

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING 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 ODCD, 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 overtaxing our jail, let's talk about overtaxing 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 NMGR, 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 NMGR. (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.**

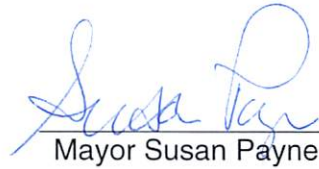
ADJOURNMENT

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.

