

**CITY OF ALAMOGORDO, NEW MEXICO  
CITY COMMISSION REGULAR MEETING MINUTES  
7:00 P.M., COMMISSION CHAMBERS  
APRIL 8, 2014**

**SUSIE GALEA, MAYOR  
JASON BALDWIN, COMMISSIONER  
NADIA SIKES, COMMISSIONER  
JENNY TURNBULL, COMMISSIONER  
AL HERNANDEZ, COMMISSIONER**

**ROBERT RENTSCHLER, MAYOR PRO-TEM  
VACANT, DISTRICT 6 COMMISSIONER  
JIM STAHLER, CITY MANAGER  
STEPHEN THIES, CITY ATTORNEY  
RENEE CANTIN, CITY CLERK**

**CALL TO ORDER, ROLL CALL, INVOCATION & PLEDGE OF ALLEGIANCE**

Mayor Galea called the meeting to order at 7:00 p.m. Roll Call was taken by the City Clerk. Clerk Cantin announced there was a quorum present. Invocation was given by Reverend Harry Riser and the Pledge of Allegiance was led by Commissioner Baldwin.

**APPROVAL OF AGENDA**

**Commissioner Hernandez moved to approve adding the Addendum item to the agenda. Commissioner Baldwin seconded the motion. Motion carried with a vote of 6-0-0.**

**Commissioner Hernandez moved to approve the amended agenda. Commissioner Sikes seconded the motion. Motion carried with a vote of 6-0-0.**

**PRESENTATIONS**

**1. Interviews of Candidates to fill the District 6 City Commissioner vacancy.**

Mayor Galea stated there are four candidates for District 6 vacancy.

Mr. Richard Douglas introduced himself and said he would be privileged to serve the citizens of District 6 as their commissioner. He knew former Commissioner Jim Talbert and his wife, Commissioner Baldwin from the golf course and he met the Mayor in 2012 when she ran for District 7. He said he would tell them of his current status, history and qualifications and then answer any questions they might have. Mr. Douglas said he has lived in Alamogordo for about two and one half years but has been coming here for about seven years because he has a daughter and her family here. He has been married for 46 years and he and his wife have raised three daughters; one lives in Nebraska, one in British Columbia and one lives in High Rolls. He has seven grandchildren, three girls and four boys. He and his wife retired three years ago so he doesn't have a day job and hangs around the golf course where he sees Commissioner Baldwin. He and his wife are both born-again Christians and are active members of Bethel Baptist Church where he has served on the Budget Finance Committee and as a greeter; his wife serves in the Nursery and sings in the choir. His hobbies are bowling and he bowls quite a bit competitively in leagues and in tournaments and is in a league at HAFB. He golfs a lot and spends a large amount of time with his family, especially his grandkids. He has met a lot of people in Alamogordo and many of them live in District 6 and come from many walks of life. Prior to moving to Alamogordo, he lived in Lincoln, Nebraska for 33 years and he described the City of Lincoln with a population of about 300,000 people. He and his wife worked for and retired from two of the top ten employers in Lincoln – the State of Nebraska and his wife from St. Elizabeth's Regional Medical Center where she worked for about 21 years. The City of Lincoln has a Mayor/Council form of government, non-partisan, Mayor is elected at large and is the Chief Executive Officer, Mayor doesn't vote and signs or vetoes Council action, the Council has seven members with four districts and three at large, many of the departments are City/County because the City covers almost all of Lancaster County. He and his wife were members of Trinity

Baptist Church for 33 years and he served on many committees and boards and as church elder. His work history and experience are as follows: Naval career of almost 30 years which was a combination of 12.5 years in active duty and the reserves for over 16 years. 1965-1978 he was in active duty serving as a Data Systems Technician, completed several electronics and data systems schools and served on three guided missile cruisers. He spent 24 months in combat zone in Vietnam, as the NTDS system supervisor on two cruisers, was a navy instructor in electronics and data systems and left active duty as a Chief Petty Officer. In 1979-1995 he served in the US Naval Reserve and was a Senior Enlisted Advisor and Master Chief with over 400 enlisted personnel under him. He did annual active duty training assignments, and a couple of special assignments on a CPO Selection Board in Washington, D.C. where we screened 24,000 candidates and selected 7,800 for promotion. He also served in a special program called Cooper Craft of Opportunity which is an underwater surveillance in Puget Sound. The system was designed to map out Puget Sound in case we ever are involved in a conflict and an enemy tries to slip some mines into the Sound. He retired in 1995 as a Master Chief Petty Officer. He felt he was qualified because of the diversity of his experience in military and military administration and corporate administration. He told the Commission of his corporate history as a civilian. He was a field engineer for two different companies, a service representative for a business system company, self-employed as a business system dealer distributorship for five years, was professor and department head at a career college, worked for the State of Nebraska for 15 years as an infrastructure support analyst, worked for the office of the Chief Information Officer and provided technical service and support to the Dept. of Health and Human Services. Because of his military and corporate experience as well as positions in religious organizations he felt he had a lot of leadership skills. He felt he had good customer relations skills since he had worked with so many various fields and held leadership roles. He wanted to serve as a Commissioner because in the short time he has lived here, he has found it to be a great city and has met many very nice people. He would consider it a privilege to be part of a local government and to contribute to its direction and growth. He thought it took all citizens of a community to create this and he is ready to take an active role and be a voice for residents of District 6. He has met many people and some have expressed their concerns about our City. He feels most would easily talk to him about their concerns. His primary goal as commissioner would be to insure citizen safety and well-being and second to create a high quality of life here. He would like to see economic expansion in the area of local manufacturing as well as retail sales and other businesses. Mr. Douglas said the best lesson he ever learned was from a Navy captain who told him that you should never allow someone else, especially a leader, to make a decision based on a lie that you told them. His motto and life's goal came from the Bible and is 'Finally brothers, whatever is true, whatever is noble, whatever is right, whatever is pure, whatever is lovely, whatever is admirable, if anything is excellent or praiseworthy think about such things.' He asked for questions.

Commissioner Baldwin thanked Mr. Douglas and all the candidates for putting their names on this list. He said his first question was, 'Why do you want to be a City Commissioner' and had already been answered. His second question was, 'What do you think the role of a City Commissioner should be in our community?' Mr. Douglas replied the role of a City Commissioner would be similar to the role he held as a Command Master Chief. He would be the voice of management of people all the way through the organization as far as letting their thoughts, desires and needs be known to the manager. He thought a Commissioner would talk to those people, find out their concerns and bring them before the rest of the Commission to be discussed and worked on.

Mayor Pro-Tem Rentschler asked Mr. Douglas to elaborate on his career with the State of Nebraska. Mr. Douglas said he was an Infrastructure Support Analyst which during most of the 15 years he was there they built the entire computer network infrastructure for the State of Nebraska. When he first started they had about 300-400 PCs and 15 years later we had 13,000 PCs and 300 servers plus all the other infrastructure and networking equipment that goes with them.

Mayor Pro-Tem Rentschler asked if he understood the programming behind that. Mr. Douglas said some of it but he wasn't really a programmer. He knew they went through five operating systems beginning with OS-2 and were getting ready to load Windows 2007. Part of the reason for my decision to retire was because of all the updates and training involved. Actually, we picked

Alamogordo because my daughter and son-in-law moved here, and we've been coming here since 2007 when we helped to move them to Alamogordo. We had already decided we were not staying in Nebraska after we retired because it gets too cold in the winter time and I like to play golf. You can only do that five or six months a year at the most up there; the first time we came down here we played a round of golf in December. Now we have three grandsons so we love it here.

Mayor Galea asked him if he had one main goal or improvement he would focus on achieving if selected as commissioner. Mr. Douglas told her he didn't care for some of the street lighting in town and didn't think it was sufficient. He thought it was a safety issue. He admitted he was a little bit older and had an issue seeing at night. His other concern was the markings on the streets so you can tell where they are. You can finally drive between 10<sup>th</sup> and 16<sup>th</sup> Streets on Florida and tell where the lanes are, but he didn't think they were quite done with them yet. For the first two and a half years he was here he was irritated because once you crossed 10<sup>th</sup> Street on Florida you could hardly tell where the lanes were.

Mr. Jeffrey Fields introduced himself and remarked he knew some of them Commissioners. He said he and his wife have lived here for 31 years and came in 1983. He has been married for 47 years this year and has four children. Three of them graduated from high school in Alamogordo. He came with the U.S. Border Patrol and was the agent in charge of the station for 15 years until he retired in 1998. His accomplishments were that when he arrived he was the 13<sup>th</sup> agent in the station and when he retired he was about the 75<sup>th</sup> agent in the station. Being a good bureaucrat, we increased the size of our agency. Prior to that he was in the Texas Highway Patrol and served three years in the Army prior to that. He graduated from the University of Texas in El Paso in 1976 while still working for the Border Patrol. Since retirement, he was appointed by the Governor to the Parole Board until his term expired, done criminal background investigations for employment in federal service and he has done a lot of nothing, also. He's enjoyed his time off but feels a commitment to Alamogordo because it has been very good to him and his family. He feels he owes something to the community and wants to give back. He has been in the Rotary Club for the last 20 years and was president about 10 years ago. Now he wants to do something for the City. He asked for questions.

Commissioner Baldwin told Mr. Fields welcome back to the community and asked him, "Why do you want to be a City Commissioner?" and "What do you think the role of a City Commissioner should be?" Mr. Fields said the reason he wants to be a City Commissioner is to serve the City and pay back to the City. The role of a City Commissioner is to be a leader in the community, oversee the spending and make sure taxpayers are getting their money's worth.

Mayor Galea asked him, "Do you have one main goal or improvement that you would focus on achieving if you were serving as a Commissioner?" He said, no, not yet. He hasn't looked that far ahead.

Mayor Galea explained Ms. Lenora Stevens could not be here tonight due to a death in her family, and someone else would read her statement. Mrs. Mary Parra read the letter from Mrs. Stevens. She read, "City of Alamogordo Mayor, Mayor Pro-Tem and City Commissioners, ladies and gentlemen: I moved to Alamogordo in May of 2008. Since then I have become actively involved with Alamogordo Rotary Club, the Alamogordo Main Street Program and a philanthropic organization made up of women in Alamogordo. I have been employed by the Alamogordo Chamber of Commerce since November 2009. My time at the Chamber of Commerce has provided me with the opportunity to learn about our city. As vice-president of the Chamber of Commerce, I regularly interact with employees and owners of local businesses, our military leadership at HAFB, WSMR, German Air Force and retirees in our community. In addition, on a monthly basis I attend the Transportation Committee meeting, the Business Impact Government Relations Committee meeting, and other Chamber of Commerce Committee meetings. This gives me a unique and valuable insight into the needs of our community and its many constituents. As a result, I have learned a great deal about Alamogordo. I have a passion for seeing Alamogordo reach its potential in providing a wonderful quality of life and economic opportunity for its citizens. I began my career as a finance professional of a large New Mexico bank holding company working with the boards of directors of 13

subsidiary banks. Even now, I continue to work with the Chamber of Commerce Board of Directors and several committees. I value communication and take pride in my ability to communicate effectively with groups and individuals alike, both written and verbal. I am a team player and seek to build consensus through constructive dialog and active listening. I believe the best way to solve a problem is to identify the problem and find the facts to solve the problem. The Chamber of Commerce, Otero County Economic Development Council, members of the City government and individuals in business began a committee to increase awareness of Alamogordo. I am one of the committee members with the common goal to brand our community and increase tourism and business opportunities resulting in economic growth. I look forward to serving as District 6 City Commissioner and working with all of you to move our City forward." Sincerely, Lenora Stevens.

Dr. George Straface addressed the Commission. He thanked them for the opportunity to talk to them. He said he is currently serving as Superintendent of Schools for the Alamogordo Public Schools (APS). He broke his comments into four things; the first was concerning him personally, focusing on personal values; the second was about why he wanted to put his name in the running; the third was a summary of experiences he has had that are common to commissioner work; and the fourth was personal feelings concerning commitment to Alamogordo. He would then be open for any questions. He considered it an honor to be before the Commission.

The best way to know him is to know his personal values of which there are five. They are very important to him and he has conducted his career as a leader and an educator with these five values. The first is character, meaning he doesn't misrepresent the truth, he tells the truth. If he makes a mistake he backs up to correct it as soon as he knows of it. He never intentionally misleads people; that is a foundation for him and he has found in the evenings when he hits the pillow that really serves him well. He had talked to one commissioner who asked him if he could take the heat of this position. The last 21 years he has served as the CEO of four school districts, and when you are the superintendent of schools you are in a political position and you are always on the front line and subject to criticism. He has learned to deal with that and thinks very positively. His second value is relationships. He believes that relationships make the difference in an organization. Honest relationships with integrity, always telling the truth and building coalitions through those relationships. He has learned over time that the way things are accomplished in organizations are through those true, honest, really well-focused coalitions that you build through relationships. You don't make a difference without them. The third one is team. He recognized as superintendent he probably takes the brunt for the responsibility of decisions, and he assured them he operated as a team member, and we had some outstanding team members in APS. He assumed the Commission also worked as a team and he thought that was consistent with his values. The fourth value will surprise you a little bit; it is diversity, and he was talking about intellectual diversity; people bringing to the table different opinions with the same goal to do the very best this organization can for the citizens of Alamogordo. He didn't believe you make a good decision if you don't have diversity at the table. He tells his cabinet if they all agree with him they don't need to meet; he can do it without them. The last one is excellence and he speaks to it personally. He thought that every day we should strive to be our very best that day. He lives by that and when he gets up in the morning he says that today is going to be a great day, and here are the things he has to accomplish and here is where he is going to be focused. He does his very best everyday; some days that isn't as good as the previous day when he had a fight with a spouse or disagreement, but I give it my best every day and expect the people around me to do the same. He was raised in Hobbs, New Mexico and spent some time in Albuquerque. He was the product of a divorced home and was placed in a foster home in Denver, CO. He remained in Denver until he moved to here in 2011. He has two daughters, one in Phoenix and one in Santa Fe. That's why he accepted the position of superintendent in Alamogordo, so he could be between them and visit them and he does so every month. He had turned down two superintendent positions in New Mexico mainly because after meeting with the Board, he didn't feel they were unified or committed to the mission we had. He was very proud of Alamogordo and his time here and wanted the Commission to know we have made some strong headway in improving our educational system in Alamogordo.

Why does he want this position? He has a personal mission that he developed probably during his

time in foster care. Time is really limited in life and he wants to spend his life helping others and making a difference in communities, and he has had the pleasure and privilege to do that. It is a joy for him to serve our community and so it is purely selfish for him to serve to the best of his ability with the knowledge and skills he possesses. Experience; he is finishing his 47<sup>th</sup> year as an educator and 21<sup>st</sup> as a superintendent of schools. He has served in four districts and the kinds of service he had as a leader range from financial, he passed 14 bond and mill levy elections as a leader, has handled a \$360 million dollar budget. The current budget in APS is \$42 million in our operations and 72 other funds that manage grants and those types of things, for a total of about \$80 million dollars. He thought we have done well there in the last three years with the reductions we faced and we have kept it very focused on education. He said Human Resources was his background and he has been a personnel director and understands human resources really well. He has been involved in Construction and has been involved in the construction of 62 major projects as a superintendent and assistant superintendent. In one district where he served they were building five schools a year and he had direct responsibility for that. He understands construction and what you have to do to get buildings built for the public. Dr. Straface continued saying working with boards has been part of his life for 21 years. He understands the issues facing boards and has worked with 93 board members. He has served on many boards from ones that offer a salary to ones that did not. Currently, he is chairman of the Chamber of Commerce Board of Directors and has served on that board for three years. He is currently a member of the Board of Directors of the New Mexico Activities Association which governs all activities in athletics in New Mexico. He has served on that for two and a half years and his term will expire with his retirement. He is also on the Board of Directors of the Delta Dental Corp. of Colorado, a paid position, for eight years as both vice-president and as secretary. He is primarily responsible for the financial reporting of their business. He has served on a Medical Foundation Board, a Community Hospital Board, a Board of Directors of the Western Chapter of Boy Scouts of America when in Grand Junction; my board experience is pretty vast. Lastly, he pointed out his personal mission. He said he would try to answer the Mayor's question, if he could. He considered it a civic duty to serve this community and to do that with transparency and honesty. He hoped to work on Economic Development and Youth Services, what we are doing for kids around our community. He worried a lot about drugs with our kids and some activities he felt we needed. He saw need for improvement of some streets and roads where he drives. He is certainly open to others as the commission wishes. He asked for any questions. He included he had an earned doctorate from the University of Colorado in Leadership. His dissertation was on Evaluation of Chief Executive Officers. He said when he was superintendent in Grand Junction, CO; he served there seven years and had 23,000 students and about 46 schools, a big district with big budgets. His mother and father lived there and said when you are the superintendent of Alamogordo or Grand Junction, you are the only game in town. Public schools are the only game in town and you are always in the paper on media. He had a Board meeting the night before this happened and had made some public comments. When he came to work about 7:30 and his secretary told him his mother was on the phone. He was afraid something was wrong, but when he talked to her she said she was reading the paper and the article about him. She asked him if he had said what was quoted in the paper and he said yes. She asked him where he had gotten that idea; hadn't she raised him right. Dr. Straface said I am ready for public criticism.

Mayor Pro-Tem Rentschler said if you are selected right now, we currently have an ongoing project that involves the School System. How would you handle that conflict? Dr. Straface asked him if he was talking about the First Street/Washington project and Mayor Pro-Tem Rentschler affirmed. Dr. Straface didn't see any conflict and thought he had been actively involved with your Staff and Commissioners on that. The Board of Education knew his application was here and they were very supportive. He thought he could bring perspective from both sides. Mayor Pro-Tem Rentschler said there is some work left to do on that and you've been a great help on that already. Dr. Straface repeated he didn't see any conflict and said the District was ready to move forward with the City on that.

Commissioner Baldwin asked him what he felt his roll as a City Commissioner should be, since it was a little different from what he had been doing in the past. Dr. Straface said it may not be as different as you perceive, but he saw several rolls. It was to represent District 6 and do his very best with that.

As part of that, be a representative of the entire community; a time to be able to be visible when appropriate and necessary and deliver the message of the City to our community. Probably the most important in his mind was working as a team member with other Commissioners to assure we progress and move our City forward. He noted he would need to drive to Denver so would be gone for a bit, but that wasn't because of lack of interest.

**2. Presentation related to the Audited Financial Statements for Fiscal Year 2013-2014.**  
*(Farley Vener, Hinkle & Landers)*

Farley Vener with Hinkle & Landers introduced himself and said our company conducts the annual audit for the City of Alamogordo. He used a Power Point presentation as he spoke. This presentation was to walk them through a summary of the audit conducted for the year ending June 30, 2013. He said there are certain communications required by the auditor to the governing board. They would talk about the audit results which include the opinion on the financial statement, as well as some findings, recommendations and the review of some five year trends. The people who worked on this audit were himself, Katelyn Constantin, Steve Nolan and Yan Chen. He showed the items that are required to be communicated to the Governing Board and said they did communicate these in an exit conference before submitting this audit to the Office of the State Auditor. There is a schedule of responsibilities that identifies the responsibilities of management and the auditor during an audit. Management is responsible for coming up with accounting policies, the checks and balances or internal controls of the organization, and any significant estimates in those numbers presented in the audit report. An example of a significant estimate would be depreciation or an allowance for the collectability of a receivable. The management is also responsible for a Management Representation letter in which they gave the auditor all the information they need to conduct the audit; they sign off on that. On the other side of the ledger is what the auditor is responsible for, and we are responsible for giving an opinion on those financials, so we look at those numbers with the goal of saying can those numbers be relied on. We offer our opinion on those financial statements. We get what is called reasonable assurance that means we test by sampling and don't test every transaction of a very large corporation like the City. We look at the risk and take certain sample sizes to come up with a reasonable assurance. We do take a look at the internal controls, the checks and balances, of the City in order to plan the audit and decide what those sample sizes should be and where we should focus our efforts. He next showed the conclusions for the audit. The accounting practices year after year have been consistent with no large changes. We have something called proposed audit adjustments in which the auditors come in and if they find some numbers that need to be adjusted to present those financial statements fairly, then we can make some adjustments. We call it Proposed Adjustments; in other words, management takes responsibility for those adjustments and reviews those to make sure they are comfortable with them. If there is an issue, it would be discussed with the auditor. There are adjustments that we pass on; that would be if there was a number off a little bit we could say it doesn't matter because the presentation of the financials will not be skewed and someone will not make a bad decision based on the difference in the numbers we find. We are required to let you know if there is any adjustment to your passing line. Typically, if we see an adjustment that needs to be made, we make it. There were none that we passed on. There were no significant disagreements with management during the year. We are not aware that the City went out and had consultations with other accountants and we did not consult with other accountants. There were no major discussions of accounting issues prior to our retention and there were no significant difficulties in performing the audit. We'll talk about a few findings; there was a little bit and he felt everyone realized the audit did not meet the deadline this year. What occurs during an audit is you actually have three audits occurring at the same time; one is a financial statement audit, one is the compliance over federal awards or your federal funds you spend and one is that we audit the compliance with the State Auditor's Rule. All of those happen when we come in and conduct the audit. The audit report we issued is unmodified and that means it is a clean opinion which is the best you can do and that's good. We have the following two questions: Were there findings over the internal control over financial reporting? Yes. Were there significant findings or deficiencies? Yes. Was there any noncompliance material to the financial statement noted? No.

Mr. Vener went on to cover the second part of the audit – Federal Awards. We are required to test the internal controls over those major programs and if there were any major weaknesses identified in those internal controls. The answer to that is no, so there were no major findings in the federal award area. There was one single significant deficiency in the federal award findings and we'll see that finding. The type of auditor's report we issue on the compliance over major programs is also unmodified; in other words it is clean. Are there any findings that are required to be reported in accordance with the federal compliance standard? If you have a federal award finding you will have a yes there. The final part of the audit report results are what federal programs we audited. We audit the HUD program and the name of the program is Low Income Housing Rent Subsidy and the Capital Projects Fund. We also audit the Dept. of Homeland Security FEMA grant that is related mostly to Bonito Lake. What is a threshold, he asked. What is a major program? Any major program is when the City spends \$300,000 or more. Does the City as an auditee qualify as a low-risk auditee? The answer is no. If you ever have material weaknesses in your financial statements, that would prevent you from being considered a low-risk auditee. You might consider you future goal to be take care of your material weaknesses and once you have two years of no material weaknesses, that low-risk auditee would turn into a yes. Next he showed a summary of the findings. He had the status of current year findings and prior year findings. What we have is two prior year findings. The first is called SAS 115 – Material adjustments by auditor. SAS is the standards we need to follow as auditors. If auditors have to make adjustments material to the financial statements, in other words, adjust the financials to present them materially correct, then that triggers a finding. Then we have what kind of findings and that falls into the financial statement finding and is not a federal award finding or a state compliance finding. The next comment from the prior year is called exception to budget controls and that was resolved. You only had one finding from the prior year that repeated. For the current year you had four new findings and the descriptions of the findings are as follows: You had a change order approved after a completion of work; submission of completed IPA recommendation form not timely – there is a deadline for the City to select its auditor and you have to get the paperwork into the State Auditors Office by a certain date. This is a new requirement and it may not have been known at the time. There was also some wrangling with the contract between the City and the auditor. The next comment is related to grant reporting – that is a federal award finding so there were some reporting requirements and you were supposed to report those to the Grant Board. That reporting did not occur and thus triggered the finding. The last comment is there was a purchase order not timely repeated for procurement code. The details of these findings are in your audit report, so he can follow up on any questions. He asked for questions at this point. There were none so he proceeded.

Mr. Vener continued showing the five year trends. He said everyone has access to this Power Point and noted he was always available for questions and follow-up. The goal of these five year trends is to look at numbers in context. He showed the balance sheet with the City's financials rolled up globally and in other words you have a lot of funds; governmental, business and component units. You can see the assets, the liabilities and the equity or ownership and you can see how it has increased. Five years ago it was \$108 million and it has trended up to approximately \$142 million as of the year end of June 30, 2013. He then showed the current ratio that showed how liquid the City is.

There are a lot of different rules, restrictions and requirements of your current assets compared to your current liabilities and looking at it with a broad paint brush you can say you have approximately an 8 to 1 ratio; in other words you have eight dollars in current assets compared to one dollar in current liabilities. He showed all the assets except the capital assets over time; you can see the balances of your past investments, receivables and things like that and see how they have fluctuated or stayed the same in the last five years. On the other side of assets are the liabilities and you can see what these are and how they have changed or stayed the same. Capital assets show a relatively significant increase; five years ago you had a capital assets net of related debt sitting at about \$106 million and that has increased to just under \$140 million dollars as of June 30, 2013. The next line shows related debt; usually you have debt to financial capital assets. The next showed equity showing restricted assets, net assets and unrestricted assets, and then you have net assets tied up in your capital expenditures. The next identifies your change in net position; if you were a business you would call it the bottom line, the profit and loss. In 2013, you had a change in net position of

approximately \$8 million dollars. He went quickly through the other slides saying you have these for your own purposes and if there were any questions be sure to give him a call. These slides take a look at different types of revenue streams and expenses related to the governmental activities then we break them down into percentages and then take a look at business type revenues related to certain programs and look at percentages. We do a comparative here and they do help us analytically look at things and think about the big picture at the City once the audit is finalized. He asked for any questions.

Mayor Pro-Tem Rentschler wanted the audience to realize this was as of June 30, 2013 so we are ten months away from where this audit currently is. If you have heard some of the things about the way the City is trending, stay tuned because on June 30<sup>th</sup> we'll begin the whole process over again.

Mr. Varner left his contact information in case of any questions or follow-up. (In Agenda Book) He thanked management repeating this is a collaborative effort; we come in here and work very hard but the City works all year long on the financials and then when audit time comes they have to give us a large amount of deliverables which we review. He thanked management for working with them.

**3. Presentation related to Take Back the Night Event on April 11<sup>th</sup> from 7:00 p.m. to 9:00 p.m. to bring awareness about sexual violence in our community and county, plus resources available to assist survivors. (Fran Johnston, Presenter)**

Fran Johnston introduced herself and said that Take Back the Night is an international organization that was founded with one mission: to bring awareness to the issues of sexual and domestic violence and also to end domestic and sexual violence in all communities. We serve to create safe communities and respectful relationships between people; we do this with awareness events such as our 8<sup>th</sup> Annual March and Rally on this Friday, April 11<sup>th</sup>, at 6:30 at the Tays Center on the NMSU-A campus. The rally events will begin at 7:00 and the march at 8:00. We will march from the Tays down Indian Wells to Premier Fitness and then back to the Tays. This is our 8<sup>th</sup> Shatter the Silence/Stop the Violence event and we have activities such as a Zumba demonstration by Alamo Shape, David Overstreet's Tiger Rock Martial Arts/Tae Kwon Do people and over 20 exhibitors. Some of these are C.O.P.E., S.A.N.E., as well as local law enforcement agencies and local counseling services so that if we do have survivors there they can get information they need in order to help themselves or others with this issue. We have door prizes that businesses and community members have donated, as well as their time and services. Admission is free as are our t-shirts to the first 150 people. We have a contest each year for high school and college students in order to get original designs for the t-shirts. She showed last years t-shirt and said you would have to show up to see the new design. She told the Commissioners they were very high profile and hoped she could count on their support and attendance. She asked for questions.

Commissioner Turnbull asked if you can bring your kids. Ms. Johnston said yes and that this was the first year they've had youth size t-shirts thanks to help from the NMSU-A student government. Mayor Galea said her girls are still wearing last year's t-shirts.

Mayor Galea presented a Proclamation to them proclaiming April 11<sup>th</sup> as Take Back the Night in Alamogordo. She said that Commissioner Sikes would stand in her place at the event and she hoped the other Commissioners would participate.

**4. Update related to the Agreement with Fuel Industries for the Atari Dig at the Landfill. (Brian Cesar, Presenter)**

Public Works Director Cesar gave the Commissioners a brief update on the agreement between the City and Fuel Industries for the Atari Excavation. The City entered into the Location and Use agreement on May 20, 2013 with Fuel Industries. In that agreement, Fuel agreed to bear all costs and expenses associated with the dig at the Old Landfill Site, agreed to establish a security deposit and agreed to hold the City harmless in the event of any damage incurred by Fuel as part of this filming project and their use of the property. In addition, Fuel agreed to secure all permits both State

and Federal that may be required as part of the filming project. On February 7, 2014, Fuel contracted to Souter, Miller and Assoc. to perform an investigation and prepare the Waste Excavation Plan (WEP) to be submitted to the New Mexico Environmental Department Solid Waste Bureau (NMEDSWB). On February 27<sup>th</sup>, NMEDSWB submitted their review comments; this is what most saw in the Alamogordo Daily News and other news agencies picked it up as a rejection of Fuel's WEP which was not the case because it was the first review of their draft. On March 18, 2014, Souter, Miller and Assoc. submitted the revised WEP to the NMEDSWB, and on the 31<sup>st</sup> the NMEDSWB approved the WEP. In the approval of that WEP, the NMEDSWB had seven conditions.

The first was that the Greentree Solid Waste Authority (GSWA) must register as a commercial hauler right now; they are not registered that way now. They pick up solid waste for the county and are not for hire, so they will need to register and provide that information to NMEDSWB at least five days prior to the excavation. Fuel Industries can go with another hauler if they wish, but if Greentree is the hauler during the excavation process their director will need to inform the NMEDSWB in writing that they are going to perform that activity. Fuel Industries has contracted with Safety-Kleen to provide disposal of any hazardous material that may be found though they are not expecting any from the testing. Fuel Industries will have not only Souter, Miller and Assoc., but also Operational Consultants who will be overseeing the dig along with members of the NMEDSWB. Safety-Kleen isn't a for hire hauler so they will have to go through the same process and at least temporarily become registered through the NMEDSWB. Any excavated waste or recyclable material shall be removed and properly recycled or disposed of. In the revised WEP, there was an area that talked about white goods (refrigerators and whatnot) and in the plan they have proposed if they came across a refrigerator that didn't contain any freon or anything else hazardous they will dispose of it in the Regional Landfill or recycle. They will be using on-site soils to fill in the old excavations and they are not permitted to create other depressions that may cause ponding which will leach down into the old refuse and potentially cause gases. Public Works Director Cesar noted you will see most of these conditions at any excavation of any landfill in New Mexico. The aerial drone that the film company will be using cannot be flown over where the workers are so as not to distract them. That is a little different than you would see in a standard list of conditions from the State. The NMEDSWB must be notified at least five working days prior to the commencement of any excavation activity so they can get their observers here to determine all state rules and WEP requirements are followed. NMEDSWB wants to be notified 48 hours after completion of the project. Fuel Industries has indicated that excavation/filming will begin on April 28, 2014. This date is subject to change.

Mayor Pro-Tem Rentschler asked Public Works Director Cesar if the date to begin was April 28<sup>th</sup> and he confirmed. Mayor Pro-Tem Rentschler then said it was contingent upon GreenTree and Safety-Kleen becoming commercial haulers and Public Works Director Cesar said yes. Mayor Pro-Tem Rentschler asked if they had done that and Public Works Director Cesar said he had not been notified of that yet and believed Greentree was in the process of submitting their paperwork; he wasn't sure about Safety-Kleen. Mayor Pro-Tem Rentschler mentioned the soil and filling it back in. He said you take out whatever is in there and remove any waste from these trenches. Public Works Director Cesar said that was right. Mayor Pro-Tem Rentschler said now that waste will be deposited at the Otero/Greentree Landfill by Orogrande. You are saying those piles of dirt were left over from the original excavations when this landfill occurred, is that correct. Public Works Director Cesar said that was correct. Mayor Pro-Tem Rentschler said we have all heard a lot about this landfill lately that maybe some of the trenches have begun to trench-in a little bit. One of the plans presented was we would take that dirt and fill it in. Would we have enough dirt to do that? He didn't want to use it up when we may need it at some point in time. Public Works Director Cesar said they have pretty much pinpointed where the cartridges are so this will be a minimal excavation. They will have to slope the sides for safety so they don't have a cave-in, but it will be a minimal amount of material to come from the old stockpiles.

Mayor Pro-Tem Rentschler asked him how he intended to keep the public out of there during the excavation since we didn't have much of a security perimeter around there. Public Works Director Cesar said they (the film company) are contracting with a security firm but he didn't know the name of the company or if they have signed contracts with them yet. There is one entrance to the Old Landfill that will be secured and you will need a pass to get through. Parking will be outside of the Old

Landfill area and there are at least two portions of the filming that they want members of the public to attend who would like to; they will be escorted in. Once the excavation has begun, they will have fencing and security guards there 24 hours a day. Mayor Pro-Tem Rentschler said the next step is when they are gone; how do you plan on keeping the general public from going in there to get their own ET game. Public Works Director Cesar said we are going to get into this in the upcoming addendum. Once the contractor has excavated and found the games, City personnel will go in and secure any cartridges still in decent shape and take them to a secured site. Mayor Pro-Tem Rentschler wondered about the other 10 million still under the ground and Public Works Director Cesar said those will be buried and incased in three to four feet of concrete. It would take serious heavy equipment to get into them. Mayor Pro-Tem Rentschler asked if anything would be done to insure no one goes out there with a shovel to dig them up; how are we going to protect the site. Does Fuel have any involvement in that or is it on us. Public Works Director Cesar told him it would be on the City. We did discuss as part of the rebate that will come from last fiscal year from the authority we are a member of, we would ask for Commission approval and use a portion of those funds to upgrade the fencing surrounding the property and to spread large mounds of dirt over any depressions, as well as doing more of a cap over that one cell. That landfill was closed correctly according to the standards of 1989, but there will be another one and a half to two feet of material up and over the entire landfill.

Mayor Pro-Tem Rentschler asked if we are liable in perpetuity for this. Will we be putting a fence up to keep the four-wheelers out; that goes along with this. Public Works Director Cesar said that will be the first part of that project. Regardless of whether this project went forward or not, we will bring back to the Commission to fix the wire around the landfill. We will go to four strands of wire if not more, re-securing the site and leveling it all so we don't have issues in the future.

Mayor Pro-Tem Rentschler read from the presentation that Fuel's agreement to hold the City harmless from any loss or damage incurred by Fuel. Are they doing this by bond or by insurance? Public Works Director Cesar said the security deposit was a check to the City and we do have it in one of our accounts. Mayor Pro-Tem Rentschler said that is a minimum and we're talking about not talking about any kind of lawsuits that result. City Attorney Thies said in the event we suffer any damages as a result of their actions not covered by the \$25,000 security deposit, that money would allow us the opportunity to pursue them through other legal means. Mayor Pro-Tem Rentschler said we would have to sue them, and the City Attorney said is correct. Mayor Pro-Tem Rentschler felt they should have some insurance. City Attorney Thies said that was discussed and the terms of agreement were presented to the Commission and they approved it. Mayor Pro-Tem Rentschler said he understood; this was only an afterthought.

Mayor Pro-Tem Rentschler said you will be notifying NMED five days in advance. Is this so they can be here to observe? Public Works Director Cesar said it is so they can come down if they choose to observe. Actually, it won't be the City who will notify them, it will be Fuel Industries. This is not a City project, it is Fuel's project. Mayor Pro-Tem Rentschler said it is on City property and if there is a four-wheeler out there on those mounds of dirt, they flip over and somebody gets killed, guess who's responsible; the City of Alamogordo. Public Works Director Cesar said we will insure they have notified the Solid Waste Board. Mayor Pro-Tem Rentschler said be sure they do that and look a little more at that insurance.

Mayor Galea told Mayor Pro-Tem Rentschler we do have non-trespassing signs so those with four-wheelers should beware. Mayor Pro-Tem Rentschler asked if we do because he had not noticed them from the highway.

Commissioner Sikes said for the record she thought this was a pretty silly project. You mentioned NMED had the option to come down here but who is really overseeing this. She was reluctant to totally trust a movie company with overseeing this project. Public Works Director Cesar said during all the activities, Souter, Miller & Assoc. will be on site for the WEP and all the testing they outlined in their plan, along with Operational Consultants and a City presence. Commissioner Sikes asked who the City presence would be and Public Works Director Cesar said he would. Commissioner Sikes

asked if there was any significance to them selecting April 28th since it was Earth Day and we've had a lot of controversy over the fact this could potentially poison half of Alamogordo. Public Works Director Cesar said his understanding was the 28<sup>th</sup> was selected as they went through with the revised WEP for NMEDSWB. That was because of the week it was turned in and it was also the week the NMEDSWB shut down their operations in Santa Fe and performed training for all landfill operators in New Mexico, one of two per year. This would give their various contractors enough lead time.

Commissioner Sikes asked about the history portion of his presentation where the organizations requested the proper documentation from NMED. Do we have access to all that? Public Works Director Cesar said we did. Is the City checking to see if Safety-Kleen and Greentree get certified to haul away the waste? Public Works Director Cesar said Greentree will be hauling the household waste dug up as part of the excavation; Safety-Kleen will be on stand-by in case something hazardous is dug up. Both of those companies will have to register with the NMEDSWB if Fuel Industries is going to use them. If Fuel chooses not to go with either or both of them or either company decides not to submit an application for temporary status as a commercial hauler then Fuel will have to select a different hauler that is certified through the State. Commissioner Sikes asked if that could temporarily postpone the project and he said it could. She said the City requires organizations doing anything on City property to present some sort of an insurance certificate. Any time she has done an activity on City property she has had to get the proper insurance, so she really wanted to make sure they have an insurance policy that indeed would cover anything that could potentially happen. She didn't know what kind of caveat is in these policies that covers the time they are excavating and also extends a little beyond in the event some of what the nay-sayers are expressing comes true.

Commissioner Sikes said they are going to be contracting with a security firm. That tells her our PD or Sheriff's Dept. does not need to get involved or could they potentially contract with Fuel Industries. Public Works Director Cesar didn't believe they would contract with our PD, but they may be contracting with some off-duty police officers. He did not know the details. She said, for the record, the security deposit was \$25,000; when you look at the scope of the project, the amount of time they would be doing it and the potential danger, \$25,000 isn't a lot of money, especially when we were talking about more fencing and doing things to secure the area. She knew this Commission decided this was a good amount but she asked if we could amend that. That amount won't even put a fence up around the place. We all know there has been a flurry in the press about this but she was reluctant continuing to support a project that almost makes us look like a laughing stock; that was her personal opinion.

Mayor Pro-Tem Rentschler asked Public Works Director Cesar about the \$25,000 security deposit and asked if that what he was charging for his time when he did this. Public Works Director Cesar said that amount was fully refundable.

Mayor Galea said for the record, the NMED records have been misinterpreted by a few members of the public and media. This has led others to make allegations against persons within and without our Staff that there would be some sort of contaminate in the soil that would be hazardous to citizens. If the NMED had found anything hazardous would there have been at least a fine to the City? Public Works Director Cesar said the revised plan contained new test data for the area to be excavated. If there was anything that alarmed the NMED they would not have issued authorization for the project to continue. At a minimum, the list of seven items Fuel Industries has to meet as part of the NMED approval would have been much longer. As part of the WEP for the workers who will be inside the old cell digging down to where the old cartridges are supposed to be, the level of personal protective equipment is the same as used by our workers doing street work; hardhats, safety glasses, steel tip boots and leather gloves with the addition of plastic liner gloves. This is minimal PPE the workers will be wearing. With the test results, the NMED was satisfied with what was proposed.

Mayor Galea remarked on Commissioner Sikes suggestion this may make us look a little foolish. She understood this was a big thing to the gaming industry. The gaming industry has become larger than the movie industry and this is the largest urban myth in the gaming world. This would lay the

largest urban legend to rest if they find games there, so she didn't find it silly at all. She felt funnier things had happened in Alamogordo and she was going to keep her word and continue on with the agreement we made originally with the \$25,000. She understood the City was making plans to resurface with the soil there and also fence with the rebate we have from the Regional Greentree Solid Waste Authority of more than \$100,000. She would like to consider discussions with Fuel about an insurance policy as a bonding. It is important they are able to protect themselves and that site after excavation.

Mayor Galea recessed at 8:34 p.m. and reconvened at 8:45 p.m.

### **PUBLIC COMMENT**

#### **A. Eugene Downer commented on the following:**

- 1) He started with a few good things in the community. He had been in the Library which gets approximately 500 visits a day and during the summer up to 800 per day. It is truly the heart of the community and he had picked up a brochure produced by Assistant City Manager McNeile with the help of his staff. He felt it an outstanding production and described the many activities in the community, including information on the Desert Lakes Golf Course which had been named the Sun Country Amateur Golf Assoc. 2013 Club of the Year. He congratulated Commissioner Baldwin for his help in achieving that award. He also picked up a booklet about the Hiking Trails in Otero County produced by Sharon Hodges. He hikes a lot and noticed someone had donated a park bench which read 'In Memory of my Beloved Wife, Kathleen'. He felt this man loved his wife and community. In that spirit, he hoped the Commission would donate as a group some trees for planting. If you each had a different species of drought-tolerant/salinity-tolerant tree, it would show the community you are putting your money where your mouth is. He noted there was one Commissioner who had done an outstanding job of xeroscaping his house, Commissioner Hernandez, and he gave him a pat on the back for that.
- 2) Our City Manager has shown how he can stay focused on a project and has the energy to complete it. He has done an amazing job on the New York Ave. turnoff off White Sands Blvd. near Wendy's. It will be a major addition to the community and he was looking forward to his new projects.
- 3) He had mentioned in the past that the purple globe locust was a good tree that was fast growing and salinity and drought tolerant, as well as a beautiful tree. The negative side was that its branches break easily in the wind, and it is very invasive with suckers often coming up as black locusts. He felt this tree would work in areas where the suckers could be mowed down but maybe not in a graveled area.

Mayor Galea told him he had one minute left for comments.

He thought it important to focus on the list provided by the Las Cruces landscape architect and the NM gardening expert, Judith Phelps, when selecting trees. He had called Sierra Vista Growers today and asked if they had received a copy of the City tax exemption certificate, and they said no. City Manager Stahle got on the ball when it was brought to his attention we had been paying sales tax for years which we did not need to pay. He suggested putting the tax exempt number on the City purchase orders. He noted we have 320 acres of parks and asked the Commission to consider uniform park signs. He showed a picture of the Alameda Park sign which was in disrepair. He felt we could silk screen something for the signs.

Mayor Galea noted that City Staff had received that picture today and are working on it. They will add it to their list of many things to be done concerning park maintenance. She told Mr. Downer he had done a lot around Alamogordo concerning our parks. Baseball will soon begin and they are looking for Pup Fish host families, so she asked him to help with that. Mr. Downer said he would give it some consideration. Mayor Galea said there are six players who need a home.

**CONSENT AGENDA** (Roll Call Vote Required for items No. 11, 12, & 13) \_\_\_\_\_

5. **Approve Minutes of the March 25, 2014 Regular Meeting of the Alamogordo City Commission.** *(Renee Cantin, City Clerk)*
7. **Approve a Memorandum of Understanding between the Department of Cultural Affairs and the City of Alamogordo for Improvements to the Theater at the Museum of Space History.** *(Matt McNeile, Assistant City Manager)*
8. **Consider, and act upon, an agreement for Assignment of Airport Lease from Barry and DeeAnn Burke to Kevin Dunshee.** *(Stephen Thies, City Attorney)*
9. **Approve a one year extension to the Audit Services contract with Hinkle & Landers, P.C.** *(LeeAnn Nichols, Interim Finance Director)*
10. **Approve the letter of engagement with Modrall Sperling related to the 2014 General Obligation Bonds.** *(Stephen Thies, City Attorney)*
11. **Approve Resolution No. 2014-13 to re-adopt the updated Community Development Block Grant Consolidated Plan. [Roll call vote required]** *(Ruben Segura, Grants Coordinator)*
12. **Approve Resolution No. 2014-14 supporting the New Mexico Department of Tourism Litter Control and Beautification grant for Keep Alamogordo Beautiful (KAB) . [Roll call vote required].** *(Matt McNeile, Assistant City Manager and Jason Richards, Special Events Manager)*
13. **Approve Resolution No. 2014-15 supporting a grant application with the New Mexico Department of Tourism to promote tourism. [Roll call vote required]** *(Matt McNeile, Assistant City Manager and Jan Wafful, CS Admin. Assistant)*

Item # 6 was removed from the consent calendar by Mayor Pro-Tem Rentschler.

Mayor Pro-Tem Rentschler moved to approve items # 5, 7, 8, 9, 10, 11, 12, 13 of the consent calendar. Commissioner Baldwin seconded the motion. Roll call was taken for items #11, 12, & 13. Motion carried with a vote of 6-0-0.

#### **ITEMS REMOVED FROM CONSENT AGENDA**

6. **Approve Change Order No. 2, Public Works Project No. 2013-001 to Livingston Associates, P.C. related to the Well Transmission Line - Phase III project, in an amount not to exceed \$50,250.11, including tax.** *(Brian Cesar, Public Works Director)*

Mayor Pro-Tem Rentschler said it seemed unusual to see a Change Order in the amount of \$50,000 from an engineer and asked Public Works Director Cesar what this was all about. Public Works Director Cesar told him it was part of the desalination project that would occur in the Snake Tank area. The WTB- 80 Loan through the New Mexico Finance Authority (NMFA) to design and construct up to 15 miles of non-potable water line had that language changed a little over a year ago. This is the money we are using to put in all the pipeline after the ground breaking ceremony and is an ongoing project. The original amount awarded, partially grant money and partially loan money, was a little over \$4.1 million and since the bids for design and construction have come in much lower than the amount estimated we are trying to utilize the money from the State. It is very low interest, less than 2%, so we have brought these changes to you and the next one under design will be approved in the very near future and will go out to bid. It is to take those lines being put in the ground now at the Well Field and making the connections to the Bonito Pipeline and by La Luz Gate Road into an existing pipeline. This Change Order is to utilize the remaining balance of the WTB-80 money; it will be used to design the parallel pipeline needed in the future along side the Bonito Pipeline. Current estimates after design are for one and a quarter miles of that 24 inch line to be installed. This

Change Order is to do the design and we already have approval from NMED and NMFA that this is an acceptable use of the money. Mayor Pro-Tem Rentschler said we already have this available from the Water Trust Board and available in the form of a loan from the NMFA, and Public Works Director Cesar agreed saying we are not asking for any additional monies. This was the money awarded to us about four years ago. Since it is a change from the original project, we have to come back before Commission for approval.

**Mayor Pro-Tem Rentschler moved to approve Change Order No. 2, Public Works Project No. 2013-001 to Livingston Associates, P.C. related to the Well Transmission Line - Phase III project, in an amount not to exceed \$50,250.11, including tax. Commissioner Hernandez seconded the motion. Motion carried with a vote of 6-0-0.**

### **NEW BUSINESS**

**A-1. Consider and act upon, the dispensation of a negotiated amount of Atari cartridges from the Old Alamogordo Landfill to Fuel Industries, Inc. (Brian Cesar, Public Works Director)**

Mayor Galea said there is a discussion of how much we will be giving; whether we'll be giving a certain amount, a certain percentage and giving the lesser of the two. Hypothetically, if there are only 200 games found we don't want to give them 200 games; we want to give them 10% so that the City of Alamogordo could recover games to likewise sell in the future.

Public Works Director Cesar said there had been quite a lengthy discussion on the Atari project and what we are asking for is direction. Fuel Industries has asked for a number of the cartridges in order to pass them out to members of the film crew, people they have interviewed and the executives from Microsoft and others who have funded the documentary.

Commissioner Baldwin is definitely for this dig. He said when it was originally discussed there wasn't anything about giving anything to Fuel. Public Works Director Cesar said there is not an obligation on the City..... Commissioner Baldwin interrupted to say this is any of the cartridges and Public Works Director Cesar said they have requested a number. Commissioner Baldwin said one of the questions in our discussion was everything that came out of there in reference to the cartridges was City property and we could do with it as we pleased. Fuels motivation for this was to make a documentary on this urban legend, not necessarily to take anything from it. It makes sense since they are doing all the work, but like Commissioner Sikes said, I do have a little reservation with this portion of it. If you start giving them out and give too many out, he liked the idea of there not being any out there.

Commissioner Sikes said she was hopping on Commissioner Baldwin's bandwagon and felt we were putting the cart before the horse. Is there any way we could postpone approval until we find out if any treasure is dug up? Public Works Director Cesar told her he thought Fuel Industries was pressing this issue and had read in other articles besides our local paper that they were proposing to have a drawing for a number of cartridges in order to attract people to this dig. Commissioner Baldwin said they are promoting the cartridges they don't have? Public Works Director Cesar said you might read it that way; it is not in the original agreement.

Commissioner Sikes went on to say she saw where the anticipation will create some publicity, but based on the fact anything we pull out of that dump is City property, don't we have an obligation to dispose of it the same way we dispose of other City property. Public Works Director Cesar agreed but deferred to City Attorney Thies.

City Attorney Thies said we do have a process in our City Code for disposing of personal property. If it's under \$2,500 you can dispose of it in any manner you see fit. If in excess of \$2,500, you can elect to either sell it at an auction or a negotiated sale. In a negotiated sale there is a process we need to follow of publishing a notice of the terms of the sale at least twice, if he recalled correctly, in

the newspaper to give people the opportunity to come forward and make comments about it.

Commissioner Sikes thanked him and said the reason she brought this up was because she had conversations with people who are actually Gamers and feel that anything we pull out of this stuff is going to be valuable and of serious interest to Gamers. They are talking about selling pieces of these cartridges, putting them on a plaque and selling them for \$100 or \$50, so these things could be worth a lot of money. Like the city attorney said, we determine the value and then determine how we will give out this property, so she didn't know if it was premature; should wait until we determine a value.

Mayor Galea notified the Commission that Joe Lewandowski had said anything found was City property, but he had the idea of creating certificates of authenticity and putting them on plaques for sale because they are treasures. That discussion will be at the next Commission meeting. In order to create these certificates of authenticity and the plaques we'll have to build it into our budget. The reason we have this before us now is that Fuel Industries is promoting this as a large event and they plan to have a lot of Gamers and other people from outside the City of Alamogordo who will stay in our motels and eat at our restaurants. They want to be able to promise a set number of games to the first how-ever-many people come. That is why we are discussing this today so they can make their promise of the first 50 or first 100 games, and if they find only 100 games or 10%, then they only have ten.

Mayor Pro-Tem Rentschler said we talked a while ago about insurance and he had read a million dollars of insurance here. He wondered if instead of just giving away we could trade for \$10 million dollars of insurance versus a million and then 100 games or 10%, whichever is less. We'd be getting something of value back. Instead of just saying, go ahead, we could say yes, but there has been a concern raised primarily by the members of the public that we should be giving due consideration of their concerns. Some do not believe we have given that proper concern and this would be a way of showing we are giving that. Maybe we could benefit a little and they could benefit a little from it.

Commissioner Baldwin said no pun intended, but the further we dig on this subject the worse it gets. He had concerns about the City making money on peoples' trash. If there are funds derived from this project, he would like it to go to something specific such as the upkeep or the fence or to fill in those sink holes, or whatever is happening out there. Or it could go to the public since they are the ones taking the risk by allowing this to happen in our community. There are thousands of working ET Games out there; the ET game isn't only in our landfill. The interest in this is that these are the ones Atari tried to dump in order to cover up the failure of that company. Let's say we find a thousand cartridges and we guarantee they can take 200-300 and not a percentage of what is found. Of the thousand there are only 10-15 that work; a cartridge that has been underground whether it has been entombed in concrete or not is going to be damaged. It was a bad game and bad console to begin with, so whether it will work 30 years from now is unknown. He thought something would have to be put in here that said a working game which would be much more valuable than a non-working game.

Mayor Galea said the Commission has talked about a working versus non-working game and a trade-off for higher insurance; the more insurance provided by Fuel in order obtain these games.

Commissioner Turnbull would like to hold off and see what it's worth before we tell them we will give anything, because the money could be used for our city. I don't want to give that away. Mayor Galea said we wouldn't be promising them a whole set; it would be a certain percentage or amount and if you look on EBay, a working game is \$35.00. At the next Commission meeting we will discuss the cost to the City to create the certificate of authenticity and the plaque to set them up. Joe Lewandowski had the wonderful idea and Commissioner Sikes talked about it going back into the landfill. We already have a few hundred thousand dollars coming back to us in rebate to rehabilitate the landfill with the fencing, but this would be added to that. We are discussing that tonight because Fuel wants to bring more people to the site, Gamers from outside the City to view the excavation and they want to have the promise of these games. We should decide whether or not they have a promise of a certain percentage or number, whichever is less, and if there will be any strings attached.

Commissioner Baldwin asked if they had been in contact with Public Works Director Cesar, or did it come through the City Manager. Public Works Director Cesar said they had contacted Joe Lewandowski who is our landfill consultant. Commissioner Baldwin wondered if this was a deal breaker. He knew so much work had gone into it but if we say no, which he didn't want to..... Public Works Director Cesar interrupted to say the filming will go ahead because they have too much invested in it at this point. They really want to tell the story so this will not stop the excavation, the project. If we wait, as Commissioner Turnbull suggested, to see what the cartridge in the old landfill will bring, Fuel will have wrapped up the documentary, everything will be covered and they will be gone. They won't be here for that portion, so the give-away they've talked about to members of the crew and the Microsoft executives..... Commissioner Baldwin said it would certainly be nice to hand them to some of the people who showed up if they had a promotion. Since it is City property, it would also be nice only when they are done and have followed through with everything they said they would. It would be protection for us. As Mayor Pro-Tem Rentschler said, we are trying to protect ourselves and the citizens as best we can.

Commissioner Sikes said she understood the promotion and anticipation and building interest by promising potential gain, but what keeps going through her mind is, Geraldo Rivera; it can turn into a laughing stock. The promotion could be of value. She talked about the Geraldo Rivera production years ago that was a let down.

Mayor Galea said if we promise 10% then there is 10% of nothing. So far we've discussed requiring them to carry a higher insurance for the games and non-working games, and they would be required to follow through with all the Environmental Department requirements before distributing any games. Mayor Galea asked Mayor Pro-Tem Rentschler how much \$10 million dollars worth of insurance might cost. Mayor Pro-Tem Rentschler thought they could do it relatively inexpensively. It depends on who is already assuming that risk for them.

Commissioner Hernandez said the threshold is \$3 million dollars. When you go above that it becomes almost impossible. \$3 to \$5 to \$7 to \$9 million dollars is very tough to buy because it is very expensive. A million dollar policy is like a homeowner's policy and not that bad, but when you get to those higher amounts then a risk is involved and they won't give you a policy they have to pay out \$10 million on for \$100,000. Mayor Galea didn't think there would be a great risk since the Environmental Dept. had issued the permit. Commissioner Hernandez said the risk is not that the permit has been issued, the risk is the fact you've been asked to get a \$10 million dollar bond. There is a reason for asking for that amount; that is the risk. It isn't the fact Joe Citizen or the Environmental Dept. says there is nothing to worry about; the risk is the fact you've been asked to get a \$10 million dollar policy. That's what they are charging you for and it is very expensive.

Mayor Galea asked Mayor Pro-Tem Rentschler if he would consider a \$3 million dollar policy. Mayor Pro-Tem Rentschler asked if \$3 million dollars was reasonable. Commissioner Hernandez said he trusts Joe Lewandowski and the Environmental Dept., but he has concerns that Ms. Wood could be correct. What is a life worth? My life is worth a whole lot more than \$3 million dollars.

Mayor Galea said she would not be approving or proceeding with this if she thought Ms. Wood had even an ounce of correctness. She thought any mercury concern was far, far away and we've had this discussion before. The landfill has been surveyed and Joe knows where the Atari site is and is confident any contaminants of mercury are very far off; acres and acres away.

Public Works Director Cesar clarified one point on the Waste Excavation Plan. He said there will be continuous monitoring as they proceed with the excavation. In the event they detect anything, all work will stop on the project and they will not continue to excavate material and go where the cartridges are if anything is detected. There will be an indicator, oxygen levels going down, lower limits of methane coming up or being detected; they will stop immediately.

Mayor Pro-Tem Rentschler said it may not be that we are as concerned for \$10 million dollars toward other considerations, but what happens if that excavator gets in there and bites somebody in half.

Commissioner Hernandez asked City Attorney Thies a question. We had a fatality when Panorama was repaved in front of Golden Corral. Were we sued and did we pay out on that? He knew the contractor did, but were we held liable for that. City Attorney Thies told him he did not recall a claim being made against the City. It more than likely would have been made against the contractor; construction contractors are required to carry insurance that is generally a policy of about \$3 million dollars. Commissioner Hernandez said he was simply referencing that since this would be on City property. Lawsuits will go to the deepest pockets and if someone were to get hurt, who would they go after.

Mayor Galea said City Attorney Thies just said they would have \$3 million dollars of insurance to cover that loss. We did sign an agreement with Fuel that they would hold us harmless of any accidents on site, and you are right, they would go after the City. It's Fuel Entertainment that would be held liable if there were any construction accidents.

Commissioner Hernandez asked if we could set a number of 1% for 100 or less, 5% for 200 or less, 10% for 1,000 or less. Mayor Galea said we could but we would be talking about an insurance increase also.

Mayor Pro-Tem Rentschler wondered if this needed to be cited tonight. Certainly a film making company would be well aware of the cost to assume that kind of risk and he wondered if we would be able to go back to them and say we would be in favor of this maybe as it is written, however, we would like to see a little more liability insurance to indemnify the City. Can it wait until the next Commission meeting? Mayor Galea thought that would be pushing it since they are trying to bring people to the City on the 28<sup>th</sup>. You have to book a flight at least a week out, and Mayor Pro-Tem Rentschler agreed.

City Attorney Thies said if you decide to take any action tonight, as part of that action you will need to make a determination of the value of those games that would be given to Atari less than \$2,500. If the value is more than \$2,500, our Code provides the mechanism of how they are to dispose of that and that is publishing notice twice. This project has caused us enough grief without another violation of our City Code for people to run through the streets and scream bloody murder. Mayor Galea agreed and said that is why 100 games or 10%, whichever is less, is a fair amount.

Mayor Pro-Tem Rentschler said he agreed and for the sake of getting it done tonight, if Commissioner Hernandez thinks \$3 million is a reasonable amount to come up with, maybe we should compromise on that number.

Mayor Galea also liked the idea of before they are given the games they must have to follow through with all the requirements from NM Environmental Department (NMED), as well as giving the non-working games versus working games.

Commissioner Baldwin said they are going to want working games and if only 100 are working the percentage will probably still be the same. They get 10% of that if it's less, but they will want working games. He didn't want for there to be 1,000 of them, we give them 10% and there are only 200 working games. Then the City doesn't attain any real working games. Mayor Galea asked if he wants it to say '10% or 100 which ever is lesser of the working games'. Commissioner Baldwin said he was ok with that.

Commissioner Hernandez went back to the insurance issue. He wondered what we charge our regular contractors; is it based on the contract amount? City Attorney Thies said the performance bond is based on the contract amount and same as the payment bond. Those are intended to cover in the event the contractor doesn't finish the project. Liability insurance generally depends on what the coverage is, like normally \$1 million for claimant, \$3 million per incident at a minimum. It is intended to protect us. The contractor might elect, depending on the type of project, to carry much more insurance than that. Insurance requirements we impose on them are to protect us in the event a claim is made to us, and of course the Tort Claims Act caps the amount they can recover from the

City.

Commissioner Hernandez says there are two different items here, the issue of liability for the people actually working there and then the issue of liability for contamination. Mayor Galea said the NMED will be monitoring it consistently. Commissioner Hernandez said the NMED isn't going to pay anything if something goes wrong, that's the problem. Instead of having only one policy which would only cover if someone got hurt, what would this policy cover that they have. Does it cover damages if something occurs? It is a whole different thing if someone gets hurt because a tractor hits them versus someone getting hurt because they accidentally took a drink of mercury.

Mayor Galea said to Commissioner Hernandez you want two different policies; a \$3 million dollar policy for liability and..... Commissioner Hernandez interrupted to say he didn't want anything. He just wanted to make sure the City was covered.

Commissioner Baldwin asked City Attorney Thies if we were suitably covered for this project, in his opinion. City Attorney Thies said provided we don't commit any intentional act, we should be covered from an insurance perspective. They have agreed to provide us \$1.5 million dollar liability insurance.

That should cover injuries to individuals and individuals to property. For example, if someone drove a vehicle on-site and whatever they are using to excavate the site ran over that vehicle, they would have to cover it. If it ran over the person and they sued us, our liability cap is \$1 million dollars and we have \$1.5 million dollar liability so would be adequately covered. Commissioner Baldwin said there is a hold harmless agreement, and City Attorney Thies agreed saying there is a hold harmless in the event that somehow they are able to recover more than the \$1.5 million insurance limit, we could go after the film company.

Commissioner Hernandez said he was fine with all that. The only thing he asked was from what they are being told, there will be additional people asked to come and do this stuff; are they Fuel employees or outside people. We need to make sure all those sign off on all of this. That way we are covered from everyone. If they have professional Gamers that come out here and they get hurt, could they just sign off? Could they be added to the list? Commissioner Baldwin said we need to consider who they invite to the site. The management of that site is our biggest liability. Public Works Director Cesar said that is covered under the Waste Excavation Plan. They are excluding the general public and there will be limited access to the actual site where the work is being performed. During small parts of the filming they will have a somewhat remote viewing area for the general public that is well away from the actual excavation site. They had it all laid out in the plan approved by the State.

Mayor Galea said according to our City Attorney we are covered amply with the \$1.5 million, but we could increase that if the Commission wishes. Commissioner Hernandez said it is in the minutes and he was good with it.

Mayor Galea asked Mayor Pro-Tem Rentschler if he still wanted to pursue the \$3 million dollars in liability insurance as a request to Fuel TV. Mayor Pro-Tem Rentschler said sure.

Mayor Galea said so far we have 100 games or 10%, whichever is the lesser that is found of working games and that they must first follow through with all the requirements from NMED and be carrying liability insurance of \$3 million dollars. Commissioner Baldwin added 'and all the requirements of the City'. Mayor Galea said that would be what we would propose to Fuel TV – 100 games or 10% of what is found of the working games, they should follow through with NMED and the City first, and cover \$3 million dollars in liability insurance, and of the working games that were found they would be provided with the lesser of 100 or 10%.

Public Works Director Cesar said if there is interest from the public, it isn't necessarily for a working game; you can find those on EBay. He had no way to tell if a game is working or not when it is pulled out of the ground. Commissioner Baldwin said they aren't getting the cartridges until they are done doing everything we want them to do anyway, so that could be figured out in the interim. Public Works Director Cesar said correct. Commissioner Baldwin said he wasn't trying to complicate it; a

working game is more valuable than one with damages. Mayor Galea said maybe you mean 'in visibly good condition without testing'.

Commissioner Sikes said she recalled that before they dumped them they made them not work. Public Works Director Cesar said they drove a dozer over the top of them. Commissioner Baldwin said except, people in this town have working games that came out of that dump. Mayor Galea said that to simplify it we'll say 'visibly in good condition.' Mayor Galea said being that these games would be mounted to a plaque she thought they would be satisfied with this description. Commissioner Baldwin said he wouldn't buy something pinned to a plaque; he would want a working game.

City Attorney Thies said before you proceed, you need to make a determination that the value of the games you are giving to Atari has a value of less than \$2,500, otherwise, if they have a value in excess of \$2,500, it will be a different process to follow to dispose of these games. Mayor Galea said it is 100 games which go on EBay for \$35.00 per game. She knew they would be worth more coming from the landfill, but didn't know if we could determine that value tonight. Mayor Pro-Tem Rentschler remarked we just said not to exceed \$2,500 in value.

**Mayor Pro-Tem Rentschler moved to approve the dispensation of 100 games or 10% of working games or games in visibly good condition, whichever is lesser, of Atari cartridges from the Old Alamogordo Landfill to Fuel Industries, Inc. not to exceed \$2,500 in value. They must provide \$3 million dollars in liability insurance and follow through with all the requirements of the NMED and the City of Alamogordo. Commissioner Sikes seconded the motion. Motion carried with a vote of 6-0-0.**

- 14. Consider, and act upon, the award of Public Works Bid No. 2014-001 to Mesa Verde Enterprises, Inc. related to First Street and Washington Avenue Re-Alignment in an amount not to exceed \$1,478,258.93, including NMGR. (Jason Thomas, City Engineer)**

City Engineer Thomas told the Commission that bids were opened on March 18<sup>th</sup> and there was one responsive bidder, Mesa Verde. Their bid was for \$1,478,259.00. The Engineer's opinion of probable cost for the project was \$2,076,817.00. Because there was such a large gap, we've asked Mr. Pat Magill, Mesa Verde's Operational Manager to come in and discuss some of the reasons for the difference.

Pat Magill told the Commissioners he had been with Mesa Verde for about a year. He was raised in Roswell, NM and then received his degree in Civil Engineering from NMSU in Las Cruces. He moved back to Roswell in 1984 and worked for Armstrong Construction for 25 years. He served as the estimator initially and in 1999 was elected president and held that office until they sold in 2008. Armstrong Construction was similar in size to Mesa Verde and did the same type of work. We worked for municipalities in New Mexico such as Roswell, Artesia, Hobbs and Lovington. We were very familiar with the type of work the City of Alamogordo does so even though he hadn't been here very long, he was very familiar with the estimating process. All estimates are determined on a large number of variables, economy, labor force, the strategy the company has to forward their business as far as labor and cash flow, and many other variables. The difference between these two estimates isn't something really unusual. If you compare Pate's bid on the Pecan Extension project with the City estimate and remove all other prices turned in, you would find a similar gap there. He didn't know exactly what Pate did, but the other contractors were closer to the City estimate. He was confident in the estimate Mesa Verde turned in and confident in their numbers; it's a bonded job and we will perform for the City of Alamogordo. We live here and we are going to be here when the job's finished and we want it to be a good job. We enjoy our relationship with the City of Alamogordo and would like to continue that relationship. He asked for questions.

Mayor Pro-Tem Rentschler asked City Engineer Thomas about the engineering standards used here. He said he would like to have this on the next Commission meeting agenda. It looks like the

lanes that were designed at the Pecan/Washington/Indian Wells were well below normal; we are going to have to do something to get that. Was the same design criteria he used in designing this used in designing that; same lane widths and all that? City Engineer Thomas said the lane widths for Washington and First Street. . . . the lane widths on South Washington are 14 feet. That is consistent with the City's collector standard with no parking on each side, so it would be 28 feet of asphalt. He didn't recall what the lane widths were on the North Washington piece. Mayor Pro-Tem Rentschler said the reason he asked was he has had both Chief Ward and Public Works take their equipment through that intersection as well as taking his own equipment to it, and what you find is that you cannot, headed west on Indian Wells turn south onto Washington without crossing into the oncoming lane that would be headed north on Pecan. By the same token, if you are taking a right headed south while you are headed east on Indian Wells you find that with any kind of trailer, and you can look at the intersection tomorrow, you find there are black trailer marks there where if anyone was standing in that intersection they would be killed. So he was concerned that something happened there and for some reason a person hauling a fifth wheel or a piece of equipment simply can't make it through there. Mayor Pro-Tem Rentschler wanted to make sure, because next week he'll expect him to come back with something, that we aren't in the same position once this is complete, where we are looking at the lane widths and saying something's wrong here. He wanted the City Engineer to tell him that we are good; that we are going to be able to turn equipment in there, there are a lot of school buses going into there, all those things are tough to turn. The lanes need to be sufficient, or at least set-backs put into it, to make sure the traffic will flow, especially the larger ones like school buses.

City Manager Stahle said what I hear you describing is the actual intersection itself, not necessarily the through lanes. The through lanes in this case, South Washington of course will have very limited access; cemetery's are on both sides for the most part and a parking lot. The intersections themselves you are saying to clear those out so that they are wide and long. Mayor Pro-Tem Rentschler said wide enough to for a 40 foot school bus to get through there. City Manager Stahle said the problem is, and he said we can go back and double check that and there may need to be a change order to accommodate it. If you are open to that, we'll go back and take another look. This is fairly wide coming off a four lane roadway. He suspected there would be sufficient width, but we can double check it and bring it back to your attention if we feel there is an issue. Mayor Pro-Tem Rentschler said ok.

**Mayor Pro-Tem Rentschler moved to approve the award of Public Works Bid No. 2014-001 to Mesa Verde Enterprises, Inc. related to First Street and Washington Avenue Re-Alignment in an amount not to exceed \$1,478,258.93, including NMGRT. Commissioner Hernandez seconded the motion. Motion carried with a vote of 6-0-0.**

15. **Consider, and act upon, the Selection of top 3 projects and Approve Resolution No. 2014-16 authorizing the submission of a New Mexico Community Development Block Grant Program Application and designating the Mayor to act as signatory authority in all matters pertaining to the municipality's participation in the Community Development Block Grant Program. [Roll call vote required] (Ruben Segura, Grant Coordinator)**

Ruben Segura, Grants Coordinator acknowledged the presence of one of Community Development Advisory Committee (CDAC) members, Ms. Gloria Vaughan. He said the 2014 Community Development Block Grant (CDBG) funding cycle was upon us and any entity wishing to apply needed to submit their application by May 16, 2014. The CDAC met on August 29, 2013 and directed Staff to conduct a series of Public Hearings as part of a public input process. Staff submitted a publication to the Alamogordo Daily News (ADN) for two Public Hearings – September 23<sup>rd</sup> and September 26<sup>th</sup>. The first was held at the Alamogordo Senior Center and the second at the Sgt. Willie Estrada Memorial Civic Center. In addition, two additional hearings were conducted by Staff on October 23<sup>rd</sup> and November 1<sup>st</sup> at the Alamogordo Public Library. Once public comment was received we found nine projects were proposed. They were 1) a therapy pool at the Senior Center; 2) improvements to

the Eddy and Canal intersection; 3) ADA sidewalks in the Chihuahuita Area; 4) C.O.P.E. building improvement; 5) Homeless Shelter; 6) breezeway structure at the Senior Center; 7) Community garden; 8) playground on Florida; and 9) new sewer plan near the Bi-Pass. Seven, eight and nine were discarded because they did not meet the grant requirements nor were they of need base on Staff review. He noted he attended training on March 12-13, 2013, on the CDBG and found the State is focusing on public infrastructure. The CDAC met on November 6<sup>th</sup> and November 13<sup>th</sup> and they allowed the projects to be presented to the committee. They considered the rating criteria the CDBG program takes into account which is: Description/Need = 5 points, Benefit to low/moderate income = 20 points, Leveraging = 15 points, Citizen participation = 10 points, Planning = 10 points, Visibility and readiness of a project = 20 points, Cost benefit = 10 points, User fees and revenues = 10 points, and Non-funded applicants = 10 points. We submitted an application last year and that gave us some additional points. The CDAC recommended the top three projects to the Commission for the upcoming 2014 CDBG cycle with the understanding the Commission would select one project because only one project can be submitted per entity. The top three were: 1) Breezeway Structure at the Alamogordo Senior Center (ASC), 2) ADA sidewalk improvements in the Chihuahuita Area, and 3) C.O.P.E. building improvements. Staff decided the strengths and weaknesses of each project and concluded the breezeway structure at the ASC with a total project amount of \$86,230 with a 10% match of \$8,630 will have key benefits to seniors and the project cost is reasonable, increasing the possibility of getting funded. The project scope is straight forward which will allow it to be conducted within the year funding cycle. This will allow the City to request additional funding for the next funding cycle. There is little design work required and it goes between the ASC and the Exercise building. One of the weaknesses is that the last CDBG project went to the ACS.

The second project, ADA sidewalk improvements in the Chihuahuita area qualifies under the CDBG criteria, but had a second hurdle to cross. We had to make sure the area of interest met the low/moderate income requirements. We conducted a survey and found a lot of vacant lots and buildings so weren't able to get the same percent sample requirement we needed. Therefore, that project cannot be considered.

The third project, C.O.P.E. building improvements, is valued at \$550,000 with half being \$500,000 plus the 10% match. Pros are that it will have key benefits to victims of domestic violence and the design work has been completed. Cons are the cap amount is \$500,000 but the project estimate is \$600,000 which means \$100,000 needs to be added in the form of a local match or some other means. C.O.P.E. is a non-profit organization therefore there are issues related to the Anti-Donation Clause so those issues will need to be settled. The City will be required to own the property and administer the grant. C.O.P.E. must be able to demonstrate the amount awarded in the grant project will be directly compensated with added services or some other form of value. The added services must be services not currently being provided by C.O.P.E. The City will require financial security from C.O.P.E. as an investment protection to insure its rights and the public financial commitments will be adequately protected and recoverable in the event of default. Another con is that the project cost is high thus lessening the probability of being fully funded. Phasing the project may not be possible due, in case the state proposes to fund a phase amount, to the nature of the proposed project improvements.

Grants Coordinator Segura said Staff recommends the Commission select the ASC breezeway structure project as the authorized project for the 2014 CDBG application cycle and approve the resolution. He explained some of the leveraging points.

Commissioner Hernandez didn't have any problems with these items, but item #2 of the resolution needs to be revised so the Mayor is not the Chief Executive Officer. He thought the City Manager was the CEO, and City Manager Stahle said that according to code he was correct. Grants Coordinator Segura said one thing in regards to the CDBG was the Mayor was the CEO. Commissioner Hernandez said if that is the case then we can change the wording to Chief Elected Official. He asked the city attorney about this.

City Attorney Thies said if you decide to approve this resolution, he recommended they first amend it

to state Chief Elected Official. Commissioner Hernandez asked if it should say Mayor Elected At-Large, and City Attorney Thies said you could. He didn't think the State Board would look closely at that language as long as we designate the appropriate person. Mayor At-Large is presumed to have signing authority unless she gives that to the City Manager or someone else. Grants Coordinator Segura thought it all depends on the organizational structure and it was an oversight on his part.

Commissioner Hernandez said that if it needs a signature, he thought the City Manager should sign it since he is our CEO. He wanted to make sure the wording was correct. Mayor Galea agreed the wording should be corrected. She didn't assume the role of CEO, but since it was the Mayor's Community Development Advisory Committee that oversaw this, it would be appropriate for the Mayor to sign off on the grant. Commissioner Hernandez said that is fine, but we need to change the wording.

Mayor Galea said Kay Gomolak is also here from C.O.P.E. The Mayor realized the resolution was already set up for the APS breezeway project, but she wanted to hear from Ms. Gomolak. Mayor Pro-Tem Rentschler had a question concerning C.O.P.E.'s application. He asked City Attorney Thies if he had looked through this to see.... and the City already owned the major structure there. He was curious if there was a lot of problem with us becoming the owner of the rest of it. City Attorney Thies said there are issues needing to be addressed regarding ownership of the property. He had talked to Grants Coordinator Segura and given the complexities of those and a number of issues needing to be addressed, that was the reason for the Staff recommendation. The property needs to be in City control to apply for this grant. One of the issues is the grant term and what happens at the end of that term. It's our property and we would have the ability to sell to anyone we wished. He didn't know if C.O.P.E. had considered that. Until these details are taken care of, he recommended not proceeding at this time. Having said that, there is another round of applications this fall that would give us plenty of time to work on these details and make another application. Mayor Pro-Tem Rentschler understood what he was saying.

Ms. Kay Gomolak, the Director of C.O.P.E., said she was here along with Michelle Reeves who was their attorney. She also pointed out in the audience three board members from C.O.P.E. and four other staff members along with one other concerned citizen all wearing purple which is the Domestic Violence color. We are all concerned about this property. The plan is for our office property to be expanded at 909 S. Florida to be doubled in size. The existing building will be renovated and in addition to that, the entire property will be fixed so it is more secure. French Brothers is building next to us and you can see every car at the back of our property which means those living at the shelter adjacent to the property (owned by the City) can't park there now. Part of the plan is to enclose the area in the back for security reasons. The shelter is owned by the City and we have continued with that lease, providing the required \$63,000 worth of services and more. There have been questions about providing services totally different than what we provide now, and I think we are providing ten times the amount of \$63,000 on an annual basis. She didn't realize when the lease was first established that it included the services provided by C.O.P.E. at every other location we had. She didn't think it should be that way since we are way beyond that in terms of provided services on an annual basis. She knew they owned the property at 909 S. Florida and their board decided they were willing to go ahead with this project and if the CDBG funds became available, they would relinquish the property and its value to the City as they had done with the Shelter. The expansion will allow them to provide additional services. At this point, Michelle has an office in the front which is not behind the security door as our offices are, and our IT guy has an office that is a closet. This expansion will allow us to increase and improve the services we provide.

Michelle Reeves said one of the points is it will double the size of the offices. A large number of services are provided in the office building, so our services could be doubled. Her concern was not her own security or privacy, but for the security and privacy of the clients.

Kay Gomolak said they are prepared to provide the match and more, and they know \$500,000 is the maximum. We will cover the difference in order to get the project done. This project has already had an architect working on it and we are all but ready for the final plans. It's a project that is ready and

we will do whatever needs to be done to get it done within the timeframe of the CDBG which she thought was 18 months. Grants Coordinator Segura said it was 24 months.

Mayor Pro-Tem Rentschler said we had these cons and asked how much time was needed to address them. Does this have to be applied for tonight? Grants Coordinator Segura needs the application as soon as possible so he can prepare it for submission by the deadline of May 16, 2014. We have to show a title transfer has occurred and the City is the legal owner. He felt time was extremely short. Michelle Reeves responded their board had already approved the conveyance and could get signatures of the board within a day or two.

Mayor Galea said one of the cons was building ownership and Ms. Reeves had conveyed the deed could be drawn up and signed by members of the board with ample time. Ms. Reeves didn't see any problem with that.

Commissioner Sikes commented that since this could be accomplished within a matter of days, what other cons did we need to get over to approve this. City Attorney Thies said there needs to be an agreement with C.O.P.E. regarding the property. There is the issue of what happens if there is a shortage of funds; if the CDBG is for \$500,000 and project costs are \$650,000 is C.O.P.E. assuring us they can make those payments. There is the issue of calculation of value of services depending on the value of the property and we would need documentation from a third party as to the fair market rent so you can assess that the services provided after the project are comparable to that fair market rent. The issue of what happens when the CDBG expires, whether it is 15 or 20 years; would C.O.P.E. expect us to give the property back at that time. There are other issues such as an agreement with the architect to give us the designs and an agreement to stand behind their work. There are procurement issues and we would have to work through all this before bringing back to the Commission for approval. He assumed C.O.P.E. would have to do the same with their board. The realistic time frame for that would be at least eight weeks.

Mayor Galea said there are at least four challenges to be addressed within two weeks time. Kay Gomolak said it is unfortunate the questions weren't asked a few months ago when C.O.P.E. was considered. We might have had time to get these answers. She said we don't have any assurance the City would consider this project in six months. This puts us in a tough situation as to how we should proceed.

Commissioner Sikes wondered if we could put this off for a couple of weeks in order for them to do some of this. She thought there was already an appraisal of the office building. Ms. Gomolak told her it was a fair market value analysis made many years ago. Commissioner Sikes asked about us getting the architectural plans, and Ms. Gomolak thought that wouldn't take much. Commissioner Sikes knew the ASC project was very simple so it didn't seem it would be impacted very much if this was postponed for a couple of weeks; she wanted to give C.O.P.E. the opportunity. Should we go ahead and vote on this resolution to allow the ASC roof to be built? Then we would have the time to do the legwork for C.O.P.E. and get everything in place for the next go-around. She also understood we might choose another project in the meantime; that is the risk. We've got two weeks to take a risk or succumb to this resolution and do all the due diligence in the next round.

Michelle Reeves asked when the money would be awarded for the fall project, if selected. Grants Coordinator Segura said the application workshop will be around November of 2014 and the dead line for the applications will be due February 13, 2015 and the award will be around March 20, 2015.

Michelle Reeves said we were approached by the City after we already had our plans, programs and fund-raising going. We should have already started on this building but this seemed like a good opportunity for ourselves and the City. Ms. Gomolak said she thought they could put in \$200,000 right now. Ms. Reeves said that waiting another year would be very difficult for us. We are asking you for a vote of confidence and money so we can't say we have to have it right now. She simply wanted them to realize where they were at this point. Ms. Gomolak said we are going to have to get

a loan to make up the difference and that will impact our service levels.

Mayor Pro-Tem Rentschler said he thought he knew the will of the Commission but the problem was if we push this through rapidly, are somehow not in compliance and the project is turned down, then we would be remiss to put it through so quickly again. He was concerned that it might not work and the opportunity might not be here this fall to try again. We don't want to rush the project and lose. Ms. Gomolak said she understood. She has always seen a way to make things happen and this is hard for her to say OK and walk away.

City Manager Stahle asked if the \$600,000 included furniture/fixtures/equipment, and Ms. Gomolak said no. He noted she had said they could come up with \$200,000 toward the \$600,000 and his concern was one of the cons – if project costs are very high it may impact the fundability – if the grant is only for \$200,000 it will be short and your project will not go through. Ms. Gomolak said if you write a really good proposal it won't matter. City Manager Stahle said as Mayor Pro-Tem Rentschler stated, we can gamble on this and maybe not get anything, or give it time to work out these details. He shared her concerns about the details, but when the State is giving out money they want to give to as many as possible. If we are going for the entire amount available or a large chunk of it, it will be less likely to garner favor. It really concerned him if the amount given was less than needed to accomplish the task. It doesn't make sense, if there is a risk they will not give you enough to get the job done. He thought the 'can do' spirit was admirable and attested C.O.P.E.'s service was valuable to the community. He felt the Commission and whole community was in favor of meeting the need, but wasn't sure now was the right time. He was in favor of waiting for a couple of weeks in order to resolve some issues if they were willing.

Mayor Galea was sorry they didn't know some of the requirements until now. Hypothetically, if we applied for \$500,000, would it be possible for them to give us a lesser amount. Grants Coordinator Segura said the grant requires you do the full amount or it has to be self-sustaining. It has to be self-sustaining and it can't be piece meal.

City Manager Stahle said let me clarify. The question was whether or not those awarding grant money are obligated to give the entire amount or can they give less. Grants Coordinator Segura said they have the option to give less, but they want to see a face proposal if you have included the lesser portion. The face amount has to be self-sustaining and functional. City Manager Stahle said the more the local match, the more favor to a project; that is something to consider.

Mayor Galea said \$200,000 as a local match is something that would be favorable for a \$500,000 request. Grants Coordinator Segura remarked it shows a strong commitment and the leveraging aspect would be strong. He pointed out all that was involved in the Staff picking the projects.

Commissioner Sikes asked if this could be delayed for two weeks. City Manager Stahle directed the Staff to continue working on the recommended proposal and we will work with C.O.P.E. to find answers to all these cons and questions. He couldn't promise anything, but would report at the next meeting in case they wanted to change horses at mid-stream.

Mayor Galea said this item could be tabled until the next meeting. Mayor Pro-Tem Rentschler said the City Staff would work in parallel with both of these and then we would make our decision at the next Commission meeting. City Manager Stahle affirmed. City Manager Stahle said there were a lot of technicalities and legal work here and that concerned him, but we'll do our best.

**Mayor Pro-Tem Rentschler moved to table the Selection of top 3 projects and Approve Resolution No.2014-16 authorizing the submission of a New Mexico Community Development Block Grant Program Application and designating the Mayor to act as signatory authority in all matters pertaining to the municipality's participation in the Community Development Block Grant Program until the next meeting. Commissioner Hernandez seconded the motion. Motion carried with a vote of 6-0-0.**

16. **Consider, and act upon, a request to fill a Regular Part-Time Lifeguard position, to be assigned to the Recreation Center/Community Services Department.** *(Matt McNeile, Assistant City Manager)*

Assistant City Manager McNeile told the Commissioners this was a budgeted position.

**Mayor Pro-Tem Rentschler moved to approve a request to fill a Regular Part-Time Lifeguard position, to be assigned to the Recreation Center/Community Services Department. Commissioner Hernandez seconded the motion. Motion carried with a vote of 6-0-0.**

17. **Consider, and act upon, a request to fill a Regular Full-Time Golf Course Laborer position, to be assigned to the Golf Course/Community Services Department.** *(Matt McNeile, Assistant City Manager)*

Assistant City Manager McNeile told the Commissioners this was for a vacancy that is budgeted. The incumbent left employment with the City.

**Mayor Pro-Tem Rentschler moved to approve a request to fill a Regular Full-Time Golf Course Laborer position, to be assigned to the Golf Course/Community Services Department. Commissioner Hernandez seconded the motion. Motion carried with a vote of 6-0-0.**

18. **Consider, and act upon, a request to fill a Regular Full-Time Parks Laborer position, to be assigned to the Parks/Community Services Department.** *(Matt McNeile, Assistant City Manager)*

Assistant City Manager McNeile said this is a vacancy assigned to the Parks/Maintenance position of Community Services.

**Mayor Pro-Tem Rentschler moved to approve a request to fill a Regular Full-Time Parks Laborer position, to be assigned to the Parks/Community Services Department. Commissioner Sikes seconded the motion. Motion carried with a vote of 6-0-0.**

19. **Consider, and act upon, a request to fill a Regular Full-Time Utility Construction Worker II position, to be assigned to the Public Works Department.** *(Brian Cesar, Public Works Director)*

Public Works Director Cesar told the Commissioners this was a budgeted position and had nothing to do with the Atari project.

**Mayor Pro-Tem Rentschler moved to approve a request to fill a Regular Full-Time Parks Laborer position, to be assigned to the Parks/Community Services Department. Commissioner Turnbull seconded the motion. Motion carried with a vote of 6-0-0.**

20. **Consider, and act upon, a request to fill the Police Officer position, to be assigned to the Police Department.** *(Robert Duncan, Police Chief)*

Police Chief Duncan told the Commissioners this was a budgeted position.

**Mayor Pro-Tem Rentschler moved to approve a request to fill the Police Officer position, to be assigned to the Police Department.**

Commissioner Sikes asked Police Chief Duncan why there were police officer positions at each Commission meeting. He told her there have been five retirements, four resignations for various reasons (moved, dropped out of the Academy, injuries), two officers going to the Sheriff's Office, two terminations, one transfer and one resigned after receiving a settlement from the City. That's a total of 15 in 15 months.

Mayor Pro-Tem Rentschler asked if this was the one the animal control officer would be transferred into. Police Chief Duncan said no.

**Commissioner Baldwin seconded the motion. Motion carried with a vote of 6-0-0.**

**21. Consider, and act upon, a request to fill the Animal Control Officer position, to be assigned to the Animal Control/Police Department. (Robert Duncan, Police Chief)**

Police Chief Duncan told the Commissioners this was also a budgeted position. The animal control officer is going to be hired as a police officer.

**Mayor Pro-Tem Rentschler moved to approve a request to fill the Animal Control Officer position, to be assigned to the Animal Control/Police Department. Commissioner Turnbull seconded the motion. Motion carried with a vote of 6-0-0.**

**22. Appointments to Boards & Committees. (Susie Galea, Mayor)**

Mayor Galea announced there are no nominations at this time.

### **PUBLIC COMMENT**

#### **A. Sharon Hodges commented on the following:**

1) Ms. Hodges addressed the Atari issue. She thought perception was almost 100% of peoples' truth. There has been a lot of dialog about this dig at the dump and all that entails because of our high winds. Those who haven't heard to what you said tonight need to know about what you are doing as Commissioners to protect our public safety. Whether you believe there is mercury or simply common garbage there it still makes you wonder about this dust blowing around, especially if you have a respiratory problem. She encouraged them to list these things, perhaps on the website, that the environmental people will be here to oversee the project. If they find anything harmful, there are steps in place to immediately stop the project; she didn't know that until she heard it tonight. She felt this information could be included on the City website in order to alleviate some of these fears. It would show us you do care and are considering all the issues with this project.

### **CITY MANAGER'S REPORT**

1) City Manager Stahle gave credit to the staff at the Parks Department led by Erik Marion.

2) He pointed out some dates to be reserved in May for Budget Discussions. We are targeting May 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 12<sup>th</sup>, and 13<sup>th</sup> - from 3:00 p.m. until about 6:00 p.m. That is a Monday through Wednesday and then the following Monday and Tuesday. Hopefully, you will all be able to make that and we'll get through the Budget process.

3) He remarked the City Engineer had sent a report to the Commissioners electronically that we promised at our last meeting, analyzing in detail the situation on all the construction projects.

### **REMARKS AND INQUIRIES BY THE CITY COMMISSION**

**Mayor Pro-Tem Rentschler commented on the following:**

1) Mayor Pro-Tem Rentschler said to the City Manager there had been an accident at Fairgrounds and Florida. As you are coming west on Fairgrounds, the stop sign is behind a tree so that may be why people have been missing it. City Manager Stahle clarified the area he was talking about.

2) His next concern was about the Yield signs, Stop signs and even Pedestrian signs in Cloudcroft which the State put up and have LED's on them. Could we do that? He felt a spot for one of these would be heading east on Indian Wells and making the south turn onto Washington. All the rest of our streets have a merge lane, but here you are right in the middle of traffic and if someone is turning left.... and he knows personally of one accident there. Perhaps one of those Yield signs would be appropriate there. City Manager Stahle said we would check that out. He went on to say we are exploring every option on Fairgrounds and Florida to get that done immediately, and it is particularly frustrating because he had expected it to be in by now. He said we are looking at options including working with the State DOT to borrow one of their lights. We will take a hard look at Indian Wells and Washington, also. Mayor Pro-Tem Rentschler thought the State would have one of those Stop signs they would lend. City Manager Stahle said we are looking into all options.

**Mayor Galea commented on the following:**

1) She said she had been out last week and thanked Commissioner Sikes and Commissioner Baldwin for attending meetings for her.

2) Prior to last week, she had attended the New Mexico Municipal League's District Meeting where legislation changes were discussed. She had also attended the annual Landfill Meeting along with Commissioner Hernandez and Mayor Pro-Tem Rentschler.

3) She addressed concerns about the Landfill. She noted our Staff and Mr. Lewandowski have sat down with the public to listen to concerns, but many have not listened to facts and reason. The dust from the Landfill is not a contaminate; no more so than what you are breathing in this room. You would have to live in a bubble to avoid all germs. Many have been hammered and accused of killing children with this dust from the Landfill. She remarked it is absurd and needs to stop; there is nothing wrong with the dust from our Landfill.

**EXECUTIVE SESSION** (Roll Call Vote Required)

*Recess into Closed Session in compliance with Section 10-15-1.H, NMSA 1978 (2010 Cumulative Supplement), to discuss:*

- **Sale, Acquisition, or Disposal of Real Property (Washington & First St. realignment/ICC Property)**

**Mayor Pro-Tem Rentschler moved to recess into Executive Session to discuss Sale, Acquisition, or Disposal of Real Property (Washington & First St. realignment/ICC Property) at 10:41 p.m. Commissioner Hernandez seconded the motion. Roll call vote was taken. Motion carried with a vote of 6-0-0.**

**RECONVENE INTO OPEN SESSION**

**Mayor Galea called the meeting back into open session at 11:00 p.m.**

**23. Consider, and act upon, any action as a result of Executive Session.**

Mayor Galea remarked that action would now be taken concerning the Executive Session. She first asked for any comments.

**Mayor Pro-Tem Rentschler moved to approve to authorize the City Attorney to commence condemnation proceedings for the purpose of acquiring a 0.546 acre tract of real property and a .043 acre construction easement in Tract A, Car Wash Subdivision. Commissioner Sikes seconded the motion.**

Mayor Pro-Tem Rentschler said we have been trying to get this done for months now and the idea is not to condemn this property, but to get the Catholic Church to come and work with us. We would rather not do this but need to keep the project on track. When the new school is built, school buses and everyone else need to have adequate access to the two schools beyond the intersection.

Mayor Galea said this is something the City Attorney has tried to work out with the Immaculate Conception Church (ICC) for a number of months. It is a community project to have this road to the new Desert Star Elementary school and here we are months later without a conclusion. Fair market value will still be given for the property and we'll be able to move forward and build a road as planned.

**Motion carried with a vote of 4-2-0. Commissioner Turnbull and Commissioner Hernandez voted nay.**

**ADJOURNMENT**

**Commissioner Hernandez moved to adjourn at 11:02 p.m. Commissioner Turnbull seconded the motion. Motion carried with a vote of 6-0-0.**



*Renee L. Cantin*  
\_\_\_\_\_  
City Clerk Renee L. Cantin

*Susie Galea*  
\_\_\_\_\_  
Mayor Susie Galea

*(Prepared by Nancy Jacobs, Deputy Clerk)  
Approved at the Regular Meeting held on April 22, 2014.*