CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
August 22, 2017

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, CITY MANAGER
PETRIA SCHREIBER, CITY ATTORNEY
RACHEL HUGHS, 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 Hughs announced there was a quorum present. Invocation was given by Pastor Dustin Wilhite and the Pledge of Allegiance was led by Mayor Pro-Tem Hernandez.

APPROVAL OF AGENDA

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

Mayor Boss commented on the following:
He said this summer, he and several City staff, had the opportunity to travel to Washington D.C during National Police week in honor of our fallen Officer Clint Corvinus and others that died in the line of duty. He said it was a very sad time, but also it was an exciting time. Many emotions were felt during the ceremonies.

PRESENTATIONS

1. Proclamation to memorialize Officer Clint Corvinus and all fallen Police Officers. *(Richard Boss, Mayor)*

Mayor Boss presented Chief of Police Syling a Proclamation to memorialize the Anniversary of the loss of Officer Clint Corvinus and Officer Bruce Richard, and to further pay tribute to those Otero County Police Officers who also gave their lives in the line of duty. (Please see Blue Book for Proclamation)

2. Proclamation for National Thank a Police Officer Day. *(Richard Boss, Mayor)*

Mayor Boss presented Chief of Police Syling a Proclamation for National Thank a Police Officer Day. He proclaimed September 16, 2017 as "Thank a Police Officer Day." (Please see Blue Book for Proclamation)

PUBLIC COMMENT

Rocky Galassini commented on the following:
On behalf of the Otero County Law Enforcement Committee, she thanked all Police Officers. She read the end of watch for the 10 fallen police officers from Otero County. She invited the public to join them at Alameda Park from 12:00 p.m. to 6:00 p.m. on September 16, 2017.

CITY MANAGER'S REPORT

City Manager Maggie Paluch made the following remarks:
1. She gave an update of the Family Fun Center workshop held on Monday August 21, 2017. Staff reviewed 4 options for management including; negotiated management contract with Downtown Venture Corporation, accept a proposal from Alamogordo Management Group, do nothing and let the

building sit until a plan can be developed and the option of the City running the facility. Tonight the discussion continues, and the Commission may choose to vote to direct staff to choose a specific option.

2. She said in regards to Snake Tank Well 5, the startup and testing of the various components began on August 14, 2017. This will be an ongoing process through the end of the month. Unfortunately, a substantial completion inspection was scheduled for August 17, 2017, but the contractor had not progressed far enough along for the City to take acceptance. This has been rescheduled for the next 10 days.

3. She said the Bonito Lake bid opening date has been postponed from August 24, 2017 to September 7, 2017 at 2:00 p.m. in the Commission Chambers. This was based on questions received during the question and answer period, and other required engineering changes.

4. She said Golf Course pond 11 had to hold off construction, yet again. It has been raining quite significantly. We do not have a remobilization date at this point.

5. She said on August 18, 2017, her and the mayor met with representatives from the US Army Corps of Engineers, including district Commander Lieutenant Colonel James Booth. They discussed the McKinley Channel phase 8 project. Unfortunately, the cost estimate at 95 percent design is projected to be over budget by 10 million dollars. That is 7 million dollars in Federal funds, and 3 million in non-federal funding. The Army Corp of Engineers indicated that the funding may be discontinued for this project. The plan moving forward is to have options presented to the Commission from the representatives of the Army Corps of Engineers at a Commission meeting in September. City staff and Commissioners are encouraged to contact their local Representatives to gain support for more funding, so the project can be completed. She said there is a significant area of our community surrounding the ditch that will not be protected against a 100 year flood event. A letter has already been drafted by staff to go to our Representatives. The Commission will see that letter and it will need to be approved, before the Mayor signs it.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Sikes made the following comments:

She announced she and the Mayor attended the 60th Annual New Mexico Municipal League (NMML) meeting in Clovis. Over 300 people from around the State attend these meetings. She said Mayor Boss and the NMML voting members reviewed and voted on 33 Resolutions that affect Municipalities. She wanted to let everyone know that the taxpayers' dollars that go into these meetings are not wasted. We come back with some valuable information.

CONSENT AGENDA

3. Approve the minutes for the August 9, 2017 Regular meeting. *(Rachel Hughs, City Clerk)*

4. Approve the statements related to the Executive Session held on August 9, 2017. *(Rachel Hughs, City Clerk)*

5. Approve the final publication of Ordinance No. 1541 amending the official zoning map of the City of Alamogordo to rezone the property with the legal description 1179 SW1/4NW1/4 located at 801 US Hwy 70 West, from R1, Single Family Dwelling District and C3 Business District to MH2, Manufactured Housing Park District. Case Z-2017-0004(A) 801 US Hwy 70 West *(Darron Williams, City Planner)* **(Roll Call Required)**

6. Approve the final publication of Ordinance No. 1539 amending Section 201030, The City of Alamogordo Code of Ordinances Regarding Planning and Zoning Administrative Fees. *(Darron Williams, City Planner)* **(Roll Call Required)**

7. Approve the bid award of IFB 201708 Janitorial Services, to Kleen Tech, in the amount of $32,814.72 including NMGRT. *(Barbara Pyeatt, Chief Procurement Officer)*

Mayor Pro-Tem Hernandez moved to approve items 3, 4, 5, 6, 7 of the consent calendar.
Commissioner Baldwin seconded the motion.
Roll call was taken for items No. 5 & 6
Motion carried with a vote of 7-0-0.

OLD BUSINESS

8. Consider, and act Upon amending the Kids Kingdom Re-Build Proposal. *(Veronica Ortega, Community Services Director)*

Community Services Director Ortega presented the options for the Kid's Kingdom rebuild. She gave a handout to the Commission (See Blue Book for handout). She said in revisiting the original worksheet, she found an error of $224,077. This means the zoo parking lot and the new dog park had to be removed from the original award. Those figures have been corrected and are reflected on options A through C. She said bids for the Recreation Center locker room project came in at 31 percent over the architect's estimate, leaving a shortage of $133,678. The project team requests an additional 25 percent of the funds needed to cover unforeseen conditions. She briefly went over what projects would be included, reduced or eliminated in each of the options. She said staff is recommending option 2A, for the fact that the natatorium bond was dedicated to the Recreation Center Building. Staff is recommending the shortfall come from the natatorium bond funding to ensure these funds go back to the Alamogordo Family Recreation Center. She said by selecting this option, the playground will go back to the $519,200, with some Community Services projects either reduced or eliminated. She requested that any funds left on any of the projects be used towards replacing items that were reduced or eliminated.

Commissioner Payne asked where the security cameras will be installed. Community Services Director Ortega said they were to be used throughout the parks.

Commissioner Baldwin felt that he muddied the waters when he came back to the Commission and asked that the entire insurance amount be spent on playground equipment. He said his numbers were not adding up either, and it could be the $167,000 that was found. A part of their proposal was that all of the original option 2 would leave a fund balance of $192.000. I thought if we spent all the insurance money on playground equipment, the $275,000 on infrastructure could partially be taken up by $192,000, which would leave a balance of $50,000. He said he leans toward option 2C, because that gives more playground equipment. Mayor Boss asked if staff was recommending option 2A. Community Services Director Ortega confirmed their recommendation. Commissioner Baldwin pointed out that option 2A does not include the full amount of the insurance money being spent on playground equipment.

Commissioner Payne asked what the $247,000 would be spent on. Community Services Director Ortega said it is for shade structures, seated railing, etc. Commissioner Payne asked if it was all going in that location. Community Services Director Ortega said yes. Commissioner Payne said she is actually comfortable with that, because we did lose some that.

Commissioner Baldwin asked Community Services Director Ortega what the total value of Kids Kingdom was. She said it was $750,000 and the insurance recovery was $448,484. Commissioner Baldwin said my mindset there was, if the total value was $778,000 and we are putting $448,000 back in, and we would be supplying the additional amount, but to split the $448,000 into playground equipment and infrastructure.

Mayor Pro-Tem Hernandez asked if it was a lot of playground equipment. He said he agrees with Commissioner Baldwin, but I'd rather have a playground that is completely usable.

Mayor Boss asked Community Services Director Ortega if it would handle the same amount of kids that the old park did. She answered yes. We could add interactive toys for all ages. We could add chess or checker tables. There are different things that we could add.

Commissioner Baldwin said originally on the option two, there was $192,000 left over for other ideas for projects to be considered. Where is that $192,000. Community Services Director Ortega said we are short by $224,000. From the original proposal we would have had to cut the zoo parking lot and the new dog park.

Commissioner Sikes asked Community Services Director Ortega if we are still doing the zoo perimeter fence, and if we are going to wall off that area and wait to pave it. She said yes the plan is to pave that, and if there is quality of life funding left on other projects, we are looking to do the zoo parking lot. Commissioner Sikes asked if we are going to alter the security perimeter from the plans that we approved. Community Services Director Ortega said no that is just for the fence. Commissioner Sikes said I believe that we need to come up with the funding for the security cameras. She said $28,000 seems like a lot of money for security cameras, but to protect the property of the tax payers, I think that security cameras are important. Maybe we could use economic development funds and put in cameras.

Commissioner Payne said she would really like to see those security cameras. Commissioner Baldwin said basically what you see in front of you is a menu of options.

City Manager Paluch asked Community Services Director Ortega for clarification, that those security cameras are for the outdoor parks and not for buildings. She said correct.

Community Services Director Ortega said one of the options you could do is eliminate one of the playground shade structures, which would be equivalent close to $28,000. She said there is a contingency built in; maybe there would be enough to cover that.

Commissioner Martin asked Community Services Director Ortega how much it is per camera. She said out of all the parks, she feels the Skate Park needs a camera.

Mayor Pro-Tem Hernandez asked if these cameras take pictures. Community Services Director Ortega said yes, these cameras will scream at you, letting you know that you are in a restricted area. She answered Commissioner Martin's question stating it is $28,000 for 4 camera systems and laptops.

City Manager Paluch said if the Commission would like the security cameras they can do away with the shade structures. We did build in a 25 percent contingency to the locker room renovation, there might be some money left over. A normal contingency for the City is around 10 percent.

Community Services Director Ortega said the small Griggs shade structure was $18,242. If we did away with this along with the contingency that is left on option a, then we could get the security cameras.

Paul Sanchez commented on the following:
He was concerned the public did not have the opportunity to review the new information handed out. He was also concerned that security cameras could not be included in the project package. He said he would support Commissioner Baldwin's concept of more playground equipment for the children to play on, with particular emphases on special needs equipment. He would like to see an additional bathroom be installed at the zoo, but understands this cannot be afforded. He suggested the possibility of putting a port a potty there on a regular basis.

City Attorney Schreiber said if the Commission would like to table this item, to allow the public to look at these options and come back and redo the numbers including the security cameras that is an available option. Mayor Boss said it would be nice if we could think about it and move things around the puzzle, then come back and compare notes.

City Manager Paluch asked Mayor Boss if he would like a document different than what was provided, or is this document sufficient.

Commissioner Baldwin said I believe this document is sufficient. He said the Mayor was talking about looking to moving around some of the money. I am comfortable moving forward and letting staff find the $28,000 in maybe the shade structures. These are all great projects that were brought to us about a month ago. It is not like we are cutting something that is 100 percent expected. My concern would be as Mr. Sanchez stated that the public has not had a chance to see this. It is different then what was presented in the worksheet the public has been seeing the last three or four days.

Commissioner Payne said she is fine with tabling it and giving the public a chance to take a look at it.

Commissioner Baldwin made the motion to table Old Business Item 8, Consider, and act Upon amending the Kids Kingdom Re-Build Proposal until our next meeting.

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

NEW BUSINESS

9. Consider, and act upon, Change Order No. 2, Public Works Bid No. 2017-001, to Smithco Construction, Inc. related to the 1MGD Brackish Water Treatment Facility project, in an amount not to exceed $148,032.06, including tax. *(Bob Johnson, Engineering Manager)*

Engineering Manager Johnson spoke on Change Order No. 2. He said this change order is in 3 parts. The three portions consist of: Deletion of three pumps from the project scope that were inadvertently left in the project design, and during the middle review process at the beginning of the project it was discovered these items were still in there and they did not need to be which resulted in a net decrease of $6,017.02. The estimated quantity of Bid Item 4 of buried solid waste was 16,000 tons in the original bid documents. During the excavation removal and disposal of the buried solid waste, the contractor encountered a large pocket of it, in the northwest corner of what will be the evaporation pond. The engineer was immediately notified. They evaluated it and determined that we would be exceeding our 16,000 tons estimated quantity. The engineer notified the city as well as the funding agency oversight NMED Construction Programs Bureau. We have it within our contract documents to exceed estimated quantities by up 25 percent. The funding agency oversight approved us to proceed versus shutting the project down. I have gone back and looked at the various soil reports and the bores done by Terracon. There were roughly 13 different bores done in and around what is now the evaporation pond area. The area that this pocket of buried solid waste found was in between about five of these bores. The existing bore results around this pocket indicate very little, if any, buried solid waste. Most of the solid waste within this area, through the bore and testing process was located further south. The 18,500 new estimated total includes what has been excavated to date and includes 400 tons what might be estimated to be found when the contractor installs the raw and finished water line that will parallel LaVelle Road. This is kind of a fail-safe quantity, if we do not exceed that quantity, we will reduce it down to actual. Within the change order, the 24 inch layer of four to eight inch rock underneath the evaporation pond berms and access road is a net increase of $43,083.74. As the contractor was excavating the additional solid waste, it was seemingly bottomless. They had excavated so deep and they could not find a bottom to this buried solid waste. We believe because it was on the fringe of the old landfill. The engineer got with city staff and the funding agency and we came up with the consensus to stop removing this, because it is so deep that we will never disturb it. The engineering fix was to install two feet thick layer of compacted four to eight inch rock, in twelve inch lifts at 95 percent density, and then on top of that approximately 10 feet of compacted earth, also compacted to 95 percent density so that there is no chance of anything shifting or coming up.

Commissioner Baldwin asked if it is within budget and will it keep us within time line. Engineering Manager Johnson said yes.

Commissioner Baldwin moved to approve.
Commissioner Martin seconded the motion.
Motion carried with a vote of 7-0-0.

10. Consider, and act upon, for the Approval to purchase a new Class-A Apparatus (pumper) to replace an existing Apparatus that has surpassed its life service. With this Approval Fire Staff will move forward with the purchase utilizing the Approved budgeted monies from two sources; Fund 011, CER Equipment Replacement for a total of $400,000.00, and Fund 033 CER Equipment Replacement for a total of $127,695.00. *(Jim LeClair, Fire Chief)*

Fire Chief LeClair showed a presentation of why this apparatus is needed, and asked for approval to purchase a new Class-A pumper apparatus to replace an existing apparatus that has surpassed its life service. He said one of the largest obstacles for the Fire Department is dealing with its aging fleet that has surpassed its life. According to the NFPA 1901 standards for First-Line and Reserve Fire Apparatus; fire departments should seriously consider the value or risk to the fire fighters of keeping fire apparatus older than 15 years in front-line service. He showed several apparatus, in inventory, that has surpassed that replacement criterion. The apparatus that they are looking to replace is 23 years old. (see Blue Book of Power Point)

Mayor Boss asked if this is replaced, then the oldest truck in inventory would be 16 years old. Fire Chief Leclair said yes. He said they would like to keep the 1994 engine in inventory and try to have it refurbished at a later date, and keep it as a reserve engine.

Mayor Pro-Tem Hernandez asked if the $400,000 was budgeted. Fire Chief LeClair answered yes.

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

11. Consider, and act upon, an agreement for Assignment of Airport Lease from Gregory Hock to Alex Clements Jr. for Area E8-B. *(Petria, Schreiber, City Attorney)*

City Attorney Schreiber said this is a routine assignment of a lease. This was passed by the Airport Advisory Board at their meeting in July 2017, and they recommended approval. Essentially, this is just someone transferring a hangar to someone else.

Mayor Pro-Tem Hernandez asked for confirmation that this is just a transfer of a lease. City Attorney Schreiber confirmed that it is.

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

12. Consider, and act upon the Airport Improvement FAA Grant. *(Jim Talbert, Airport Manager)*

Airport Manager Talbert said we are trying to get FAA end of Fiscal Year money. We are looking to put a shoulder on the remaining length of the runway. We put a shoulder on the 2200 foot extension as an experiment. It has worked extremely well as far as erosion control, weed control and maintaining the three inch clearance required by FAR 139 from the top of the runway to the surface right next to it. We asked the FAA for this money about a year and a half ago, and we have been discussing it for that point. This needs to be in to the FAA by the September 15, 2017. We are running up against the end of the Federal Fiscal year. The cost to the City is $26,961 providing that's the total cost of the operation. This is a 90 percent FAA, 5 percent State and 5 percent City grant. The cost to the City will be spread out over a considerable amount of time. The benefits to the City is does meet the 139 specifications for the shoulder of the runway. Normally those requirements for 139 are not eligible for a grant, we did a discussion and described it a little bit differently and the FAA has said they would give us a grant for that.

Mayor Boss said it is kind of a no brainer, a half a million dollars for the $27,000. He asked if when the material is put down is it oiled as well. Airport Manager Talbert said if we put diesel oil on it, then we will have asphalt, but then there are other problems with putting diesel oil on it so we have not done that.

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

13. Consider, and act upon, the award of Public Works Bid No. 2017-014 to General Hydronics Utilities LLC, related to Street Maintenance Program FY2016 – Phase II in an amount not to exceed $342,436.68 including NMGRT. *(Edward Balderrama, Project Manager)*

Project Manager Balderrama said the work on this project will be on Harvard, Baylor and Tulane Avenue, from 25th Street north to the end of the loops. The project will include replacing water lines, all the water services, and installing some new fire hydrants in the area. If this project is approved, the area from Cornell to Pecan, 23rd to just north of 25th Street will all have new infrastructure. The sewer has already been replaced, all of utilities have been replaced and all of the pavement would have gone through the cycle of our street maintenance program.

Mayor Boss said the engineer missed this estimate by $90,000. Project Manager Balderrama said that was correct. We have been getting some good numbers on our water utility projects, but it is hard because we only got one bid on this project, to try and compare anything to.

Mayor Pro-Tem Hernandez asked why there was only one bidder. Project Manager Balderrama said he had no idea. I don't know if it is too small of a project for an out of town contractor to come into town to bid on it or just the group that is here are just too competitive here in Alamogordo.

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

14. Consider and act upon the Family Fun Center operating proposal for management. *(Maggie Paluch, City Manager)*

City Manager Paluch said they had discussed this at length yesterday evening. There were four options: To do nothing, to go with a proposal from Alamogordo Management Group, accept a proposal from Downtown Venture Corp, or the City to run the Family Fun Center. She said Mayor Pro-Tem Hernandez had asked if we had reached out to OCDEC and Mike Espiritu. She said they reached out to Mike Espiritu and he is in agreement with using the money for this purpose as long as we have enough money in fund 105 to fund the other economic development projects that we have underway, which we do.

City Planner Williams said he spoke to Mr. Chun from Downtown Venture Corp. One of his concerns was the business plan. He is only standing by for a letter of intent, and he would have an in detail business plan ready within 30 days from the date of receipt of this letter. City Planner Williams said if Mr. Chun were awarded the process, it would be roughly 60 days to open, after the building is completed.

City Attorney Schreiber said she gave incorrect information in last's meeting at the Family Fun Center workshop about the telephone wiring system. She said the building is wired, but we currently do not have any phones. She spoke with Mark Roper about LEDA funds. She said he is on board with us about using LEDA funds. We do need to bring our local LEDA Ordinance up to compliance with the State Statute. She said many of the Commissioners wanted to make sure that we are on solid legal ground, so I am attempting to hire an outside Counsel to prepare a written legal opinion to the Commission regarding LEDA to protect this Commission. Before we move forward and put this project participation agreement, we will make sure we are on the most solid ground we can be on.

Mayor Boss said Randy Van Vleck, the New Mexico Municipal League Attorney, opinion is that it is permissible. City Attorney Schreiber said he was actually the Attorney on one of the first LEDA projects. She said I have called him and have more calls into him to see if I could get him to put that opinion in writing for the Commission. IF not, we'll seek an outside Attorney to put that in writing for us. Mayor Boss asked about Juan Torres, the Director of Finance Development Programs, he also had the opinion that we were ok, right. City Attorney Schreiber said yes, I had a conversation with him. He was absolutely on board and said that would be the best way for us to go.

City Manager Paluch said staff was working on all four options. We are looking for a narrowed focus of which option you want staff to concentrate on and possibly a letter of intent to Downtown Venture Corp saying that we are moving down the path of negotiations with them. Nothing is written in stone, you are not agreeing to a participation agreement. We are doing our due diligence. We just want more of a narrowed focus.

Mayor Pro-Tem Hernandez said he would like written opinions and not phone opinions, because in a phone opinion they can say that is not really what you asked me. I want to make sure the written questions and written answers come back to us, so that we are covered. It is worth spending a little bit of money on it, if we have to, to keep us straight. He was also concerned with the interest on the $500,000 loan. He said we are not a bank. I want to make sure that everything is clear and we are not setting a precedent on this. Loaning money has not been our business; I don't really want to get into that. If we do that, I would like some clarifications of the interest rate, the payback, the structure.

City Manager Paluch clarified that any contract with Downtown Ventures Corp would come before the Commission before it was signed. The Commission is the final say and approval.

Mayor Pro-Tem Hernandez said I know things happen and short notices occur, but he does not want to see that contract five minutes before we come into a meeting. I would like to see it a least a day in advance. City Manager Paluch said understood.

Mayor Pro-Tem Hernandez said he would suggest that the Commission proceed with item number 4. If most or not all of the questions that were asked would be answered, I would not have a problem with it. He asked City Manager Paluch if she was looking for a motion or are you looking for a consensus. City Manager Paluch said we would like to send a letter of intent, saying that we are beginning negotiations with them. If we are going to put something in writing like that, I would prefer to have a motion. She said I think that the motion needs to be open ended. We are just beginning the negotiations and any contract that is going to go with this company is going to come before the Commission before it is ratified.

Commissioner Sikes said she got the impression that we were going to make a motion to actually work with Mr. Chun, so will this suffice. Commission Sikes asked if he will be happy that he has a letter of intent, and he will allow us the time to do all the negotiations and not back us into a corner. City Manager Paluch said yes, his proposal does not come off the table as long as we have that letter of intent. Mayor Boss said you will start your due diligence procedures at the same time. City Manager Paluch said yes, we already have and we will continue.

Josh Rardin commented on the following:
He said getting an Operator should have been done when the City broke ground, this way the contractor would have had some direction on how this operator wanted it to go. This Company who

wants to enter into a contract with you is giving you an ultimatum. He said this should have been advertised nationwide. He cautioned the Commission on their selection. As far as the LEDA funds, it didn't sound like your Operator was putting any of his money into this deal. You are going to pull a million and a half from LEDA and $506,000 of interest off the bond and that was going to be the initial investment, so you are lending the guy $506,000 as his initial investment, but it is taxpayer's money. The last time the City funded an operation similar to this was the Cookie Factory. He said I think to this day the City still owes 1.7 million dollars on that. He wants the Commission to be cautious on this deal.

Mayor Boss asked the City Manager Paluch if we had a motion to direct staff to proceed with negotiations with Jay Chun Downtown Venture Corp and issue a letter of intent and note that anything will go before the Commission as far as approval of any contracts, will this work. She answered exactly.

Commissioner Payne said we have actually been working with this company for a long time, or this company has been interested. She asked why they should trust us. We have been dragging our feet on this for quite a while, and this company is coming back to us for a third time to work with us. They probably just want some reassurances.

Mayor Boss entertained a motion to direct staff to proceed with negotiations with Jay Chun, Downtown Venture Corporation and issue a letter of intent. Any contract will be approved by this Commission.

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

15. Consider and act upon first publication of Ordinance 1542, an ordinance adding new sections to Chapter 3 establish a moratorium on new, off-premise billboard advertising within City limits. *(Darron Williams, City Planner)* **(Roll Call Required)**

City Planner Williams said this is the first draft of our billboard moratorium. Essentially we are proposing an off-premise billboard moratorium or advertising that is off premise of the business itself. We are proposing that this go into immediate effect, so that any new negotiations or signs that are not yet put up are affected. Any leases that are signed prior to our effective date, would fall into the grandfather clause which is five years and can be extended with a petition annually through the Commission for cause up to a maximum of 10 years. This way we are not negatively impacting any more than necessary, signs that are already up or signs that are about to go up, based on signed leases. The square footage is proposed at 300 feet or greater, and any sign that is 15 feet or greater in height.

Commissioner Sikes said based on what we have put together here, we won't necessarily see any changes in how or billboards look in Alamogordo right now. She asked if we have any plans in the future to make some changes. Over the course of the past couple of weeks, I have received nothing, when it comes to phone calls, text messages and emails, but positive input about an Ordinance or Resolution to get rid some of the existing billboards. We have an inordinate amount of huge billboards. There were also messages about electronic signs. There are couple companies that have these billboards up that are just advertising for their billboards. She said this is the beginning; understand that we are not going to see any changes.

Matt Yoder commented on the following:
He said Lamar Advertising was a little dismayed at grandfathering out existing billboards. Lamar became a part of this community in servicing local businesses in 2001. Since that time they have not received any complaints. All of their billboards are on federally funded highways in the area, including the City limits. There are both Federal and State statutes that provide for just compensation to the owners of those billboards. You are going to have to deal with paying for the revenue that is lost to that sign owner and property owner. Lamar has not erected any new structures recently. He wanted for the

Commission to carefully examine statutes that exist in both Federal and State level about what is going to be required by the City financially to get rid of signs. He wanted to caution and encourage the Commission to do the research on this. We definitely want to voice our opposition to the idea that existing billboards can be taken down.

Mayor Boss asked the City Attorney if they had considered this. She advised they table this Ordinance. At some point, I would be comfortable if we wanted to look at this and take out the not exceeding maximum of 10 years part, so we do not tell them that they can only do this for 10 years, so they would have to come back for permission. I apologize that we do not have this researched for you tonight. I think that we should table this to make sure that we are in the clear of this. I can certainly a render a legal opinion to the City to make sure that we are in compliance with all State, local and Federal laws.

Mayor Pro-Tem Hernandez said he researched the State right of way laws. I do agree with the Ordinance. Back when the benches first came out, there was a bunch of them that were broken, dilapidated, I questioned that. I want to make sure that we are covered. There are some concerns with the State right of way that we may have to watch out for. Because of how White Sands Boulevard is built, it is in the State right of way.

Tom Palmer commented on the following:
Mr. Palmer passed out a package to the Commission containing: Federal and State Statutes and a Supreme Court Case on taking down billboard. As far as Lindmark Outdoor Media, we are in support of a billboard Ordinance. Having too many billboards makes the industry look bad. All of our big stack billboards are currently occupied by businesses in this community. On taking things down, there is a big problem with on premise signage. If you take a look at the on premise signage, they are probably bigger than ours. We have actually only added one structure to the City since 2005. We provide a service to your community. (see Blue Book for copies of these documents)

Josh Rardin commented on the following:
He said he was glad they were tabling this item. This Ordinance seems like it is not business friendly. Some time ago, Commissioner Rentschler brought forward a sign Ordinance. It was a very heated Ordinance and was very cumbersome and very difficult to try and enforce. I don't see how the City can govern what private property owners can do with their property.

Mayor Boss entertained a motion to table this Item.

Commissioner Turnbull moved to table this item.
Commissioner Martin seconded the motion.
Motion carried with a vote of 7-0-0.

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

Mayor Boss read the openings and appointed Susan Hopkins to the Senior Volunteer Programs Advisory Council and Martha Trujillo, David Gonzalez and Camdon Wilde to the White Sands Beautification Board. No one was opposed.

Commissioner Sikes announced on August 28, 2017 there is going to be the first White Sands Beautification Committee meeting here in the Chambers at 6:00 p.m. She encouraged everyone to attend.

Mayor Pro-Tem Hernandez moved to adjourn at 8:19 p.m.
Commissioner Turnbull seconded the motion.
Motion carried with a vote of 7-0-0.

ADJOURNMENT

Mayor Richard Boss

ATTEST:

City Clerk Rachel Hughs

(Prepared by Eric Barraza, Deputy Clerk)
Approved at the Regular Meeting held on September 12, 2017.