

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
7:30 P.M., COMMISSION CHAMBERS
OCTOBER 13, 2009**

**MAYOR RON GRIGGS
MAYOR PRO-TEM CHRIS LUJAN
COMMISSIONER ED COLE
COMMISSIONER MARION LEDFORD
COMMISSIONER JOE FERGUSON**

**COMMISSIONER ROBERT RENTSCHLER
COMMISSIONER JOSH RARDIN
CITY MANAGER MARK ROATH
CITY ATTORNEY STEPHEN THIES
ACTING CITY CLERK CAMERON STERN**

Mayor Griggs called the meeting to order at 7:33 p.m. and roll call was taken by the City Clerk. Invocation was given by Ms. Dotti West and the Pledge of Allegiance was led by Mayor Pro-tem Lujan. Commissioner Rentschler was absent.

Mayor Griggs started the meeting with welcoming the new City Manager Mark Roath. Mr. Roath comes to us from McAlester, Oklahoma, and numerous places prior to that. He brings a lot of experience to our City and we look forward to working with him to bring Alamogordo forward.

Mark B. Roath, City Manager, thanked the Commission and Assistant City Manager Matt McNeile for his assistance since he has arrived and he looks forward to working with the community and with the Commission and Staff in moving the City forward.

PRESENTATIONS:

1. Presentation on city project updates.

Brian Cesar, Public Works Director, began by presenting an update on the 2008 Street Maintenance Projects. Beginning Monday of this week, General Hydronics moved their utility crew to North Florida. The section that is going to be done will be Indian Wells to Aero Loop; at this time they are doing the saw cuts and milling work. The pipeline crews should move in the first part of next week to begin to replace the water mains and service lines and the concrete crew will follow them in about three weeks. Indiana Avenue, 16th Street to 10th Street, all the pipeline is in place; General Hydronics will be going in first part of next week and do all the tie ins to the existing mains and cut and cap the old main that ran down Indiana. The concrete crew has completed 80 percent of the concrete replacement for the curb and gutter and the ADA ramps. New York Avenue, 13th Street to 16th Street, concrete work on that section of roadway is about 85 percent complete. The utility crew will be going in first part of next week; there are three intersections that will need to have the water lines lowered, 13th, 14th and 15th Streets, so that those intersections can be reconstructed for drainage issues. Cornell, Indian Wells to 26th; the last of the tie ins were completed this past Saturday. There is one remaining connection, at 23rd and Cornell, and that should not affect anyone in the College Subdivision. One of the concrete crew's for General Hydronics is working in the area now to finish the placement of the ADA ramps and the small portions of the curb and gutter they were not able to get to earlier.

Commissioner Ledford stated that over the weekend he had some calls from citizens on the University Streets about the water being shut off without notice. He knows we have a program a few years ago when crews were working on 25th Street. He would like to know why the residents were not notified about the water shut off.

Mr. Cesar said in this instance, with the mapping in this area, there are some feeds coming into the Cornell area that do not show up on any of our prints. To do the tie ins, General Hydronics had to shut the Callahan Reservoir, the reservoir below the college. They had to drain the area from 18th Street to what would be 26th Street all the way from Scenic Drive to Pecan Drive so they could do the tie ins on Cornell. Now that the tie ins have been completed, with the exception of 23rd Street, we now have the valves in on the new line that will allow us to isolate the Nevada/Mesa Area that is up

above and the lower section, around Hickory, 23rd, 24th, and 25th Streets. We are going to wait a month to a month in a half until General Hydronics is totally out of that area and the Florida area and we will be sending in City crews, and we will isolate small sections to find where the feeds are coming in, so we are able to valve off those lines or eliminate them.

Commissioner Ledford said that explains what happened, but what is the process of notifying a resident? Mr. Cesar stated that notifying a resident is up to the contractor after we give them the area. A PSA did go out to local newspaper, he did see it at least twice, and it did go out to all the radio stations. Normally we would require the contractor to give out hand notices to every effected resident. In this case, it was over 900 homes. We did have to shut it off on a Saturday because it did affect the clinic on the corner of Indian Wells and Cornell, the orthopedic surgeon, and they do surgeries on Monday through Friday, so we could not shut it down during the week.

Commissioner Ledford said he knows we use to put tags on the door and would like to know why this was not done? Mr. Cesar stated it was Thursday afternoon when it was scheduled in and General Hydronics did get out some of the door hangers to some of the homes, but they were not able to get them all out.

Commissioner Ledford said he knows we are going to be doing a lot of good stuff, but he feels like we need to get the contractors on top of the outages. He appreciates the newspaper but not everyone reads it and sometimes notices are hard to find. Those door hangers really do make a difference, he knows they are a pain, but if someone goes without water without a notice, people are going to be upset. We really need to work on that during these projects.

Commissioner Ferguson echoed what Commissioner Ledford said and agrees that it is important to get the word out to the residents.

Mayor Griggs said one of the things he has had mentioned to him during the reception, is there still seems to be quite a bit of dirt and debris on Cornell and he imagines that General Hydronics will be responsible in cleaning that up.

Mr. Cesar agreed and stated that since the tie ins were just completed this past Saturday, there are still sections that will need to be paved. The construction crews are not finished there and the general clean up will happen after all of that on all the project areas. The clean up will have to be done before we accept those streets.

Mark Threadgill, Community Development Director, stated he is here to update the Commission on the Community Development Projects. Mimosa surface/drainage, South Florida waterlines, and ADA is substantially complete and the pre-final inspection was conducted on October 6, 2009. The picture on the left was a previous update and the picture on the right is as it exists right now. As you can see, there has been a lot of work completed to date. West First Street Phase 1A & 1B, the work began on June 1, 2009 for Phase 1A and it is substantially complete. This is looking east from where we are now starting Phase 1B, which was awarded last month, substantial completion February 2010 and this will get us to the Relief Route just on the other side by McDonald Road. LaVelle Road Reconstruction, this is currently being advertised, pre-bid conference was held today and we are hoping to have the award scheduled for November 17th and substantial completion is scheduled for June 2010.

Commissioner Cole asked what the length of this project will be. Mr. Threadgill stated he did not know right off the top of his head, but the actual length is from Hwy 70 to just on the other side of Sunbaked Biscuits. He is not exactly sure how long that is.

Mayor Griggs said he is sure Mr. Threadgill is aware, but the funding is coming from Senator Bingaman office. Mr. Threadgill assured him that the Senator is being kept up to date and as soon as we have a better idea of when the ground breaking will be, he will invite the Senator to that event.

Mr. Threadgill continued saying North Scenic Improvements is a GRIP II project. We are hoping this will be approved tonight since it is on the agenda. This is a \$2.4 million project that includes the Alternate 1 & 2 and NMGR. Substantial completion is scheduled for June 2010. If it is awarded tonight, we hope to give a limited notice to proceed tomorrow so they can actually get started on this one right away. There are some ARRA Projects, the 9th Street Bridge, the ADA Compliance and EECBG Grant broken down as follows: \$150,000 for the replacement of the bridge on 9th and Washington, and \$249,747 for ADA improvements and sidewalks on 1st and 10th Streets. We are still waiting on the Federal Highway Department on whether or not the projects have been approved. We have been assured that it has been approved but have not received the paperwork yet. \$147,700 for Sterling Engine Solar Power Generation and solar powered trash compactors; we have applied for a TIGER Grant in the amount of \$9.5 million for the MLK extension from US 54 to US 70. Other projects we are working on are the Tennis courts, the bid opening will be October 27, 2009 which means it will be awarded the first meeting in November; the 2009 ADA Compliance city wide; PHA GFI Outlet update to be re-bid, PHA Electrical Upgrades, scheduled to award on October 13, 2009, Waste Water Treatment Plant and the Desal plant transmission line design, phase I the design is complete and being reviewed for environmental impact. We have learned today that NMFA has approved the plans for this.

Mayor Griggs asked on the Waste Water Treatment Plant, do we have any percentage designed or a complete number? Mr. Threadgill said about 2 percent. We are still in the research phase; in fact we met yesterday to define some planning parameters on what our services will look like 20 years out so they can design that into the facility. We are still at a very low percentage.

Commissioner Cole asked if Mr. Threadgill was able to talk to Mr. White, the Chairperson on the Tennis Committee, about the Tennis Courts. Mr. Threadgill stated that he has not had the chance to speak with anyone about the Courts. Commissioner Cole asked if the time lines for the construction to the tennis court projects cleared with the Tennis Committee.

Mr. Threadgill said as far as he knows the time line stands as it has for the past three or four months and the Tennis Committee has been informed about the dates. The only change is we hope to finish the project earlier, but the goal is March 31, 2010 for substantial completion. We also keep the internet updated with the most current information. Anyone can log on to see the status of our projects.

Commissioner Ledford stated he hopes the design for the Waste Water Treatment Plant doesn't take longer for them to notice the crisis to the voters. On North Scenic, the GRIP Project, has it been communicated with the Hospital as far as what we are doing, how we are doing, traffic control and things like that?

Mr. Threadgill said they have been coordinating with the Hospital through the engineer and now will be coordinated through Mesa Verde as part of the contract. We are taking care of the signs and it is now part of the contract.

Commissioner Ledford explained that they have projects going on as well and was concerned about traffic control. Mr. Threadgill agreed that there will be a lot of work going on up in that area and they would ensure the communication remains opened.

Mayor Griggs expressed his appreciation in giving these updates each month. It assists in keeping the Commission and the community up to speed with ongoing projects.

CALL OF THE CONSENT CALENDAR: Items # 2, 4, 5, 6, 7, 11, 14, 15 & 17.

Mr. Jim Talbert requested item #16 be removed from the consent calendar.

MINUTES:

CC 2. Minutes of September 22, 2009 Regular Meeting.

Recommendation: Approve the minutes.

CONTRACTS AND AGREEMENTS:

CC 4. Approval of airport land lease for New Mexico Skies, Inc. (Mike & Lynn Rice) for Area E13-A1. A Twenty (20) year Hangar Land Lease with the option of two (2) five (5) year extensions.

Recommendation: Approve the lease.

CC 5. Approval of a Joint Powers Agreement between the City of Alamogordo, Otero County, and Tularosa for ambulance services.

Recommendation: Approve the joint powers agreement.

CC 6. Approval of an award of State Grants-In-Aid from the New Mexico State Library for \$6,330.36 to be used for the library.

Recommendation: Approve the award from the state.

CC 7. Approval of an award of 2008 G.O. Bond for Public Libraries in the amount of \$85,226.98 for the Alamogordo Public Library.

Recommendation: Approve the award from the state.

OTHER BUSINESS:

CC 11. Request for leak adjustment from Tim McManus for 1808 Pontiac Av.

Recommendation: Approve the request pursuant to leak abatement policy.

CC 14. Award of Public Works Bid 2009-005, GRIP2 North Scenic Drive Reconstruction.

Recommendation: Award the bid to Mesa Verde Enterprises, Inc. in an amount of \$2,491,194.88, including NMGRT.

CC 15. Award of Public Works Bid 2009-008, CDBG Housing Authority Electrical Upgrade /CDBG Project #90-C-NR-I-03-G-03.

Recommendation: Award the bid to Lynco Electric Company, Inc. in an amount of \$299,685.28, including NMGRT.

CC 17. Statement regarding the Executive Session of September 22, 2009.

Recommendation: Approve the statement.

Commissioner Ledford moved to approve items # 2, 4, 5, 6, 7, 11, 14, 15 & 17 of the consent calendar. Mayor Pro-tem Lujan seconded the motion. Motion carried with a vote of 6-0-0.

CONTRACTS AND AGREEMENTS:

3. Approval of a grant award of the FY09 Edward Byrne Memorial Justice Assistance Grant (JAG) Program: local solicitation.

Recommendation: Approve the award.

Sam Trujillo, Department of Public Safety Director began by saying this is a Department of Justice Grant, the Edward Byrne Memorial Grant; we applied for that in order to assist in prevention and education programs in the area of drugs and neighborhood watch community projects. We requested a little over \$16,000 and we have been awarded this grant if the Commission approves it. This is a four year grant and we can use the money for those programs as soon as it is approved.

Commissioner Cole asked if this is the grant that we have received for the past several years? Mr. Trujillo stated we have received a couple of grants from the Department of Justice other than the Edward Byrne Memorial. There are different amounts that we have received at different times. This particular grant, we did receive a few years ago and we have applied for another one from the Department of Justice that we were awarded this year as well.

Commissioner Cole thought we used a lot of the grant money last year for the DWI stops, or was that another grant. Mr. Trujillo clarified there are two different grants that are in the area for DWI; ODWI and CDWI that we use for prevention programs. Those are state grants and this is a federal grant that we have received. This particular grant is not for DWI, it is for drugs and community projects such as neighborhood watch.

Commissioner Cole asked if we received a grant like this last year and Mr. Trujillo confirmed this.

Commissioner Ferguson moved to approve the award. Commissioner Rardin seconded the motion. Motion carried with a vote of 6-0-0.

ORDINANCES AND RESOLUTIONS:

8. Consider Ordinance No. 1363 amending certain sections of Article 8-07 regarding sidewalks.
Recommendation: Approve the ordinance for first publication.

City Attorney Thies explained that during the process of developing the sidewalk loan program, he had a chance to review the current sidewalk ordinance as it relates to requiring a property owner to either install or repair a sidewalk. During that review process, he noticed some differences between what we had in our ordinance and what state statutes prescribes and this ordinance would bring us into conformity with state statutes. Basically what the process requires under state statutes is if City Staff makes the determination that a sidewalk needs to be repaired or installed, they are to bring it to the attention of the Commission and the Commission makes the determination whether the installation or construction should go forward; they would then pass the resolution and it would be sent to the property owner and the property owner would then either have to make the installation or repairs or challenge the order from the Commission that the installation or repair of the sidewalk is necessary.

Mayor Griggs clarified that a big part of it is that it is up to the City Commission to determine if they needed to take enforcement actions. Mr. Thies confirmed this.

Commissioner Ferguson asked if that means that every time staff determines we need a sidewalk repaired it would have to go before the City Commission.

City Attorney Thies said that is correct; it is no different than a Special Assessment. Staff does not have the statutory authority to assess a property owner for improvements that are needed to a property; only the elected officials have that ability under state statutes and that is what this accomplishes.

Mayor Pro-tem Lujan asked if this was the same ordinance as the sidewalk loan fund. City Attorney Thies responded this is independent than the sidewalk loan fund, this is determination as to whether a property needs to have a sidewalk repaired or replaced. Lets say a piece of property does not

have a sidewalk and it is brought to the attention of the staff and they believe a sidewalk is necessary adjacent to that particular piece of property, they would then present that issue to the commission and the commission would make the determination for that property.

Mayor Pro-tem Lujan reiterated this does not have to do with that loan fund. City Attorney Thies said that loan fund would come into play if the commission made the decision that the sidewalk needed to be repaired or installed; the property owner would then be able to utilize the sidewalk loan program to fund the construction or repair.

Mayor Pro-tem Lujan said we are not saying that every time someone comes and asked to use that fund that the commission would have to approve it each time. City Attorney Thies explained that the fund is somewhat independent but it is not totally independent. If a property owner is told they need to repair or install the sidewalk, they can then come to the city and say they acknowledge that fact; we are willing to do that but do not have the financial ability. At that time, we would advise them of the loan program and they would submit an application to that program in order to obtain the financing from the city.

Mayor Griggs asked if there was a dollar amount that can be placed on the replacement cost which would eliminate the need to come before the commission. City Attorney Thies said no, state statutes does not say if a project for repairs or installation is less than \$1,000 then staff can make that order. It states any time staff deems necessary the commission needs to make that final determination.

Commissioner Ferguson moved to approve the ordinance for first publication. Commissioner Rardin seconded the motion.

Commissioner Rardin asked if everyone who got a notice saying they have to bring their sidewalks up to compliance would have to come before the commission.

City Attorney Thies said if we were to order the work done and the city would consider doing that work, it would be necessary to bring to the commission a resolution listing each and every property that we are telling the property owner that the repairs need to be done but we are undertaking that work so we are assessing your property for those costs.

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

9. Consider Ordinance No. 1364 adopting the 2008 and 2009 amendments to the Uniform Traffic Ordinance with certain amendments.
Recommendation: Approve the ordinance for first publication.

Sam Trujillo, Department of Public Safety Director, began by explaining that this is the Uniform Traffic Ordinance Adoption. We are adopting some of the regulations that were put into the packets and he has asked the department legal advisor to address any concerns on the ordinance change.

Becky Ehler, Department of Public Safety Legal Advisor stated this is an annual process that happens every year where the legislature makes some changes in traffic ordinances; and when they make those changes to the Uniform Traffic Ordinance, which is prorogated by the Municipal League also needs to be changed. We did not make last years changes, so we are adopting two years worth now. What the commission has is not the traffic ordinance; it is the changes that will be made.

Mayor Griggs said his one question is you can't park in the alley; so what determines what parking in the alley is; you stop there for five minutes, if you leave you car for half a day, what is going to make that determination?

Ms. Ehler explained it will be one of those officer discretion issues. Generally, if the vehicle is unattended it will have been parked for some time; however, most of our officers are running the plate numbers and if that vehicle belongs in that area they will try to ask someone to move the

vehicle before issuing a citation. When officers usually get those calls it is because someone is trying to get down the alley and there is a vehicle parked there and there is not enough room to get by. The officers do not go cruising the alley looking for someone parked there.

Mayor Pro-tem Lujan said there are some alleys in his district and there are a couple of houses where the homeowner will park in the alley because it is more convenient for them. They park next to their garage and leave just enough room to squeeze by; is that illegal?

Ms. Ehler said there are some places in town where what seems to be the alley is actually private property, people have their fences pulled up on their property a ways. If it is not actually in the alley and on their property, it is not a violation of this ordinance.

Commissioner Rardin stated he is a local contractor and we sometimes park in the alley when working on peoples houses. If DPS comes along and wants to cite him because he is in the alley, how do they get around that?

Ms. Ehler said generally the officers will look and if you are working it will be apparent and if someone is trying to get by they would come and ask if you can move your truck. She can think of one case a few months ago with a persistent "no, I won't" so they wound up with a citation.

Mr. Trujillo added this is similar to how we handle someone parking in front of the house in the wrong direction, if they are loading or unloading it is not a violation of the ordinance. We treat someone parking in the alley in the same fashion. If someone pulls up in the alley and is loading or unloading equipment, they will not be cited. This is essentially when someone is preventing the trash trucks or other vehicles from using that alley.

Ms. Ehler requested an amendment on page 8. On page 8 there is an A at the top and 1, 2, 3 and in the 3 it reads a court automation fee as set forth in Section 24-01-030 and it should read 24-01-050.

Commissioner Cole moved to approve the ordinance for first publication. Commissioner Rardin seconded the motion. Motion carried with a vote of 6-0-0.

10. Consider Resolution No. 2009-43 opposing legislation granting repealing the Hold Harmless provision.
Recommendation: Approve the resolution. [Roll call vote required]

Mayor Griggs said as all of us on the commission and in the audience know, Governor Richardson has called a special legislature session for later this month to address a serious shortfall in the state's budget. One of the means that the legislature and the governor have discussed to obtain some of this money is to repeal the hold harmless provision in the state law that was enacted when the Gross Receipts Tax was removed from food and medical services. A repeal of that would impact Alamogordo's budget by over \$2.5 million. The resolution that is attached is asking the commission to relay the concerns to the governor and the legislatures and let them know what it does to our community.

City Manager Roath added that this does have a significant impact on our city and as the administration; we support the commission's attempt to protect these funds.

Mayor Griggs stated that obviously the State of New Mexico is in dire straights as far as their revenues, but when this legislation was enacted, when the gross receipts was removed, the big discussion of the municipalities and the way they obtained the support from the municipalities was the hold harmless provision to where the cities, villages and towns would not suffer from this change. As you can see or have heard that if it is indeed removed by the state, the impact on Alamogordo and other communities in the state is substantial and devastating to our budget.

Commissioner Ferguson moved to approve the resolution. Commissioner Cole seconded the

motion. Motion carried with a vote of 6-0-0.

OTHER BUSINESS:

12. Request for leak adjustment from Dona Sennett for 25 S. Canyon Rd.

Recommendation: Approve request for leak abatement adjustment pursuant to the Leak Abatement Policy. Deny request for exception for rate change from outside city limits to inside city limits.

Armando Ortega, Customer Service Manager, we are bringing this request tonight because of the amount of the adjustment. Ms. Sennett had a significant leak and is outside the city limits; therefore she is charged double the rates. Her adjustment was based off of the current policy that is in place. We did not address her request to be put on in-city rates because it goes against the current ordinance.

Commissioner Ledford asked if we have had this issue of individuals being outside city limits before, haven't we, for leak abatement? Mr. Ortega recalled there was one more, and it was in the same area on Ocotillo, but that is the only other one we have had.

Commissioner Ledford asked what we did in that case. Mr. Ortega stated we did the exact same thing and stayed according to the policy.

Commissioner Cole stated he thinks we need to stay with the ordinance and what we have practiced in the past.

Commissioner Cole moved to approve the request for leak abatement adjustment pursuant to the Leak Abatement Policy and deny the request for exception for rate change from outside city limes to inside city limits. Commissioner Ferguson seconded the motion. Motion carried with a vote of 6-0-0.

13. Discussion regarding the annual review of the Southwest Passage Initiative for Rural and Interstate Transportation (S.P.I.R.I.T.) dues as requested by the Commission.

Recommendation: Provide direction to staff.

Mayor Griggs said as most remember S.P.I.R.I.T is the group headquartered out of Wichita, Kansas attempting to obtain funding from federal and state levels for a four lane highway 54 from Wichita to El Paso. The City of Alamogordo has been a member for many years, although last year we did not pay dues last year. It has been a very worthwhile organization; they lobby on behalf of several successful items at the federal and state levels. He thinks right now they have requested dues of \$5,000 but we were looking at paying \$2,500. Commissioner Cole has been extremely active in S.P.I.R.I.T.

Commissioner Cole explained at the last board meeting a motion was made to disband the organization because of lack of funds, but the motion failed. This \$2,500 is very significant for this organization to exist and he is glad it is on the agenda tonight and he hopes it will be passed unanimously.

Mayor Pro-tem Lujan asked if they are trying to make the road from Alamogordo to Albuquerque a four lane road.

Commissioner Cole explained it is from here to Wichita.

Mayor Griggs explained Highway 54 runs from here to Carrizozo, Corona, Vaughn, Santa Rosa and ties in with Interstate 40 to Tatum and north to Wichita.

Mayor Pro-tem Lujan just wanted to make sure he understood where it goes. He thinks it is a great organization, and he doesn't want to say he is against it, but he has the same opinion as last time.

Things are just tight right now especially now that the governor is trying to balance his budget; we are scraping for every penny we can get. Although he thinks it is a good organization, he just can't support this right now.

Mayor Griggs stated the US Highway 54 is one of the most heavily traveled truck route in the United States. He believes the S.P.I.R.I.T. is a worthwhile organization and it has been good for us, he does appreciate Mayor Pro-tem Lujan concerns and the numbers. Before we make a final decision on this, if \$2,500 is a number that we look at, can we say which area of the budget that we will pull it from and what the impact will be. Is this a lodgers tax item, a gross receipts tax item, where would it come from.

LeeAnn Nichols, Finance Director explained that we paid it from the General Fund last year, so it would come from the General Fund balance unless you can take it from another line item.

Mayor Griggs said he thinks we've discussed using lodgers tax in the past and he does not believe we went there because it was felt at the time the gross receipts was a more reasonable place to get it but is lodgers tax a possibility or not.

Ms. Nichols said the lodger's tax is for promoting the City of Alamogordo; it is for advertising for tourists to come here. She does not think that would fit. It can be taken from fund 44, the transportation; it does have Gross Receipts Tax going into that. It can also be used from the general fund.

Commissioner Ledford asked Ms. Nichols if we approve this, will she figure this out. This was confirmed. He then asked Commissioner Cole if he was still active in this. Commissioner Cole stated he is still active in S.P.I.R.I.T, the board meeting is done via telephone, but he is still participating.

Commissioner Ledford explained the reason he asks is he doesn't want to approve giving them the money and they disband anyway. Is Commissioner Cole's involvement in S.P.I.R.I.T. sufficient enough that he feels comfortable that they will still be there? He thinks Highway 54 is very important, not only for Alamogordo but for the other communities as well. \$2,500 is less than what we paid the previous year, but his concern is if the money is sent and they close, we lose that money.

Commissioner Cole said according to a recent letter he received, it was never a move to disband, it was a discussion only. There was a business in Oklahoma that sent in a large sum of money to carry the organization for a short period of time, so he does not see them disbanding due to this fact. Also, the Chamber of Commerce is a part of that organization and they contribute funds to them as well.

Mike Espiritu said the Chamber of Commerce has been a member of S.P.I.R.I.T. for a number of years and they are not exactly sure how we paid it, but for an economic point of view, that is one of the areas that we addressed when we talked about transportation and movement of products in and out of Otero County. The advocacy for that organization is very important economically because it provides us that road piece and to the east.

Commissioner Ledford said if they can get Carrizozo to Vaughn four lanes, it would make him happy. He thinks this is a reasonable project and would like to see it continue and should monitor it closely.

Commissioner Cole said he knows our normal dues are \$5,000 but he think the \$2,500 is sufficient for this year given the circumstances.

Commissioner Ferguson said he believed they discussed this a few months ago and we were going to ask them if they would accept half. He thinks it is a great program and he agrees with giving them the \$2,500.

Mayor Pro-tem Lujan explained that he feels bad that Commissioner Cole has to go and tell the members that he is unable to get the funding from the commission. He does not think they are going to be successful or unsuccessful because of our \$2,500. He doesn't think we should try helping others before we help ourselves. He thinks about getting short on money, not too long ago this room was full of city employees who were concerned about getting laid off. We directed staff that night to do everything they possibly could to make sure they could save money anywhere they could to ensure no one would lose their job. We asked them to do their part and he wants to ensure the commission does their part as well. He is not saying he does not want to support them, but this is not the time.

Commissioner Cole moved to approve 50 percent of the \$5,000 we normally pay for S.P.I.R.I.T dues to continue our membership. Commissioner Ledford seconded the motion. Motion carried with a vote of 5-1-0. Mayor Pro-tem Lujan voted nay.

Commissioner Cole asked that Mr. McNeile make a phone call to S.R.I.R.I.T. to let them know we approved this money for them and follow it up with a letter.

16. Approval of New Mexico Airlines' proposal to provide Essential Air Service.

Recommendation: (1) Direct staff to submit comments in support of the award of the EAS contract to New Mexico Airlines and (2) waive the 15-or-more-passenger-seat standard.

Jim Talbert began by saying he stood before the commission a few years ago recommending New Mexico Airlines as the airline for Alamogordo under the EAS. Sometimes we have to make new decisions based on new information. In all honesty, he feels he needs to apologize for supporting New Mexico Airlines because they turned out to not be the best decision for Alamogordo. He put together a packet over the last couple months due to some of the action they have taken against their pilots. These people have called me because he was the safety officer and their instructor. It was brought to his attention that the commission was not aware of any complaints filed against them. As a pilot for the company, we were the only people the passengers ever saw because there is no gate agents, no customer service, no one else. We field the complaints on a daily basis for any given reason. Our guidance from the company was simply to send them to a web site and they could voice their complaints. From what people talked to him about none of the complaints were answered or taken care of. Research that he completed showed the company received an "F" rating by the Better Business Bureau and 9 unanswered complaints from the company. A Newspaper article showed Alamogordo leads the way in the lowest passenger rate per day; .8 per day. When Mesa was here, it was 4.5 per day; Western Airlines was 4.5 per day; and Rio Grande was a little higher because they had \$35 tickets and that brought up their rider ship. He looked online it is \$191 to fly to Albuquerque on New Mexico Airlines and \$191 to fly back. Pilot fatigue is something that is in the news a lot these days. New Mexico Airlines pilots are forced to sleep in lounges, folding chairs or the floor because the time in each area was minimal and they would not pay the fee for a hotel. He knows of instances where they have scheduled a pilot to work a 17 hour or 21 hour duty day. FAA limits the duty day to 16 hours, so they are violating the FAA rules. There were several incidents where members of the company have gotten into fist fights with inspectors. A law suit was filed in Santa Fe that is still pending for breach of contract. They are providing false information and preventing ex-employees from getting other jobs. He fully understands that no one else has bid, but they will be here for the next two years but felt he needs to make the commission aware of some of these issues.

Commissioner Ledford asked if Mr. Talbert was on the Airport Advisory Board, he is not any longer. He then asked if he knew what the board's position was on this. He has been very happy with New Mexico Airlines because Mesa filed bankruptcy, they were not reliable, Rio Grande filed bankruptcy, they were not reliable; everyone pulled out but New Mexico Airlines. He is just talking about the surface and Mr. Talbert has more information, but so do a lot of other airlines. He pays \$200 round trip to Albuquerque not \$191 each way. He has flown with New Mexico Airlines more than any other and he has been happy, everyone was nice, and he has talked to other people who have been happy. He is shocked with the information given today; he thinks the schedule is perfect for the

business day. It appeared to him that they are getting better, and he is saddened to hear what was addressed today.

Parker Bradley, Airport Manager said Rio Grande, West Valley Air, Westward Airways got the EAS contract, it was limited to \$480,000 because of some other details he will not go into. The Airport Board at that time came up with a way of how to double it. Basically we took the cap off. New Mexico Airlines received \$980,000 to do the same thing that the others were trying to do for \$480,000. That is why they are able to continue because the Airport Board was able to get them so much more money.

Commissioner Ledford said he is not here to negotiate the politics of this whole process but he thought they were doing so much better. He does not want an unsafe airline but unfortunately no one else bid. He thinks the planes are pretty.

Mr. Bradley said they started with brand new airplanes.

Mr. Talbert stated that the airplanes are built to have a lot of redundancy in them but the FAA is still adamant to keep everything working in them.

Mayor Griggs asked if the community is pleased with the services the airline is providing, isn't it really up to the FAA and the regulatory agencies to ensure the planes are adequately prepared to deliver the customer safely to their destination.

Mr. Talbert said just like any other government agency, they do not have enough inspectors and this information is being sent to the FAA. He does not know what they will do with it, they have had complaints before that have gone unanswered, but he does not know what will happen. There is a lot of trust that if you sign your name to something you did not do, it is not a good thing.

Commissioner Ledford asked if the maintenance issues were from here to Albuquerque or were they not on some other routes; and were these issues all in the Alamogordo area. Mr. Talbert said they fly from here to Albuquerque, El Paso, and Albuquerque, Carlsbad and Hobbs; the issues in the packet are from Albuquerque.

Commissioner Ledford said he knows one time he was delayed 30 minutes to tighten a bolt and the other airlines will just say for maintenance problems. Mr. Talbert said that is good, that is what you want. With the airline being so small it is hard to hide a fix.

Mayor Griggs said his guess is once the complaint reached the FAA they will have to act on it.

Mr. Bradley said the Airport Advisory Board decided not to make a recommendation until further information was available. It was brought up in that meeting and in a meeting with the City Attorney; the client relationship is not between the city and the airlines it is between the airline and the Department of Transportation. Any complaints against employees treatment is between the airline, FAA and DOT. The commission's role here is to decide if they have any comments they want to make to the DOT about the contract, any alternatives or to accept the bid proposal as put before them. It is not our place to make a judgment against any allocations made by employees.

City Manager Roath stated what Mr. Bradley mentioned is very pivotal here. Even though the Airport Advisory Board did not make a recommendation, it does not preclude the City Commission from making one. He thinks the Airport Board is looking at things a little different perspective than the commission is. The City Commission is responding on whether we want service or not. Regardless of any relationship or future review of the allocations made by Mr. Talbert of New Mexico Airlines is really up to the FAA. The role of the commission is to respond as to whether we except the EAS for this company to receive that contract to the FAA and if you are willing to waive the 15 passenger seating capacity. In a sense, the commission has three alternatives; 1. Take no action but support the waiver; 2. Take action and support the company and the waiver; or 3. Take no action at all and

recommend that be the position of the City. You have to weigh that against the issue of no potential service and leaving the airline issues up to the FAA to resolve. He does not think the city is in the position to respond to the allegations Mr. Talbert has made because we are not experts in that field. We are being asked to respond to whether or not we support this company and allow for the waiver of the passengers. Putting it a little differently we want some sort of service here regardless of the number of passengers, but it does behoove us to support some sort of air service and leave the safety issues up to the FAA and the airlines.

Mayor Pro-tem Lujan said he appreciates what the City Manager is saying and he agrees with him. Our position here tonight is to try and figure out whether we like the services we are getting and if we wish to continue with them or not. As far as those ratings of Alamogordo, he thinks the only control we have over that is maybe the pricing. He does not think the other things that are going on have an affect as to passengers flying or not. We didn't know about the issues and maybe the economy is affecting the number of flights. Every company is going to have issues, disputes with inspectors and things of this nature that is not ours to deal with. Safety issues are not ours to deal with either, but when someone brings safety issues to us especially when awarding a contract, he now has to take that into consideration. It is just like 9/11 you can't ignore a warning. If there are 22 hour flights going on that we knew about but gave the bid anyway if something happens, that is on our conscious. Maybe the commission can table this item for one meeting, give the information to staff and maybe we can get some answers on these safety issues. He wants to make sure our passengers are safe when they are being flown.

City Manager Roath explained that we are limited to the time to respond, the FAA is asking us to respond no later than October 16th as to whether we have any position on this issue of the EAS.

Mayor Pro-tem Lujan asked if he is talking about keeping them or awarding it to them. City Manager Roath said there are four criteria but one of the criteria is the input from the elected officials regarding this proposal and bid and they are asking for our response no later than October 16th.

Mr. Bradley explained the City Commission is not awarding the contract, the DOT is awarding it. We are simply issuing any comments that we wish to voice or the general approval. Mayor Pro-tem Lujan said so we are just giving them our comments, we do not have the power to get rid of them. Mr. Bradley said the DOT does take the elected official comments into consideration; technically they are the ones in charge of the contract. It is between the DOT and the airlines.

Mayor Pro-tem Lujan said so if we don't want them, we have to take them anyway? Mr. Bradley said that would rarely happen from what he understands. If the commission says no and has a good reason for it, they would most likely drop the contract. The decision is theirs to make though.

Commissioner Ledford said first there is due process and doesn't want to over react, but if we award the contract, can we not follow up on these issues and if there is a major issue can DOT go back out for re-bid? We need to go forward because we need to have service. Mr. Bradley explained first of all FAA will be the organization to investigate the allegations. If something is founded they could suspend the airlines or whatever they deem appropriate.

Commissioner Ledford said his point is can we approve the EAS with concerns and let them determine if it is appropriate to ground them if something is founded? Mr. Bradley said he sees no reason why they cannot do that.

City Attorney Thies stated that would be appropriate if the commission wants to submit comments of safety issues that have come to our attention. Mayor Pro-tem Lujan said that sounds perfect. His only concern if after the contract is awarded, will they be able to cancel it if these issues are founded. He would like to have Mr. Talbert keep addressing these issues to ensue our community is safe.

Mayor Griggs stated he supports the comments made by Commissioner Ledford and Mayor Pro-tem Lujan because as we respond to this issue we can make light of the fact that we received information

that seems to indicate there are safety violations. We don't have a manner or way to investigate the issues; it is up to the FAA. The contract expires at the end of this year to be reissued effective the first of next year. Air transportation has continued to be important to the community, both for the people who live here and the recruitment of additional businesses or in an attempt to bring more people to Alamogordo. The issue of whether or not we want to take one or none, that is not realistic.

Until the federal government decides to change the standards for the EAS award, it behooves Alamogordo to take advantage of the opportunity we currently have.

Commissioner Ledford moved to support the comments which would indicate we have understand one company has submitted a bid under the guidelines we would recommend that would be accepted pursuant to some investigation from comments we have received indicating there have been some unsafe practices observed from that airline and for the FAA to investigate those practices and waive the 15-or-more-passenger-seat standard. Mayor Pro-tem Lujan seconded the motion. Motion carried with a vote of 6-0-0.

18. Appointments to Boards and Committees.

Mayor Griggs read the vacancies and appointed Donna Hodges Nueva and asked the Clerk to notify her of her appointment.

UNSCHEDULED COMMUNICATIONS:

Unscheduled Communication:

A.) Debbie Raymond commented on the following:

When New Mexico Airlines came to Alamogordo, she went there for a tour. She explained that she goes to Albuquerque three or four times a month and the other airlines could accommodate her but when she looked at their planes, they could not accommodate her. They assured her they could get a mobile ramp that would allow her to enter the plane, but it never happened. She has been restricted to taking the bus and that is not a good mode of transportation for her since she cannot sit that long. With an air flight, that would make it easier on her. They promised to assist her but that never panned out. This is a major concern for her.

Parker Bradley stated they made no absolute promise, but did offer to carry her into the plane. He said he can bring it up to them again, but there is no guarantee it will be resolved.

Commissioner Ferguson asked if the airlines need to comply with ADA requirements like any other form of transportation.

Mr. Bradley said as far as he knew, they needed to try to accommodate everyone. There is equipment available that can be installed, but he is not sure if it is a requirement.

Commissioner Ledford said he thought they have mentioned to the Commission that it is a possibility, but recommended that it be addressed when addressing the comments to the FAA.

B.) Mike Espiritu commented on the following:

A few months ago a PreCheck was awarded \$400,000 through Capital Outlay to build out the other half of their facility and create 200 more jobs in our community. This Thursday, October 15th at 4:00pm the State Economic Secretary or his assistant will be coming here to do a presentation to PreCheck and he would like to invite all members of the Commission and Staff to attend as well as the Daily News to thank them for making this happen.

C.) Mayor Griggs commented on the following:

Earlier today the City Manager, Assistant City Manager, City Attorney, Commission Cole and he had attended a ceremony out at the base for the German Air Force, where they recognized their

55,555 flying training hours since they arrived here at Alamogordo and Holloman. It is quiet an accomplishment. He has asked the City Manager to draft a letter to send to them, recognizing this accomplishment and the contributions they have made to Alamogordo.

ADJOURNMENT.

Commissioner Ferguson moved to adjourn and Mayor Pro-tem Lujan seconded the motion. Motion carried with a vote of 6-0-0.

/s/Mayor Ron Griggs

Mayor Ron Griggs

(SEAL)

ATTEST:

/s/Reneé L. Cantin

City Clerk Reneé L. Cantin

*(Prepared by Marsha D. Brady, Deputy City Clerk)
Approved at the Regular Meeting held on October 27, 2009.*