CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
JUNE 28, 2016

RICHARD BOSS, MAYOR
JASON BALDWIN, COMMISSIONER
NADIA SIKES, COMMISSIONER
JENNY TURNBULL, COMMISSIONER
SUSAN PAYNE, COMMISSIONER

AL HERNANDEZ, MAYOR PRO-TEM
ERICA MARTIN, COMMISSIONER
MAGGIE PALUCH, ACTING CITY MANAGER
STEPHEN THIES, CITY ATTORNEY
NANCY JACOBS, CITY CLERK

## CALL TO ORDER / ROLL CALL / INVOCATION / PLEDGE OF ALLEGIANCE

Mayor Boss called the meeting to order at 6:30 p.m. Roll Call was taken by the City Clerk. Clerk Jacobs announced there was a quorum present. Invocation was given by Reverend Dwight Harp and the Pledge of Allegiance was led by Commissioner Payne.

## APPROVAL OF AGENDA

Mayor Boss withdrew Item no. 5 from the Agenda.

**Mayor Pro-Tem Hernandez moved to approve the agenda as amended. Commissioner Baldwin seconded the motion. Motion carried with a vote of 7-0-0.**

## PRESENTATIONS

**1. Presentation of awards of appreciation to the Family Recreation Center lifeguard crew for their valiant teamwork in a time of crisis. *(Maggie Paluch, Acting City Manager)***

Acting City Manager Paluch presented Mickeyla Wyckoff, Lifeguard from the Recreation Center with an award for her heroic lifesavings skills.

David Wheeler, Admin. Supervisor, and Paramedic Supervisor Mark Koscielski, who responded to the call from AMR presented Mickeyla Wyckoff with an Award of Excellence plaque. They also gave her a CPR Safe Pin that was only given to someone that saved a life.

Mayor Boss gave a proclamation to the Recreation Center lifeguard team for demonstrating their proficiency in a crisis situation.

**2. Presentation to recognize Finance Director LeeAnn Nichols on the event of her retirement from the City of Alamogordo. *(Richard Boss, Mayor)***

Mayor Boss presented a plaque to Finance Director Nichols in appreciation of her service to the City and read some thoughts. Acting City Manager Paluch thanked her for building a strong Finance team.

## PUBLIC COMMENT

None

## CITY MANAGER'S REPORT

**Acting City Manager Paluch made the following remarks:**

1. She gave an update on the bowling alley demolition on South Florida. The building was deteriorating and had to be torn down; the property will be used for staging in the Florida realignment project.

2. She announced the City had been approved for a US Economic and Development Admin. Grant of $800,000 for Griggs Field Detention Basin project. There will be a press conference at Griggs Field on July 7th at 10 am.
3. She said the 4th of July parade was on July 2nd at 10 am and the Fireworks Extravaganza at the Space Museum was on the 4th at 9:15 pm.

## REMARKS AND INQUIRIES BY THE CITY COMMISSION

None.

## CONSENT AGENDA

**3. Approve the Minutes for the June 14, 2016 Regular Meeting. *(Nancy Jacobs, City Clerk)***

**4. Approve the statement related to the Executive Session held on June 23, 2016. *(Nancy Jacobs, City Clerk)***

**5. Consider, and act upon, award of PW Bid No. 2016-010 for $271,109.59 (excluding NMGRT) to Preslar's Dirtworks LLC related to the FEMA 4197 Debris Removal project. *(Nancy Beshaler, Project Manager)* WITHDRAWN**

**7. Consider, and act upon, the approval of Resolution No. 2016-24 requesting written approval from the Local Government Division of the Department of Finance & Administration, State of New Mexico for the revised budget figures computed as of June, 28 2016. *(Kathy Gilsdorf, Budget Analyst)* (Roll Call Vote required)**

**8. Consider, and act upon, Resolution No. 2016-27 requesting approval of HUD Form 52574 - PHA Board Resolution Approving Operating Budget for the Fiscal Year 2017 budget. *(Evelyn Huff, Housing Authority Manager)* (Roll Call Vote required)**

Community Services Director Ortega asked to remove Item no. 6 from the Consent Calendar.

**Mayor Pro-Tem Hernandez moved to approve items 3, 4, 7, and 8 of the consent calendar. Commissioner Baldwin seconded the motion. Roll call was taken for Items no. 7 & 8. Motion carried with a vote of 7-0-0.**

## ITEMS REMOVED FROM CONSENT AGENDA

**6. Consider, and act upon, Resolution No. 2016-25 amending the fees for services at the Desert Lakes Golf Course. *(Veronica Ortega, Community Services Director)* (Roll Call Vote required)**

Community Services Director Ortega asked the Commission to disregard the fiscal impact in the agenda item. The $23,121 was the estimated additional revenue and that amount would fluctuate based on usage at the Golf Course. She previously had it separated with a City share and the Golf Course share and that was not correct - the full $23,000 was City share.

Mayor Boss asked Community Services Director Ortega if it was the same ratio based on the activity at the Golf Course. She answered yes.
**Mayor Pro-Tem Hernandez moved to approve Resolution No. 2016-25 amending the fees for services at the Desert Lakes Golf Course. Commissioner Sikes seconded the motion. Roll call vote was taken. Motion carried with a vote of 6-0-1. Commissioner Baldwin abstained from voting.**

## UNFINISHED BUSINESS

**9. Consider, and act upon, the payment of an incentive compensation to previous Interim City Manager George Straface.** ***(Steven Thies, City Attorney)***

City Attorney Thies said when they hired Dr. George Straface in October of 2015, one of the items placed in the contract was an incentive compensation provision. He explained Dr. Straface discussed a number of goals and objectives he sought to achieve during his tenure and based on the Commission's conclusion, if he reached those goals he would receive incentive compensation up to $15,000. If he did not serve a period of at least six months, that amount would be prorated based on the amount of months he served. He requested the Commission to consider based on a review whether Dr. George Straface met the goals and objectives, and whether he should be paid the $15,000 incentive compensation.

Mayor Pro-Tem Hernandez asked City Attorney Thies how many months Dr. Straface had worked. He was told eight months.

Paul Sanchez made the following comments:
Mr. Sanchez asked if Dr. Straface created a survey given to City employees, and had the Commission received the results of that survey. Mayor Boss stated they did not do the survey themselves but a Commissioner had made the survey and reported back to them. Mr. Sanchez said the contract was specific in stating Dr. Straface was supposed to have written the survey, have it approved by the Commission, and have it returned to them. Mr. Sanchez asked if Dr. Straface had not done the survey himself.

City Attorney Thies said Dr. Straface met with all the different departments and had each of the employees complete five questions, and if the employees were unable to meet face to face with him, they were given the opportunity to answer the questions. He compiled the results and distributed them to the directors and the Commission. City Attorney Thies said Dr. Straface had completed the survey and provided the results to the Commission prior to the March election. Mr. Sanchez asked City Clerk Jacobs to put the contract on the screen and stated the survey City Attorney Thies was discussing was done at the beginning of his tenure not at the end of his tenure.

Mayor Boss asked City Attorney Thies if the Commission had the authority to make a decision in consideration of the contract. He answered the contract didn't require Dr. Straface to comply with each and every one of the goals and objectives. If they thought he didn't comply with one or more of the goals they could reduce the $15,000.

Mr. Sanchez read from the contract on the screen stating the City Commission shall use the evaluation criteria set forth in attachment A to this agreement when evaluating whether Dr. Straface has achieved the above described goals. Further, Dr. Straface will provide the results of a city staff survey for use by the Commission in its evaluation. Straface shall present the language of the staff survey to the Commission for its review and approval prior to submitting the survey to city staff. Upon successful achievement of the above described goals, Straface will be entitled to receive the incentive payment of up to $15,000. Mr. Sanchez made his objection very clear and said he didn't care if they gave Dr. Straface the entire $15,000 as he did an excellent job, however, the contract had requirements that had not been met.

Mayor Boss informed City Attorney Thies he and Mayor Pro-Tem Hernandez had not seen the survey and asked the rest of the Commission if they had seen it. Commissioners Baldwin, Sikes, and Turnbull said they had and Mayor Pro-Tem Hernandez stated he just didn't remember it. Commissioner Martin said the survey was done before the election. Mayor Boss stated the three newest elected officials had not seen it.

**Commissioner Sikes moved to table acting upon the payment of a incentive compensation to previous Interim City Manager George Straface. Commissioner Turnbull seconded the motion. Motion carried with a vote of 5-1-0. Mayor Pro-Tem Hernandez voted nay.**

## NEW BUSINESS

**10. Consider, and act upon, the award of the Family Fun Center Project to one of two bidding contractors evaluated by an Independent Design Consultant. *(Stephen Thies, City Attorney)***

City Clerk Jacobs called the Independent Design Consultant Howard Ellman of Dynamic Designs in order for the commissioners to ask questions. While waiting to connect with Mr. Ellman, Commissioner Sikes asked for someone to explain to the audience why the Commission had to have an outside opinion for the two bids. Mayor Boss explained they were going nowhere with this project and he requested they find a qualified architect because he was not happy with the drawings or estimated cost of the project, and he was told city employees did not want to do it.

Mr. Ellman spoke on the scoring of the project based on the design. Commissioner Martin asked him to give a description of his qualifications. He said his company had created the first entertainment center in the early 80's and designed family entertainment centers all over the country. Commissioner Payne asked him if he was comfortable about his scoring on this project. He answered White Sands Construction by far corresponded to the RFP and Stardust Lanes had not, and the biggest element that affected Stardust Lanes' score was the business financial claim. He stated he was very comfortable with his scoring on this project.

City Attorney Thies said the Commission had the scoring in front of them and requested they award the project. He gave the timeline of the project if approved – finalize the initial contract, further discussions to finalize the cost and design. He requested to appoint a sub-committee for the project that would include two or three commissioners and city staff.

Commissioner Turnbull asked City Attorney Thies what the roll of the commissioners would be on the sub-committee; she was concerned about them making decisions. He answered there were designs that needed to be tweaked and the commissioners would have some input in that, but the final product would be brought to the full Commission for their approval.

Mayor Pro-Tem Hernandez asked City Attorney Thies if the same the scoring used originally was used this time. The city attorney answered they did. Mayor Pro-Tem Hernandez asked if he knew what they had scored for the previous contractor. He said he did not but it was approximately 60 percent of the available points. Mayor Pro-Tem Hernandez wished they had scored the other contractor in the past to vindicate city staff for the excellent job they did. Commissioner Sikes agreed with Mayor Pro-Tem Hernandez.

Commissioner Baldwin voiced his concern with the commission being a part of this, but volunteered to be on the sub-committee. Commissioner Payne agreed he would be a great volunteer. Commissioner Baldwin didn't think it was a practice they needed to get into. Mayor Boss didn't understand why they had a problem and stated this was the city employee's job. Commissioner Payne agreed with Mayor Boss that this was what city staff got paid for. She said she appreciated them, but they did not have an option.

Mayor Pro-Tem Hernandez gave staff the recognition they deserved and said they should be vindicated, because of the fact they scored it similar to what the contractor did. Mayor Boss didn't agree with him and thought they needed to get more experience. He said this was no reflection on city staff. Mayor Pro-Tem Hernandez said they had done projects way over $6 million and they had done it without any other expertise other than staff. Mayor Boss stated it was not city staff's fault; it was because they hired another architect with no experience in designing family fun centers.

Commissioner Payne stated a member of the audience a few months ago said perception was everything and she agreed. She said she was sorry staff thought they were thrown under the bus, but the truth was if things had been done properly to begin with they would not be in this position. She said they needed to move forward.

Mayor Boss asked if they were going to make a decision on selecting one of the two bidders. Mayor Pro-Tem Hernandez said absolutely. Commissioner Baldwin said they were there to award the project and wanted to move forward.

Paul Sanchez commented on the following:
Mr. Sanchez noted Commissioner Sikes was not present at the commission meeting when they decided to use a separate contractor for the scoring. He asked if Mr. Ellman was the same contractor that did the drawings. Mayor Boss answered no and confirmed with City Attorney Thies. Mr. Sanchez noted a significant difference in what Mr. Ellman said and what he scored.

Commissioner Turnbull clarified she was not in favor of a sub-committee for the project; she trusted staff to do it. Mayor Boss agreed with her.

Acting City Manager Paluch asked the commissioners what their involvement would be if they weren't on the sub-committee. Commissioner Martin said there are people in the community that would serve as an asset to the committee and suggested people fill out an application. The commissioners could vote on who they wanted.

Commissioner Baldwin told Acting City Manager Paluch to do whatever was normal for the process, and if there were big changes they would bring it back to the Commission for discussion. Commissioner Payne agreed with him.

**Mayor Pro-Tem Hernandez moved to approve the award of the Family Fun Center Project to White Sands Construction, Inc. for the amount of $5,897,999.88. Commissioner Baldwin seconded the motion. Motion carried with a vote of 7-0-0.**

City Attorney City Attorney Thies reminded the Commission this was the preliminary price based on value engineering and it could go up or down. Mayor Boss stated they understood. City Attorney Thies said the initial contract executed with White Sands Construction would contain the $5,897,999.88.

**11. Consider, and act upon, a request from Mr. Tyler Johnson for refund of payment of a Utility Lien placed on 2305 Baylor Avenue. *(Stephen Thies, City Attorney)***

City Attorney Thies informed the Commission Mr. Johnson discovered there was a lien on 2305 Baylor Ave. when he was selling the property. He paid the lien and was now requesting a refund in the amount of $832.41. Mr. Johnson was not in the audience.

Commissioner Payne asked City Attorney Thies for clarification. He explained the lien was filed in the name of Housing and Urban Development and at the time when they made the lien, it showed in HUD's name. She asked if that was before Mr. Johnson owned the property and he answered that was his understanding. She asked if he was able to purchase the property with the lien still on it. City Attorney Thies said it was not unusual for title companies to call utility companies and ask if there were any unpaid bills. They deal with it at the closing of the property but in this case they didn't check with City Hall. Commissioner Payne asked if it was filed in a timely manner. He answered the process had gotten a lot better and added the lien was filed a couple of months after Mr. Johnson purchased the property.

Commissioner Martin asked how Mr. Johnson was able to have service for a year and a half with the outstanding balance on the property. City Attorney Thies answered state law prohibits them from terminating someone's service when they didn't accrue the charge; their recourse was to file a lien.

Paul Sanchez commented on the following:
Mr. Sanchez asked why the Utility Department didn't tell the property owner there was a lien as the current owner. He said there have been many water issues and asked how many thousands of dollars were waived because whatever department was not keeping a timely check on them.

Commissioner Payne asked City Attorney Thies to elaborate when he said you could get your water turned back on even if there was a lien on the home. City Attorney Thies explained state law prohibits them from withholding services for someone that requests an account and did not owe the City money; a third party could not be held responsible.

**Commissioner Turnbull moved to approve a request from Mr. Tyler Johnson for refund of payment of a Utility Lien placed on 2305 Baylor Avenue. Commissioner Sikes seconded the motion. Motion carried with a vote of 7 -0-0.**

**12. Appointments to Boards and Committees.** ***(Richard Boss, Mayor)***

Mayor Boss read the openings and reappointed Manuel Gonzales, Jr. to the Airport Advisory Board. No one was opposed.

## PUBLIC COMMENT

None

## EXECUTIVE SESSION (Roll Call Vote Required)

**13. Adjourn into Executive Session in compliance with Section 10-15-1(H), NMSA 1978 (as amended), to discuss: purchase, acquisition or disposal of real property (Scenic Drive Extension), threatened or pending litigation (Wendy Irby vs. City of Alamogordo), and limited personnel matters (City Manager applicants preliminary selection). (Roll Call Vote required)**

**Mayor Pro-Tem Hernandez moved to adjourn into Executive Session in compliance with Section 10-15-1(H), NMSA 1978 (as amended), to discuss: purchase, acquisition or disposal of real property (Scenic Drive Extension), threatened or pending litigation (Wendy Irby vs. City of Alamogordo), and limited personnel matters (City Manager applicants preliminary selection) at 7:53 p.m. Commissioner Baldwin seconded the motion. Roll call vote was taken. Motion carried with a vote of 7-0-0.**

## ADJOURNMENT

*Mayor Richard Boss*

*ATTEST:*

7/12/2016

*City Clerk Nancy E. Jacobs*

(Prepared by Rachel Hughs, Deputy City Clerk)
Approved at the Regular Meeting held on July 12, 2016.