

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 PM, DONALD E. CARROLL COMMISSION CHAMBERS
May 27, 2025**

**SUSAN PAYNE, MAYOR
SHARON MCDONALD, MAYOR PRO-TEM
CRYSTAL GUTHRIE, 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

Invocation was given by Pastor Justin Crispin of The Worship Center, and the Pledge of Allegiance was led by Commissioner Burnett.

APPROVAL OF AGENDA

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

PUBLIC COMMENT

None.

CITY MANAGER'S REPORT

Acting City Manager Hernandez made the following remarks:

1. I want to introduce City Attorney Mori, who is here with us. This will be City Attorney Smith's last meeting.
2. Patching for potholes has now caught up. We will start putting social media out for people to call them if seen.
3. The sinkhole on 1st and New York will be fixed within two weeks.
4. Work on 10th and Washington will start on Monday, June 2nd. A structural engineer gave the OK to put a temporary patch on it. It should be open by July 19th.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Tapley said he was notified that the sprinklers at the Golf Course were not being turned on. Acting City Manager Hernandez asked if he was talking about all the sprinklers. He said no, just around the back greens. She said she would check on it.

CONSENT AGENDA

1. Approve the minutes for the Budget Hearing Workshops on May 5, 2025, and May 6, 2025, and the minutes for the Regular Commission meeting on May 13, 2025. *(Rachel Hughs, City Clerk)*
2. Consider, and act upon, acceptance of a \$20,000 grant award from the Carroll Petrie Foundation to Alamogordo Animal Control. *(Stephanie Hernandez, Ph.D, Acting City Manager and David Kunihiro, Police Chief)*
3. Consider, and act upon, Resolution 2025-15 to restrict the sale and use of fireworks through July 31, 2025, due to extreme dry conditions. *(Jerry Ramirez, Fire Chief)* (Roll Call Vote Required)
4. Consider, and act upon, Resolution 2025-16 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 May 27, 2025. *(Evelyn Huff, Finance Director)* (Roll Call Vote Required)

5. Consider, and act upon, approval of Change Order 2, in the amount of \$605,627.55, excluding NMGR, to Crosstown Construction and Trucking LLC, to add additional concrete work, asphalt, striping, and PHB, all within the scope of work. (Justen Boyle, Senior Project Manager)

Commissioner Rardin said he wanted to remove Items 3 and 5 from the Consent Agenda.

Commissioner Burnett moved to approve Items 1, 2, and 4.

Commissioner Tapley seconded the motion.

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

ITEMS REMOVED FROM CONSENT AGENDA

3. Consider, and act upon, Resolution 2025-15 to restrict the sale and use of fireworks through July 31, 2025, due to extreme dry conditions. (Jerry Ramirez, Fire Chief) (Roll Call Vote Required)

Commissioner Rardin said he pulled this to vote no. It is dry every year. People should be able to celebrate the Fourth of July. Fire Chief Ramirez said fires happened this weekend in Ruidoso. A big fire in the Fort Stanton area burned over two hundred and fifty acres. They were able to contain it, but there has been no determination of where or how that fire started. As it was the Memorial Day weekend, it could have been started by campfires or cigarettes. As of yesterday in Ruidoso, another fire broke out in the Upper Canyon area, which was already heavily devastated by last summer's fires and the ensuing floods. They got a quick handle on that one with air operations. There was yet another fire above the Inn of the Mountain Gods, but again, they got a quick hold of it with air assets. I am not saying we have that kind of topography here in Alamogordo, but with the upcoming Fourth of July weekend, we could have a fire that turns from a brush fire into a wildland fire and devastates the area. There is a drought here. June could give heavy saturation with an early monsoon season. If so, I do not see why the ban could not be lifted. Until then, we should keep the restrictions on fireworks, their sale, and no fireworks for the Fourth of July.

Mayor Payne said I believe we said no aeriels last year. Acting City Manager Hernandez said we followed what the County had last year. This resolution follows what the County did. The problem with last year was that the County's resolution did not talk about incorporated municipalities, so there were many problems within Alamogordo. We are basically doing the same thing the County did, which they did again a couple of weeks ago, but for the City because we are incorporated.

Commissioner Burnett asked if there were any alternatives regarding the Fourth of July. Mayor Payne asked if we were doing the drone show. Acting City Manager Hernandez said when I spoke to Fire Chief Ramirez earlier this year, we discussed how we had fires earlier in the year, and there was a severe drought because we did not have much of a monsoon season. There wasn't much snow in winter, either. We are getting a drone show, and I believe it will be in the same spot where we normally do our fireworks show. Mayor Payne asked what happened last year. Acting City Manager Hernandez said we did not do a firework show last year, but there was a drone show for Veterans Day at Alameda Park.

Commissioner Tapley asked if we could hold off on the sale for a few weeks to see what the weather does. Acting City Manager Hernandez said it is dry right now, which is why we are trying to do that as soon as possible. If we get a lot of rain, the Fire Chief can lift it anytime. Mayor Payne asked if this needed to be brought back to be reversed. Acting City Manager Hernandez said the resolution allows the Fire Chief to lift it. Commissioner Guthrie said if it was lifted, would that mean the City would give the regular fireworks show? Acting City Manager Hernandez said no, we have already contracted for the drones, but the citizens could use fireworks.

Commissioner Rardin asked how many fires typically start from fireworks. Fire Chief Ramirez asked if he was talking about the fireworks show. We have had multiple structure and brush fires from fireworks, especially on that night. I bring in two additional crews to support the City and the fires from fireworks. Commissioner Rardin asked if the fires were started by the main fireworks show or by individuals. Fire Chief Ramirez said both. People sneak into the desert, which is BLM or Otero County property. There is some fallout from the main fireworks show, which falls into a brush area. We have asked for County and US Forestry personnel to support our mission out there, but we are still short with the fires from both the show and individuals. Commissioner Rardin asked how many citations were written last

year when fireworks were banned. Acting City Manager Hernandez said we could get those numbers for you, but they received hundreds of calls. Commissioner Rardin said we could pass this, but it is almost unenforceable. Fireworks were going off all over town last year. Acting City Manager Hernandez said last year we were going through the County, who lifted it. We were abiding by the County, and the City did not have one in place. Commissioner Rardin said he has been here all his life, and they did that show until last year. Did we have fires when it was done at Griggs Field? Fire Chief Ramirez said we did. Most of those embers fell on Hang Glider Park and the northeast, which is County property. The County was on the response for brushfires that evening. Acting City Manager Hernandez said that throughout the country, people are moving towards drone shows. The big fireworks shows are happening less and less. We will try it this year, see how it works out, and re-evaluate next year. Commissioner Guthrie asked who made that call and when that decision was made. Acting City Manager Hernandez said the City Manager makes that decision. We started planning in January because we must get fireworks or drones booked quickly, or there would be nothing. Commissioner Rardin said the drone show is booked, and the fireworks are not. Acting City Manager Hernandez said correct. We would have had to go out for RFP for fireworks. We went with the drone show because of dry conditions and will re-evaluate next year. Commissioner Burnett asked how much the drone show cost. Acting City Manager Hernandez said \$60,000. Commissioner Rardin said the fireworks typically ran about \$50,000, so the fireworks were cheaper. Acting City Manager Hernandez said the fireworks are cheaper, but not with the additional personnel that must be out there. It would have to be blocked off by personnel and all the Fire Departments, not just the Alamogordo Fire Department. Mayor Payne asked if there would still be an event at the Space Center. Acting City Manager Hernandez said she was unsure but thought there would still be a viewing party. We are not doing anything there. Fire Chief Ramirez said they are allowing a tailgate party this year for members of the Space Hall organization.

Commissioner Tapley said the County has already put this restriction in place. If they lift theirs, are we going to follow? Acting City Manager Hernandez said it depends. They have a bigger area and may get a lot of rain in the mountains, but Alamogordo may not. It comes down to the moisture and rain we get. Fire Chief Ramirez said the OES Chief lifted the ban around the Fourth of July last year, which could have permitted a more devastating wildfire season up there. We will follow suit if the moisture is significant enough, but right now, it will stand until the moisture comes in, even if the County lifts theirs prior to the 4th of July. Commissioner Rardin said if Otero County has one passed, and we are in Otero County, why does Alamogordo need this? Acting City Manager Hernandez said that their resolution says all areas of Otero County except incorporated municipalities. Commissioner Rardin asked if what was sold at Walmart would be allowed. Fire Chief Ramirez said we had not gone to look. Commissioner Rardin said this says ground and handheld sparkling devices. Fire Chief Ramirez said in years past, it was basically sparklers. Commissioner Rardin said cones and tanks also shoot sparks but not very high. Are those allowed? Acting City Manager Hernandez said the ground ones are allowed. Commissioner Rardin said it says only ground and handheld. Acting City Manager Hernandez said those are allowed as long as they are in a paved area and not on the grass. It has to be clear of debris. Commissioner Rardin said a fireworks stand sold fireworks here in Alamogordo last year. Fire Chief Ramirez said we are trying to catch that. Commissioner Rardin said they are sold in Otero County, not city limits. Fire Chief Ramirez said correct. The problem is they bring them in even with restrictions in place. If the fireworks fall on someone's house and burn down, they will just say sorry. Once they are sold, they are sold.

Commissioner Burnett asked if the City would not allow fireworks stands to sell fireworks. Acting City Manager Hernandez said those are typically in the County. Commissioner Rardin said there are one or two within Alamogordo, but they do not sell aerial ones. Will those be able to open? Fire Chief Ramirez said correct, they are ground type fireworks. Commissioner Rardin asked how they would enforce people buying fireworks in the County and bringing them into City limits. Acting City Manager Hernandez said like all laws, we put this out there and give the police the tools to do their job. Police Chief Kunihiro said the ordinance talks about the sale or possession. Every Fourth of July, we see thousands of fireworks but do not catch most of them. We spend most of the time chasing fireworks, and when we get there, no one knows what happened. We are not going to have lots of citations. It is hard to enforce. Mayor Payne asked what would happen if they did catch them. Police Chief Kunihiro said the officer has discretion to cite them or not. Commissioner Rardin asked if a ticket would be more warranted if alcohol was involved. Police Chief Kunihiro said he could not answer that.

Mayor Payne said she teetered on this but believed aerial fireworks should be banned. Shingle roofs can catch fire, and we cannot even prove who did it. Is it tyrannical or responsible to ban it unless the weather changes? Commissioner Rardin asked how many structure fires we had last year. Fire Chief Ramirez said he would get that number. Police Chief Kunihiro said to be clear with the ordinance right now, that aerial is considered anything that

goes over ten feet. Those are already illegal as we speak. Commissioner Rardin said so fireworks are already illegal per ordinance. Police Chief Kunihiro said if you are describing an aerial firework, correct. Anything louder than a cap gun is also technically illegal. There is a definition of fireworks in the ordinance.

Commissioner Robinson moved to approve.

Mayor Pro-Tem McDonald seconded the motion.

Motion Passed with a vote of 4 - 3 - 0. Commissioners Burnett, Rardin, and Tapley voted nay.

5. Consider, and act upon, approval of Change Order 2, in the amount of \$605,627.55, excluding NMGR, to Crosstown Construction and Trucking LLC, to add additional concrete work, asphalt, striping, and PHB, all within the scope of work. (Justen Boyle, Senior Project Manager)

Senior Project Manager Boyle said that two meetings ago, he brought to the attention of the Commission that there would be a change order regarding striping and an armbar for the crosswalk on 10th Street. This is that change order. Commissioner Rardin asked if striping was not included in the original bid. Senior Project Manager Boyle said the traffic study I mentioned at that previous meeting included everything in this change order. Now that the study is completed, we know exactly how to go from 10th Street to 12th, from White Sands to Michigan, which will be a one-way now. Commissioner Rardin said the study was not done prior to bidding. Senior Project Manager Boyle said no, this project was designed before I arrived. The grant was close to being terminated because it was never put out, so I had no choice but to put it out and continue with the traffic study. Commissioner Rardin asked if this was grant money. Senior Project Manager Boyle said this was coming out of Fund 109. Commissioner Rardin asked if all of it would come out of Fund 109. Senior Project Manager Boyle said yes. Commissioner Rardin asked if the previous change order would come out of Fund 109 as well. Senior Project Manager Boyle said no, the previous change order was Funds 109 and 81. There was an AC line. Commissioner Rardin said there was a \$2,000,000 discrepancy between the two bidders. Senior Project Manager Boyle said right, but we are still below the \$5,200,000. Commissioner Rardin asked if we anticipate additional changes. Senior Project Manager Boyle said no. The contractor demolished everything they needed to, and we did not find anything else wrong. They have already gotten the base course all the way up to 8th Street. They are putting curbs and sidewalks in. More change orders for this would be rare. Commissioner Rardin said so you are saying on the record you will not have any more change orders. Senior Project Manager Boyle said I said it would be rare, but I cannot guarantee it. Commissioner Rardin said this was almost \$1,000,000. Senior Project Manager Boyle said on my other projects, I am trying to ensure we do not have change orders. However, because this project had just been sitting for three years, there were a lot of things that should have been involved, but with the grant potentially going away, I had to put it out to bid.

Commissioner Burnett asked when the estimated date was to start paving on the north side of New York. Senior Project Manager Boyle said if this is approved, I do not want to open it up at all until the striping is completed. Trying to open it while striping is ongoing will cause problems. There was an issue where the asphalt was higher than the curve. I am also trying to correct that. Commissioner Rardin asked about the dry pad, or alley pad removal, with fifty-four yards of concrete. Is that in the alleyway coming off 9th Street? Senior Project Manager Boyle said it was the alleyway on the 10th Street side. Additional concrete work needs to be done for the armbars because of ADA. I added additional concrete to fix the concrete in front of the Pool Hall. Commissioner Rardin asked how far that would go. Senior Project Manager Boyle said up to the light pole.

Mayor Pro-Tem McDonald moved to approve.

Commissioner Rardin seconded the motion.

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

NEW BUSINESS

6. Consider, and act upon, Case M-2025-0001(A) to remove the condition that was placed on the address known as 1115 Alaska Ave. per case Z-1985-085(A). (Stella Rael, City Planner) (Roll Call Vote Required)

City Planner Rael gave her presentation, detailed the process, and recommended approval since this request would not be materially detrimental to the surrounding property owners or the public. She said that the condition had been placed there by the Commission, and the condition was that it was only to be used for bank purposes. The Worship

Center has owned that property for fifteen years and needs to remove the condition for insurance purposes.

Commissioner Rardin asked if the file stated why there was a restriction. City Planner Rael said the file did not explain. There were four homes there. Mayor Payne said so we are just taking the bank restriction off. City Planner Rael said yes.

Commissioner Rardin said he had a contract with The Worship Center and would abstain from voting if the Commission had a problem with it. Mayor Payne said she ran a nonprofit they helped support yearly but would not abstain. Commissioner Rardin said he just wanted it on the record that it was disclosed.

Commissioner Robinson moved to approve.

Commissioner Guthrie seconded the motion.

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

7. Consider, and act upon, the replat of Case S-2025-0008(A), Alamo Blocks, Block 89, Replat A. (Stella Rael, City Planner) (Roll Call Vote Required)

City Planner Rael gave her presentation, detailed the process, and recommended approval since this request would not be materially detrimental to the surrounding property owners or the public. It is one parcel in an R1 zoning district with three homes on it. I do not know how that happened; it should not have been allowed. The property owners are requesting that the parcel be split into four lots. The parcel with a home furthest to the north had its front setback get close when north Florida was realigned. We have ensured the setbacks are met with the proposed plat.

Mayor Payne asked what the owners would do with it. City Planner Rael said she did not know. Three lots have homes, and the lot furthest to the north is vacant. Commissioner Rardin asked if they were planning on building a home there. City Planner Rael said she did not know and received no plans. Mayor Payne asked if they were all residential. City Planner Rael said yes, the zoning is still the same.

Commissioner Guthrie asked regarding the house furthest north that is sitting in that setback zone if it is in the zone or outside the setback area. It looks like it is in the middle of the setback. City Planner Rael said it is really close. It is six feet two inches from the road. Mr. Baxter Pattillo of Alamotero Land Surveyors said it was six feet two inches from the right of way. I would say that the house suffered an undue hardship with the right of way taking. The curvature was purchased. Their deed saves and accepts that portion taken by the highway department. It is hard to say when that house got built versus the taking. It is in the setback, to be sure. Commissioner Guthrie said if they were trying to resell this property, is there anything written down saying they are except from that? City Planner Rael said if they were to resell the property, it would have to be sold as-is. If demolished and rebuilt, they would have to meet that twenty-foot setback. Mayor Payne said they can keep the setback as long as they sell it as-is. Commissioner Rardin asked how much wider the right of way was compared to the road. Your property line may be up to the road, but it is about ten or fifteen feet away from the road. Mr. Pattillo said that north Florida has an eighty foot right of way and a curve. The front setback is shown with the twenty-five feet, and that is how much you are over with that house. Commissioner Rardin said there is enough room to park a car there. The road is not taking up the whole right of way. Mayor Payne asked if the empty lot would have to abide by setbacks. City Planner Rael said definitely if they build there.

Commissioner Burnett moved to approve.

Commissioner Tapley seconded the motion.

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

8. Consider, and act upon, the replat of Case S-2025-0005(A), Wolf Replat B, Lots 1B-4B. (Stella Rael, City Planner) (Roll Call Vote Required)

City Planner Rael gave her presentation, detailed the process, and recommended approval since this request would not be materially detrimental to the surrounding property owners or the public. She said this was four lots in 1999, then one parcel in 2002, and now the current owner wants to split it up into four parcels.

Mayor Pro-Tem McDonald said she was out there today, and they were doing something. City Planner Rael said they could legally start building on it now as-is. They figured if you approve this replat, the structure being built now would meet all the setback requirements for the first lot. If it does not pass tonight, he can still build on there. The plan is to have two sets of duplexes on each lot. Mayor Pro-Tem McDonald said there is so much land behind it. City Planner Rael said those are behind this. Mayor Pro-Tem McDonald asked if the land was locked. If they are developing, surely someone else will eventually come in there. There is no road. Will there be a problem with that? City Planner Rael asked if she was referring to the lots to the east. Mayor Pro-Tem McDonald said this was referring to Lots 1B to 4B, and I did not see that. I just see Lot 1A. City Planner Rael said are you asking if this is approved, then how will they gain access to the other duplexes to the east? With this preliminary plat, I have asked for a fifty foot private access easement, which is on the plat. That takes them all the way to the back. Mayor Pro-Tem McDonald asked if they would do the road for the subdivision. City Planner Rael said if it is within the property, yes, they will have to do the private easement.

Acting City Manager Hernandez said this subdivision is a bit of an issue. There will be fire access issues, and the reason it has taken so long to get here is because staff are divided on approving this because of access. There is no entry. The road there, Vickory Lane, is a vacated dirt road. City Planner Rael said in 2002, Post Avenue should have ran across Holly Avenue east towards Highway 54. Per the Commission's minutes from 2002, the Commission vacated Post Avenue. They also vacated Vickory Lane in other minutes. So yes, those are landlocked at this point. Mayor Payne asked what she meant by vacated. City Planner Rael said that when it came before the Commission, the minutes showed that it had been vacated. Commissioner Burnett asked when that was. City Planner Rael said Post Avenue was in 2002, and Vickory Lane was in 1998. It was not revisited until this came up, and I discovered that. Staff has gone back and forth with this. We are going to have to do something to have access up to those lots off of Vickory Lane. Commissioner Rardin asked why it was vacated. City Planner Rael said the minutes did not say. Commissioner Rardin said if it was vacated, why is it still on this plat? City Planner Rael said exactly. It was vacated at a Commission meeting, but there was never a replat. Commissioner Rardin said so it is technically still there.

Mr. Baxter Patillo of Alamotero Land Surveyors said he would like to suggest checking into the legal status of Vickory Lane. I am not sure if it was ever dedicated as a City road. If you want to consider vacation or access issues, you have a sixty-six foot wide road designed for access off an original plat from the 1950's, and I have not seen where it was dedicated to the City. I suggest looking into the status for the benefit of all the tracks of government subdivision number two. When that was approved, it was not part of City limits, and that sixty-six foot L-shape that goes down the center and to the east was reserved for access on that plat. There may be a few documents that confirm or deny what happened with the legal status. City Planner Rael said Mr. Patillo is correct; we have had a hard time finding anything. Mayor Payne asked if they were in the County or City. City Planner Rael said it was within City limits because it was annexed in. Commissioner Rardin asked when it was annexed. City Planner Rael said she did not know. Commissioner Rardin said in terms of tonight, they are just asking to replat into four separate lots, and we are going to do a fifty foot easment. City Planner Rael said a private easement to go from the entrance on Holly.

Acting City Manager Hernandez said they are putting two duplexes there that will be private sewer/sewage, and we will run into the same situation we have on Margarita Loop, which has issues with their private sewer and water. The City cannot do anything about that. City Attorney Smith said she received complaints at least yearly regarding Margarita Loop. They try tort claims, saying the City should go in and fix the sewer lines. The problem is those are private. I have tried reaching out to the subdivider who initially did that because the subdivision is a complete mess. I cannot get a hold of them to enforce anything upon them. I have been to some TRC meetings and met with staff about this subdivision. We see the issues with landlocked parcels, and we need to fix that. We are also concerned that if we allow a developer to put in private sewer lines, we will have the same issues in thirty years when the developer is no longer there, and the lines are breaking. The City may have to end up coming in and fixing those. As much as they are private on Margarita Loop, I think the City may have to come in, and it will be costly. There is nothing else we can do in that kind of situation. Mayor Payne said I understand this is a separate subject, but when that comes up, will it come before Commission? Acting City Manager Hernandez said it would come before the Technical Review Committee, TRC. The Fire Department would not sign off on it, and neither would Utilities. We hesitated to bring this up because we knew he was going to do a duplex. If we approve this tonight, then there will be some issues down the road in getting this approved by TRC. Mayor Payne said so we could approve this tonight, but TRC could deny it. Acting City Manager Hernandez said yes. City Planner Rael said as far as the preliminary plat, it meets all requirements per ordinance. I am not speaking for all the staff, but that is why I am recommending approval. We will have to look at other things down the road. Mayor Payne said we cannot deny this based on what may happen. Acting City Manager Hernandez said we are telling you about the issues there. If you want to approve

the zoning of it, understand you will probably be getting the calls. The Fire Department will not sign off on it because road conditions will not meet their heaviest apparatus, plus the private sewer and water lines.

Commissioner Guthrie asked if we were allowed to ask why they did not want to tie into public sewer lines. Why did they want to go private? Why is this a concern and a decision that has to be made? Senior Project Manager Boyle said the concerns they had were that they did not want to follow the technical standards when it came to anything. That is why he wants a private drive, so he does not have to do the road the way we want it. Same thing with the utilities. Commissioner Guthrie asked if we had the capability to produce that road. It was originally something we drafted. Senior Project Manager Boyle said we offered him the original of what it was before, a twenty-five foot easement on both sides. He wanted us to pay for the whole road and did not want to do anything involving technical standards. He wants to build the quickest and easiest way. The fire truck will not be able to go on that private drive if he does not build to technical standards. If he does this the way he wants, we will put a meter on Holly, and he will have four private lines. If he sells and someone buys, they will have to worry about the other properties maintaining their portion of the road, sewer, and water. That is the loop part. We were told he did not want to follow technical standards at a TRC meeting. Commissioner Guthrie said so there was no negotiation about splitting costs. Senior Project Manager Boyle said no. It was an easement before. I am not sure how to legally explain the splitting part. City Attorney Smith said the City owns below this subdivision with City property. If you look at the road like a four-way stop, part of the road is on his property, and part of it would be on our property if we wanted to make it straight. So one thing we suggested was that the City would grant an easement on our property to put that road in so it lines up. Commissioner Guthrie asked if we were telling him he had to pay for it. Senior Project Manager Boyle said he was going to pay for it on his own property anyway. That is how every subdivision is doing it. In a subdivision contract with a developer, they are doing their own roads, curbs, and sidewalks. It would not be right not to force him to do what we are forcing other developers to do. We are not saying we will not do a fifty-fifty. We already had an easement there. It is more him not wanting to follow standards.

Commissioner Rardin asked if the property owner owned all the rest, like Tracts 4, 5, 6, and 7. City Planner Rael said no. He said he owns Lot 1A and the lot further to north. She said yes. There are already homes within those lots, and there are a couple of empty ones. He asked if Lot 2A was one we owned. She said yes, and Lot 3A too. He asked how far away the City's sewer service was. Commissioner Burnett said there was a connection across the street from the Joy Center. Does that run north up Holly Avenue? Commissioner Rardin said he would basically have a private line across his easement. Is that where the main sewer is? She said, according to Senior Project Manager Boyle, yes. Commissioner Burnett said if there is not a vein that runs up Holly Avenue, then technically, it is not within two hundred feet of a sewer line, and he can put septic. She said there is a water meter in front of Lot 1A. Commissioner Rardin said so that means the water extends past it. You all mentioned Margarita Loop. Where is that? Mayor Payne said it was behind the apartments on 1st Street, west of Las Ventanas. City Attorney Smith said it is the subdivision behind an apartment complex. Acting City Manager Hernandez said it was south of Dale Scott Ave. Mayor Payne said the problem with Margarita Loop is that there is something around twenty houses back there. City Attorney Smith said it was supposed to be part of an apartment complex, but someone somewhere approved turning them into houses. The City never accepted this, and it was never dedicated to us. Mayor Payne said it was shameful that those houses had been built back there. Nobody knew it somehow, and it was never connected. We never took possession of the road. Commissioner Rardin asked if the property owner submitted a plat for the subdivision, or if he was doing this lot by lot. This subdivision was probably already platted prior to it being City limits. Is there a plan for developing the whole area? City Planner Rael said the property owner had spoken about it, saying that if the opportunity arises, he would be interested. The property owner was interested in buying Lot 2A from the City. To answer the question about the sewer, according to the plat drawn by Alamotero, there is a sewer along the west on the right-of-way of Holly Avenue. Commissioner Burnett said there is a house there. City Planner Rael said there is a house on Tract 5 and a manufactured home on Tract 6. Commissioner Rardin asked if the others were on Tracts 7 and 8. She said it was Tract 7. He asked what was being done for the sewers on Tract 8. She said they are connected to City sewer. Commissioner Burnett asked if a main was there. She said yes. You can see it on the preliminary plat. Commissioner Rardin said so it would be a private space from the lot to the middle of Holly. Basically regular. City Planner Rael said we would have to look at that when he submits plans for further development.

Mayor Pro-Tem McDonald said he is building now. If this is not approved, would he be stuck? City Planner Rael said he is building the first set of duplexes. The Commission approved this to be rezoned to a multi-family dwelling district so he can do multiple duplexes without subdividing. We would have to look at the connections carefully when the time comes. If you were not to approve the plat splitting it up, he could still build others on there. Commissioner Burnett said it is a big risk to go build without knowing. Acting City Manager Hernandez said we need to have bigger

conversations about the plans going forward. We start getting issues and threats of lawsuits because it passes zoning and replant, but the Fire or Utilities Departments stop it, and it makes them look unreasonable. We are trying to have a big conversation in the beginning so they are aware of issues if this gets approved.

Commissioner Rardin said for the ones further north, the existing duplexes he has just built, how do we get our fire apparatus down there? What is the issue? Is it not wide enough? Fire Chief Ramirez said width is not the issue. Per Fire Code, the road has to be sustainable to hold the largest and heaviest apparatus. Right now, it is a dirt road, almost not even with a base course. There was supposed to be a fire hydrant placed between two tracks, but it never was. In order for us to shuttle water to fight fires there, the water draining off the apparatus can sink it down. The other concern is, to the furthest right, there is not enough hose to get to the back of the newest structures. Those roads need to be paved, and we need access, almost like emergency apparatus access, to get as close as possible to set up an aerial device or handlines to get to the furthest corner of the structure.

Commissioner Burnett asked if there were houses on Tracts 6, 7, and 8. Fire Chief Ramirez said it was further north. City Planner Rael said the house may be on Tract 7 and the manufactured home on Tract 8. Senior Project Manager Boyle said another issue we are having with the same developer is with those tracts above to the north. We have repeatedly mentioned the fire hydrant and water meters to him, but he has not completed everything he needs to. Based off the ordinance passed in June, everything up there is not to code or the standards of what we have in our ordinances. Commissioner Burnett asked how 2409 and 2407 Holly Avenue got approved. City Planner Rael said she did not know, they were there way before me. Fire Chief Ramirez said there was one further up, but it probably past Lindberg Avenue, which was closer to Tracts 3 and 4. It is still a ways away. Commissioner Guthrie asked why they received a certificate of occupancy when they were not meeting code standards. Who gave that to them? City Planner Rael said certificates of occupancy come from the Construction Industries Division for the construction of the building. Commissioner Guthrie asked if there were no signatures from Fire that were needed. Acting City Manager Hernandez said they do not have a certificate of occupancy yet. Commissioner Guthrie asked if that was for 2405. Acting City Manager Hernandez asked if that was the Joy Center. City Planner Rael said no, that is for the apartments he owns further up. Commissioner Rardin asked if those duplexes were occupied yet. Commissioner Guthrie said they are. Commissioner Rardin said so, if we have an issue, why did we issue a water meter and tap? Mayor Pro-Tem McDonald said the ones going up now already existed. Commissioner Rardin said those were built within the last year. City Planner Rael said correct. Commissioner Guthrie said they have been occupied since they were built.

Commissioner Rardin said he did not have a problem with the replat here. As far as Fire goes, it sounds like there is a hydrant nearby, and you may have some access to get in there down the fifty-foot easement. If we deny some of this or ask them to improve the road, we will probably kill the development out there. Consider the expenses of paving that road, putting in sidewalks, curbs, gutters, and upgrading the sewer and water lanes. Maybe we ought to have him look at it and do it in a phased approach, where he can do a little at a time. Senior Project Manager Boyle said that the fire hydrants, according to the standards, have to be five hundred feet away from each other. The two fire hydrants there are more than five hundred. They do not even meet standards now. Commissioner Rardin said that was an existing condition that was there when he bought it. Senior Project Manager Boyle said it was not an existing condition if the houses had not been built yet. On the development side, if he is trying to develop his own subdivision, he still has to abide by standards, even if it is with fire hydrants when it comes to Holly Avenue. The whole reason he is trying to do a private easement is to avoid all of that. As mentioned before, we will have other issues with things that are not to standards, even based off the ordinances. We have been pushing him to fix the meter can count on the top based off an ordinance from last year, and he does not have a backflow device on it. There are a lot of things that the developer has not yet complied with. Commissioner Rardin said the meter should have a backflow prevention device built into it. Senior Project Manager Boyle said that meter does not. Commissioner Rardin asked if it was not a standard three-quarter one-inch meter. Senior Project Manager Boyle said some old meters do not have it. That meter was probably before the ordinances. Commissioner Rardin said so he was using an existing water meter that was there prior to him buying it. Senior Project Manager Boyle said right. However, according to the ordinance that the Commission approved in June of last year, with a seven to zero vote, if any new building, or anything that is done on a property that is new after the ordinance was approved, they still have to go back and put a backflow presenter, regardless of if they had that prior before. Commissioner Rardin asked if that was on a residential structure. Senior Project Manager Boyle said yes, residential and commercial. For example, if I owned a building like a house and wanted to add something on there, if I did not have a backflow, I would have to put one in there now. Commissioner Rardin said he had an issue with that. I know the contractors are in a big fight with the City on that. I personally do not have a problem with the replat, but it sounds like an older subdivision where

things were not done correctly. I do not want to see the development killed. Senior Project Manager Boyle said right, that is why we were at least trying to get that easement back to where it was originally.

Commissioner Burnett asked if Holly Avenue was up to standard for Fire to drive a truck through right now. Fire Chief Ramirez said the width was. Commissioner Burnett asked who was responsible for doing the whole of Holly Avenue? Fire Chief Ramirez said that was asked of the contractor. Even in the first phase of it, even if he was going to build those two subdivisions, he had to meet Fire Code. We asked for another fire hydrant to be placed closest to the two existing townhomes. Commissioner Burnett said the developer would have to fix it, beginning on the right road up Holly Avenue to the drive. Fire Chief Ramirez said correct. Commissioner Burnett asked who owned Holly Avenue. City Planner Rael asked if he was asking who was responsible for the development of Holly Avenue. Acting City Manager Hernandez said wasn't this an original subdivision that should have had the roads done by the original developer? City Planner Rael said yes, and it never got done. Acting City Manager Hernandez said right, so now it is getting pieced out. It is unfortunate that the developers are suffering from that, but that is why we are holding the current developers accountable to ensure this does not continue to happen. The reason this issue exists is that the original developer never put those roads in. City Planner Rael said I want to clear, and it has been mentioned, but regarding the fifty foot easement being requested or suggested to keep from meeting the standards, I asked him for that easement because there was no other way to the rear of that property since Post Avenue does not exist. It is not because he is trying to stay away from the Technical Standards. I required that in this plat.

Commissioner Rardin said technically, the developer can build regardless with all four lots. It is zoned. City Planner Rael said yes, he could build an apartment complex, granted that he went through TRC, Fire, and Utilities and everyone looked at and approved those plans. It is an R4. It does not have to be split into separate lots. I requested approval of the preliminary plat because he meets all requirements for that portion of this. I cannot recommend denials on what-ifs.

Commissioner Rardin said he had an office out on a dirt road. Would that meet the Fire qualifications for the heaviest apparatus? Fire Chief Ramirez asked what the dirt road out there was lined with. Commissioner Rardin said it was just base course and gravel currently. It was chip-sealed at one time long ago. Fire Chief Ramirez said it technically does not, but I know you have hydrants close to your building, less than five hundred feet. Commissioner Rardin asked if the biggest issue was hydrant distance. Fire Chief Ramirez said that and access to it because of the road condition. If it is a rainy day, we will sink in it. How are we going to get to it? We will get stuck. City Planner Rael asked Commissioner Rardin if he was talking about 2405 or 2595. The hydrants at which location? He said he thought that Lot 1A was in range of the fire hydrants. 2405, the furthest, may not be. Fire Chief Ramirez asked if he was talking about the hydrant closest to the Joy Center. He replied yes. Fire Chief Ramirez said existing plots will meet that. However, the way they are designed, they have to have access to be able to get around the backside. If not, we will run into the same scenario with the two existing ones.

Commissioner Rardin asked how much of a hurry the developer was in to get this replatted. City Planner Rael said he is rushed with lenders on his back. Commissioner Rardin asked what effect two weeks would have. City Planner Rael said she could not answer that for the developer. Acting City Manager Hernandez said this was supposed to be last week, but I pulled it off because of the issues. City Planner Rael put it on this meeting for the Commission to discuss. Commissioner Rardin said kicking it down the road for two weeks would mean having an irritated developer. City Planner Rael said I would say yes. Mayor Payne said we are just voting on the replat.

Mayor Pro-Tem McDonald said when she was out there, it was just a straight line. You cannot go behind any houses. City Planner Rael said right now, you just have access on Holly Avenue from north to south. The top of Holly Avenue never got done by the original developer, and that is why we are in this situation. Mayor Payne asked how long ago the developer did that. Commissioner Rardin said it was probably forties or fifties. It says it was a military developer. City Planner Rael said she could not answer as to when the original plat was done. Mr. Patillo said the original government number two was in the 1950's.

Commissioner Guthrie said she would abstain because he was a client of one of the brokers she supervised.

Commissioner Burnett moved to approve.

Commissioner Rardin seconded the motion.

Motion Passed with a vote of 5 - 1 - 1. Mayor Pro-Tem McDonald voted nay. Commissioner Guthrie abstained.

9. Consider, and act upon, Resolution No. 2025-17 requesting interim approval from the Local Government Division of the Department of Finance & Administration, State of New Mexico, to adopt the Preliminary 2025-2026 Budget as of May 27, 2025. (Evelyn Huff, Finance Director) (Roll Call Vote Required)

Finance Director Huff said there were small changes, starting in the Law Enforcement Protection Fund, LAPF, Fund 36. When we presented Fund 36 to the Commission in the Budget Hearing, we had an estimation of \$170,000. Since then, DFA came back and gave us the actual amount of \$167,000, so we changed that. We also made corrections to Fund 81 for the Utility Maintenance salaries not showing up on the report that was previously submitted to the Commission. We made corrections to the REC Center salaries and benefits, where worker's comp was very high. Commissioner Rardin asked if that had been a typo. Finance Director Huff said one was, however, lifeguards fall into a different category with a high worker's comp. The five positions with the Youth Assistants were incorrect at a too-high rate. He asked what the workers comp for a lifeguard was and if it was considered a hazardous job. She said it is considered hazardous. We project our seasonal to get \$3,000 for their season in workers comp. To compare, an office clerical job will only be \$1,000 for an entire year. He asked if that was a percentage of payroll. She said not a percentage of payroll but a percentage of the payroll for the specific job type. There are around thirty-five different job types with different classifications. Police and Fire are huge, but clerical would be small.

Finance Director Huff said in looking at the recap we provided, everything is at a zero or higher than zero cash balance per general accepted accounting principles. We are leaving us with \$1,000,000 in unrestricted cash in the General Fund. This does not have any changes for Dispatch. This still has \$900,000 budgeted for Dispatch. When we bring you the final budget before July 31st, you will see a big change there because we have an operating budget for Dispatch plus the capital outlay that we are going to need to start the Center back up. There will be significant changes, more than usual, in carryovers and cash balances. Commissioner Rardin asked for a guess as to what that number would be. Finance Director Huff said not right now.

Commissioner Rardin said in the Legal Office, for the \$300,000 in contracts, we originally only had \$40,000 to \$60,000 a year in contracts. What are we intending to spend that \$300,000 in contracts on? Finance Director Huff said we did it mostly on a contingency basis. We have a Municipal Court Prosecution contract, which we have had for many years, that is \$65,000 to \$75,000, depending on where it falls. We have situations that keep arising. Acting City Manager Hernandez said we have attorneys at \$60,000 on a contingency basis for employment law, municipal law, airport law, and conflict prosecution. We have several attorneys on the books for when we need them. Commissioner Rardin said so we may not spend that much. City Attorney Smith said correct. We just calculated the total of their contracts. \$60,000 is the most we can do for a professional. You saw the big increase because I wanted to calculate if we had to spend all that. Commissioner Rardin said so we basically have five outside attorneys at \$60,000 each. Acting City Manager Hernandez said that sounds right. Finance Director Huff said there was a little bit of contingency there, too.

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

10. Consider, and act upon, Resolution 2025-18, giving notice to the Otero County Clerk of the local government positions to be filled at the next Regular Local Election on November 4, 2025. (Rachel Hughs, City Clerk) (Roll Call Vote Required)

City Clerk Hughs said we have been opted into the Regular Location Election since 2019. The open positions are Mayor at-Large for a four-year term, District 2 Commissioner for a four-year term, District 4 Commissioner for a four-year term, and the Municipal Judge at-Large for a four-year term. The seat for District 1 shall be on the ballot to complete the original four-year term, meaning the District 1 Commissioner will be for a two-year term. The filing candidate date is one day, August 26th, from 9 AM to 5 PM, with the County Clerk. To be a candidate, the person must be registered to vote in the district on the date the proclamation calling the local election is filed in the Office of the Secretary of State, which is August 6th. If you have changed residency and live in a different district and want to run, ensure your address is correct. After that date, you will not be able to run. There is a Write-In Candidate Day, which is a week later on September 2nd. The deadline for the County Clerk to certify the candidates to be placed on the ballot is September 5th.

Commissioner Rardin asked if we had a question that needed to go on the ballot, would we have to do one of these for that? City Clerk Hughes said prior to the seventieth day, which is August 25th, the municipality must adopt an ordinance or resolution to be established as a valid question. Commissioner Rardin said so it does not need to be done with this resolution. City Clerk Hughes said no.

Commissioner Burnett moved to approve.

Mayor Pro-Tem McDonald seconded the motion.

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

11. Appointments to Boards and Committees. (Susan L. Payne, Mayor)

Mayor Payne appointed John Davis to the Alamogordo Public Library Board for a second term. No one was opposed.

EXECUTIVE SESSION

12. Adjourn into Executive Closed Session in compliance with 10-15-1(H)(7)NMSA (as amended) to discuss: Pending Litigation: All Current Litigation. (Clint Nicley, Risk Services Director, NM Self-Insurers' Fund, Ashley Smith, City Attorney, Darrell Mori, City Attorney)

Commissioner Robinson moved to adjourn to Executive Session at 8:23 PM.

Mayor Pro-Tem McDonald seconded the motion.

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

ADJOURNMENT

ATTEST:



Mayor Susan Payne



City Clerk Rachel Hughes

(Prepared by Dylan Aleshire, Deputy Clerk)

Approved at the Regular Meeting held on June 10, 2025.

