

**CITY OF ALAMOGORDO, NEW MEXICO  
CITY COMMISSION REGULAR MEETING MINUTES  
7:00 P.M., COMMISSION CHAMBERS  
FEBRUARY 26, 2013**

**SUSIE GALEA, MAYOR  
JASON BALDWIN, COMMISSIONER  
NADIA SIKES, COMMISSIONER  
ROBERT RENTSCHLER, COMMISSIONER  
JOSH RARDIN, COMMISSIONER**

**AL HERNANDEZ, MAYOR PRO-TEM  
JIM TALBERT, COMMISSIONER  
BOB CARTER, INTERIM 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 by Pastor Bill Heithold and the Pledge of Allegiance was led by Commissioner Josh Rardin.

**APPROVAL OF AGENDA**

Commissioner Jason Baldwin moved to approve the agenda. Commissioner Robert Rentschler seconded the motion. Motion carried with a vote of 7-0-0.

**PRESENTATIONS**

- 1. Presentation of the Economic Development Study for the Otero County Economic Development Council.** *(Jack Allston, Foote Consulting Group, Presenter)*

Mike Espiritu, President and CEO of OCEDC, addressed the Commission and introduced Mr. Jack Allston, site consultant, who will be giving the presentation.

Mr. Allston explained the Foote Consulting Group is a site selection company doing a lot of workforce consulting, economic development and real estate. They have worked with Walmart, MeadWestVaco, ConAgra, ING, and Gateway Computers. He highlighted this study saying the project is in four phases and Phase 1 – Preliminary Target Industry Assessment - is done internally; Phase II – Community Assessment (Target Match Analysis) - are the strengths and weaknesses; Phase III – Selection of the “Best Fit” Targets; and Phase IV – Economic Development Recommendations. The way we begin is to look at surrounding states and look at the locations. In the Southwest, the main ones are call-centers, back office and IT, the second is warehouse/distribution followed by computer/electronics. We match the strengths and weaknesses of the area with those of the preliminary targets. Some key factors are access to transportation for Aerospace and UAVs, availability and quality of skilled labor for Computers/Electronics and Industrial Machinery, and labor costs and unskilled/semiskilled availability for Plastics Products. The key factors are transportation/logistics, labor costs, labor availability & quality, sites & buildings, education/training, key services (i.e. medical) and quality of life/cost of living. Cities who you compete with are Albuquerque, Dallas, Denver, Las Cruces and Phoenix. His company found transportation/logistics were below average in Alamogordo because of a lack of interstate highway access and limited commercial air service. Mr. Allston showed labor costs were strengths because wages were good. The labor availability is rated by our business owners as above average to excellent. When this is compared with other New Mexico communities, Alamogordo looks very good with good technical skills because of a university campus to provide training. In the area of labor quality, you look very good with impressive basic skills. Basic skills are a problem in many areas and we found Alamogordo did not have that problem. Sites/buildings is a little below average because there are only three pieces of fully improved industrial/office properties in the area, but the 200+ industrial park is an attractive site with rail service. Incentives are good and you have the GRIP option that is very attractive to businesses looking to locate in New Mexico. Key Services/education is

average-good because your school scores were somewhat low. Medical was a little low, but housing was good. He went on to point out all the areas of this graph. Mr. Allston noted Alamogordo was up at the top when it came to education comparisons. The cost of living comparisons were better than he expected them to be and he noted we are on a par with Las Cruces. Next, Mr. Allston explained Alamogordo's strengths and weaknesses for each target beginning with call tech/support/data centers. You have a Class A site where the Pre-Check facility is for a Call Tech Center. Some of the weaknesses are the lack of air service and the State tax structure for data centers. Aerospace Assembly/Testing (including UAVs) is an area where Alamogordo is very strong with strengths of labor availability, quality and costs, access to HAFB and WSMR, and incentives (capital intensive and training). Weaknesses are some skilled labor availability, lack of interstate highway access and specialized training programs. When it comes to plastics products, your labor costs are good; there is a good availability of natural gas, and an availability of skilled/unskilled/semi-skilled labor. Some weaknesses are a lack of access to market/transportation costs. The strengths for Electronics Assembly are your wage costs and access. He remarked that one of Raytheon's best plants is by Shiprock on Navajo land. To incorporate the Native American work force would be a real possibility for you down the line, and biofuels is a real potential for the Native Americans. One industrial machinery strength is our location – between Texas, California and Mexico. The possibilities of doing some work for those three regions are good, but he felt there could be some skilled labor availability issues down the line. Mr. Allston described some of the 'Best Fit' Target Industries for this area (by priority) as 1. Aircraft Equipment – UAV's, drones, other aircraft assembly & testing, 2. Call/Tech support Centers, 3. Electronics Equipment, 4. Plastics Products and 5. Industrial Machinery. Under Phase IV, he explained their recommendations to aggressively pursue those top targets, which OCEDC is currently doing through their work with the NM Partnership. They are participating in sales missions which he felt needed to be done four to five times a year, as well as trade shows. He said his company could do cost comparisons and lay out a project development and run numbers to show how you compete against Houston or Dallas, and get it down to net profit. He recommended a site selection related promotional brochure and a brochure for your industrial sites. Other recommendations made by Mr. Allston were to pursue Federal defense contract potential on Apache lands associated with electronics assembly, work with the Committee of 50 to develop a HAFB/community strategic plan, work with the City to develop a more comprehensive planning and zoning plan, set up a day care task force and strategic plan, include the Mescalero Apaches as part of Otero county EDC, create an economic development education program for all elected and appointed public officials (an 8-10 week session, 4 hours at a time), begin the establishment of a retail recruitment program and work to maintain the economic development organization as a 501 C3 or C6 Not-For Profit Corporation. He told the Commission there are 15,000 EDC's in the United States and it is estimated there are 1,000 deals a year. He calculated Alamogordo has gained three deals in the last two years and that is good. The Partnership gets a sizable amount of projects in and it is always Albuquerque, Las Cruces, Rio Rancho, and Alamogordo on the radar screen, with Hobbs and Roswell right behind. Mr. Allston then asked for questions from the Commission.

Commissioner Rardin asked if Mexico comes into the equation because they can do the work there cheaply. Mr. Allston responded the fact you are near Mexico is a benefit and you are seeing a lot right now at Santa Theresa. It is an opportunity you need to know how to work with. The good part to this question is there are more jobs coming back from overseas and some will go to Mexico. They would have to enter through here to get to Chihuahua.

Commissioner Jim Talbert asked if they had looked at our water availability. Mr. Allston responded yes, and those that were chosen did not require much water. They were more reliant on gas. He said you cannot have too much intensive water and intensive industry in New Mexico or any of the Southwest.

Mayor Galea mentioned the recommendation of brochures for the industrial parks. She asked what his recommendation would be as a first step for infrastructure. Mr. Allston said a shell building program would be really good, but he advised looking at the airport industrial park on a long term basis. Work on a design to open it up a little bit. The neighborhood is very near to it. In the shell building program, the shells go 40,000-60,000 and sometimes 80,000 square feet with high ceilings,

and in some communities they have continuous shell building programs. As soon as they filled one building, they began building another. If you put up a 60,000 square foot building now and the NM Partnership program knows about it, you will get a lot of activity right away. Access for financing this can be an issue, also.

Commissioner Rentschler asked where this report goes from here and how do we advertise this. He was concerned about the cost of living and labor cost figures and on what they based their figures. Mr. Allston said it all comes out of a database called the Economic Development Institute that has been around for about 20 years and is pretty solid. He said they also do Occupational Analysis out of this database. The Economic Development Institute is used by HR managers around the country. Commissioner Rentschler asked if this is available through you as well, and Mr. Allston confirmed this.

Mr. Espiritu addressed the Commission. He told them OCEDC had created a new strategic plan and will develop a new marketing strategy using this study. One of the steps will be to let the community know about the positive information they don't often hear.

Commissioner Nadia Sikes asked who was surveyed concerning Quality of Life in Alamogordo, and Mr. Allston said they talked to companies. He remarked the scores were pretty good and if he were in Alamogordo he would want to hear the good news about the schools and hospital.

Commissioner Rardin asked what the problems were with Planning and Zoning. Mr. Allston said he wasn't certain because he didn't have the plan in front of him, but he had heard there was not a comprehensive plan and the zoning was spotty. Mayor Galea said the comprehensive plan will be available by the end of April. Mr. Allston said this wasn't discovered until the end of the study. Commissioner Rardin remarked we tried to rewrite zoning a few years ago but didn't have an updated comprehensive plan, so the Commission at the time put a hold on the zoning rewrite. It hasn't been redone since the 1950's. The builders here have been working hard to get the City to prepare a workable planning and zoning plan, and it is much better than it was three years ago. Mr. Allston said if he came back and redid this part in a couple of years, it would be much higher.

Commissioner Baldwin asked about the 10 years plus site selection figures and Mr. Allston said there are estimated to be 1,000 deals a year that are 25,000 square feet before 50 jobs. Commissioner Baldwin asked if the trend was increasing or decreasing, and Mr. Allston felt it would stay steady for a while and then at some point in time there would be an upshot. He noted that in 2008-2009 it nose dived but it has picked back up again. When he has talked to other site selectors, they have felt the trend has picked up. There are not as many projects but there is more quality.

Mayor Pro-Tem Al Hernandez said you talked about thousands of companies coming in, how many are long term? He stated some companies come in, use up the incentives and then move on. Mr. Allston asked if we have clawbacks, and Mr. Espiritu remarked we do. If they do not fulfill their agreement we take back equipment or property or not pay them, and a large clawback is we give dollars after they create the jobs they promised. Mayor Pro-Tem Hernandez said we still see them leaving. Mr. Allston responded they may be some bad guys. He then told them about Gateway Computers which took place in 1997, they moved out in 1998 and they were history in 2003. The economic director in Rio Rancho, who is a good friend, said how wonderful it was they got all these people trained in tech support and how good they were so another company immediately moved into that building. Mr. Allston said you have some IT call center activity here, so the site selector will look here because there is a trained work force.

Commissioner Rentschler said the lowest thing we scored on was air service and he asked how we scored as high as we did since air service is non-existent. Mr. Allston told him it was because of air service to El Paso. Commissioner Rentschler asked how much of an impact it would be if we got air service here and Mr. Allston said the numbers would go up. Commissioner Rentschler felt air service would positively influence companies looking at Alamogordo.

Mayor Galea asked about our Cost of Living being very comparable to Las Cruces. She wondered if it would help to have more affordable housing in order to attract a work force. Mr. Allston said one of the problems we have with housing is financing. However, there is an instrument that will be available in New Mexico from US Bank. US Bank has an entity called a CDC – Community Development Bank Corporation. They get tax credits for low – moderate income housing, historical buildings and districts and for new market tax credit. There should be information about this on the US Bank website under Community Development Bank Corporation. The New Mexico Finance Authority may have more affordable housing projects, also. There will be more tools available, so housing is critical to your growth.

Interim City Manager Bob Carter asked about the numbers for employees and cost wages. He thought the UNM Bureau of Business Research could verify some of these figures. Mr. Allston thought they go to the Economic Research Institute to get their data. This is the elite data base in this country outside of the Census. They are pulling a lot of their data from the Census. He explained the Foote Consulting Group uses some of this but doesn't want to pull too much from the Census because we want to look at site selection criteria.

Commissioner Rentschler said we had a problem with the Census so how much was pulled from it. Mr. Allston replied he doesn't do much Census work at all. A lot of that data would not be applicable. Commissioner Rentschler said the 2010 Census showed us down by 20% from the year 2000. He felt it was a critical problem. Mr. Allston said it wouldn't be a factor to his company. He explained why a large insurance company was located in a small area of North Dakota.

Commissioner Rentschler asked about the drug/alcohol rating and how to interpret the number. Mr. Allston said the high number you have is good. He thought this rating was the best they had found in New Mexico so far. Mayor Galea thanked Mr. Allston and he told her Alamogordo is a great community.

### **CONSENT AGENDA** (Roll Call Vote Required for item No. 5)

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2. **Approve Minutes of the February 12, 2013 Regular Meeting of the Alamogordo City Commission.** (*Renee Cantin, City Clerk*)
3. **Approve statement related to the Executive Session of February 12, 2013.** (*Renee Cantin, City Clerk*)
4. **Approve the Memorandum of Understanding between the HAFB 49<sup>th</sup> Medical Group and the Alamogordo Department of Public Safety for Disaster Planning.** (*Robert Duncan, Police Chief*)
5. **Consider, and act upon, Resolution No. 2013-09 authorizing disposal of surplus property. [Roll call vote required].** (*Stephen Thies, City Attorney*)

Commissioner Rentschler moved to approve items # 2, 3, 4, & 5 of the consent calendar. Mayor Pro-Tem Hernandez seconded the motion. Roll call was taken for item #5. Motion carried with a vote of 7-0-0.

### **UNFINISHED BUSINESS**

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6. **Consider, and act upon, a request to proceed with the asbestos abatement of the two structures located at 732 Hwy. 70 W.** (*Lora Nelson, Senior Public Works Inspector*)

Lora Nelson, Senior Public Works Inspector said she was bringing this back after being requested in the January 22, 2013 meeting to get more quotes. She took three other contractors to the sight to prepare quotes. She met with GWC Construction and Southwest Abatement on the sight and did a

walk through with them. Most of the bids came back about the same as the original bid. Staff recommends we authorize the asbestos abatement to the lowest bid and get the work done so we can begin with the demolition.

Commissioner Rentschler asked to include Item No. 7 in this discussion before voting. He wanted to hear from Morris Calkins.

**7. Consider, and act upon, a request from the property owner to complete the demolition of the two structures at 732 Hwy 70 W. (Lora Nelson, Senior Public Works Inspector)**

Lora Nelson told the Commission she had received bids from two companies on the demolition of both structures on Hwy. 70. The property owner has submitted a letter requesting to do the demolition himself. At this time, staff recommends we can do that as long as a measurable timeline is laid out. We would track the progress of the demolition.

Commissioner Talbert asked if Mr. Calkins is allowed to do the work, would the asbestos abatement have to be done by a contractor first. Ms. Nelson confirmed that was correct.

Mayor Pro-Tem Hernandez asked to hear from Mr. Calkins concerning the abatement and demolition. Mr. Morris Calkins had a bid.

Mayor Galea read the lowest demolition amount was \$43,297.54. The lowest for the asbestos abatement was \$8,959.79. Mr. Calkins had an asbestos abatement bid of \$8,500. Mayor Galea asked if he intended to demolish the property after the asbestos was abated, and he answered he was already working on it. He felt it would be easier to do asbestos abatement after the walls and roof were down.

Commissioner Rentschler asked when we actually looked at the abatement last. Lora Nelson said the second request for abatement quotes went out January 23<sup>rd</sup>, right after the Commission meeting. They were given until February 18<sup>th</sup> to return their bids. The last one was received on February 18<sup>th</sup>. Mr. Calkins' quote was dated February 21, 2013 and came from GWC Construction. Ms. Nelson stated she had a bid from GWC Construction for \$13,453.13. Mr. Calkins said they came looking for him, he did not go out looking for them.

Mayor Galea asked if we could utilize that bid after the bid process was closed. City Attorney Thies said if that was the direction of the Commission, we could figure something out. The amount is below the threshold to require sealed bids. Mayor Galea said we have passed the time for sealed bids. Commissioner Rardin said since it is below the \$20,000 threshold, the project manager gets bids over the phone or in writing. City Attorney Thies added we don't have a deadline for bids, but have an internal deadline. We could call all of these tomorrow and ask if their price was firm, and then decide who to go with.

Commissioner Rentschler asked if GWC was an approved company and Ms. Nelson affirmed. Commissioner Rentschler would be willing to accept the \$8,500 bid. Commissioner Talbert asked Mr. Calkins if he was agreeable to this suggestion. Mr. Calkins thought he could get an even better price. Commissioner Baldwin had an issue with the process of a contractor giving us a bid and then going to the owner with another bid. He wasn't comfortable with it. Commissioner Rentschler said the property owner would be the one to pay for it and we would be seeing that it got done.

Commissioner Rardin said his question was who would be paying for it, and the Mayor told him Mr. Calkins would pay for the work. Mayor Pro-Tem Hernandez said Mr. Calkins could get his own pricing and pay for it out of his own pocket. He thought a time line should be created in which to get the work done. Commissioner Rardin asked if we could give him 30 days to get a lesser bid and get the work done. He felt the bids were high to do the work. Commissioner Rentschler moved to approve to postpone this for two meetings. Commissioner Rardin said Mr. Calkins has made some good progress and come to us in good faith tonight.

Mayor Galea asked the Commission if they would like to give Mr. Calkins another 30 days to solicit bids for asbestos abatement. Mayor Pro-Tem Hernandez asked Ms. Nelson how she felt about this idea. She told the Commission they would need to make very clear what the 30 day extension was for and how it would get done. Until the asbestos abatement is done, a permit cannot be issued for demolition.

Mayor Galea asked if the 30 days was simply to collect bids or if it was for accepting bids and beginning the abatement process. Mayor Pro-Tem Hernandez said 30 days would be for securing a contract and bringing that contract to the Commission. Commissioner Rentschler said a contract would be brought to the second meeting in March.

Commissioner Talbert said we have to be careful if a lower bid comes in and the other bids increase because of the time frame. That would be a consideration. Mr. Calkins was told the bid he was given would be good for anytime. Mayor Pro-Tem Hernandez asked Lora Nelson if she was ok with this.

Ms. Nelson asked for clarification. She stated we are giving a 30 day extension and when we meet after that 30 day extension the property owner will provide to us a copy of his contract with an asbestos abatement company. Mayor Galea corrected to the second meeting in March. Lora Nelson asked what direction would be taken if that was not achieved. Mayor Galea said no action had been achieved for the past 15 years so the City would have no other action than to take action, accept the lowest bid and abate the asbestos. Mayor Galea asked Mr. Calkins if this was agreeable to him, and he said it was ok.

**Commissioner Rentschler moved to table Item #6 until the March 26<sup>th</sup> Commission meeting. Commissioner Talbert seconded the motion. Motion carried with a vote of 7-0-0.**

**Commissioner Talbert moved to table Item #7 until the first meeting in April. Commissioner Rentschler seconded the motion. Motion carried with a vote of 7-0-0.**

**8. Consider, and act upon, the substitutions to the approved Fund 118 Projects. (Brian Cesar, Utilities Director)**

Utilities Director Brian Cesar updated the Commission saying they had on November 5, 2012, approved the original project listing for Fund 118. This is a one half million dollar road and drainage project. On December 18, 2012, this item was tabled and staff was asked to provide additional information on the Juniper widening project which runs from 10<sup>th</sup> Street to Aspen. There was a Town Hall meeting on December 20, 2012 concerning this item. About 29% of the 42 property owners in the area attended the meeting and their comments, if they left any, are in your packets. The Commission had asked for any comments on this.

Commissioner Rentschler talked about the Juniper Project and noted it had been under review for a number of years. He said the vast majority of the constituents in this area, which is in his district, are in favor of the widening project. Some would lose property value because of the loss of trees and so are not in favor. He felt this was an opportunity to look at all the infrastructure under that road such as sewer lines. He felt this needs to be approved as is.

Mayor Galea remarked she had received a lot of mail and email from residents this project would be affecting. These residents were complaining most about this and she didn't feel she could support it.

Commissioner Rentschler said you have to look at the overall response from residents who actually use the street and the public safety of those who use it.

Mayor Galea said there are other streets that have that same congestion and perhaps instead of spending a million on the road, use a few thousand for paint and stop signs. Commissioner Rentschler said we still haven't addressed utility problems. If you drive to Scenic and come back around it would be about a quarter to one half mile per trip so about one mile a day times five days

times 20 for the month. Thus someone is driving an extra 250 miles per year to get around it. We are doing other projects to lesson congestion and what if we stopped a project every time nine households objected. He said his phone calls and emails were in support of this project. Mayor Galea said she had only received one call of support and more than five who objected. Commissioner Rentschler said these were probably the same people who came to the meeting, and only five letters out of 150? She added there had been three emails, also, as well as a phone call in favor of.

Commissioner Rentschler said that's not a high percentage for all that drive that street. He noted when one drives down the street you have to dodge parked cars before the oncoming traffic. Mayor Galea is acutely aware of traffic congestion and flow because she drives it about eight times a week. She is not in favor of government mandating you will lose property value because we want to widen your street. Commissioner Rentschler said the property owners do not own the right-of-way. It is actually wider than that but we would only take it to the sidewalks.

Commissioner Rardin had also received a lot of calls, emails and letters. One was in support of and the rest against, and while he was initially in favor of this, he felt he could no longer support it. Maybe we could do No Parking during certain hours and re-striping the road as well as work on the infrastructure and repaving. He said Ms. Harshey in the audience might like to comment.

Mayor Galea asked for Public Comment at this time.

Theda Harshey who lives at 1109 Juniper addressed the Commission. She told them she had recently had her home re-stuccoed and that will put her less than 25 feet from the street. She doesn't want that much traffic so close to her house. She didn't think a yellow line down the middle of the street would stop anyone from going over it. Several of the neighbors have talked about parking signs during certain hours but many park on the street and leave vehicles there for a lengthy amount of time. Ms. Harshey thought this should be enforced before taking 2.5 feet of her property. As a general rule, the people on her street don't want this project. We do not want this, she said. The wider the street, the larger the vehicles will become and it will cause our houses to crack.

Harv Hamilton of 1104 Juniper spoke to the Commission saying he spent half an hour in the business office simply trying to determine when this would be on the agenda. He had come to a meeting to discuss the project and it didn't come up at that meeting. He found an envelope near his front door containing a copy of the code for the Heights Subdivision with a highlighted portion on it and found out today what it was all about. The fact that the covenant, written in 1979 and automatically renewed every ten years with the last in 2009, calls for a 25' break between the edge of the property to the sidewalk. His is 25' and so if you take away 2' the covenant will have to be changed. In the covenant it states 51% of those in the subdivision have to vote to change it. He asked if this has been looked at, whether city/county law could override that or one person could call for a vote. Mr. Hamilton said doesn't use computers to communicate.

Mayor Galea asked Commissioner Rentschler if he had reviewed the covenant, and he deferred to City Attorney Thies. City Attorney Thies said he had not looked at this covenant, but they wouldn't restrict this project if we needed to acquire additional right-of-way. Our concern would be not to take too much property so that they would be non-conforming. Commissioner Rentschler said none of the sidewalk would be removed.

Commissioner Rardin asked City Attorney Thies if we took an additional 2' wouldn't the whole side of the street be non-conforming. City Attorney Thies said he was not sure what the set back was, but assuming these are R-1, the set back is probably 20'. It is normally 25' but more and more property owners asked for 20' so we changed it.

Commissioner Rentschler said the setback will still be there if they come out to the edge of the sidewalk. Commissioner Rardin told him when you lay out a sight you don't measure off the back of the curb. You bring a surveyor out to find the property line. The City right-of-way isn't necessarily the

back of the sidewalk. Commissioner Rentschler said the right-of-way is wider in this case and takes in the sidewalk. But, this is up to the sidewalk, and we want to be as amenable as possible.

Mr. Hamilton went on to say he was pointing out what he was asked to do. The lady who gave the information to him is in Roswell going to college. As far as he was concerned, calling the meeting five days before Christmas with 10 days notice that he didn't know about wasn't good enough. He has owned this property since 1986, and several owners weren't there because the houses were vacant. He had sent out 43 notices and got five back from the post office. He came to the meeting on the same day a new real estate sign had gone up. He called this office and found out that house, which had been for sale for two years, was in foreclosure. He later learned the price for the house had been dropped from \$115,000 down to \$82,000 by the VA. Then he read another of those houses was being foreclosed on. He didn't understand how the City could send out 43 notices, with the owner of one property in a nursing home and another in California, during the holiday season. The most information he has ever received on this project was from Commissioner Rentschler, whom he greatly respected, but in this instance he has to speak up. He felt you didn't give us enough warning. Why was this? He felt Commissioner Rentschler could have put it in the newspaper. Mr. Hamilton would send letters out to everyone on the street. He told the Commission he had brought property on Crescent Drive in 1973 and that was the place to live back then. He knew a lady who had lived on the corner and couldn't go up 10<sup>th</sup> Street to get to her house. Instead she had to drive around a ways to get there. He talked to her daughter who thought they needed to build a bridge across the arroyo. The article the commissioner had written didn't mention anything about the narrow sidewalk down 10<sup>th</sup> Street the school children use. He had talked to someone who has grandkids living on Hope, and was concerned the school lights were too far up the hill. We might not have attended the meeting had we known it had been approved and we were only being asked if we agreed how it would be done. Mr. Hamilton said he was out of breath and that was all he was going to say.

Commissioner Rardin said there were several issues along that road that needed to be taken care of. He asked the price of improving the water and sewer under the street and repaving Juniper instead of scraping the whole project. Utilities Director Cesar said this actually ties into another agenda item. The water main on Juniper was tested and is in very good condition. Whenever we do any road project, at a minimum, the water service lines will be replaced. The majority of settling you see on that segment of Juniper is from the sewer service lines from various properties. By ordinance, the sewer service line is the homeowner's responsibility, from their home to the main including the tap. He remembered the cost as being in the neighborhood of \$100,000-\$120,000 to address the utility issues on that segment of Juniper. The \$1.1 million to do Juniper was for a total rebuild of the roadway. To do a mil and an overlay as you are talking about, he would have to refigure the cost. Commissioner Rardin asked if this was about a mile long and Utilities Director Cesar wasn't sure. Commissioner Rardin remarked that out of respect for Robert pushing for it, we need to at least get it repaved, if not widened. He didn't feel constituent support was there to widen the street, but they might be ok with fixing the infrastructure and paving it. Utilities Director Cesar said that does not address the issue of on street parking and weaving cars. Commissioner Rardin suggested putting up signs, like are on the side street off of Indian Wells, stating no parking between 6 am – 6 pm, then after that time when everyone is home in the evenings you can park there.

Mayor Pro-Tem Hernandez had looked at this project as a whole and he understood the feelings of some of the owners. He also looked at what is best for the City and Juniper is a main artery. He looked at the emails he had received and so he supported this project. We have several projects like this and in the past it has all been taken care of. We cannot bow down to everyone who says no. He reiterated he understands the frustrations of some homeowners and remarked his property line is 15' from the back of the curb so the City could come in within that 15' and that would put his home 20' from the property line. He knew that when he built the house, and knows the City can do this.

Commissioner Rentschler said that is true. Every one of the City projects will be opposed by someone or some group and at some point you have to decide whether we advance or not. The people who drive Juniper are in favor of widening it. It is the entire City's taxes who pay for it.

Mayor Galea asked if the road had stop signs would you still consider it a main artery. Commissioner Rentschler said he would. He felt stop signs would make the traffic worse. It is an ideal road for commuters. He expressed he was willing to suffer any political consequences over this.

Mayor Pro-Tem Hernandez said since this is his second time to be a Commissioner, he has seen when an idea is suggested people jump on it without having all the facts. Since he is up here to do what is right for the whole City, he will support this project. If it did not help anyone, he would not support it.

Commissioner Rardin asked if we are deciding whether we are doing the widening of Juniper or some other project in its place. The Mayor asked for the same clarification. Utilities Director Cesar said the Commission approved the Juniper widening project on November 5, 2012. On the 21<sup>st</sup>, the Commission asked we bring information from the Town Hall meeting. This project has been on the books for many years. We have received calls because of all the misinformation so we held the Town Hall meeting to clarify. We used the County tax rolls to get the names of all the homeowners in that area. The Commission does not have to take action on this if they don't want to. The project is funded and in place. We could begin the engineering tomorrow. The second part of this item concerns the Washington and First Street realignment. On November 5, 2012, the Commission approved the project listing with the exception of the Washington/First Street realignment. You wanted additional options. He repeated they did not need to take action on the Juniper widening.

Commissioner Rardin expressed he thought we were waiting on additional information for the Washington/First Street realignment. Interim City Manager Carter explained there was a meeting set up with Alamogordo Public Schools (APS) on March 6<sup>th</sup> at 7:00 pm at the Administration building. However, they have advised him the School Board has approved for an engineer to proceed with drawings for a new school at that location. They are looking at a much heavier use on Washington Street, so we need to make a decision. Commissioner Rardin said he would feel more comfortable making this decision after the meeting with APS. Mayor Galea asked again if we need to make this decision tonight.

Utilities Director Cesar said we have to have the second half of loan monies fully spent by December 31, 2014. This item has been delayed numerous times and we need to get started soon. Commissioner Rardin asked if we could delay it another two weeks. Mayor Galea asked if we could do the engineering design for the Washington/First St. and approve to stub it out. Commissioner Rardin said we don't know which way we are going yet.

Commissioner Rentschler stated it didn't make any sense to cut Washington Park in half. When you walk your district you should talk to your constituents about these big projects. He mentioned other projects – Florida and Indian Wells to the bypass. We are making headway and I have been talking to my constituents about this. There was no one in favor of cutting it and if you do it, there will be a large group come down to oppose it.

Interim City Manager Carter did not think two weeks would make or break the project. There will be an answer at the next regular meeting. Commissioner Rardin was in favor of postponing these two items until after the APS meeting, and making a decision at that next meeting. Mayor Galea asked him if he wanted to hold off on both, and was reminded Juniper had already been decided. He didn't feel Juniper was a main artery since it only runs between 10<sup>th</sup> Street and Indian Wells. Mayor Galea agreed. Mayor Galea said no action was required tonight and Utilities Director Cesar told her Commissioners could change that, but no action is required.

Thea Harshey wanted to know if she could ask for a re-vote on the Juniper Project. Also, she asked Commissioner Rentschler about another project concerning widening and code enforcement. He told her he didn't drive down Juniper but instead used 15<sup>th</sup> Street. Commissioner Rentschler said his family drives down Juniper and he drives down 15<sup>th</sup> Street to go to work and drives Juniper about as much as anyone in this room.

Commissioner Rardin asked for clarification on tonight's items. Mayor Galea said the Juniper project had been approved and we will table the First/Washington item until the next meeting. She said the Commission could re-vote on the Juniper project if they wanted to. Commissioner Rardin said he would favor a re-vote. Mayor Galea told them she would need a motion for a re-vote and a motion for tabling the Washington/First Street project.

Commissioner Sikes commented she appreciated all of the Commissioners comments. She said that at the December 20, 2012 Commission meeting no one raised their hands when asked to do so in favor of the Juniper project. She felt those citizens who show up to a public meeting to express their feelings need to be taken seriously. She felt those who support the project need to be here too. In this situation, she would have to agree with Commissioner Rardin.

**Commissioner Rardin moved to re-vote to approve the Juniper Project. Commissioner Sikes seconded the motion. Roll call was taken by the Clerk. Motion carried with a vote of 4-3-0. Commissioner Sikes, Commissioner Rardin, and Mayor Galea voted nay.**

**Commissioner Rentschler moved to table the Washington & First Street realignment until March 12<sup>th</sup>. Commissioner Rardin seconded the motion. Motion carried with a vote of 7-0-0.**

**Recessed at 8:57 p.m. and reconvened at 9:12 p.m.**

## **NEW BUSINESS**

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9. **Consider, and act upon, the first publication of Ordinance No. 1433 repealing Article 2.05 in the Code of Ordinances and enacting an Ordinance establishing a Police Department and a Fire Department. (Stephen Thies, City Attorney)**

Interim City Manager Carter said this is one of the issues we talked about in losing our ISO Rating because we hadn't done our training. In the past we have had issues with officers not staying after we have trained them and they have received their certification. One of the things I found was they didn't want to be firefighters. The cost to bring our police department up to code would cost us approximately \$650,000 in training. By us separating the two departments, we can have a fire department with volunteers, to where we will have no more than 21 people in the department. We can use 20 who want to volunteer from the police department and 12 from the City, or opening it up to the "Dirty Dozen" city employees who get \$50 per fire and \$50 per training, training once a month. We could get our department established and also go into the community to get more, including retired fireman from HAFB. By separating the two departments, we moved six positions from the police to the fire department. Salaries were already there. We may have to hold what we have and get more volunteers because of dollars. We have to focus on having a trained back-up and getting our ISO rating. Our new police chief tells us the police department is excited about not having to fight fires. This will give us a better opportunity to recruit and keep staff longer. We will be getting more funds through the State Fire Marshall's office and we can make the City safer and better protected. It will take some time, but with this ordinance we can bring a chief on the middle of April and can begin with two departments on July 1<sup>st</sup> with a new budget.

Commissioner Rentschler had an opportunity to visit the Alamo West Volunteer Fire Department out by HAFB. The county emergency manager talked with him, also. Commissioner Rentschler noted he had some experience in the past by serving with volunteer fire departments and there is usually a lot of activism with these folks. We could get qualified people from the base, and he supported this.

Commissioner Talbert asked Interim City Manager Carter if he envisioned a full paid department in the future. Interim City Manager Carter said it would take several years because of the expense of a full paid department. It would be 30-35 people and increase your yearly budget from \$700,000 to \$1 million. He didn't see this happening in the next five years, because you want to stay like you are with 20 in the police department that are volunteer, 12 with the City to back up your staff of 18 people. They will be paid also through the State with volunteer insurance, volunteer retirement and other

things. Commissioner Talbert next asked how citizens' fire insurance would be affected by going from a paid to a volunteer department. Interim City Manager Carter said we are trying to get it going as quickly as we can. We had to get an extension on our ISO rating and that affects your insurance. We were notified in December of an inspection and we asked for an 18 month extension to get our house in order. We have to get our training, equipment and fire hydrants done by then so we can pass the ISO. He said we are at a '4' and if we don't we are at a '7', but if we don't pass the test after the 18 months we have one more year to get in compliance. Commissioner Talbert asked if this was an efficient way to get our rating back. Interim City Manager Carter told him he had visited with the State Fire Marshal's office in length and this is their recommendation and the most efficient way to keep a department trained. We are trying to keep 50 trained in the police department at the same level as 20 in the fire department as well as volunteers. This takes a tremendous amount of overtime since we can't take off work to train.

Commissioner Talbert asked if we do go with the larger airplane and we turn 179, do we have to have a firefighter in the truck in the center of the runway within five minutes every time. If we get the larger airplane with 19 seats then we have to have a fire truck available within five minutes. Commissioner Rentschler said the volunteers bring their training with them.

Commissioner Baldwin said two things. He's heard several comments about fire fighters shining their truck and not fighting fires. His second question was how we got so far out of training over the last few years. Interim City Manager Carter responded it was because of turnover in the department and loss of a chief. One of the real issues is salvaging of the police department by keeping certified officers. For instance, Farmington offers a \$15,000 sign-up bonus at their police department and Hobbs offers a \$25,000 sign-up bonus for a certified officer. That is part of the problem. When we get them certified as a police officer and fire fighter and one of these towns offers so much for simply being a police officer, they are gone. We need to have our public protected for fires, have police protection, and keep those people here. The average age in our department is 27-28 years – very young. Commissioner Baldwin would like to see more information on Fire Response and how many calls they go out on. Interim City Manager Carter said we can do that. Mr. Carter went on to say if we can put a fire marshal in place then we could move our Code Enforcement under the Fire Marshal. They could then do full disclosure inspections. As a fire department, we should do a complete analysis of each structure in town.

Commissioner Rentschler referred to his recent article in the newspaper. It was side-by-side to an add offering sign-up bonuses for Farmington. He asked if we currently receive fire funds from the state and will this increase with these changes. Interim City Manager Carter told him yes and we will get additional.

Mayor Galea mentioned if we went from ISO '4' to '7' it would have adverse affects on our insurance rates.

**Commissioner Rardin moved to approve the first publication of Ordinance No. 1433 repealing Article 2.05 in the Code of Ordinances and enacting an Ordinance establishing a Police Department and a Fire Department. Commissioner Talbert seconded the motion.**

Commissioner Rentschler asked if there was anything saying we had to take on volunteers only from the City of Alamogordo. City Attorney Thies responded this simply does away with the DPS and creates Police & Fire Departments. Nothing is said about the volunteers in this ordinance. Interim City Manager Carter said we will make available any information you might like to see concerning this.

**Motion carried with a vote of 7-0-0.**

**10. Consider, and act upon, repairs to sewer service lines as part of the 2012 Street Maintenance Program. (Brian Cesar, Utilities Director)**

Utilities Director Cesar said this one was what we began speaking of in Item #8. The 2012 Street

Maintenance program completed 18 streets and the ADA upgrades, alley aprons and utility upgrades. One of the items not addressed in these projects were the sewer service lines because they are the responsibility of the homeowners. Previously, we have had issues where there were failures in the service lines either caused by the construction activities of the project or old issues not addressed up to that point. Ridgcrest, Heights Circle and Snow are three streets where depressions have been identified in the roadway in the are of the sewer main or sewer service line. Prior to doing any work on the roadways for this project, we took pictures of the sewer mains and did not find any issues. From past experience, the six depressions on the above three named streets appear to be issues with the homeowners service lines. The city will notify the property owner there is a potential issue with their sewer service line. The city would go in and expose the line and if we found it was the homeowner's responsibility, the area would be secured and the homeowner notified they have 30 days to make the repairs or come before the Commission and appeal.

Mayor Galea asked if the \$7,200 is only for the study and Utilities Director Cesar said due to the time constraints, we have already begun exposing some of these areas. I am asking the Commission to give us permission to give us the authority to complete repairs if we do find an issue with the sewer service lines, backfill the area and repave so we don't hold up the project. Mayor Galea asked him if the homeowner would be billed or if the City would absorb the cost. Utilities Director Cesar told her if the issue is on the homeowners' side, we will bill them for the repairs.

Commissioner Rentschler said the \$7,200 is to do the repair. Utilities Director Cesar said that is a worse case figure. Commissioner Rentschler said we have seen this over the years, and he was hoping we would have some eyes on whoever will be taping into the sewer main. Time and time again the guy who does the work isn't using good materials. Utilities Director Cesar said one of the locations we will go back to was done in the past three years by a local contractor. Commissioner Rentschler noted some don't get a permit whenever they cut into the roadway and Utilities Director Cesar agreed.

Commissioner Talbert wanted to clarify whether the homeowner has to pay just the exact repair to the connection and not the digging of the hole. Utilities Director Cesar said even in a non-project area, if there is a questionable depression, the city will go in and expose the lines at no charge to the homeowner. The homeowner will pay for the actual repair and the backfilling of the excavation. The pavement won't be charged since we are doing the whole roadway. Commissioner Talbert asked how much this would cost and Utilities Director Cesar said it would be between \$800-\$1,200 for each homeowner depending on how much service line, the nature of the brake, whether the main line has been affected and how much back fill we have to bring in.

Commissioner Rardin said most of these streets are in my district. He wanted to make sure the homeowners were notified beforehand concerning these repairs, and Utilities Director Cesar told him they had already notified the six homeowners. Commissioner Rardin asked if they had responded and Utilities Director Cesar said he had talked with all of them.

Commissioner Rentschler wanted to make sure what they were voting on. He asked if it was to approve the repairs for these six homeowners and Utilities Director Cesar agreed.

**Commissioner Rardin moved to approve repairs to sewer service lines as part of the 2012 Street Maintenance Program. Mayor Pro-Tem Hernandez seconded the motion. Motion carried with a vote of 7-0-0.**

**11. Discussion, and possible action, on the current procedures for Code Enforcement.**  
*(Josh Rardin, Commissioner)*

Commissioner Rardin had a number of complaints on the areas that are being covered. He felt many were areas no one cares about. He would like to see a plan developed where the city would clean its own area before ticketing someone else over minor issues. He would like to see Indian Wells, White Sands Blvd., Scenic, 10<sup>th</sup> Street, 1<sup>st</sup> Street, Juniper – the main streets cleaned up. Let's clean up the

areas that matter. A Code's officer who spends eight hours in one area is simply taking too long.

Mayor Galea asked Jim Baker, Code Enforcement Supervisor, if they have a schedule for a drive through. Mr. Baker said they don't have a schedule, but they try to hit the main arteries throughout town especially during weed season. They usually hit them at least twice during the growing season. The Mayor asked him how they handle city property and he said they were the easiest to take care of because they can contact the responsible department much easier than contacting individual property owners.

Commissioner Rardin would like to direct the Code Enforcement Staff to bring a plan back to the Commission soon. Mr. Baker told him there are a total of four officers on the Codes staff, and Commissioner Rardin said he would like to see each one assigned to specific areas so we know who to talk to if an area isn't being taken care of. Mr. Baker told him they have areas where each officer goes to. Commissioner Rardin wanted to see a plan of attack and he felt one person could do this. Jim Baker noted the problem many times is waiting for the property owner to correct the problem. Mayor Galea asked if there is something he would recommend to streamline the process. Mr. Baker said it's been an ongoing problem. We have to give them a certain amount of time. If we are able to contact them, they are given 15 days. If it a big job or there is an emergency we'll give them an extension. We are not able to contact most of the folks and it can take up to 30 days when we send a letter. The post office will try up to three times to deliver a letter.

Commissioner Rardin said the weed season is coming up, and he asked for an actual plan. Interim City Manager Carter said one of the things we face is the vacant property and repossessed property. Commissioner Rardin thought we should go out and clean these up and put a lien on the property. When the bank goes to close it, they will have to pay the lien to complete the sale.

Mayor Pro-Tem Hernandez said a basketball goal is on his property because he owns the only 150' of side walk on the north side of Fifth Street from the railroad tracks to the high school. The problem seems to be there are other violations in the area but only one person is ticketed. You feel like you are being picked on when you see multiple violations in your area. Commissioner Baldwin interrupted to say Commissioner Rardin just asked Mr. Baker not to hit the whole block. Mayor Pro-Tem Hernandez explained he was speaking of the obvious violations and Commissioner Baldwin said what's obvious to you may not be obvious to someone else. He encouraged them not to throw the Codes staff under the bus. Mayor Galea interjected the definition of obvious could be debated. Mr. Baker said they try to hit an area they have a complaint in and then hit the whole block. It doesn't happen every time, but they try to do this.

Interim City Manager Carter said an action plan will be brought back to the Commission. He thanked Mr. Baker and his staff for getting four out of eight properties cleaned up on the far side of the overpass. They have done a good job of cleaning them up.

**12. Discussion, and possible action, for online payment possibilities. (Susie Galea, Mayor)**

Mayor Galea noted the Commission had approved this for funding during the last budget cycle. She wanted to hear about the new system.

Mr. Armando Ortega, Customer Service Manager told the Commission they had heard his explanation of an on-line bill paying program back in March of 2012. In June of 2012, the Commission approved \$25,000 for the project. We have had several presentations from providers and narrowed it down to one company. Our software provider is creating the module that will allow us to bring in the payments and post without the staff doing it. City Attorney Thies is reviewing some agreements for this. We talked about how to charge the merchant fees. He noted the gas and electric companies charge a convenience fee of \$2.95. We talked about splitting the merchant fee with the customer. He hoped the Commission could make a decision tonight about how they want to proceed with the merchant fee. The convenience fee would be a set rate of about 2.25 % of the total transaction.

Commissioner Rardin had issues with charging people for the convenience. Customer Service Manager Ortega told him the credit card companies were charging him that amount. We have to recover it somehow. Commissioner Talbert has an even bigger problem paying someone else's convenience fee. He didn't ask the City to pay for the stamp he put on his envelope to mail his check. The person who uses this convenience should be the one paying the convenience fee. Commissioner Rentschler said can't we add that 2.25% for the convenience. Mr. Ortega said the average transaction for someone who is not delinquent is about \$70.00. Commissioner Rentschler said that's about \$1.40. There was a recent lawsuit that said you can indeed charge for the cost of the transaction. He would like to keep it at the percentage we are paying and not try to make money. Mr. Ortega said in 2010 we had \$20,000 in merchant fees, in 2011 we had \$25,000 and in our current budget year we are already up to \$18,000 and we have five months left. That trend is something that is going up and many places will not accept checks anymore. Commissioner Rardin asked about bank drafting, and Mr. Ortega told him there was not a charge with this.

Mayor Galea said since the merchant fees to the city are at \$25,000 and our GRT are not increasing, she did not think it would be good to absorb more merchant fees.

**Commissioner Rentschler moved to approve passing the cost of convenience fees on to the consumer. Commissioner Talbert seconded the motion.**

Mr. Ortega would like to clarify the convenience fees were for credit or debit card payments over the phone or on line.

**Roll call vote was taken. Motion carried with a vote of 7-0-0.**

**13. Consider, act upon, the appointment of a new representative to the Otero/Greentree Solid Waste Authority. (Brian Cesar, Utilities Director)**

Mayor Galea noted we need to fill the position held by former Commissioner Ed Cole. Utilities Director Cesar said the next meeting would be in Tularosa on March 28, 2013. Commissioner Rentschler mentioned it is important to go to the meetings because last year they made two trips to Ruidoso to meet and never had a quorum.

**Commissioner Rentschler moved to approve the appointment of Mayor Galea to the Otero/Greentree Solid Waste Authority. Commissioner Rardin seconded the motion. Motion carried with a vote of 7-0-0.**

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

Mayor Galea announced the Boards and Committees with current vacancies and reappointed Albert Simon and Bruce Knee to the Community Development Advisory Committee. She asked the City Clerk to notify these individuals.

## **UNSCHEDULED COMMUNICATIONS**

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**A. Darron Williams commented on the following:**

1) Mr. Williams had a bike rally and DPS escorted them. He was very impressed with the street blocking DPS did for them. The three officers he saw were top-notch.

**B. Wayne Mims, Alamo Quik Pik commented on the following:**

1) Mr. Mims noted he and his wife, Bonnie Deeds, own the Alamo Quik Pik. He asked for clarification on a meeting they had with the Mayor, Utilities Director Cesar and Mayor Pro-Tem Hernandez in November on the Washington and Pecan project. He had been assured the City would work with them to make sure their business would be impacted as little as possible. His question was that on the 31<sup>st</sup> of January a barrier was put up on the east side of the south-bound lane of Pecan immediately following the demolition of the building just to the west of the south-bound lane of Pecan. It's impacting their business and he would like to ask why the barrier was put up since construction

will not be started for a few months on the project.

Utilities Director Cesar said the barrier's are in the median area between the north and south-bound lanes of Pecan. During the demolition of the old vet clinic, that area was blocked, and we will soon begin construction of the roadway. For at least 15 years, that area has been a convenient place for traffic to cut across even though it is private property. As part of this project, vehicles will no longer be able to go through that area. As an example, he told the Commission warning signs had been put up noting new stop signs at Florida and Panorama well before the signs were actually put up and are still there. We are trying to get those who have used that area for years accustomed to the change. On Pecan, we are trying to make drivers aware they can no longer cut through that property. The fencing will be left up for that reason as well as the barrels and the fencing where the building was located.

Mayor Galea told Mr. Mims she was sorry this was interfering with his business, but the barriers were only blocking private property. Mr. Mims said he fully understood that but for 40 years that area has been used by patrons of the business. That has been used as an access for this convenience store, and the word convenience is very critical here. The City said it would limit the impact, so why are you impacting us at this point when you don't have to.

Mayor Galea said we are not choosing to impact your business. We are putting them up for a safety barrier and will begin construction soon. Mr. Mims told her when construction starts, he would fully agree any barriers should be put up for the safety of the citizens of Alamogordo. However, this won't be happening for several months. He didn't know the exact timeline, but when you need to put up barriers that will be fine. He asked again, why did you put up barriers at that point to block the access people have used for 40 years?

Mayor Galea said we are simply blocking off a private property that is not a median. Mr. Mims agreed but said 40 years of established use of that access to the convenience store shows the City condoned it, and all of a sudden you block it off. He said they understood they would lose a lot of money during the actual construction, but why are you doing it now when you don't have to. Mayor Galea said right now it's a safety measure to redirect traffic. People can still make a left hand turn on Indian Wells and a left into the business. When the City does realign Washington and Pecan it will drive more business into the convenience store and there will still be an access from Pecan into the convenience store for those making left-hand turns. Mr. Mims would just like to know why it's blocked off now when it isn't needed and construction has not started. He would like to have something besides saying we did it because we can.

Commissioner Rentschler said he was on Pecan looking at a job. He had to come down to Indian Wells and make a left and he wondered why the barrels were left where the area has been used for parking. He wanted to lessen the impact of construction for the people in that area and he thought it was more of a hazard the way it was now.

Utilities Director Cesar said perhaps he had not been as clear as he needed to be. The construction fencing was left up because in the realignment project there is going to be curbing gutter and a raised median area when the project is complete. Traffic will no longer be able to cut through like they have for 40 years. People have become accustomed to cutting across that property and when the project is completed you will no long be able to do so. We like to give advance notice of this just as we did on South Florida where the new stop signs were put in. Commissioner Rentschler said this is like a preemptive strike, and Utilities Director Cesar said this is to get everyone accustomed to not being able to cut through. He told them if the Commission tells him tonight to take it down, we will take it down even though he would not recommend it. Commissioner Rentschler asked how soon he expected to begin construction. Utilities Director Cesar told him the project from an engineering standpoint could be bid within the next 30 days. We still are going through property acquisition. We expect to break ground by July. Commissioner Rentschler thinks we should take them down for a couple more months.

Mayor Galea asked City Attorney Thies if there would be any liability for the City if we should take the barrels down and there be any accidents when July construction starts. City Attorney Thies remarked he wasn't a traffic engineer, but based on the time he has spent working with municipal government, you don't want traffic cutting across into another lane of traffic going a different direction that close to an intersection. You want to move those types of turns farther back from intersections. Potentially, someone going southbound on Pecan could cut across someone going either east or west bound and turning north on Pecan, not see that person and have an accident. He would suspect a traffic engineer would have it closed down to Indian Wells to minimize that potential. If that is a standard, we would be negligent and liable for the results. Commissioner Rentschler understood that, but he felt it was more dangerous now. When there is a traffic light there, it will be a different ball game. While it is not, those traveling northbound on Pecan are being made to go across Indian Wells and come back in again. As soon as we begin construction on the project there will be jersey barriers to keep that from happening

Commissioner Talbert said it seems like it's been like that for a long time. He asked why we would gain liability if we left it alone since it's been like that for a long time. City Attorney Thies said simply because we haven't addressed it doesn't minimize our potential for liability at this time. He said there is a two-fold issue here. There is liability, and we need to get people to modify their driving habits at that particular intersection. Commissioner Talbert thought we didn't need to practice that since you will stop at a stop light or intersection when it is there. He didn't think drivers needed to practice this for a while if there isn't any danger in the way it has been. He didn't see why we couldn't remove the barrels and see how it works.

Mayor Galea told the Commission we couldn't take action on this tonight since it was not an action item on the agenda. Anyone could request it be added to a future meeting.

Mr. Mims said when there is a curb there people won't be able to cross over the curb, and he understood that. Until then, he would like the City to own up to their promise to mitigate what is going to happen to our business during the short time before construction begins. Mayor Galea expressed she was sorry his business was being impacted. He said it is a convenience store and if you take away the convenience, people will go the other way. During the busy times of day, it becomes more dangerous for people to have to go around in order to get to the store.

Commissioner Rentschler would like to add this to the next agenda.

2) Mr. Mims had another item to bring to the attention of the Commission. He told them according to the flood control on this project, he needed clarification of the proposal done by Gannett Fleming West who did the analysis for redoing the culverts for this project. They assessed parameters for the amount of water that would be entering into the culverts. The parameters were an area bound by Pecan Drive on the west, 23<sup>rd</sup> Street on the north, Cornell Ave. on the east and Indian Wells on the south. He asked if the parameters were still the only analysis and in no other areas? If it is, he proposed the size of drainage was very inadequate. The size of drainage into that area is about four times that amount. He had a map to show them and pictures from the last flood. They show how much water truly goes through that area. He wanted to make sure it would be adequate for flood control for the City.

Utilities Director Cesar addressed his concerns. He told them what Mr. Mims stated, for the limits of what was looked at by Gannon Plumbing, was correct. What we are looking at for this project is the realignment of Washington and Pecan. We aren't addressing the entire basin done in previous studies. They are looking at the flows coming in on the existing ditch that parallels the east side of Pecan and turns directly behind the convenience center. There are sheet flows from undeveloped areas that do hit Indian Wells. As part of this project, we are not addressing all flooding potential in that area. As those properties are developed, it is the sub-dividers and property owner's responsibility, and as that property is developed those potential flooding issues will be addressed.

Mr. Mims said that didn't answer his question. He told them if you look at the drainage ditch going from 25th St., not 23<sup>rd</sup> St., where the drainage ditch starts, all the water coming down 25<sup>th</sup> St. and all the streets feeding into 25<sup>th</sup> St., all the property from Scenic to basically Pecan, all the way over to the Tays Center past the Water Tower, all the streets such as Nevada and in that area, all the water drains straight down into that ditch and into that area. If you are only taking one quarter of that and addressing it for you drainage ditch, you will inundate that drainage ditch in just a small rain much less a flood. You aren't looking at the parameters of what actually should be addressed – where that water is coming from and where it goes. That ditch is way bigger than past 23<sup>rd</sup> St.

Mayor Galea asked Utilities Director Cesar if he had looked at all the feed-ins to that culvert. Utilities Director Cesar said yes, we are looking at the flows at the ditch at 23<sup>rd</sup> Street. These are all the flows that come to that point, so it does address out to 25<sup>th</sup> St., the Tays/Holcomb ditch, and the college that do not connect with this ditch. Mr. Mims said everything to the south of that will flow, and Utilities Director Cesar finished his sentence saying it eventually enters into that ditch or flows out onto Indian Wells. All the flows in the ditch are accounted for in this study. Mr. Mims said it wasn't addressed in this and in his opinion there is a much larger area the water flows from and into that ditch. Utilities Director Cesar said we did not have that engineer go back and recalculate flows we already had showing what enters the ditch.

Commissioner Rentschler asked what the culvert size would be. Utilities Director Cesar said it will be a 60 inch culvert under Pecan. Right now it is a low water crossing. Water will be directed into a 60 inch culvert and the low water crossing will be eliminated through that area of Pecan. Commissioner Rentschler said he knew that last flood was a concern. We had just finished re-engineering that street and if you go to 23<sup>rd</sup> St., it looks like the curb and gutter now puts our water retention ponds into the houses at 23<sup>rd</sup> St. It looked like a retention pond over at 23<sup>rd</sup>. At that time, the water was being handled by what was going into the ditch at Pecan and Indian Wells. It was deep, but as long as we are not narrowing the capacity, he felt we were ok with it. Mr. Mims said he had no problem with that and he was simply bringing up a concern from what was in that proposal.

**C. Paul Sanchez commented on the following:**

1) He had a question on procedures. We just had a business owner who spoke to us about his business being impacted by barrels put up by the department. It wasn't a Commission decision to put these up and was a decision of the Public Works Department. He wondered why it was going to be put on a Commission Agenda two weeks from now when he thought the Public Works Department could make the decision. He noted it would be two weeks this business would be impacted, particularly when construction will begin and impact it more.

Mayor Galea said we are following parliamentary procedure. This is an action item and if the Commission chooses to remove those barrels, now that we know traffic is crossing illegally across private property, it can be a liability for traffic accidents. We would have to absorb that liability. Mr. Sanchez remarked even though it has been ignored for the past 40 years, we have to accept it and leave the barrels up, thus impacting the business for the next two weeks. Mayor Galea agreed.

**CITY MANAGER'S REPORT**

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1) Interim City Manager Carter reported he and Assistant City Manager McNeile have been putting together a study on leakage. Assistant City Manager McNeile addressed the Commission saying they had received two proposals. One was within our \$50,000 professional services and was in the Commission Agenda Report. He asked they all look it over the next two weeks and we will bring it back to the Commission. Perhaps we will consider doing this retail study that would take into consideration potential retail leakage. Interim City Manager Carter said it would be our retail sales as well as leakage to see what our definite needs are. Commissioner Baldwin made the recommendation to pass this information on to OCEDC and shared with the Chamber and any organization that can use it in a positive way. Interim City Manager Carter remarked it had been recommended in tonight's presentation to do a retail sales study and this would assist with that.

2) Interim City Manager Carter reminded the Commission they had hired a contractor back in July to do a study of the lost 7,000 people in Alamogordo because of the 2010 Census. We will try to have an action item for you at the next Commission meeting.

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

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#### **Mayor Galea commented on the following:**

1) She thanked the members of the Commission and Staff who attended the Annual Municipal Day in Santa Fe. We brought back valuable information and signed a document stating we felt there were multiple bad bills, such as SB 540 – Food and Medical Tax Hold-Harmless provision. This would remove \$2.7 million dollars from our budget if passed which is 26% of our General Fund. HB 369 and SB 369 are a reform of our tax code that would affect a local government's municipal share from the State by 1.225% to .508% and the State's share to 2.125%. The State would have a larger piece of the pie for Gross Receipts Tax. HB 612 GRT – reduce the States GRT down from 5.125% to 4.5% which is good. Unfortunately, we will see the reduction. HB 515 – The Training and Suspension of Municipal Officers – a State mandate that municipal officers receive Department of Finance training or they would lose their elected or appointed seat within one year. Already, the NMML provides training for elected officials so the mandate is not necessary. SB 434 is the same as HB 515.

2) She attended Black History luncheon on HAFB last Friday. General Bingham spoke on her journey as a black woman and it was very inspiring. She thanked the Commission and City Staff for all they do.

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

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*Adjourn into Closed Session in compliance with Section 10-15-1.H, NMSA 1978 (2001 Cumulative Supplement), to discuss:*

- Pending Litigation (Bussell vs. City, et al)
- Purchase, Sale, or Acquisition of Real Property (1900 US Hwy 54S & 200 S. Florida Ave.)

Commissioner Rardin moved to adjourn into Executive Session to discuss Pending Litigation (Bussell vs. City, et al) and Purchase, Sale, or Acquisition of Real Property (1800 US Hwy 54S & 200 S. Florida Ave.) at 10:26 p.m. Mayor Pro-Tem Hernandez seconded the motion. Roll call vote was taken. Motion carried with a vote of 7-0-0.

### **ADJOURNMENT**

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*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 March 12, 2013.