 4
Mark Tapley District 6

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

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

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

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

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

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

CALL TO ORDER & ROLL CALL

Announce the presence of a Quorum.

INVOCATION & PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

PRESENTATIONS

1. Overview of Projects, Utilities Department - Engineering. (Justen Boyle, Senior Project Manager)

PUBLIC COMMENT

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

CITY MANAGER'S REPORT

REMARKS AND INQUIRIES BY THE CITY COMMISSION

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

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

2. Approve the minutes for the Regular Commission meeting on January 14, 2025. *(Rachel Hughs, City Clerk)*

ITEMS REMOVED FROM CONSENT AGENDA

PUBLIC HEARINGS

3. Consider, and act upon, the question of whether or not the Alcoholic Beverage Control Division should grant Transfer of Dispenser Type Liquor Licenses to New Mexico Company Operations LLC for locations at 723 N. White Sands Boulevard, Alamogordo, NM 88310, and 1445 Hwy 70 W., Alamogordo, NM 88310. *(Rachel Hughs, City Clerk)*

NEW BUSINESS

4. Consider, and act upon, Ordinance 1711 Case Z-2025-0001(A) for first publication of a map amendment to rezone the property located at 523 Maryland Ave. from R-4 Multiple Family Dwelling to C-3 Business District. *(Stella Rael, City Planner)* **(Roll Call Vote Required)**

WORK SESSION

5. Discuss and gather citizen input on Ordinance 1710, an ordinance amending Chapter 11 of the Criminal Code, Articles 06-330 Obstructing Impeding, or Camping in Public Rights-of-Way and Adding Article 09-010-060 Regulating Camping on Public and Private Property. *(City Commission)*

ADJOURNMENT

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 1/28/2025

Report Date: 01/21/2025

Report No: 1.

Submitted By: Justen Boyle

Subject: Overview of Projects, Utilities Department - Engineering. *(Justen Boyle, Senior Project Manager)*

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation:

Background: Presenting all projects that Utilities-Engineering is currently working on. All phases include Pre-design, Design, Bidding Process, Construction Process, Shovel Ready, and Completed Projects.
(Justen Boyle, Senior Project Manager)



CITY OF ALAMOGORDO
UTILITIES DEPARTMENT
ENGINEERING

CITY OF ALAMOGORDO PROJECTS

JUSTEN BOYLE
SENIOR PROJECT MANAGER

PRE-DESIGN PHASE

PROJECTS THAT WILL GO INTO DESIGN

LANDFILL FENCING – UTILITY DEPT.

CONVENIENCE CENTER REHABILITATION – UTILITY DEPT.

TRAFFIC HEAD REPLACEMENT – PUBLIC WORKS DEPT.

BONITO LAKE ADA WALKWAY- PARKS AND REC DEPT.

RC2201 NATATORIUM – PARKS AND REC DEPT.

PRE-DESIGN PHASE

PROJECTS THAT WILL GO INTO DESIGN

LIBRARY PATIO- COMMUNITY SERVICES DEPT.

PLAYGROUND DUDLEY SCHOOL- PARKS AND REC DEPT.

ZOO (BATHROOM) - COMMUNITY SERVICE DEPT.

ZOO (BEAR ENCLOSURE) - COMMUNITY SERVICE DEPT.

PRE-DESIGN PHASE

PROJECTS THAT WILL GO INTO DESIGN (FEBRUARY – MARCH)

WSRP-003 (12th, 13th, 14th, and 15th and White Sands – Hawaii) – UTILITY DEPT.

SEWER REPLACEMENT (WHITESANDS – N. FLORIDA, 10TH STREET – INDIAN WELLS) –
UTILITY DEPT. *

REHABILITATION OF THE REMAINDER WATER TANKS – UTILITY DEPT. *

DESIGN PHASE

FD2401 FIRE STATION 2 - FIRE DEPT.

UC2501 VALLEY VIEW DRIVE REHABILITATION - UTILITY DEPT.

ZO2401 ZOO DUCK POND UPGRADE COMMUNITY SERVICES DEPT.

PW2502 WSRP-002 - UTILITY DEPT.

DESIGN PHASE

PW2307 BASIN SEDIMENT REMOVAL – PUBLIC WORKS DEPT

UW2501 WRF SLUDGE DISPOSAL AREA EXPANSION UTILITY DEPT.

HWY 54/70 MAIN GRID REPLACEMENT – UTILITY DEPT. *

WELL TRANSMISSION LINE – UTILITY DEPT. *

BIDDING PROCESS

ZO2402 ZOO FENCING - COMMUNITY SERVICES DEPT.

UC2403 GRANADA HILLS WSRP- WSRP-007 - UTILITY DEPT. *

PW2002 BONITO LAKE RESERVOIR RTU - UTILITY

CONSTRUCTION PROCESS

CE2301 MONTE VISTA CEMETERY RENOVATION PARKS AND REC DEPT.

PW2307 BASIN SEDIMENT REMOVAL PHASE 1 (GRIGGS BASIN) - PUBLIC WORKS DEPT.

IT2501 ZOO IT INFRASTRUCTURE - FINANCE DEPT.

EN2305 NEW YORK SMP - ENGINEERING DEPT.

PW2404 10TH STREET CBC REMEDIATION - PUBLIC WORKS DEPT

CONSTRUCTION PROCESS

EN2306 GREAT BLOCKS - ENGINEERING DEPT.

PW2503 HUBBARD BRIDGE REPLACEMENT - PUBLIC WORKS DEPT.

UC2401 SMP FY2024 (OREGON) - UTILITY DEPT.

PW2307 BASIN SEDIMENT REMOVAL PHASE 1 (PUBLIC WORKS BASIN) - PUBLIC WORKS DEPT.

UP2401 FOOTHILLS AND LOWER HEIGHTS WATER TANKS - UTILITY DEPT.

SHOVEL READY PROJECTS

UC2209 LA LUZ SOUTH RESERVOIR – UTILITY DEPT.

PW2501 ROAD STRIPING FY 25 (PHASE 1) – PUBLIC WORKS DEPT.

PK2202 BALLOON PARK – PARKS AND REC DEPT.

ZO2501 SEWER AND STORM DRAIN – UTILITY DEPT.

SHOVEL READY PROJECTS

UC2401 SMP FY2024 (OREGON AVE - PHASE 2 & 3) - UTILITY DEPT.

UC2210 UPPER AND LOWER HEIGHTS WATERLINE REPLACEMENT - UTILITY DEPT. *

CANAL DITCH - PUBLIC WORKS DEPT.

HAMILTON ROAD AND DITCH - PUBLIC WORKS DEPT.

ZOO IRRIGATION - COMMUNITY SERVICES DEPT.

COMPLETED PROJECTS

EN2013 CDBG SIDEWALK IMPROVEMENTS

PK2301 OREGON COURTS RESURFACING

ZO2301 ZOO (WOLF ENCLOSURE)

LF2401 LANDFILL WATER FILL STATION

ZO2402 ZOO (WALL- WOLF & WALL IN BETWEEN CHAMBERS & ED. BLDG.)

CDBG SIDEWALK IMPROVEMENT



PICKLEBALL AND OREGON COURTS RESURFACING



ZOO (WOLF ENCLOSURE)



CITY OF ALAMOGORDO
UTILITIES DEPARTMENT
ENGINEERING

LANDFILL WATER FILL STATION



ZOO WALL (WOLF AND CHAMBERS WALL)



COMPLETED PROJECTS

PD2407 APD STAIRLIFT INSTALLATION

PW2401 ALAMEDA PARK SHADE STRUCTURE

PW2407 ROAD STRIPING CITYWIDE FY24

FOOTHILLS AND LOWER HEIGHTS - FOOTHILLS TANK COMPLETED

APD STAIRLIFT INSTALLATION



ALAMEDA SHADE STRUCTURES



FOOTHILLS



PROJECT OVERVIEW

TOTAL PROJECT COUNT

12 IN PRE-DESIGN PHASE

8 IN DESIGN PHASE

10 SHOVEL READY

3 IN BID PROCESS

10 IN PROGRESS OF CONSTRUCTION

9 COMPLETED SINCE APRIL 2024

52 TOTAL IN MOTION

PROJECT BIDDING BENEFITS

- Project bidding is a strategic approach that enhances competitive pricing.
- It invites multiple contractors to submit proposals, ensuring the best value for the city.
- Efficient resource allocation allows for investment in other community needs.
- Strict adherence to Alamogordo's technical standards is crucial for project success.
- Following established guidelines ensures quality and safety expectations are met.
- Consistency builds trust and accountability among contractors and stakeholders.
- Successful project implementation reflects significant progress and organization.
- Aligning with technical standards streamlines project management.
- Enhanced transparency and communication benefit all parties involved.
- The city is better equipped to address residents' needs and foster sustainable growth.

Thank you

JUSTEN BOYLE

SENIOR PROJECT MANAGER

575-290-9784

JPBOYLE@CI.ALAMOGORDO.NM.US

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 1/28/2025

Report Date: 01/22/2025

Report No: 2.

Submitted By: Rachel Hughs

Subject: Approve the minutes for the Regular Commission meeting on January 14, 2025. *(Rachel Hughs, City Clerk)*

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve the minutes.

Background: This is required by the Open Meetings Act.

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING DRAFT MINUTES
6:30 PM, DONALD E. CARROLL COMMISSION CHAMBERS
January 14, 2025**

**SUSAN PAYNE, MAYOR
SHARON MCDONALD, MAYOR PRO-TEM
VACANT, COMMISSIONER
STEPHEN BURNETT, COMMISSIONER
WARREN ROBINSON, COMMISSIONER**

**JOSHUA RARDIN, COMMISSIONER
MARK TAPLEY, COMMISSIONER
STEPHANIE HERNANDEZ, ACTING CITY
MANAGER
ASHLEY SMITH, CITY ATTORNEY
RACHEL HUGHS, CITY CLERK**

CALL TO ORDER & ROLL CALL

Mayor Payne called the meeting to order at 6:30 PM. Roll Call was taken by the City Clerk. City Clerk Hughs announced there was a quorum present.

INVOCATION & PLEDGE OF ALLEGIANCE

The Invocation was given by Mayor Payne, and the Pledge of Allegiance was led by Commissioner Burnett.

APPROVAL OF AGENDA

**Commissioner Burnett moved to approve the agenda.
Mayor Pro-Tem McDonald seconded the motion.
Motion Passed with a vote of 6 - 0 - 0.**

PRESENTATIONS

1. Outgoing Plaque for District 1 Commissioner, Nick Paul. (*Susan Payne, Mayor*)

Mayor Payne presented a plaque to the former District 1 Commissioner, Nick Paul, in recognition of his service from December 2021 to December 2024, and wished him well in his newly elected position as a New Mexico State Senator. Mr. Paul thanked everyone and said it had been an honor and privilege.

PUBLIC COMMENT

1. Kelvin Holly said he wished to speak about Item 6, which is a house to be condemned. I am up for it to be condemned. I own a house down there, and my house along with others in the neighborhood are still well-kept. We are dealing with houses that are not kept up. They make the neighborhood miserable, and they steal utilities. The person with this house is a relative of mine. That house, along with the one beside it, have become trap houses. A trap house is for dope, and they come in anytime they want. They have been parking in the alleys and staying at the houses at night. It is not safe for the community. When I was a kid it was a pretty town, but it has turned to trash. The community has to do what it needs to in order to take the city back. I think the process of getting rid of some of these nuisance houses is too long. I wish we could get that shortened, but I do not know the rules or technicalities. We need to do something to get this done.

2. Derrick Washington said he wanted to repeat what Kelvin Holly had said. I was raised in that neighborhood and have seen it fall apart. I have not lived here in twenty years, but I am moving back, and I am not liking what I see. It is a relative's house that is being condemned. The process that it has taken to get it done is too long. We do not want to put people out of homes who are legitimately having a hard time. However, when it is infested with drugs, it is not safe for children. There are kids in and out of that home. It is just bad for the community all around. I hope we can get something done here quickly.

3. Jacob Justus said here was to speak on Item 4, the ordinance for public and private camping. I think this ordinance does nothing but criminalize homelessness in Alamogordo. It overburdens police and it skates off what people can do on their own private property. The language in the ordinance specifically references the City of Grants Pass v. Johnson case, which says it is not cruel and unusual to inflict these types of ordinances and penalties against the homeless population. Whereas before that ruling, it was cruel and unusual. That was what the Supreme Court of the United States overruled. Additionally, with it being an ordinance enforced through the penal system, we are going to be overburdening police, who could be stopping violent and property crimes instead of doing things that social workers or social services should be taking care of, as discussed at the Public Safety Town

Hall. The fiscally responsible solution is housing first initiatives, like those seen at Camp Hope in Las Cruces. They do a fantastic job at serving their unhoused population, and I think we could learn from them. I believe the ordinance goes against the mission statement on the notice of the meeting, where the City of Alamogordo exists solely to provide the best possible services to our customers, the citizens of Alamogordo, and we are committed to these services with honesty, integrity, compassion, fairness, and a commitment to excellence. You all are committed to the long-term financial stability and responsible growth of the city driven by the economic realities. The economic realities are that people's water and power bills are increasing. With this ordinance, if they find themselves out of a house due to increasing prices, they could find themselves out of a house and into jail. I hope we can come to different conclusions about how to care for unhoused citizens, in ways that put them in houses first with affordable access to medical and mental health treatment.

4. Courtney McCary said she was here to address Item 4 regarding the encampment ordinance. When I saw the ordinance, I was optimistic because it opens up possibilities of having more conversations about ways that the city can support nonprofits or community-based organizations to create more public and private partnerships to be able to address the issues with our current housing deficiency. Over the last several weeks since the first publication of the ordinance, I have seen a lot of talk in the community whether on Facebook or in person. I was at 100% Otero housing meeting today, and there is just so much dissatisfaction in the community about this ordinance. The residents are not happy with the way it is written, and a lot of people feel it is extremely discriminatory because of some of the punitive aspects of the ordinance. I am here to speak on With Many Hands and its stance on this ordinance. We are not in agreement with how the ordinance has been written. I also hope to speak on behalf of some of our community members who think this ordinance is not just, and that it could be revisited in a way that is more fair and compassionate towards the residents of Alamogordo. I hope that the Commission will consider pulling that item from the Consent Agenda so it can be discussed. Some of the issues that could be hit are potential litigation this ordinance opens up for the city, ramifications that the City and County would experience with the police enforcing arrest warrants for residents who are not able to pay these fines, and the taxpayer money going towards jailing these residents in local facilities. I would ask that you please pull this item from the Consent Agenda. During the discussion and vote, please consider voting against the language currently in the ordinance and revisiting it with consideration of input from community members and nonprofit partnerships. We can look at creating an ordinance that would be satisfactory for all community members.

CITY MANAGER'S REPORT

Acting City Manager Hernandez made the following comments:

1. Thank you to our legislators. We now have the capital outlay grants for the facility construction for the bear enclosure at the Zoo, restroom construction for the Zoo, the Dudley School Community Center and playground equipment, the Desert Lakes Golf Course irrigation system replacement, the Library's patio construction for the north side, and vehicle replacements for our officers. In total, it comes out to a little more than \$1,700,000. We just received those grants.

2. Regarding the Fun Center, the RFP is just about ready to go out. We just need to get the contract ready. I want to give you an idea of the way it will be structured. We know there are specific things that need to be met because it was voted on as a Recreation Center. In the scope of work, the individual has to have experience with the bowling alley, and then propose what other recreations they are going to have in the facility. Because of the industrial kitchen, they have to have some type of restaurant menu. It is up to them to propose what exactly they are going to provide to us. We can provide our liquor license to them, but they have to meet all the background checks and federal requirements. The lease issue is a big one, so we are going to go to revenue model sharing, where we get a percentage of the revenue as opposed to making them pay the lease amount. Once we get this out, hopefully by the end of the month, I must emphasize that no Commissioner can talk about it to anybody. Once it goes out for RFP the only communications go directly to Chief Procurement Officer Pyeatt. We'll have it out for about 30 days to get proposals in. There will be a committee of seven scoring the proposals. We will also have them submit presentations. We will come up with a recommendation to the Commission, and we will put the presentations on the agenda so you can see what was presented.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Tapley said he previously spoke to Acting City Manager Hernandez about Customer Service. I had a phone call today regarding the Water Department. I guess there is a turn-on time frame, like either the morning or afternoon. The complaint from the call was if the City could call him when they were on their way. Can we look at a

text message or phone call system for people who cannot sit around for four to five hours? Acting City Manager Hernandez said that was fair. I will work with the Customer Service Department to see if there is anything we can do with turn-ons. Maybe we provide cell phones for people in the field. We will talk to see if we can come up with a solution.

Commissioner Rardin said he received a phone call today from the same gentleman. It had something to do with a leak abatement at that same place. He said he had continuous consumption, so they were coming over to check it. Everybody has a cell phone in their pocket, so maybe calling twenty minutes ahead of time or a text message saying when they will be there. Acting City Manager Hernandez said we would have to provide cell phones and services to our people. They cannot use their personal phones. We will discuss it. Commissioner Rardin said it was probably a simple policy change or something on that. My second remark is about over on Washington Park behind Mountain View. A lady there, Ms. Hibbons, called me about four months ago on that issue, and to this day it has not been addressed. She called again this Monday, and then I noticed an email from Mayor Pro-Tem McDonald. If the roles were reversed, and we told them to cut their weeds, if it is four months down the road, we would have already abated it charged them for it, and liened their property. Acting City Manager Hernandez said that Weeds and Drainage went out there. An issue we have is there everyone in Weeds and Drainage are on Streets right now. We are looking to get an abatement contract. Public Works Director Vargas is trying to get that RFP out there so they can address these drainage channels. Right now, we are focusing on the streets. Mayor Payne said she had that same phone call. It has been too long and it needs to be cleaned up or on a time frame.

Mayor Payne said the Governor was here for a Town Hall Meeting, and it was not as productive as I hoped. I think we got way off-topic and I was a little disappointed. It was an interesting discussion. Commissioner Rardin said it sounded like she was trying to push gun control. Mayor Payne said it sounded like she was trying to push that and bash our officers. Hopefully, we can have a civil discussion when we present our opinions. We asked her to come and she came. I feel that even if we do not agree on everything, we are always gracious and welcoming to visitors. Mayor Payne said she received a threatening phone call last night and was told she was the scum of the earth that hated homeless people. I have been working with the homeless and less fortunate for sixteen years, and it makes me sad that just because I am the Mayor, I am not allowed to talk about something I am incredibly passionate about. We all have our views. We all believe differently, and that makes our community great. We are all here because we want to serve our community. The purpose of the Town Hall Meeting was to talk about the very change mentioned in Public Comment tonight.

CONSENT AGENDA

2. Approve the minutes for the Regular Commission meeting on December 17, 2024. (Rachel Hughs, City Clerk)

3. Consider, and act upon Ordinance 1709, Case Z-2024-0006(A) for adoption and final publication of a map amendment to rezone Cottonwood West Replat B Subdivision Lots 13-15, 28-33, 36-41, 44-46 from R-1 Single Family Dwelling District to R-3 Two Family Dwelling District to construct residential duplexes and Lots 1-12 from R-1 Single Family Dwelling District to R-2 Townhouse Dwelling District to construct Townhomes.(Stella Rael, City Planner) (Roll Call Vote Required)

4. Consider, and act upon, Ordinance 1710 for adoption and final publication, an ordinance amending Chapter 11 of the Criminal Code, Articles 06-330 Obstructing Impeding, or Camping in Public Rights-of-Way and Adding Article 09-010-060 Regulating Camping on Public and Private Property. (Susan L. Payne, Mayor) (Roll Call Vote Required)

5. Consider, and act upon, approval of Change Order 1, in the amount of \$43,850, excluding NMGR, to General Hydronics Concrete, for relocating a 10" reclaimed main water line. (Justen Boyle, Senior Project Manager)

6. Consider, and act upon, Resolution 2025-03, declaring 807 Second St. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety and ordering its abatement. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

7. Consider, and act upon, the award of Public Works Bid No. 2024-012, Desert Lakes Golf Course Irrigation System Improvements Project, No. GC2402, to Mid-American Golf and Landscape, Inc., related to the Desert Lakes Golf Course Irrigation System Improvements Project for an amount not to exceed \$2,369,508.23, excluding NMGR. (Justen Boyle, Senior Project Manager)

8. Consider, and act upon, Resolution 2025-04 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 January 14, 2025. (Evelyn Huff, Finance Director) (Roll Call Vote Required)

9. Consider, and act upon, acceptance of a grant agreement from the NMDFA, in the amount of \$505,250 providing urgent or emergency funding for infrastructure and equipment needs. (Debbie Osborne, Grant Coordinator)

10. Consider, and act upon, acceptance of a capital outlay grant agreement from the NMDFA, in the amount of \$695,000, to plan, design, construct, equip and improve an irrigation system for Desert Lakes golf course. (Debbie Osborne, Grant Coordinator)

Mayor Payne said we will pull Items 4, 5, 6, and 7.

**Mayor Pro-Tem McDonald moved to approve the Consent Agenda as amended.
Commissioner Robinson seconded the motion.
Motion Passed with a vote of 6 - 0 - 0.**

ITEMS REMOVED FROM CONSENT AGENDA

4. Consider, and act upon, Ordinance 1710 for adoption and final publication, an ordinance amending Chapter 11 of the Criminal Code, Articles 06-330 Obstructing Impeding, or Camping in Public Rights-of-Way and Adding Article 09-010-060 Regulating Camping on Public and Private Property. (Susan L. Payne, Mayor) (Roll Call Vote Required)

Commissioner Rardin said he wanted this item pulled to vote no. He was the only one who voted no last time.

Mayor Pro-Tem McDonald said she attended the same 100% Otero meeting previously mentioned where things were brought up. When I was dealing with this last time, there was a no-trespass in our neighborhood. In talks today, I saw things from a different side. I was made aware that we were transferring the liability from the City to the County, that the County cannot contain the number of people that can be picked up and put in jail, and they are being sued for it. I do not want to place an issue from the City to the County. There is also an up-to \$500 fine and six months in jail. Most of these people are filtered through the jail; they may go in but are out the next day. When you start applying fines to them, we will not get the money at all. It is criminal to make someone who is homeless stay in prison for six months. Another issue is that it says that they cannot stay on private property or a place where you cannot get rid of your sewage. That's a bathroom issue. So I wanted to rethink this and have an open dialogue on what we are passing. Can we get all the facts, and not transfer the issue from the City to the County for them to get more liability suits? Some people mentioned the City's Mobile Crisis Unit, and in the contract, the police are supposed to refer them so we can have whatever the Crisis Unit can do for people in these situations. Maybe give them the opportunity to not have more trauma in their life. I am not saying I do not want rules, I am saying I do not want the homeless criminalized. I do not think it is fair to assess someone with a fine they cannot pay, and the more they go, the fines go up. Maybe the crime they are being charged with will have more time. Can we look at all the aspects of what this is actually doing for our City and make a better judgement? Mayor Payne asked if they had come up with an alternative solution, and if so, what it was. Mayor Pro-Tem McDonald said the alternative solution they were looking at was making places available for people to go. Mayor Payne said she understood that the Housing Sector meets every month, and they have been doing this for five years, but we do not have any solutions yet. I am a little concerned that after five years there is still no solution.

Mayor Payne continued that we have Fire Chief Ramirez and Lieutenant Skaggs from the Fire Investigation Unit here today with statistics, and I would like to hear from them. Fire Chief Ramirez said we ran some stats on incidents pertaining to the Fire Department alone. These stats only go back to the beginning of 2024 until the

present. Acting City Manager Hernandez said she asked the Fire Department to put this together because there is another side of this besides just the criminal aspect of trespassing. There is also the fire side of it that is causing frustration to the Fire Department. It is good information to provide. Lieutenant Skaggs said he looked at the time period of November 1, 2023, to January 3, 2025. Since January 3rd, we have had approximately four to five additional incidents with homeless and fires. During that time period, my Investigations Unit investigated multiple fires that appeared to or were directly caused by homeless encampments or homeless individuals. Forty-five incidents were linked during the time period that we responded to. When we respond to incidents, we move through the community with haste with our lights and sirens on because we are not sure what is going on. We not only put ourselves in harm's way but the community also. The common cause of most of these incidents was linked to homeless individuals unsafely trying to cook or stay warm. We sympathize with these individuals but they are not doing it safely because they do not have the resources or aspects to do it. A lot of them do not understand that it is not safe for them to be doing it. Eleven of the forty-five fires were deliberate acts of arson caused by homeless individuals within our community. I deal with a portion of our homeless community day in and day out. We work with organizations here like the Crisis Intervention Team (CIT). A lot of the homeless just need help, but some of them refuse help. We identified risk areas, and some incidents have occurred in high-risk locations including vacant houses. We work with Code Enforcement regarding the dilapidated structure program. We also have vacant commercial buildings. A lot of incidents are happening on rural City-owned property; it is our own property we are having these incidents on. The severity of these fires has resulted in high-dollar losses to vacant properties and endangered the safety of the community and emergency responders. A lot of incidents are in vacant houses. These are causing monetary loss to community members and putting everybody else's property in danger. Everyone talks about how the Alamogordo Police Department (APD) has to interact with the homeless and the hostile interactions, but the Fire Department also has to deal with that. A lot of times when we respond to calls, APD is busy on bigger calls and is unable to assist us. Our personnel have to deal with hostile interactions with the homeless here in Alamogordo. There are three incidents I would like to bring up because they are cause for concern. There have been multiple fires at 516 East First Street. From November 18th - 19th 2024. We responded five times at that address in reference to a dumpster or trash fire in the alleyway. All those fire incidents were linked to conflicts between the homeless individuals that frequent the area. Fires we are dealing with are issues between the homeless where they are burning each other's stuff or areas so people cannot stay there. It is awful, it is like a turf war. On December 7, 2024, fire personnel responded to an unknown fire west of the tracks, between the tracks and the bypass. I was the first unit on scene and was confronted by a homeless individual who openly admitted he set the homeless camp on fire. The individual threatened me with a knife, and when APD got on the scene, he resisted arrest and had to be forcibly taken into custody. This is what our Fire personnel are dealing with every single day. We say that APD is dealing with bigger crimes, but the homeless fires are becoming bigger crimes and are threatening our personnel. There was also an attempted arson at the vacant Allsup's on December 28, 2024. Fire personnel responded to 2200 North White Sands Boulevard in reference to a fire against the building. The reporting party described a homeless man as starting the fire. Upon arrival, Fire personnel discovered that a passerby had extinguished the fire. The investigator concluded the fire was an act of arson and an attempt to burn the building down. The selfless act of a bystander kept the fire from spreading. We got lucky on that one. Without the bystander, that Allsup's would have gone up in flames. I have ongoing investigations, and I am collaborating with local law enforcement and entities outside the city to come up with solutions, but we have not. I have been working in the Investigations Unit since 2018, and we have not come up with a solution to fix this. It just keeps growing. A lot of the homeless we see are not the local ones, they are the ones traveling through. They come and create problems in our city, leave, and then we do not see them again. Or we give one of them a place to stay, or they go to OCDC, and our fires stop. As soon as they are released fires start up again. We have to do something, and the biggest issue is that we do not have a way to enforce this. When we go out there, we do not have a way to do anything. There is something called officer discretion, and I have the same thing as APD. I do not charge crimes, I recommend charges to APD. So if we go out and see somebody there is merely trying to stay warm or use heat to cook, we do not necessarily have to cite them. We can educate and provide resources for them, and I make phone calls in the middle of the night to different organizations to try to find a place for them to go. However, with the ones that are a problem, we just keep going back where they are on private property and we do not have any way to go in there and mitigate the problem. I am in support of the ordinance to where we can go in there. Right now, I do not have any grounds to go onto private property and say a person cannot be staying there. We go to a vacant house with somebody doing something unsafe inside, and if we cannot find the owner, we cannot do anything. Even if we know it is unsafe and we will be back. There have been multiple instances where we go to a vacant house with somebody squatting in it with a fire inside. We tell them they cannot do that, and then we are back days later for a full-blown structure fire because there is no way to enforce it. I try to reach out to the owners, but I have the same frustrations as APD and Code Enforcement. We cannot reach these owners. We support the ordinance and we

need to be able to do something. I want you to understand we sympathize with these individuals and do everything we can to provide resources, but these fires are concerning. It is putting our community and our personnel at risk. Fire Chief Ramirez said they tried to set the abandoned hotel across from Big O Tires on fire. We were able to get a hold of the property owner, and they boarded it up. As the weeks pass, you can see where they are starting to get back into that. Mayor Payne said a nearby building was broken into multiple times, and the last time, a sledgehammer was used to break through cinderblock so they could crawl through the hole. Then they would run to that hotel next door.

Mayor Payne continued that she had a situation before Christmas at our building on Ohio Street. A lady refused to leave. We had two staff members, and one of them called me and said this lady was going to hit. I jumped in my car, and we called the police who met us there. I could hear her screaming at our officers in the next room. This same lady was in City Hall several days before and had refused to leave. She had been harassing the receptionist there and demanding things. My assistant was shaken up by the incident. I thought they were going to arrest her, but the only things they could do was take her to jail or trespass her. I did not want to jail her before Christmas, so we trespassed her. To trespass her, we set her on the sidewalk. The officer that was there said that was the fourth time he had trespassed her this week. I asked where our Crisis Intervention Team was, and the officer said he sent a message but never heard back. I told him to tell them I was asking. I hated leaving that lady on the sidewalk with all her stuff. She clearly had mental health issues that needed to be addressed. As has been said, we have no recourse at all. I am open to solutions, but I am not hearing viable solutions. There has to be a better way.

Mayor Payne continued that at the Town Hall Meeting, a homeless shelter was mentioned. There is a PIT Count done every year on a particular day, where volunteers interview as many of the unsheltered as they can. We know from the PIT Count that it is probably less than one hundred that are unsheltered. To properly run a homeless shelter is probably \$1,000,000 a year with mental health professionals, addiction counselors, and staff to help. The liability insurance is outrageous. How do you justify \$1,000,000 a year for less than one hundred people? I am not saying it isn't worth it but look at your own household budget. Is that what you spend per person? On the flip side, there are no great solutions. If they are hanging out and camping in our Parks, and people are telling me they are uncomfortable bringing their kids to the Parks, what is the solution? I have not heard of any great solutions.

Mayor Pro-Tem McDonald said she was not asking for the resolution to be passed tonight. I am asking we revisit it. I originally brought up the fires in District Five's condemned houses. I would like to make sure as far as the money situation here. We are trying to move forward. If we could get a resolution that satisfies everyone to whatever degree, let us go ahead and do that. I am opposed to the fires being started in town. If you want to treat people fairly, be fair about how you look at it. When people bring things to me, as a Commissioner, I want to bring it forward. People had concerns tonight and wanted an open dialogue. Mayor Payne said I hope we are doing that right now. Mayor Pro-Tem McDonald said she told the people that she was only one vote on whatever is to be determined. Mayor Payne asked if those people gave Mayor Pro-Tem McDonald an alternative. Mayor Pro-Tem McDonald said as I said earlier, no.

City Attorney Smith said one of the Commission's concerns is possible fines. We allow for community service in lieu of fines and allow it for anyone who gets a fine with Municipal Court. My office does not oppose it and the Judge would not necessarily let us oppose it. I believe we do almost \$20 an hour for each community service. Each hour of community service goes toward your fines. Mayor Payne asked if we couldn't put the language of lieu of a fine in the ordinance. Can we require it in lieu of a fine? City Attorney Smith said that judicial discretion, but is standard practice for the to do that. We cannot require community service, it is an option. Mayor Payne said something like that may be better. I feel an alternative program like that may help them feel good about themselves. I believe they are capable. We need people to understand they are capable of doing more. City Attorney Smith said when we do sentencing that is something we suggest. The Judge will tell them if they cannot afford the fines, they can do a payment plan or community service. Community service is programs they know of and can say that these are ones that people have done in the past. They sometimes go to the churches and the pastors will sign off when they have done community service. Community service is a standard practice in the prosecution. The Judge will set a fine, but that is because we have to have a way to track it. Mayor Payne asked how many people take community service. City Attorney Smith said she would have to ask the Courts. Once they are sentenced, I do not have much to do with it unless there is a failure to pay. I have seen people come in with their sheets, but I cannot give you a rough estimate. Commissioner Rardin said he has been in the industry along with Mayor Pro-Tem McDonald. The fines and community service do not work. At \$20 an hour with a \$500 fine, that is twenty-five hours of community service.

They work an hour or two, then they cannot find them or they do not show up, and then there is a failure to appear or pay. Then they are in the system and it is a revolving door. It works for some but not for others. It seems there is quite a bit of discussion and people who want to make comments or contributions to the ordinance. I have an issue with private property and the City being able to tell somebody to leave private property. We really do not have that authority. I would like to table this. That would give the public time, and we can bring it back in thirty days. 100% Otero and Mrs. McCary can get their comments together and bring them back to us. Let's get it to where it works for everybody. The current ordinance on the books addresses camping on the right-of-way. It is illegal, and if they are causing a problem, then let's remove them. The City needs to be careful with private property. What if we go in and injure them? Then we would be involved in a lawsuit. Mayor Payne said an abandoned house is technically private property. Commissioner Rardin said it is, and I see their side. Commissioner Burnett said that is a criminal offense and it is a little different. Commissioner Rardin said we already have ordinances so if they are camping in the park we can remove them. With the Fire Department's issues, in a month or two when it starts warming up, a lot of them will probably start going away for around eight or nine months, then it will start again. It is just this time of year. Our climate is not as cold, so we get drifters coming through from colder places. I do not know the answers, but I would like to call a question on this and make a motion to table it. Mayor Payne said the frustration is we still have no solutions. We can have the public comment, but if our thought is it is going to warm up and they'll go away, that is not a solution. It'll be cold again and they will be back. I understand about the fines and you are not wrong, but if we are talking about overtaking our jail, let's talk about overtaking our public safety officials too. Even if it is just during winter, we are still putting them in harm's way. I feel like we are ignoring what was just said. Joseph Hernandez showed up for a trespass in Las Cruces and a homeless man with a knife killed him. We can wait thirty days, but we need to come up with a solution. If we lose a fireman or officer because we decide someone else's life is more important than theirs, which is what we are doing when we do not address the issue, then I will be vocal about it. Commissioner Robinson said you are always going to have this problem. 100% Otero and their Housing Committee, along with several individuals in this community, are working on this. It is difficult and there is no simple solution. I agree with giving the public another thirty days to do this. Let's not just criminalize them and put them in a situation where it will not get any better. In Las Cruces, they have something amenable to the City and the people. After thirty days, if there is no solution, I will vote for this. The homeless are not going to just go away. Mayor Payne said ours are relatively low compared to other places. I do not have a problem with tabling this for thirty days. Acting City Manager Hernandez asked what the comments look like. This ordinance was not put together just because we felt like it. We pulled it out of state ordinances. There are initiatives like the homeless shelters, and others like this one. So what do the comments look like? Do they come to the Commission? I do not know how this looks. We have been working on this for two years and it is only getting worse. I feel compassionate for everything, but am frustrated because Fire and the Police are dealing with this and nobody is providing solutions. They are just condemning us. I do not know how to incorporate a solution that fixes it for everybody. Mayor Payne said her concern with comments is if somebody comes in and disagrees with somebody else, will somebody get angry? If they are, then it is pointless. We have to be able to listen. I understand one group may be more vocal than another, but that does not mean I do not get phone calls and text messages. We have to listen to other people's points of view and respect them or I am not going to listen to comments. Either we are respectful of each other or it is just not going to work. This has been going on way too long and it is getting worse. Commissioner Rardin said on the next agenda, we can put an item on allowing constituents who have an issue to come to the meeting and provide input on the ordinance. We can take those comments, do whatever we need to, and then have it in thirty days. That gives them an opportunity to show up or not. Human beings are out there and down on their luck. Do we really want to kick them while they are down and throw them in jail or fine them \$500? Acting City Manager Hernandez said we could put an item on, or a workshop. Commissioner Tapley said he had a rebuttal from his constituents who called him regarding the private property. Can we reword this to where we made two efforts to call people and if they were not responsive, then we can remove them? We need to have a buffer zone to be able to remove them because they are on private property. Acting City Manager Hernandez said that is a fair comment. If we are unable to reach the property owner after a certain amount of attempts, then the ordinance kicks in. Commissioner Tapley said absolutely.

Commissioner Rardin moved to table the item.

Commissioner Tapley seconded the motion.

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

5. Consider, and act upon, approval of Change Order 1, in the amount of \$43,850, excluding NMGRT, to General Hydronics Concrete, for relocating a 10" reclaimed main water line. (Justen Boyle, Senior Project

Manager)

Commissioner Rardin asked why we did not know there was a reclaimed ten-inch water line. Senior Project Manager Boyle said we knew there was a ten-inch. The problem is, back in 1996, the plans show it was supposed to be six feet deep, and it was actually less than three feet. It was encased, and connected to the footing and the side wall of the culvert box. It's a big one that covers the whole Oregon Park down to Indian Wells. If, for some reason, we fix this tiny break and it breaks again, now we have bigger issues because it is under the culvert box they are fixing, plus the top of the asphalt they are repaving. My proposal is to change it to where it is going on the west side of the bridge completely and not touching the culvert box at all. I spoke to our Utility Maintenance crews and they feel the same way. If it does break, it will be easier for them to access compared to breaking concrete under the box and fixing something that is encased. Commissioner Rardin asked if it was currently under the bridge or the side of the hill. Senior Project Manager Boyle said it was all. The footing and cover box are all connected with the same concrete; nothing is separate, it is all combined into one. It was not supposed to be built that way in 1996. Commissioner Rardin said it used to be six feet deep until a former engineer went in and cleaned that ditch. He excavated it way down. Senior Project Manager Boyle said on the plans placed on the agenda, they show the new line was supposed to be placed six feet deep. In the bidding, there was a bid item, Number 23, which is an allowance for utility conflict. They bid \$20,000 on that because they did some of the damage but it is not all their fault. It was \$63,000, so that's why I put \$43,000 on the agenda.

**Mayor Pro-Tem McDonald moved to approve.
Commissioner Robinson seconded the motion.
Motion Passed with a vote of 6 - 0 - 0.**

6. Consider, and act upon, Resolution 2025-03, declaring 807 Second St. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety and ordering its abatement. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

Commissioner Burnett said there was nothing on there saying that structurally, something was wrong. Code Enforcement Manager Sides said there were some foundation issues from a water leak, and the interior was bad enough that I could not do a lot of the inspection from the inside. The outside had the water leak. Mayor Payne asked if anyone was trying to live in that house right now. Code Enforcement Manager Sides said yes. Commissioner Rardin asked if it was someone supposed to be living there or squatters. Code Enforcement Manager Sides said it was a family member living there and allowing others to live there. There have been children there.

**Commissioner Burnett moved to approve.
Mayor Pro-Tem McDonald seconded the motion.
Motion Passed with a vote of 6 - 0 - 0.**

7. Consider, and act upon, the award of Public Works Bid No. 2024-012, Desert Lakes Golf Course Irrigation System Improvements Project, No. GC2402, to Mid-American Golf and Landscape, Inc., related to the Desert Lakes Golf Course Irrigation System Improvements Project for an amount not to exceed \$2,369,508.23, excluding NMGRT. (Justen Boyle, Senior Project Manager)

Commissioner Tapley said that all they had was the recommendation from the architect. Senior Project Manager Boyle said there was only one bid. I have not written a recommendation on it. The last time I had other forms, it seemed the Commission was a bit confused about what I was doing, so I just wanted to go back to the recommendation letters and keep it consistent. Commissioner Tapley asked what the original amount budgeted was. Senior Project Manager Boyle if you mean like what the architect expected, then \$3,200,000. Commissioner Tapley asked if that was what was budgeted. Senior Project Manager Boyle said no. Finance Director Huff said originally, before the bid opening, we had \$2,100,000 total allocated to the project. After the bid opening, it was clear it was going to fall short of that, and we were able to request more money from the State. We received another \$505,000 from the Governor's Fund. The total money we have for this project is \$2,612,966. Commissioner Burnett asked what were allowed to do with the leftover \$300,000. Finance Director Huff said it would not be left over. The \$2,300,000 does not include taxes. We have a very thin margin, not including if we find unknown

conditions that are going to require something else.

Commissioner Rardin asked if this was all grant money. Finance Director Huff said there are four legislative allocations. \$450,000 in local money, and \$505,250 from the Governor's Fund. Commissioner Rardin asked what fund the \$450,000 was coming out of. Finance Director Huff said the General Fund, Fund 11. Commissioner Rardin asked if it was a match for all the bid or the grants. Finance Director Huff said yes. When we went to the legislative session, we went with an ask, based on EOPC, of \$1,100,000 to finish. We received feedback from the legislature that they wanted to see some local money, so we pledged \$400,000 when we put the application there. The additional \$50,000 came when we saw the bid. Again, it is a razor-sharp margin, but that gives us more of a cushion.

Mayor Pro-Tem McDonald said she saw that Items 9 and 10 were part of that too. Is that correct? Finance Director Huff said that is correct. When we went and requested the entire amount from the legislature, one of the legislators had \$350,000 so they put that in. Three legislators combined together for additional funding they had left to come up with the \$695,000. You all already approved \$350,000 as part of the ICIP, so for the two you voted on the Consent Agenda, \$505,000 came from the Governor's Office, and again, \$695,000 was from three legislators coming together. That was something that had not been voted on previously.

Commissioner Tapley asked Senior Project Manager Boyle when they were going to start the project. Senior Project Manager Boyle said he was projected to start something at the end of February. It depends on how fast I can get the paperwork done with the contractor. I cannot talk to them until it is approved and awarded. From there, I will be able to give more of an answer. They will have six months to finish the job. Commissioner Tapley asked if there were plans to reseed where they were cutting. Senior Project Manager Boyle said there was some reseeding in there. Even though it is a lump sum and the bidding itself says the entire irrigation system, anything that's in the plans shows that part. We won't be reseeding the entire golf course, just where they are at.

Commissioner Rardin asked if there was information on the contractor. Senior Project Manager Boyle said yes. After I looked at their website, I had Jeff from Planned look it up. I was pretty impressed. They do golf courses around the country. They just did Los Alamos, and they got that done in less than two months. Commissioner Rardin asked if they had the qualifications. Senior Project Manager Boyle said absolutely.

Commissioner Tapley asked if that was all eighteen holes. Senior Project Manager Boyle said correct, plus the driving range. They are supposed to do three holes at a time. We will proceed with scheduling based on how fast we get each of the three holes done.

Commissioner Rardin moved to approve.
Mayor Pro-Tem McDonald seconded the motion.
Motion Passed with a vote of 6 - 0 - 0.

PUBLIC HEARINGS

11. Consider all evidence for and against the removal of approved Resolution 2024-68 due to the property owner's written objection. The Commission will determine if the resolution should be enforced or rescinded. Resolution 2024-68 declared 1420 New York Ave., to be so ruined, damaged, and dilapidated that it is a menace to the public comfort, health, peace, or safety and ordered its abatement.

Mayor Payne asked if the property owner was here tonight. City Clerk Hughs said she did not see him here. Mayor Payne said so we just need to move on then. City Clerk Hughs said that was correct.

UNFINISHED BUSINESS

12. Consider, and act upon, Ordinance 1707 Case Z-2024-0005(A) for first publication of a map amendment to rezone 1701 Cuba Ave. from R-1 Single Family Dwelling District to R-3 Two Family Dwelling District. (Stella Rael, City Planner) (Roll Call Vote Required)

City Planner Rael said she brought this item before the Commission on September 24, 2024. The property owner

requests a map amendment to change the property from R-1 Single Family Dwelling District to R-3 Two Family Dwelling District. We are looking at what is currently a garage workshop. It is a little area totaling six hundred and twenty-eight square feet. If the zoning is approved, the property owner plans on extending the bath to add a shower. If the zoning is approved, they will look at converting the garage area and making it into a bedroom. At the last meeting, there were questions about what will happen with the garage door. The garage door would remain because the main entrance to this little area is on the north side. You can park at the carport or other side of the building with entrances going around the north side of the building. The property owner intends to convert the workshop into a one-bedroom rental. There is electricity, gas, and water available to the garage, and a mini-split system serves as heat and air conditioning for this area. There is one electric meter, one gas meter, and one water meter servicing both the main house and shop. The main home on the property is an occupied rental. The rear yard will be a shared space between tenants occupying both spaces. Thirty-four letters were sent to owners of record within the two-hundred-foot radius, excluding public right-of-way. As of January 7, 2025, there were two letters returned undeliverable, and no letters of opposition have been received. Two phone calls for more information were received, but they had no opposition. At the September 24, 2024 Commission meeting this item was tabled by a vote of 7-0-0, and staff was directed to bring it back at a later date with more information. Commissioner Burnett said this was tabled to find out if the permit was correct. City Planner Rael said I have no record as far as permits. I could not find any for construction. There were none in our system, and I did not find any in CID's system for electrical or plumbing. I do not think the property owner or representative is here. Commissioner Rardin said it sounds like they are going to permit and do some additional work. City Planner Rael said my conversation with them was about whether they are going to do additional work. They are going to have to pull proper permits, and CID may make them do extra work there for permits that were not pulled. I had that conversation with the representative. If the permits were not being pulled and work was being done, I would come back in front of the Commission and ask you to rescind the rezoning to ensure it is done correctly.

Commissioner Tapley asked if there was a toilet in the bathroom, or if it was just a vanity. City Planner Rael said there was a toilet to the right of the vanity. I asked the representative to be here to answer questions I cannot. Commissioner Tapley said that we tabled this for the permitting aspect. Mayor Payne said that now it is on the radar, it will be more difficult to do this work without a permit.

Commissioner Rardin moved to approve.
Mayor Pro-Tem McDonald seconded the motion.
Motion Passed with a vote of 6 - 0 - 0.

NEW BUSINESS

13. Consider, and act upon, Resolution 2025-02 declaring that a vacancy exists on the City Commission for District 1. (*Rachel Hughs, City Clerk*) (Roll Call Vote Required)

City Clerk Hughs said this resolution was to declare a vacancy for the District 1 position. The resolution must be adopted by the Commission within fifteen days of the vacancy. The Commission will appoint an eligible candidate at the last meeting of February 25th, which is thirty days after the adoption of the resolution. If the Commission does not appoint at that meeting, the Mayor will solely appoint on March 11th. The person appointed shall fill the position until the next regular local election, which would be this November. They will fill it until December when they can run. Whoever gets elected at that regular local election will finish the time until Commissioner Paul's term would have been up. The candidates must live in District One. The deadline to give documents to me is February 14th. Those documents would be the letter of interest, the declaration of candidacy, the disclosure form, and the voter registration affidavit, which they get from the County Clerk's Office. I do have packets they can pick up at my office, and they will also be on the website under the Commission's page tomorrow. I like to meet with the candidates so I can go over more information with them and give them my contact information. When the candidates come before the Commission, they will speak about their interest in the position, and I will have them in the order they submitted their complete forms and declared eligible to be appointed.

Commissioner Rardin moved to approve.
Commissioner Burnett seconded the motion.
Motion Passed with a vote of 6 - 0 - 0.

14. Consider, and act upon, the first publication of Ordinance No. 1698 to remove listed parking, overnight, and landing fees from Chapter 4 of the Code of Ordinances. (Troy Orr, Airport Manager)(Veronica Ortega, Community Services Director) (Roll Call Vote Required)

Airport Manager Orr said our object is to publish an amendment to Chapter 4 of the Code of Ordinances to remove listed parking, overnight, and landing fees. The Code of Ordinances is law and legally actionable, and we are currently in violation of our own laws. A few fees are listed in the ordinance that we do not typically act upon. We do not claim them from tenants or airport users, which puts us in violation of our own ordinance. Secondly, our rates and fees are all over and are not visible to the public. Our transparency is effectively nonexistent. The intent of doing this is to eventually publish a rates and fees document, with the approval of the Commission, that can be made available to the public. This rates and fees document can be reviewed on an annual basis by the Airport Advisory Board and City Manager. Then it can be approved by the Commission on an annual basis. Very few rates and fees are published elsewhere within the ordinance. I would remind everyone we recently did that with Public Works. I did not provide a sample of the document to avoid confusion like we ran into last time. Once this is approved, we will work with the Airport Advisory Board to figure out what that document will look like. Then it will be brought to the Acting City Manager, and then the Commission so you can review it yourself for final approval.

Commissioner Burnett asked where we are at on the rates. Airport Manager Orr said right now, there are no changes. The intent is to cross that bridge once we get to it. There have not been discussions about rate changes or fees. Commissioner Rardin asked why the rates were being pulled out with nothing to replace them with. Airport Manager Orr said that was at the recommendation of the City Attorney and City Clerk. Publishing them simultaneously could cause some legal issues. By their recommendation, it is better to remove the old language first and then enter new language.

Commissioner Rardin said that technically until we pass a rate or fee schedule, we cannot legally charge them because there is nothing published. Acting City Manager Hernandez said they are not being charged right now. If they start working on this immediately, the idea is to have it at the second reading. It will be a resolution fee sheet. Not for the leases, just fees. He said this is almost exactly like what we had a few months ago minus the rate sheet. She said it was, but at that meeting, there was some discussion with the Advisory Board. Now the Advisory Board is working with us on it. Lance Grace is here along with our newest Airport Advisory Board member. The issue last time was a conflict between the community, the Board, and the City. Now we are all on the same page. Airport Manager Orr said a big concern when this was last presented was that the City would try and slide changes to the fee schedules under the table with it just requiring a resolution to pass. I changed some of that wording in the ordinance to include the Airport Advisory Board, the City Manager, and the Commission. Anybody who reads the ordinance should be able to understand that it is not anytime fees are discussed. It will not just happen. I have also put together a standard operating practice document that the Airport Advisory Board has already looked at. It outlines our intent for changing fees and moving forward. To address Commissioner Rardin, with the fees we are discussing, we do not collect them anyway. We do not collect parking fees or landing fees except in very limited circumstances, specifically with the US Forestry Service being the only example. We do not collect overnight fees. The City may want to utilize these fees at some point, and it would be best to have them in a document approved by resolution. The proposed rate fees document will be able to be easily published, on our website, and accessed by anybody. If you currently want to know next year's rental fee, you would have to come to my office for that. If you want to talk about gas flowage rates, those are in a different document. The intent is to have fees in one place and transparent to the public.

Community Services Director Ortega said a lot of the fees in this ordinance were outdated. You are looking at us chasing down somebody for maybe \$3 to \$4 dollars, and they are putting jet fuel in for \$4,000 with us getting four percent off of those fees. So do we want to clean this up, do we want to make someone mad by chasing them down for \$4? In a lot of this there was no rhyme or reason to it, and Airport Manager Orr has done a wonderful job cleaning it up. This is the right way to do it. He already started with several samples from different airports that were charging rates and fees, and we will put those together and work with the Airport Advisory Board to come to an agreement that will be brought to the City Commission through the approval of the City Manager.

**Mayor Pro-Tem McDonald moved to approve.
Commissioner Robinson seconded the motion.
Motion Passed with a vote of 6 - 0 - 0.**

ADJOURNMENT

Mayor Pro-Tem McDonald moved to adjourn at 8:38 PM.

Commissioner Tapley seconded the motion.

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

ATTEST:

Mayor Susan Payne

City Clerk Rachel Hughs

(Prepared by Dylan Aleshire, Deputy Clerk)

Approved at the Regular Meeting held on January 28, 2025.

DRAFT

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 1/28/2025

Report Date: 01/16/2025

Report No: 3.

Submitted By: Rachel Hughs

Subject: Consider, and act upon, the question of whether or not the Alcoholic Beverage Control Division should grant Transfer of Dispenser Type Liquor Licenses to New Mexico Company Operations LLC for locations at 723 N. White Sands Boulevard, Alamogordo, NM 88310, and 1445 Hwy 70 W., Alamogordo, NM 88310. *(Rachel Hughs, City Clerk)*

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve the Request.

Background:

The Alcohol Beverage Control Division of the NM Regulation and Licensing Department has given these applications preliminary approval. In accordance with Section 60-6B-4 NMSA of the Liquor Control Act, the Division must refer the application to the Governing Body for approval or disapproval. This public hearing is for the purpose of considering the two applications. A Notice of Public Hearing was published in the Alamogordo Daily News on Tuesday, December 24, 2024, and Tuesday, January 14, 2024. These publications meet the State regulations of publishing a notice twice prior to the hearing.

The applicant, New Mexico Company Operations LLC, is seeking a Transfer of Dispenser Type Liquor License at two different locations.

Location 1:

1445 US Hwy 70 W., Alamogordo, NM 88310.

From: Brewer Oil Company, DBA 70 West

To: New Mexico Company Operations LLC, DBA 70 West Shell

Location 2:

723 N. White Sands Boulevard, Alamogordo, NM 88310.

From: Brewer Oil Company, DBA Midtown Shell

To: New Mexico Company Operations LLC, DBA Midtown Shell



NMRLD

NEW MEXICO
REGULATION &
LICENSING DEPARTMENT

STATE OF NEW MEXICO
MICHELLE LUJAN GRISHAM, GOVERNOR
Clay Bailey, Superintendent
Phillip A. Sanchez, Director

December 6, 2024

Certified Mail No.: 7021 2720 0001 2204 9324

RECEIVED

DEC 12 2024

CITY CLERK

City of Alamogordo

% Rachel Hughs

1376 East Ninth Street

Alamogordo, NM 88310

Liquor License No.: DIS-000636
Name of Applicant: New Mexico Company Operations LLC
Doing Business As: Midtown Shell
Proposed Location: 723 N White Sands Blvd, Alamogordo, NM 88310

Liquor License No.: DIS-000084
Name of Applicant: New Mexico Company Operations LLC
Doing Business As: 70 West Shell
Proposed Location: 1445 US HWY 70 W, Alamogordo, NM 88310

The Director of the Alcoholic Beverage Control Division (ABC) has reviewed the referenced Application and granted **Preliminary Approval**. It is being forwarded to you for Local Option District approval or disapproval of the Liquor License Application.

Notice of the Public Hearing required by the Liquor Control Act shall be given by the governing body by publishing a notice of the date, time, and place of the hearing **twice during the 30 days prior to the hearing** in a newspaper of general circulation within the territorial limits of the governing body. **The first notice must be published at least thirty (30) days before the hearing.** Both publications must occur before a hearing can be conducted. The notice shall include:

- (A) Name and address of the Applicant/Licensee;
- (B) The action proposed to be taken;
- (C) The location of the licensed premises.

In addition, if the Local Option District has a website, the Notice shall also be published on the website.

While the law states that "within forty-five (45) days after receipt of a Notice from the Alcoholic Beverage Control, the governing body shall hold a Public Hearing in the question of whether the department should approve the proposed issuance or transfer", we recognize the potential for conflict between the requirement for publication of 30 day notice and the 45 day hearing requirement.

With that in mind, when a local governing body receives a liquor license application from ABC, that governing body has a couple of options:



- 1) Hold a hearing on the license application within the statutory time frame of forty-five (45) days, as required by the Liquor Control Act, and comply with all other statutory and regulatory procedures and notify ABC of your decision within thirty (30) days of the hearing;
- 2) Request from ABC an extension of time, past the forty-five (45) days, designating how much additional time will be needed to conduct the hearing in compliance with all statutory and regulatory procedures. After the extension is granted and the hearing is held, notify ABC of your decision within thirty (30) days of the hearing;

ABC has no preference in the option you choose.

The governing body is required to send notice by certified mail to the Applicant of the date, time, and place of the Public Hearing. The governing body may designate a Hearing Officer to conduct the hearing. **A record shall be made** of the hearing.

The Applicant is seeking a Transfer of Ownership.

Within thirty (30) days after the Public Hearing, the governing body shall notify ABC of their decision to approve or disapprove the issuance or transfer of the license by signing the enclosed original Page 1 of the Application. The original Page 1 of the Application must be returned together with the notices of publication. **If the Governing Body fails to either approve or disapprove the issuance or transfer of the license within thirty days after the Public Hearing, the Director may issue the license.**

If the Governing Body disapproves the issuance or transfer of the license, it shall notify ABC within thirty (30) days setting forth the reasons for the disapproval. A copy of the Minutes of the Public Hearing shall be submitted to ABC with the Notice of Disapproval (*Page 1 of the Application, noting disapproval*).

Respectfully,

Desirae Griego

Desirae Griego | Admin Law Judge / Hearing Officer
Alcoholic Beverage Control Division
2550 Cerrillos Road | Santa Fe, NM 87505
P.O. Box 25101 | Santa Fe, NM 87504
Desirae.Griego@rld.nm.gov | www.rld.nm.gov/abc/
(505)-795-4091

Enclosures:

1. Original Page 1 of the Application (*must be signed and returned w/notices of publication*)
2. Copy of Page 2 of the Application





NMRLD
NEW MEXICO
REGULATION &
LICENSING DEPARTMENT

Received

APR 29 2024

Alcoholic Beverage Control

STATE OF NEW MEXICO
MICHELLE LUJAN GRISHAM, GOVERNOR
Clay Bailey, Superintendent
Phillip A. Sanchez, Director

Transfer of Dispenser Type Liquor Application | \$200.00 Application Fee, non-refundable

ABC USE ONLY: Application Fee \$ 200. Received on: 4.29.24 Receipt No. _____

License Fee \$ _____ Received on: _____ Receipt No. _____

Application Number: _____ Local Option District: Alamogordo

License Number. 0112 DIS-000084 License Type Dispenser

Record Owner of Existing License: Brewer Oil Company

Current D/B/A Name: 70 West

Current Premises Address: 1445 US HWY 70 W, Alamogordo, NM 88310

Current LOD: 20005 Is License moving out of Local Option District? ☐ Yes ☒ No

Check appropriate boxes:

Application is for: ☒ Transfer of Ownership ☐ Transfer of Ownership and Location ☐ Transfer of Location Only

Applicant is ☐ Individual ☒ Limited Liability Company ☐ Corporation ☐ Partnership (General/Limited)

NAME OF APPLICANT: New Mexico Company Operations LLC

D/B/A Name to be used: 70 West Shell Business Phone No: 505-884-2040

Mailing Address: 2701 Candelaria Road NE, Albuquerque, NM 87107

Email (required) jfitzpatrick@breweroil.com

Physical location where license is to be used: 1445 US HWY 70 W, Alamogordo, NM 88310

County: Otero (Include street number / highway number / state road, city, state, and zip code)

Are alcoholic beverages currently being dispensed at the proposed location ☐ Yes ☒ No If Yes, License # / Type: 0112/Dispenser

Contact Person: Jason Fitzpatrick Phone #: 505-221-7894 Email: jfitzpatrick@breweroil.com

I, (print name) Jason Fitzpatrick, as (title) Resident Agent being first duly sworn upon oath deposes and says: that he/she is the applicant or is authorized by the applicant to make this application; that he/she has read the same; knows the contents therein contained are true. Applicant(s) agree(s) that if any statements or representations herein are found to be false, the Director may refuse to issue or renew the license or may cause the license to be revoked at any time.

You must sign and date this form before a Notary Public.

Signature of Applicant: _____ Date: 4/29/24

Notary Public Use Only: (State of New Mexico, County of Santa Fe)

SUBSCRIBED AND SWORN TO before me this 23 day of April

By: JASON FITZPATRICK Notary Public: Mariana J Archuleta

Date my Commission Expires: Jan 24, 2028

Local Option District Use Only: Local Governing Body of _____ City, County, Village

Public Hearing held on _____ 20 _____ Please check one: ☐ Approved ☐ Disapproved

Signature of City/County Official: _____ Title: _____

Alcoholic Beverage Control Division Use Only: ☐ Approved ☐ Disapproved, _____

Signed by Director: _____ Date: _____



1512
Premises Location, Ownership, and Description | NMSA §60-6B-10 | Page 2

1. The land and building which is proposed to be the licensed premises is: **(check one)**

☒ Owned by Applicant, copy of deed/document attached

☐ Leased by Applicant, copy of lease/document attached

☐ Other (provide details): _____

2. If the land and building are not owned by Applicant, indicate the following:

A. Owner(s): _____

B. Date and Term of Lease: _____

3. Premises location is Zoned (example C-1, see Zoning Statement): See Attached Email (No Zoning Statement Required)

Zoning Statement attached, ☐ Yes ☒ No Must be obtained from the Local Government, listing the proposed location by address, Type of Zone, state whether alcoholic beverages are allowed at proposed location, and if applicable, whether packaged sales, patio service and/or manufacturing is allowable. If there is no zoning in the proposed location, attach Statement from the local government, indicating there is no zoning.

4. **Distance* from nearest Church:** (Property line of church to closest point of licensed premises—shortest distance)

Name of Church: The Well Miles/feet: 1.36 mi

Address/location of Church: 501 Wright Ave, Alamogordo, NM 88310

5. **Distance* from nearest School:** (Property line of school to closest point of licensed premises—shortest distance)

Name of School: Mountain View Middle School Miles/feet: 3.23 mi

Address/location of School: 500 Washington Ave, Alamogordo, NM 88310

6. **Attach Detailed Floor Plan,** must include the Total Square Footage of premises; List nearest cross street; Show which direction is North; Show each level (floor) where alcoholic beverages will be sold or consumed, exterior walls, doors, and interior walls; Patio Area with type of barrier used; Highlight Bonded Areas. The floor plan should be no larger than 8½ x 11 inches and must be labeled with designated areas highlighted, which will reflect the proposed Licensed Premises.

7. Type of Operation: ☐ Hotel ☐ Lounge ☐ Package Grocery ☐ Racetrack

☐ Restaurant ☐ Craft Distiller ☐ Small Brewer ☐ Winery ☐ Wholesaler

☒ Other (specify): Gas Station/Convenience Store

***NOTE:** If the distance is beyond 300 feet, but less than 400 feet, and the Applicant does not admit that the location is within 300 feet and requests a waiver from the LOD, a Registered Engineer or Licensed Surveyor must complete a Survey Certificate showing the exact distance.





NMRLD

NEW MEXICO
REGULATION &
LICENSING DEPARTMENT



STATE OF NEW MEXICO
MICHELLE LUJAN GRISHAM, GOVERNOR
Clay Bailey, Superintendent
Phillip A. Sanchez, Director

Transfer of Dispenser Type Liquor Application | \$200.00 Application Fee, non-refundable

ABC USE ONLY: Application Fee \$ 200 Received on: 4.29.24 Receipt No. _____

License Fee \$ _____ Received on: _____ Receipt No. _____

Application Number: _____ Local Option District: Alamogordo

License Number. 0862 DIS-000636 License Type Dispenser

Record Owner of Existing License: Brewer Oil Company

Current D/B/A Name: Midtown Shell

Current Premises Address: 723 N White Sands BLVD, Alamogordo, NM 88310

Current LOD: 20005 Is License moving out of Local Option District? ☐ Yes ☒ No

Check appropriate boxes:

Application is for: ☒ Transfer of Ownership ☐ Transfer of Ownership and Location ☐ Transfer of Location Only

Applicant is ☐ Individual ☒ Limited Liability Company ☐ Corporation ☐ Partnership (General/Limited)

NAME OF APPLICANT: New Mexico Company Operations LLC

D/B/A Name to be used: Midtown Shell Business Phone No: 505-884-2040

Mailing Address: 2701 Candelaria Road NE, Albuquerque, NM 87107

Email (required) jfitzpatrick@breweroil.com

Physical location where license is to be used: 723 N White Sands BLVD, Alamogordo, NM 88310

County: Otero (Include street number / highway number / state road, city, state, and zip code)

Are alcoholic beverages currently being dispensed at the proposed location ☐ Yes ☒ No If Yes, License # / Type: 0862/Dispenser

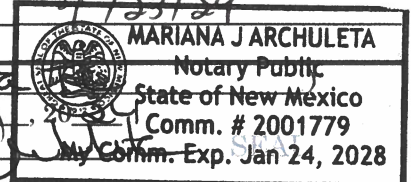
Contact Person: Jason Fitzpatrick Phone #: 505-221-7894 Email: jfitzpatrick@breweroil.com

I, (print name) Jason Fitzpatrick, as (title) Resident Agent being first duly sworn upon oath deposes and says: that he/she is the applicant or is authorized by the applicant to make this application; that he/she has read the same; knows the contents therein contained are true. Applicant(s) agree(s) that if any statements or representations herein are found to be false, the Director may refuse to issue or renew the license or may cause the license to be revoked at any time.

You must sign and date this form before a Notary Public.

Signature of Applicant: _____ Date: 4/23/24

Notary Public Use Only: (State of New Mexico, County of Santa Fe)
SUBSCRIBED AND SWORN TO before me this 23 day of April, 2024.
By: JASON FITZPATRICK Notary Public: [Signature]
Date my Commission Expires: Jan 24, 2028



Local Option District Use Only: Local Governing Body of _____ City, County, Village

Public Hearing held on _____ 20____ Please check one: ☐ Approved ☐ Disapproved

Signature of City/County Official: _____ Title: _____

Alcoholic Beverage Control Division Use Only: ☐ Approved ☐ Disapproved, _____

Signed by Director: _____ Date: _____



1580

Premises Location, Ownership, and Description | NMSA §60-6B-10 | Page 2

1. The land and building which is proposed to be the licensed premises is: **(check one)**

☒ Owned by Applicant, copy of deed/document attached

☐ Leased by Applicant, copy of lease/document attached

☐ Other (provide details): _____

2. If the land and building are not owned by Applicant, indicate the following:

A. Owner(s): _____

B. Date and Term of Lease: _____

3. Premises location is Zoned (example C-1, see Zoning Statement): See Attached Email (No Zoning Statement Required)

Zoning Statement attached, ☐ Yes ☒ No Must be obtained from the Local Government, listing the proposed location by address, Type of Zone, state whether alcoholic beverages are allowed at proposed location, and if applicable, whether packaged sales, patio service and/or manufacturing is allowable. If there is no zoning in the proposed location, attach Statement from the local government, indicating there is no zoning.

4. **Distance* from nearest Church:** (Property line of church to closest point of licensed premises—shortest distance)

Name of Church: Immaculate Conception Catholic Church Miles/feet: 624 ft

Address/location of Church: 705 Delaware Ave, Alamogordo, NM 88310

5. **Distance* from nearest School:** (Property line of school to closest point of licensed premises—shortest distance)

Name of School: Emmanuel Christian Academy Miles/feet: 1508 ft

Address/location of School: 1100 Michigan Ave, Alamogordo, NM 88310

6. **Attach Detailed Floor Plan,** must include the Total Square Footage of premises; List nearest cross street; Show which direction is North; Show each level (floor) where alcoholic beverages will be sold or consumed, exterior walls, doors, and interior walls; Patio Area with type of barrier used; Highlight Bonded Areas. The floor plan should be no larger than 8½ x 11 inches and must be labeled with designated areas highlighted, which will reflect the proposed Licensed Premises.

7. Type of Operation: ☐ Hotel ☐ Lounge ☐ Package Grocery ☐ Racetrack

☐ Restaurant ☐ Craft Distiller ☐ Small Brewer ☐ Winery ☐ Wholesaler

☒ Other (specify): Gas Station/Convenience Store

***NOTE:** If the distance is beyond 300 feet, but less than 400 feet, and the Applicant does not admit that the location is within 300 feet and requests a waiver from the LOD, a Registered Engineer or Licensed Surveyor must complete a Survey Certificate showing the exact distance.





City of Alamogordo

OFFICE OF THE CITY CLERK

1376 E. Ninth Street • Alamogordo, NM 88310
(575) 439-4100 • Fax (575) 439-4396

December 20, 2024

VIA CERTIFIED MAIL 7006 3450 0001 8876 9756

Jason Fitzpatrick
New Mexico Company Operations LLC
2701 Candelaria Road NE, Albuquerque, NM 87107

Re: Two Transfer of Dispenser Type Liquor Licenses to New Mexico Company Operations LLC for locations at 723 N White Sands Blvd, Alamogordo, NM 88310 and 1445 Hwy 70 W, Alamogordo, NM 88310

Mr. Fitzpatrick,

The City of Alamogordo will hold a Public Hearing on the question of whether or not the Alcohol Beverage Control Division of the State of New Mexico should grant two Transfer of Owners of Dispenser Liquor Licenses to:

- (1) Brewer Oil Company, dba Midtown Shell at 723 N White Sands BLVD, Alamogordo NM 88310 a Transfer of Ownership of Dispenser Liquor License to New Mexico Company Operations LLC, dba Midtown Shell at 723 N White Sands BLVD, Alamogordo NM 88310.
- (2) Brewer Oil Company, dba 70 West at 1445 HWY 70 W, Alamogordo, NM 88310 a Transfer of Ownership of Dispenser Liquor License to New Mexico Company Operations LLC, dba 70 West Shell, at 1445 HWY 70 W, Alamogordo, NM 88310.

The Public Hearing will be on **Tuesday, January 28, 2025**, at 6:30 p.m. in the Donald E. Carroll Commission Chambers in City Hall located at 1376 E. Ninth Street, Alamogordo, New Mexico. The Commission may have questions for you; therefore, it is advised you to be present at the public hearing. You may enter through the South-east doors of City Hall and the doors open at 6:00 pm.

If you have any questions, please contact me at (575) 439-4100 option 6 or by email at rhughs@ci.alamogordo.nm.us.

Sincerely,

Rachel Hughs, CMC
City Clerk

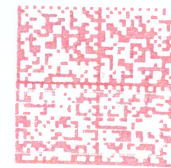


City of Alamogordo

OFFICE OF THE CITY CLERK
1376 E. Ninth Street
Alamogordo, NM 88310



7006 3450 0001 8876 9756



quadiant
FIRST-CLASS MAIL
IMI
\$005.54²
12/20/2024 ZIP 88310
013M31214334

US POSTAGE

Jason Fitzpatrick
2701 Candelaria Road NE
Albuquerque, NM, 87107

U.S. Postal ServiceTM
CERTIFIED MAILTM RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.54

Postmark
Here

Sent To

Jason Fitzpatrick

Street, Apt. No.
or PO Box No.
City, State, ZIP

2701 Candelaria Road NE
Albuquerque, NM, 87107

PS Form 3800, August 2006

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jason Fitzpatrick
2701 Candelaria Road NE
Albuquerque, NM, 87107

2. Article Number
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

- A. Signature
X *[Signature]* ☐ Agent ☐ Addressee
- B. Received by (Printed Name)
Elsa Viramontes
- C. Date of Delivery
12/23/24
- D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.
4. Restricted Delivery? (Extra Fee) ☐ Yes

7006 3450 0001 8876 9756

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

Public Notices

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Alamogordo City Commission will hold a **PUBLIC HEARING** on **Tuesday, January 28, 2025**, at 6:30 p.m. in the Donald E. Carroll Commission Chambers in City Hall located at 1376 E. Ninth Street, Alamogordo, New Mexico, on the question of whether or not the Alcohol Beverage Control Division of the State New Mexico should grant two Transfer of Owners of Dispenser Liquor Licenses to:

(1) Bfrewer Oil Company, dba Midtown Shell at 723 N White Sands BLVD, Alamogordo NM 88310 a Transfer of Ownership of Dispenser Liquor License to New Mexico Company Operations LLC, dba Midtown Shell at 723 N White Sands BLVD, Alamogordo NM 88310. The Resident Agent is James Fitzpatrick of 2701 Candelaria Road NE, Albuquerque, NM 78107.

(2) Brewer Oil Company, dba 70 West at 1445 HWY 70 W, Alamogordo, NM 88310 a Transfer of Ownership of Dispenser Liquor License to New Mexico Company Operations LLC, dba 70 West Shell, at 1445 HWY 70 W, Alamogordo, NM 88310. The Resident Agent is James Fitzpatrick of 2701 Candelaria Road NE, Albuquerque, NM 78107.

Public Notices

Inquiries regarding this Public Hearing should be directed to City Clerk Hughs at City Hall or at (575) 439-4100.

Date: 12-19-2024

City of Alamogordo, New Mexico

By: Rachel Hughs, City Clerk
12/24/24, 1/14/25

27330

Public Notices

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Alamogordo City Commission will hold a **PUBLIC HEARING** on **Tuesday, January 28, 2025**, at 6:30 p.m. in the Donald E. Carroll Commission Chambers in City Hall located at 1376 E. Ninth Street, Alamogordo, New Mexico, on the question of whether or not the Alcohol Beverage Control Division of the State New Mexico should grant two Transfer of Owners of Dispenser Liquor Licenses to:

(1) Brewer Oil Company, dba Midtown Shell at 723 N White Sands BLVD, Alamogordo NM 88310 a Transfer of Ownership of Dispenser Liquor License to New Mexico Company Operations LLC, dba Midtown Shell at 723 N White Sands BLVD, Alamogordo NM 88310. The Resident Agent is James Fitzpatrick of 2701 Candelaria Road NE, Albuquerque, NM 78107.

(2) Brewer Oil Company, dba 70 West at 1445 HWY 70 W, Alamogordo, NM 88310 a Transfer of Ownership of Dispenser Liquor License to New Mexico Company Operations LLC, dba 70 West Shell, at 1445 HWY 70 W, Alamogordo, NM 88310. The Resident Agent is James Fitzpatrick of 2701 Candelaria Road NE, Albuquerque, NM 78107.

Public Notices

Inquiries regarding this Public Hearing should be directed to City Clerk Hughs at City Hall or at (575) 439-4100.

Date: 12-19-2024
City of Alamogordo, New Mexico
By: Rachel Hughs, City Clerk
12/24/24, 1/14/25
27330



NOTICE OF PUBLIC HEARING

The Alamogordo City Commission
will hold a PUBLIC HEARING on:

Tuesday, January 28, at 6:30 p.m.
during their regular Commission Meeting in the Donald E.
Carroll Commission Chambers, located at 1376 E. Ninth
Street, Alamogordo, NM.

The purpose of the Public Hearing is the question of whether or not the Alcohol Beverage Control Division of the State New Mexico should grant two Transfer of Owners of Dispenser Liquor Licenses to:

- (1) Brewer Oil Company, dba Midtown Shell at 723 N White Sands BLVD, Alamogordo NM 88310 a Transfer of Ownership of Dispenser Liquor License to New Mexico Company Operations LLC, dba Midtown Shell at 723 N White Sands BLVD, Alamogordo NM 88310. The Resident Agent is James Fitzpatrick of 2701 Candelaria Road NE, Albuquerque, NM 78107.
- (2) Brewer Oil Company, dba 70 West at 1445 HWY 70 W, Alamogordo, NM 88310 a Transfer of Ownership of Dispenser Liquor License to New Mexico Company Operations LLC, dba 70 West Shell, at 1445 HWY 70 W, Alamogordo, NM 88310. The Resident Agent is James Fitzpatrick of 2701 Candelaria Road NE, Albuquerque, NM 78107.

The public may speak and submit comments during said Public Hearing. Inquiries regarding this Public Hearing should be directed to City Clerk Hughs at City Hall, or at (575) 439-4100.

Date: December 19, 2024
City of Alamogordo, New Mexico
By: Rachel Hughs, City Clerk

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 1/28/2025

Report Date: 01/21/2025

Report No: 4.

Submitted By: Stella Rael

Subject: Consider, and act upon, Ordinance 1711 Case Z-2025-0001(A) for first publication of a map amendment to rezone the property located at 523 Maryland Ave. from R-4 Multiple Family Dwelling to C-3 Business District. (*Stella Rael, City Planner*) (**Roll Call Vote Required**)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact: None

Recommendation: Approve for first publication.

Background: The City of Alamogordo (property owner) is requesting an amendment to the zoning map to change the zoning of the property located at 523 Maryland Ave. from R-4 Multiple Family Dwelling to C-3 Business District.



City of Alamogordo

1

City Commission



Z-2025-0001(A)

Stella Rael, City Planner
January 28, 2025

Map Amendment Request Case: Z-2025-0001(A)

Request:

The Property owners request a map amendment to change the zoning of the property know as 523 Maryland Ave. from R-4 Multiple Family Dwelling District to C-3 Business District

Applicants:

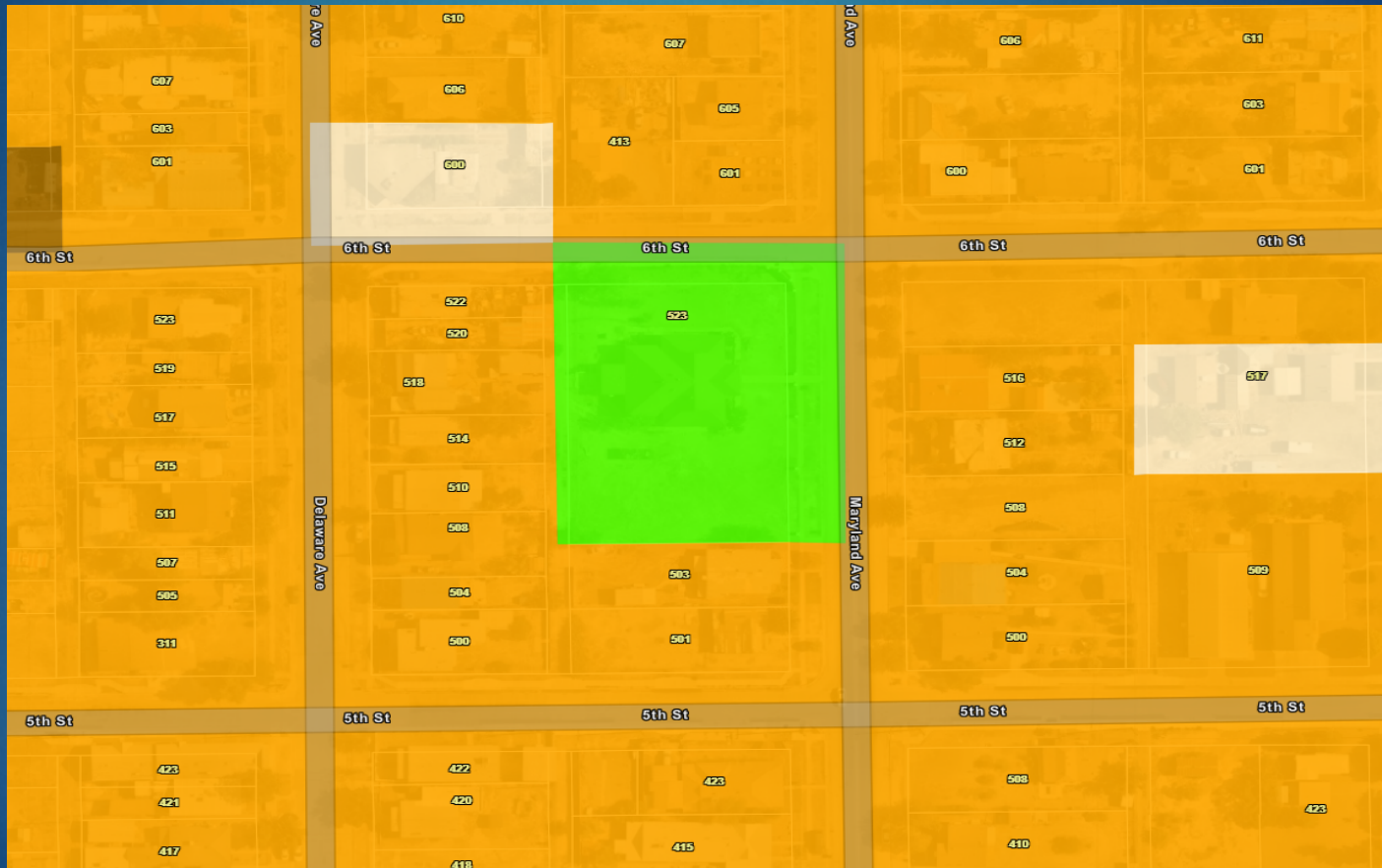
City of Alamogordo

1376 E. 9th Street

Alamogordo, NM 88310

ZONING MAP

3



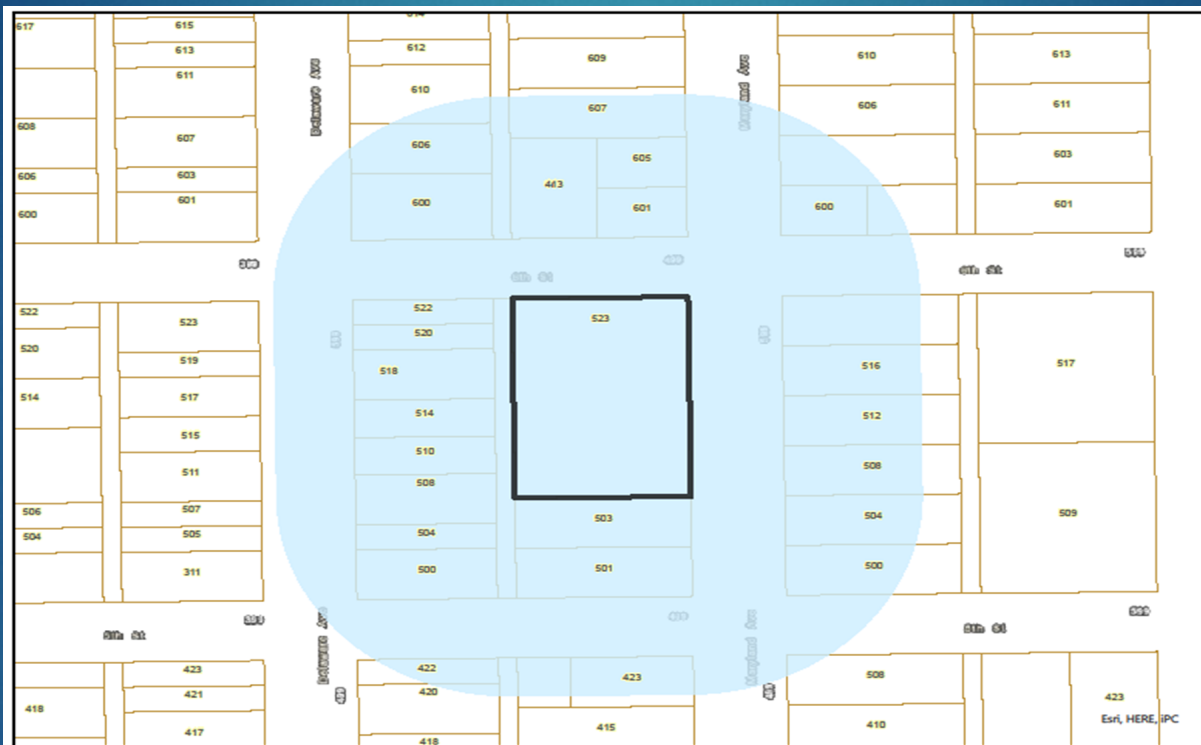
SITE MAP

4



PROTEST MAP AREA

5



523 Maryland Ave
Protest Area Map

Z-2025-0001(A)

6

Findings of Fact

- ◆ 1. The property is located at 523 Maryland Ave.
- ◆ 2. The request is to change the zoning from R-4 Multiple Family Dwelling District to C-3 Business District.
- ◆ 3. The legal notice was published in the Alamogordo Daily News
- ◆ 4. Twenty-Six (26) letters were mailed by certified/returned receipt mail to all property owners of record within two hundred (200) feet from the property, excluding public right-of-way, of the property for which the rezoning is sought.
- ◆ 5. As of January 21, 2025, no letters have been returned undeliverable. No letters of opposition have been received.
- ◆ 6. Two property owners have come in requesting further information.

Z-2025-0001(A)

7

- ◆ Staff recommends approval since this request will not be materially detrimental to surrounding property owners or the public.

ORDINANCE No. 1711

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF ALAMOGORDO, CHANGING THE CLASSIFICATION OF A CERTAIN PROPERTY COMMONLY KNOWN AS 523 MARYLAND AVE. FROM R-4 MULTIPLE FAMILY DWELLING DISTRICT TO C-3 BUSINESS DISTRICT, WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF ALAMOGORDO, OTERO COUNTY, NEW MEXICO.

WHEREAS, City of Alamogordo (hereinafter referred to as "the Owners") are the owners of certain real property commonly known as 523 Maryland Ave. and legally described below (herein after referred to as "the Property") located within the corporate boundaries of the City of Alamogordo, New Mexico, (hereinafter referred to as "the City"); and

Alamo Blocks, Lots 13-16 Block 24

WHEREAS, an application has been filed in the Owner's name under Case No. **Z-2025-0001(A)** to change the zoning of the Property, and

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

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

**Alamo Blocks
Lots 13-16
Block 24**

is hereby changed from R-4 Multiple Family Dwelling District to C-3 Business District; and the official zoning map and comprehensive plan of the City are hereby amended to reflect this change.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2025

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

By: _____
Susan L. Payne, Mayor

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Ashley Smith, City Attorney

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 1/28/2025

Report Date: 01/22/2025

Report No: 5.

Submitted By: Rachel Hughs

Subject: Discuss and gather citizen input on Ordinance 1710, an ordinance amending Chapter 11 of the Criminal Code, Articles 06-330 Obstructing Impeding, or Camping in Public Rights-of-Way and Adding Article 09-010-060 Regulating Camping on Public and Private Property. (*City Commission*)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Workshop only.

Background:

The Commission tabled the adoption of Ordinance 1710 during the regular commission meeting on January 14, 2025, to further discuss the ordinance's language and receive citizen input.

ORDINANCE NO. 1710**AN ORDINANCE AMENDING CHAPTER 11 OF THE CRIMINAL CODE, ARTICLES 06-330 OBSTRUCTING IMPEDING, OR CAMPING IN PUBLIC RIGHTS-OF-WAY AND ADDING ARTICLE 09-010-09-060 REGULATING CAMPING ON PUBLIC AND PRIVATE PROPERTY**

WHEREAS, the City Commission of the City of Alamogordo, New Mexico recognizes the need to regulate camping activities to protect public health, safety, and the aesthetic value of neighborhoods;

WHEREAS, unauthorized camping on public and private property has led to increased complaints from residents regarding safety concerns, noise, and waste;

WHEREAS, the City Commission of the City of Alamogordo, New Mexico seeks to balance individual rights and property rights while promoting community well-being;

WHEREAS, the City Commission of the City of Alamogordo, New Mexico aims to provide clear guidelines for camping activities to prevent public nuisances and protect property owners;

WHEREAS, unauthorized camping near sensitive areas, such as schools, child care facilities, and parks, poses potential safety risks to children and the community;

WHEREAS, this ordinance ensures that camping activities, when permitted, align with community standards and preserve the quality of life for all residents.

BE IT THEREFORE ORDAINED by the City Commission of the City of Alamogordo, New Mexico that Chapter 11 of the criminal code is amended to include the following:

11-06-330. Obstructing ~~or~~ **orimpeding movement, ~~or camping~~ in public rights-of-way.**

(a) *Definitions.* As used in this section, the following definitions shall apply:

- (1) ~~*Camping* means the setting up of any tent, shack, or other permanent or temporary structure or shelter, or preparing a sleeping bag or other bedding material for use in a public right-of-way, including a setback area.~~
- (2) *Impeding movement* means any act which interferes with or slows the progress of pedestrians in a public right-of-way.
- (3) *Obstructing movement* means any act which blocks or prevents the progress of pedestrians in a public right-of-way.
- (4) *Public right-of-way* includes all land owned, deeded, reserved by plat, defined by statute, declared by court order, or otherwise acquired by a public agency primarily for the use of the public for the purposes of vehicular and pedestrian traffic.
- (5) *Setback area* means that part of a public right-of-way which is not occupied by a street, curb, gutter, or sidewalk.
- (b) *Obstructing or impeding movement prohibited.* It is unlawful for any person to obstruct or impede the movement of any person passing along any street, sidewalk, median, crosswalk, or any other public way, including a setback area, at any dangerous streets or intersections.
- (c) ~~*Camping in right-of-way prohibited.* It is unlawful for any person to camp upon any part of a public right-of-way, including a setback area.~~
- (d) *Penalty.* Violations of subsections (b) through (c) shall be punishable as provided in section 1-01-100; provided, however, that a law enforcement officer shall first verify that a warning has been given, otherwise, the officer shall issue a criminal trespass notification to a person for violating this section in lieu of a citation or conducting an arrest.
- (e) *Exemptions.* The provisions of this section shall not apply to:

- (1) Law enforcement officers or to the employees of a public agency that owns, maintains, or operates a public right-of-way, or the persons authorized by such agency;
- (2) Any person using a public right-of-way, including for expressive speech or conduct, whose use does not obstruct or impede movement or constitute camping.

11-09. Regulating camping on public and private property.

11-09-010. Definitions

For the purposes of this article, the terms used herein are defined as follows:

Camping: Residing temporarily in a tent, vehicle, or other temporary structure for sleeping or habitation purposes, whether on public or private property.

Enclosed Yard: A private area surrounded by fencing, walls, or dense vegetation that restricts visibility and access from public spaces or neighboring properties.

Front Yard: The portion of a property extending between the front façade of a building and the adjoining public right-of-way.

Public Property: Parks, sidewalks, streets, rights-of-way, or any property owned, leased, or managed by the city or another government entity.

Private Property: Any property owned by an individual, business, or entity that is not accessible to the general public without the owner's consent.

11-09-020. Camping Restrictions on Public Property

(a) Prohibited Areas:

- 1) Camping is prohibited on all public property without prior authorization or permits issued by the city.
 - a) Camping is explicitly prohibited within 500 feet of Schools, child care facilities, shelters, city parks.

(b) Permits:

- 1) Temporary camping may be allowed with permission from the city manager or their designee.

(c) Immediate Removal:

- 1) Unauthorized camps on public property are subject to immediate removal.

11-09-030. Camping Restrictions on Private Property

(a) **Enclosed Areas Camping:** Camping is permitted in enclosed areas without restrictions unless otherwise prohibited by homeowners' associations or deed restrictions.

(b) **Unenclosed Area Camping:** Camping in unenclosed areas is limited to a maximum of **72 consecutive hours** within any 7-day period.

(c) Owner Permission:

- 1) Non-household members must receive written permission from the property owners to camp on private property.
- 2) Authorization must be available for inspection upon request by law enforcement or code enforcement officers. Failure to provide authorization will be subject to penalties outlined in section 11-09-050.

11-09-040. Prohibited Camping Activities

(a) The following activities are prohibited:

- 1) Camping that generates unreasonable noise as outlined in 11-05-270;
- 2) Camping that poses a fire hazard; and
- 3) Camping on properties without access to waste disposal facilities or sanitation.

(b) Campers on both public and private property must comply with all Noise ordinances, Fire safety codes, Public health regulations, including waste and sanitation requirements.

(c) Camping activities that pose a risk to health, safety, or community well-being may be terminated immediately by local authorities.

(d) Campers are prohibited from dumping refuse and waste on public or private property.

(e) Violators of this ordinance will be subjected to the penalties outlined in 11-09-050.

11-09-050. Penalties

(a) Violation of any of the sections in this chapter shall be a misdemeanor punishable by up to five hundred dollars (\$500.00) and up to six (6) month incarceration. For a first offense, violators shall receive a warning and given 24 hours to comply. Upon a second offense, violators will be subject to immediate removal and maybe issued a citation.

11-09-060. Exceptions

(a) **Emergency Situations:** Camping is permitted during emergencies, such as natural disasters, when temporary shelters are necessary.

(b) **City-Sanctioned Events:** Camping for city-sponsored or sanctioned events is permitted under special permits.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2025.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Susan L. Payne, Mayor

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Ashley Smith, City Attorney