

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
7:00 P.M., COMMISSION CHAMBERS
JANUARY 28, 2014**

**ROBERT RENTSCHLER, MAYOR
NADIA SIKES, COMMISSIONER
JOSH RARDIN, COMMISSIONER
AL HERNANDEZ, COMMISSIONER
JIM TALBERT, COMMISSIONER**

**JASON BALDWIN, MAYOR PRO-TEM
SUSIE GALEA, COMMISSIONER
MATT MCNEILE, ASST. CITY MANAGER
STEPHEN THIES, CITY ATTORNEY
RENEE CANTIN, CITY CLERK**

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

Mayor Rentschler called the meeting to order at 7:00 p.m. Roll Call was taken by the City Clerk. City Manager Stahle was absent. Assistant City Manager McNeile filled in for him. Clerk Cantin announced there was a quorum present. The Invocation was given by Karen Pagle and the Pledge of Allegiance was led by Commissioner Sikes.

APPROVAL OF AGENDA

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

Commissioner Rardin asked to add an item to the Executive Session for Limited Personnel Matters (City Manager / Finance Director) and moved to approve the agenda with this addition.

Commissioner Galea asked for discussion.

Commissioner Hernandez seconded the motion. Motion carried with a vote of 6-1-0. Commissioner Galea voted nay.

Commissioner Galea asked for discussion and said she didn't understand the Limited Personnel Matters for City Manager if the City Manager isn't here.

Commissioner Rardin remarked we have an issue that needed discussion pertaining to the City Manager/Finance Director. He said the City Manager chose not to be here tonight and Commissioner Galea told him the City Manager was ill. Commissioner Rardin repeated he wanted this added because we need to discuss something about it. Commissioner Galea said she votes nay.

PRESENTATIONS

- 1. Presentation related to an update from Holloman Air Force Base including the F-16 transition and information of the population increase expected by the end of March.**
(Colonel Andy Croft, Presenter)

Colonel Croft introduced himself as the Wing Commander of Holloman Air Force Base (HAFB). He showed a PowerPoint program along with his comments, and noted it had been about one year since he last addressed the Commission. Colonel Croft explained the current status of HAFB and explained the changes coming up in the next year to year and a half.

Colonel Croft explained the sign that sits at the entrance of the base as it will appear in April when the F-16s will be added and the F-22s will depart. He noted HAFB is the primary training base for the MQ-9 Reaper and the M-1 Predator as well as the German Air Force Tornado training operation. He pointed out the other entities that are not in their wing but reside at HAFB. There are about 4,500 folks in the 49th Wing and the 44th Fighter Group is a reserve component of about 300 reservists who

were all in the F-22 operation. The 96th Test Group does all the sled testing and avionics testing, and the 4th Space Control Squadron comprising 60-80 personnel will soon be moving to Peterson Field in Colorado. This will leave a 65,000 sq. ft. facility empty unless we move into it or bring in a new mission. They originally had 24 F-22s, but are now down 16 with about four a month being moved out. This will be final by about the middle to end of April and at that point the F-22s will be gone along with the sonic booms you hear. The F-16 will not go super sonic nearly as much as the F-22. The MQ-1 is at nine aircraft and the MQ-9 is at 15 and will grow to 24. The Air Force will eventually divest itself of the MQ-1 as the original Remote Powered Aircraft (RPA) and move all those missions into the MQ-9 which is the aircraft of the future. There are seven T-38s which support the F-22s and some will move to Tyndall. The GCS, Ground Control Station, is the box they fly the RPAs out of and we treat as an aerospace vehicle. The BEAR (Base Expeditionary Airfield Resources) Base function is to go anywhere in the world and stand up a remote airfield. They can set up a base for a couple of thousand people and HAFB is the only base in the Air Force with this capability. We also have two transportable air clinics that our medical group can send out.

Colonel Croft went on to show the history of HAFB which began in World War II. The F-117A retired in about 2008; the F-22s and MQ-1s and MQ-9s arrived in 2009; our second MQ-9 squadron stood up about one year ago; we now are at steady state for the RPA mission. The F-22 will be gone by about mid-April and the first of 50 F-16s will arrive in April of this year and about four per month will arrive through 2015. We will go to 24 MQ-9s by 2015 and the GAF will bring the Eurofighter here somewhere around 2016-2017, but that is dependant upon how many aircraft they buy. They have an agreement with the GAF to host up to 42 aircraft; right now there are only 14 on the base so we can add those planes with no modification to our agreement.

HAFB trained less than 200 RPA air crew in 2009 and are up to about 730 at this time, so the RPA program has grown significantly over the last four years. We now are at a steady state, and we are the only base in the Air Force that trains these pilots and sensor operators who fly those airplanes. So they are the training unit for RPAs and will soon be the training unit for F-16s. He showed the ramp up of personnel associated with the F-16 mission. There are about 20-30 F-16 related personnel at the Base now and we will go up to just under 800 by the end of 2015. The net change of personnel over the next year and a half is going to be about 600 more permanently stationed people plus F-16 students coming in. That is about 10% or more of our base population so you will see an increase related to the F-16. Because we will primarily be a training base for the F-16s, you will see more aircraft flying over the Base than you did with the F-22s which basically took off for a mission and came back to land.

The Colonel gave an update on the GAF saying they recently reduced their Tornados to 14, but will increase to 16 in the next month or so. There about 1,400 total military and family members who work and live in Alamogordo. The GAF function at HAFB is the biggest foreign investment training operation in the United States. The Germans also shut down their command structure at Ft. Bliss and moved it to HAFB, so their commander is now in charge of all German Forces training in the United States.

HAFB contributes about \$1.3 million dollars per day to the local economy. Over half of Alamogordo's population is related to active duty retirees, civilians, contractors or others somehow involved at the Base. Colonel Croft explained there are over 3,000 17-24 year old active duty folks who live and work at the Base with 1,400 of them single and under the age of 23. He noted it was important when businesses like the new Buffalo Wild Wings opens because it gives them something to do on the weekends. He said they work very well with the Alamogordo Public Schools (APS) and have an Elementary and Middle School on the Base. The Middle School at HAFB won the Blue Ribbon School for this year and was the only one at the Middle School level in New Mexico to do so. He praised Alamogordo High School and said he shows this information to new folks coming in. He also shows new folks the information on Gerald Champion Hospital since the Base does not have a hospital or emergency room. Colonel Croft quickly covered the Local Volunteer opportunities and he encourages those on Base to volunteer in the community and county. He thanked everyone for interacting with his airmen when they come to do this.

He noted again that the Base would grow in the next year and a half by about 10% , the F-22's will be gone by April, the F-16s will begin arriving in April and that operation will be two squadrons training F-16 pilots, not a combat operation. There will be RPA training, F-16 training and GAF training so we will become a training base versus a base that deploys. We will be sending less out to Afghanistan than we have in the past although we will continue to deploy about 10% of the Base at any one time mainly to Afghanistan and the big bases around the Gulf in Southwest Asia. Our police, security forces, civil engineers and our BEAR Base folks will continue to deploy to support operations down range. He left pamphlets for the Commissioners. One described Space Control Squadron Facilities and the other described the 49th Wing. He felt it was important we lobby for new missions at HAFB. Long term, he said Holloman was the best airfield he had ever been to and was the best airfield that flies Stealth aircraft. This is the base that should host the F-35 because it has the best hangers in the air force – 44 of them. We have the best weather, overland ranges and super sonic capabilities. As the F-16 retires in about 2025-2030, we as a community should press for the F-35. If we begin propagating that message now, we will be in lock step when it is decided where the F-35 basing will be. They will be building F-35s 25 years from now. We need to do things in concert in order to save the taxpayer dollars.

Commissioner Galea thanked him and said there was a ground breaking on January 16th and HAFB sent Colonel Bennett. He was unable to take part in the actual ceremony, but she assured Colonel Croft HAFB is very much a part of our community. HAFB owns the Bonito Line and will help with cutting that ribbon later this fall. She was grateful for the relationship HAFB has with Alamogordo and it has no bearing on the community to Holloman when our mayor does a no-call/no-show to the Annual Awards Banquet. She was very sorry there were two empty seats at their head table. She again thanked him for his presentation.

Mayor Rentschler asked him about the RPA pilot training per year and Colonel Croft said they would be training 730 per year, pilots and sensor operators. Mayor Rentschler asked if they stayed on base and how long it took to train. Colonel Croft told him if they are here TDY (less than six months) they are on base, but if here PCS (Permanent Change of Station) they can live wherever they want which generally means in a downtown apartment. He noted some live in the new trailer park by the airport where the accident happened the other day. The F-16 will be the same; the new students will be here longer than six months and will need to live somewhere else besides on base because base housing is full. That will be about 50-60 students a year. The ones who have had previous F-16 training and will be here TDY, three to four months, will stay on Base if there is room; if not they will have to stay in a hotel or rent an apartment downtown. The Base housing is nearly full at this time. Basically, it will be a mix – some on base and some downtown.

Mayor Rentschler asked how many F-16 pilots would be coming and how long will they stay. Colonel Croft told him it will slowly ramp up and the first ones who come in May will be those previously trained on the F-16 and will be here only two-three months at a time. There will only be 20-30 through the end of 2014. As we get to 2015 and set up the second squadron, we will have 50-80 per year in the over six month and under six month timeframe. The maximum will be about 70-80 per year. Mayor Rentschler said we see economic activity as a result of that and Colonel Croft agreed, adding the bigger economic activity will be from the 600 or so families over the next year and a half.

Mayor Rentschler stated he has known Colonel Croft for the last year or so and felt he was the most dynamic commander they had ever had at HAFB. The interaction has been outstanding and he noted they might not see him again in this situation. Everyone applauded.

Colonel Croft mentioned the accident that happened recently where three of their airmen had been killed on Airport Road because of excessive speed. One was 26, one was 21 and one was 19. The memorial service for the first airman was today and there would be another on Thursday and then the last next week. He thanked Lenora Stevens and Senator Bill Burt for reaching out and offering help. He remarked these things happen sometimes and are a tragedy. He also said that if the next person who comes doesn't present to the Commission, please ask them to do so. The Colonel said he enjoyed interacting with Alamogordo and other communities and he found he had to continually get

the message out until we get it right as a group. When people are looking for new basing opportunities in the future, it is important when they see the base and the community in lockstep. He felt as long as we all know what the issues are, it really helps HAFB.

PUBLIC COMMENT

Mayor Rentschler mentioned that three minutes would be allowed for each person who wished to speak.

A. Sid Benson of 2809 Sunrise Ave. commented on the following:

1) Mr. Benson told the Commissioners that when he signed in to speak he was unaware there had already been a meeting over the issue which concerned him – the Catholic Cemetery. He did not want to disturb any negotiations so he saved his comments for another time. He would like to be informed when this issue will be on the agenda so he or others who are concerned could come and visit with them about it.

Mayor Rentschler remarked there are intensive negotiations going on, and Mr. Benson said he was aware of that. He had not known there had been some discussion this morning until after he had signed up to speak tonight. He said he was asking for fairness to be considered for those who have a love for that cemetery.

B. Paul Sanchez of 701 Seventh Street commented on the following:

1) Mr. Sanchez said his first question was concerning the unfortunate accident on Airport Road that Colonel Croft had spoken about. He was on that road last night when he took his daughter to a Civil Air Patrol meeting and noted there were not any reflective signs at the curve where the accident took place. Though there may have been other contributing factors to the accident, it is very dark out there and a dangerous curve. He wondered if it would be possible for our Roads people to look at this and put some reflective arrows both as you are going south and as you are coming from the Airport.

Mayor Rentschler told him we are actively looking at the accident site and evaluating what is in place and what may need to be in place. Mr. Sanchez said right now there isn't anything in place and hoped the City would do that.

2) He thought it was unfortunate Commissioner Galea had called Mayor Rentschler out about not making the Annual Awards. He then asked if he had missed a re-organizational meeting, because the last time he had checked, Mayor Rentschler was the mayor. He remarked when he looked on Commissioner Galea's website it says, "Currently Suzie devotes herself full-time to the position of Mayor of Alamogordo," and he wondered why she was stating that when he is the mayor. Mayor Rentschler told him he had no comment at all.

C. Eugene Downer of 500 Lovers Lane commented on the following:

1) Mr. Downer said he was here to talk about trees, but before that he wanted to give a pat on the back to two employees. One was Megan Wade for the good job she was doing on the bill stuffer because she gets a lot of information on a few sheets. He also appreciated Mayor Rentschler's comments which were informative.

2) He then spoke about dead trees. He had been to look at the new million dollar intersection which he noticed had no identifying street signs. On the way back he noticed there were a lot of dead and dying trees on Indian Wells Road. He contacted Commissioner Sikes, Mayor Pro-Tem Baldwin and Commissioner Rardin concerning these trees and tried to facilitate some action to have them removed because they look bad. He wanted each of them to look at these trees again and follow up on their initial actions. While coming here tonight, he noted there are about 10 dead trees at the Zoo. Mr. Downer had mentioned this to Parks Supervisor Erik Marion several months ago and Mr. Marion told him it would be a good winter project. Mr. Downer noted winter is over and the dead trees are still there. This is and has been the Logging Capital of the Southwest, so surely we know how to cut down a tree. He wanted the mayor and commissioners to facilitate some action on this, because if our parks look bad it hurts property values, is a negative asset for the community and makes it more

challenging for the Community Development people to attract folks. He had been at Alameda Park in the summertime with service members and their families and couldn't find any shade for picnicking. He told Mayor Rentschler there was a dead tree at the south end of Juniper which surely he wanted to take care of.

CONSENT AGENDA (Roll Call Vote Required for items No. 7, 8, & 12)

2. **Approve Minutes of the January 28, 2014 Regular Meeting of the Alamogordo City Commission.** *(Renee Cantin, City Clerk)*
3. **Approve statement related to the two Executive Sessions of January 28, 2014.** *(Renee Cantin, City Clerk)*
4. **Approve the Lodger's Tax Expenditures for Tourism & Travel.** *(Jan Wafful, CS Admin. Assistant)*
5. **Review and authorize all Resident Parking Only, Mobility Disabled Resident Parking Only, and Commercial Mobility Disabled Parking Only sign locations to continue to be posted.** *(Jim Stahle, City Manager and Renee Cantin, City Clerk)*
6. **Accept the Annual Reports from City Boards, Commissions and Committees for Calendar Year 2013.** *(Renee Cantin, City Clerk)*
7. **Approve Housing Resolution No. 2014-02 related to Resident Police Officers at the Housing Authority. [Roll call vote required]** *(Maggie Paluch, Housing Manager)*
8. **Approve Resolution No. 2014-04 designating the polling places, and appointing the Precinct Board Members for the March 4, 2014 Regular & Special Election. [Roll call vote required].** *(Renee Cantin, City Clerk)*
9. **Approve a Joint Powers Agreement for the financing and establishment of the Otero County/ Greentree Regional Landfill.** *(Brian Cesar, Public Works Director)*
10. **Approve the increase to the State Grants-in-Aid for the Alamogordo Public Library for FY2014.** *(Sharon Rowe, Library Manager)*
11. **Approve the award of Public Works Bid No. 2013-016 to Apple Mountain Constructors, LLC related to the Bonito Campground Crossing Repairs project, in an amount not to exceed \$231,576.25, including tax.** *(Bob Johnson, Contract Coordinator)*
12. **Consider, and act upon, Resolution No. 2014-06 to substitute Albertson's LLC for Super Market Developers, Inc., in the Gross Receipts Investment Program Agreement. [Roll call vote required]** *(Stephen Thies, City Attorney)*
13. **Consider, and act upon, the purchase of a 0.018 acre tract of land and a 1,920 square foot construction easement both in Lot 3F, Replat F, Motel 6 Subdivision at 232 Panorama Boulevard.** *(Stephen Thies, City Attorney)*
- A-1. **Consider and act upon settlement of Wilder v. City of Alamogordo, et al.** *(Stephen Thies, City Attorney)*

Item # 2 and #3 were revised to correct the date to January 14, 2014.

Commissioner Hernandez moved to approve items # 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, A-1 of the consent calendar. Commissioner Rardin seconded the motion. Roll call was taken for items #7, 8, & 12. Motion carried with a vote of 7-0-0.

NEW BUSINESS

- A-2. Consider, and act upon, a request to fill the Part Time Recreational Clerk positions, to be assigned to the Alamogordo Family Recreation Center/Community Services Department. (Matt McNeile, Assistant City Manager)**
- 14. Consider, and act upon, a request to fill the Recreation Aide position, to be assigned to the Alamogordo Family Recreation Center/Community Services Department. (Matt McNeile, Assistant City Manager)**
- 15. Consider, and act upon, a request to fill the (2) Lifeguard positions, to be assigned to the Alamogordo Family Recreation Center/Community Services Department. (Matt McNeile, Assistant City Manager)**

Mayor Rentschler asked for the above three items to be voted on together. All were in agreement.

Assistant City Manager McNeile began with A-2 and told the Commission the person who had filled this position just gave her two weeks notice. This position primarily works at the front reception desk at the Family Recreation Center to assist customers. They would also fill in when an employee is sick to pick up children after school for the after school program, and to help clean the facility.

Assistant City Manager McNeile next addressed #14 saying this position is currently in the budget and the incumbent has vacated the position. This person would work with all the Youth Programs at the Recreation Center.

Assistant City Manager McNeile ended with #15 noting one of the employees left to go back to NMSU in Las Cruces and the other was a high school student who didn't have the time needed for this position. Thus, we would like to get these positions advertised and filled as soon as possible.

Commissioner Talbert moved to approve items # A-2 - request to fill the Part Time Recreational Clerk positions, to be assigned to the Alamogordo Family Recreation Center/Community Services Department; #14 - request to fill the Recreation Aide position, to be assigned to the Alamogordo Family Recreation Center/Community Services Department ; #15 - request to fill the (2) Lifeguard positions, to be assigned to the Alamogordo Family Recreation Center/Community Services Department. Mayor Pro-Tem Baldwin seconded the motion. Motion carried with a vote of 6-0-0. Commissioner Hernandez was out of the room at the time of vote.

- 16. Consider, and act upon a request to fill the Accounts Payable position, to be assigned to the Finance Department. (Ken Johnson, Finance Director)**

Finance Director Johnson told the Commissioners the position had been vacated by an individual who had been there for over three years. It is an entry level position and that person had the opportunity to take another job within the City. She will be leaving on Monday, so we would like to go ahead and recruit for the opening. It is budgeted.

Commissioner Rardin moved to approve a request to fill the Accounts Payable position, to be assigned to the Finance Department. Commissioner Sikes seconded the motion. Motion carried with a vote of 7-0-0.

- 17. Consider, and act upon, a request to fill the two Police Officer positions, to be assigned to the Police Department. (Robert Duncan, Police Chief)**

Police Chief Duncan told the Commission he had these two open positions which were both budgeted.

Mayor Pro-Tem Baldwin moved to approve a request to fill the two Police Officer positions, to be assigned to the Police Department. Commissioner Talbert seconded the motion. Motion carried with a vote of 7-0-0.

- 18. Consider, and act upon, a request by the Otero County Habitat for Humanity to donate a residential lot for use in constructing a residence for a low-income family. (Stephen Thies, City Attorney)**

City Attorney Thies said this particular item is a request by the Otero County Habitat for Humanity for the donation of some city owned property for use in their affordable housing program. A number of years ago, New Mexico citizens voted to approve an amendment to the State Constitution relating to the anti-donation clause. As authorized by that amendment, and pursuant to section 6-27-15 of the Affordable Housing Act, a municipality may "donate, provide or pay all, or a portion, of the costs of land for the construction on the land of affordable housing" without violating the anti-donation clause. However, before doing so the municipality must first enact an affordable housing ordinance. The City has enacted such an ordinance which can be found in Appendix C of the Alamogordo Code of Ordinances. The property Habitat for Humanity is interested in is located on Cuba Ave. between 23rd and 25th Streets where there is an odd-shaped lot located on the southwest portion of Cuba. The City acquired this lot along with some property on the east side of Cuba in 1989 when the owner deeded all the property to the City in lieu of paying a special assessment that had been levied against all those lots. Most of the lots were used by our Housing Department to develop affordable housing, but nothing has been done on this lot. Its current assessed value is \$10,336.00. Habitat would build an affordable house on the property and qualify a family to move in and purchase the property from Habitat. City Attorney Thies said there are Habitat representatives here tonight to answer any questions you might have. He said Staff recommends the donation of this lot.

Mayor Rentschler asked if anyone from Habitat for Humanity would like to address the Commission.

Gerald Chambers, President of the Board of Habitat for Humanity in Alamogordo said he felt the Commissioners were all familiar with the program and he could answer any questions they might have.

Commissioner Talbert moved to approve a request by the Otero County Habitat for Humanity to donate a residential lot for use in constructing a residence for a low-income family. Commissioner Rardin seconded the motion.

Mayor Rentschler asked Mr. Chambers to inform their executive director of who the Mayor is. Mr. Chambers said the letter had gone out prior to the change of organization of the Commission.

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

- 19. Consider, and act upon, the first publication of Ordinance No. 1460 related to amending the Personnel Manual concerning PTO and Separation of Employment. (Stephen Thies, City Attorney)**

City Attorney Thies said this would address an issue that has arisen a number of times in the past several years. Our current Personnel Manual allows an employee to utilize either \$200.00 of accrued PTO (combination of sick and vacation leave) prior to their effective retirement date, or they could receive payment of equal amount in any PTO in excess of the 280 hours would be forfeited. Employees have been abusing this and burning down their number of PTO hours until they reached the threshold of 280 and then they retire and receive a check for \$280.00. This amendment would clarify so the employee would have the option and can't choose both. He noted Staff is requesting approval of first publication of this ordinance. This is an ordinance because the Personnel Manual is adopted by ordinance.

Commissioner Rardin moved to approve the first publication of Ordinance No. 1460 related to amending the Personnel Manual concerning PTO and Separation of Employment. Commissioner Talbert seconded the motion. Motion carried with a vote of 7-0-0.

20. Consider, and act upon, the first publication of Ordinance No. 1461 amending City Code to establish a Perpetual Care Cemetery Fund. (Stephen Thies, City Attorney)

City Attorney Thies said this ordinance would establish a perpetual cemetery care fund. We have the cemetery south of First Street that we own and operate. A portion of that cemetery was created for Perpetual Care which means a portion of the proceeds the City receives from the sale of a burial plot is put into a fund for future care and maintenance of the cemetery for perpetuity. During a recent audit, it was pointed out to our Finance Director that the City has never taken the step of creating that fund. Normally, when a dedicated fund is created, it needs to be done through the enactment of an ordinance. This addresses that issue and Staff recommends approval of this ordinance for first publication.

Commissioner Hernandez moved to approve the first publication of Ordinance No. 1461 amending City Code to establish a Perpetual Care Cemetery Fund. Commissioner Rardin seconded the motion.

Mayor Pro-Tem Baldwin said he feels like saying something just to wake everyone up.

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

21. Consider, and act upon, the first publication Ordinance No. 1462 to adopt an ordinance relating to new zoning laws regarding Pay Day Loan and Title Loan lenders seeking to establish a new office location within the City. (Susie Galea, Commissioner and Stephen Thies, City Attorney)

Commissioner Galea said we don't have an ordinance dealing with the zoning. This would be conditional use in C-3 and the City, for what ever reason, has not put the conditional use permits, as is standard in most communities. There are over 760 cash advance businesses in the State of New Mexico and the State ranks 10th in the Nation for the number of Pay Day Loan lenders. New Mexico is one of only 17 states permitting car title loans in the triple digit APR's. She thought this ordinance would help prevent any predatory lending in our community. The State does not over-regulate the industry and allows the New Mexico cash advance companies to provide many services to their customers. This would in no way disenfranchise those entities; it would not tell them they can't do business in Alamogordo and it would just be in certain zoning locations where we do not want them prominently displayed. She remarked that trying to pay these types of loans has been a strenuous act for many of our Alamogordo citizens. Interest rates are lower for title loans, yet the rates for title loans in New Mexico range from 213% to 300% which is roughly half the annual percentage rate of Pay Day Loans, or their new replacement the Installment Loan which in our market runs from 417% to 560%. While none of these rates are what she called competitive, and the City cannot regulate these lending practices, we can eliminate their easy access to our community. This is why she brought this conditional use permit to the Commission.

City Attorney Thies gave a quick overview of how this ordinance was structured. He told them it would make Pay Day Loan establishments a conditional use in our district C-3. He said District C-3 runs the length of White Sands Blvd. and a significant distance of 10th Street. The ordinance regulates the distance between the Pay Day Loan establishments. Any current Pay Day Loan establishment that is open will be grandfathered in and will be allowed to operate until such time they close, and then it would have to comply with this ordinance. The ordinance lengthens the distance to 500 ft. from additional properties including residential, residentially zoned parcels, state/federal/charter banks and savings, churches, school day care, liquor stores and pawn shops. He explained how greater conditional use permits work. The person seeking to establish a Pay Day Loan establishment will need to submit a conditional use permit application which will first go before

the Planning and Zoning Commission to determine if they met the criteria set forth in the ordinance. A public hearing would be held in conjunction with the Planning and Zoning consideration, and if any residents or others come and voice concerns, the Planning and Zoning Commission would have the ability to develop some conditions that would be tagged on to the permit to address those concerns. If they recommend the conditional use permit, this would come before the Commission for consideration and possible ratification. City Attorney Thies said currently, Pay Day Loans are regulated by the State and one has to get a license. A law was enacted a couple of years ago that makes it so the only way we can regulate them is through zoning requirements.

Commissioner Galea moved to approve the first publication Ordinance No. 1462 to adopt an ordinance relating to new zoning laws regarding Pay Day Loan and Title Loan lenders seeking to establish a new office location within the City. Commissioner Rardin seconded the motion.

Commissioner Rardin noted he had a couple of issues with this. He didn't believe we should be regulating Pay Day Loans at the City level. He thought it should be done through the State and the penalties should be stiffened and regulated by our state legislators.

Commissioner Hernandez agrees with the fact that these are a bad thing for a lot of folks, but he had several issues with the way this was written out. He referenced # 3 where it says none of them can be expanded by more than 25% and nothing can be repaired or remodeled. He said if the building begins to dilapidate, we will tell them they have to repair but they won't be able to because of this ordinance. We already tell people too much of what they can or cannot do, and it also states 'Whereas, after notice and public hearing and upon consideration of all the testimony and information submitted during the public hearing, the City Council has determined that it is in the best interest of the public, and in support of the health, safety and morals, and general welfare of the citizens that the zoning ordinance be amended.' Commissioner Hernandez said he really likes a good, juicy, greasy hamburger and the next thing you'll say is I can't eat those anymore because they are bad for your health. I know they are, just like I know these businesses are bad for me if I go get a loan. He said government is too much sometimes and though he agreed with Commissioner Galea, telling people that they can't get money somewhere is up to them. He continued by saying usually the people who use these are doing so because it is their last step and they don't have another choice. If we take this away from them, will crime go up? Will they start taking things from our porches? He felt government has regulated them as much as they need to be at this point, and he hated to start telling people what they can or can't do more than we already do.

Commissioner Galea addressed some of these points. She said this ordinance in no way tells anyone that they cannot obtain a Pay Day or Title Loan. They can pay 560% if they choose too. We aren't here to talk about the States lack of regulation. We are here to talk about a conditional use permit that doesn't change any zoning. She agreed with Commissioner Rardin that we should look at zoning as a whole. Certainly, Planning and Zoning would facilitate the conditional use permit that would go hand-in-hand with this ordinance and bring it back to the Commission at a future date, if passed. There isn't any regulation of the lenders; it simply removes the lenders from the C-3 zones which are White Sands Blvd. and portions of Tenth Street. These are predatory lenders who go after those citizens, especially those transit citizens at HAFB, and she didn't think we should allow them on White Sands Blvd. She believes in commerce and the freedom for consumers to choose whatever they want, whether to eat a greasy cheese burger or pay 560% in interest. She felt we could establish a conditional use permit and protect our citizens.

Mr. Paul Sanchez addressed the Commission about this item. He said he almost didn't know where to begin because there is so much fun in this particular request for the ordinance. He had spent 26 years in the Air Force and about eight years ago, Congress prohibited nationwide military members from taking part with these. If you go into these establishments, you'll discover active-duty military members are not allowed to use them at all. When we say one of the reasons we want to govern these in any way, it doesn't apply to HAFB military transient members. He noted he would check to make sure that law was still in effect. When he was in active duty between 2006 and 2009, this action did take place. As far as not limiting the use of these particular facilities, he agreed with almost

everything Commissioner Hernandez and Commissioner Rardin said. As Commissioner Galea pointed out, we don't use conditional use permitting at all in Alamogordo. This conditional use permit is specifically targeting these establishments and not anywhere else. As Commissioner Hernandez said, start with the Pay Day lenders with their insanely high fees, and then we'll be after the cheeseburgers and the big-gulp drinks like they did in New York. He felt government had no place, in his opinion.....they need to make sure the practices are fair and all the information is presented. Many of us have the financial means and credit scores to go to regular lending institutions such as banks to get loans. Some of us get in situations because of divorce and other reasons where a 700 credit score drops into the 5's. Then when you blow a tire or engine, these are the only places these people can go. This is not to justify the extremely high fees they charge, but it is because these institutions are specifically lending to those with extremely low credit scores, you have a problem in recovering the money they loan out. The company takes a very large risk. He believed Americans who walk in there are capable of reading and can read and understand the very clearly displayed interest rates. As a result, he didn't think we had any business regulating them in any way and felt it is free market/free business. He finally said for the new buildings and any changes made to the buildings, in this ordinance it says no loitering. After their business is taken care of customers are not allowed to loiter; the windows in the front can only have a certain amount covered by signs which means we have wide open glass windows. Unfortunately, most people who go into these places are not to very proud they have to use the institution so Commissioner Galea's ordinance will make absolutely sure anyone driving by on White Sands Blvd. or Tenth Street will be able to see you standing there doing your business. If there is any graffiti on the building they have 72 hours to get rid of it. Does that apply to any other business? He felt the Commission needed to read all the items that are regulated within the conditional use permit. He addressed the part about an existing Pay Day loan establishment expanding or remodeling and felt it was unbelievably restrictive. He didn't see any reason that government needed to be a nanny state and take care of people and what they do.

Dr. Paul Langner noted he was a veteran and served in Vietnam and Granada. He said this was an issue dear to his heart. He said he would get a public meeting together because the Commissioners do not carry out their duties to protect those who cannot protect themselves. He said he was referring to the young, gullible and desperate. One of the best things his commanding officer had done was he protected his boys. He was proud of the people he had worked with here and when at the chimpanzee facility at HAFB. A home town bank is very careful when making loans to a GI who can't pay. The GIs are not being restricted, they are simply being given the guidance they need. He asked Mayor Rentschler if he had children, and Mayor Rentschler answered yes. Dr. Langner said he did too, and this is the kind of issue for you, as senior members of the society to be responsible to those who follow us. If you don't think so, take down the letters in the Chamber that say 'In God We Trust'.

City Planner South wanted to address the issue of conditional use permits. He told the Commission the ordinances in place in the macro-ordinance on zoning talks about conditional use, but nowhere in the subsequent ordinances does it give standards for the conditions that are to exist. A conditional use permit is not that I can get four city commissioners to agree to it and therefore it is a conditional use. There must be standards and that's something City Attorney Thies has been quite adamant about and correctly so. That is the reason why, as this comes forward, this would be the first conditional use written where conditions are firmly stated. That is the scorecard you have to lay it against. You can't have a conditional use without a scorecard. Those don't survive very well when they go to court.

Commissioner Galea said this is not new to this community and she didn't think it would be an infringement on free market or free business. She felt predatory lending has existed here for a long time and we haven't done anything about it. In her work with Love, INC. and other charity organizations she has seen families who have become homeless because of a loan from a Pay Day or Title lender. First they can't get to work because they have lost their car to the Title lender, then lose their income and as a result their house. The notion military can't take out loans from Pay Day lenders isn't exactly true; in fact it was regulated in El Paso, TX. They made sure Pay Day or Title lenders could not lend more than 20% of ones disposable income. That would create another level of government in order to monitor their books. She didn't want to regulate but to provide a means of

conditional use, and conditional use doesn't mean they can't run a business in Alamogordo, just not on White Sands Blvd. She realizes the language is strong and would force out a lot of Pay Day and Title lenders from White Sands Blvd. That is exactly what it is intended to do. She understood there was a concern for privacy with not blocking windows, but that was intended to force those companies off of White Sands Blvd.

Commissioner Hernandez understood all of that, telling them where they can and cannot work, not taking them out of business, but he had a problem with that. He works with people who make minimum wage and people making \$150,000 a year, and he knows of some people making over \$100,000 a year who use these places. It's peoples' spending habits; they lose their cars, homes and jobs. We aren't putting these places out of business, we are simply taking them off White Sands Blvd., and he wondered what would be next.

Commissioner Talbert said we seem to not be talking about what this ordinance says, because the ordinance has nothing to do with their practices. The majority of it is where they can be located and what they have to do with their building. He said we are telling them their graffiti needs to be cleaned off within 72 hours, but his building has been tagged before and he didn't always get it cleaned off. If he doesn't have to do this, why should they. If it only said they can't be on White Sands Blvd. he could probably go with it, but all this other stuff can explode. The real issue is to get the interest rates down and we don't have that power. He said it was too restrictive, could spill out to other businesses and even bring lawsuits against the City; we are opening ourselves up to problems we don't want to deal with. He did not agree with the business practices of these places, but there are a lot of businesses whose practices he does not agree with.

Commissioner Hernandez called the question.

Mr. Paul Sanchez said Commissioner Talbert is one thousand percent correct about the specifications in the ordinance, and Mr. Sanchez had checked on his computer about the military lending practices called the Military Lending Practices Act of either 2006 or 2007. It specifically prohibits companies from giving military members loans of over 36% and there is discussion in Congress to expand that to Rent-A-Centers and other types of lending agencies. The argument about the transient is a moot point in that regard. He pointed out the lawsuit possibility Commissioner Talbert mentioned. Commissioner Galea just went on the record specifically stating that she doesn't want these places to operate here. The intent of this is on the record, to specifically regulate this type of business, not regulate a particular type of building. He felt there was a lawsuit waiting and it was simply a matter of passing or not passing this ordinance.

Commissioner Galea said the City Attorney could attest this would not cause a lawsuit.

City Planner South said one option you have that hasn't been discussed here is that this has not gone to the Planning and Zoning Commission, per say. Mayor Rentschler interjected that it had been discussed. City Planner South said you have brought it up but it has not gone through Planning and Zoning. One option you would have is to kick it down to Planning and Zoning and have us hold public hearings and do more work on it, then bring it back to you.

Mayor Rentschler asked City Clerk Cantin to take a Roll Call vote on this motion.

Commissioner Rardin asked if the motion was to approve and Mayor Rentschler said it was.

Commissioner Galea asked to amend her motion to move it to Planning and Zoning.

Mayor Rentschler said we need to deal with the motion we have now.

Motion failed with a vote of 1-6-0. Commissioners Sikes, Talbert, Rardin, Hernandez, Mayor Rentschler and Mayor Pro-Tem Baldwin voted nay.

Commissioner Galea said the mayor did not allow her to amend her motion and she made a Call to Order.

Mayor Rentschler said she could bring it back to Planning and Zoning at a later point and then have it come back to the Commission. He did not think she needed to amend the motion now.

City Attorney Thies said there isn't anything that would prohibit this from being presented to Planning and Zoning for their consideration. They could make recommendations at a future date.

22. Consider, and act upon, the purchase of business retention and expansion software that would utilize data to assist in the retention and expansion of businesses in Alamogordo. (Susie Galea, Commissioner)

Commissioner Galea said business retention and expansion is 80% of economic development. This item is in regards to purchase of business retention and expansion software that would utilize data to assist in the retention and expansion of businesses throughout Alamogordo. Businesses leave for many reasons, but what if the Chamber had an interactive tool to define what challenges businesses here the most and then use that data to pinpoint solutions. Leading companies use Salesforce.com to do that. They can be built to meet the requests or potential requests of a city to link the Chamber, Economic Development and the Small Business Development Center. This software would encourage the Chamber to be more interactive with its members in order to obtain information about customer accounts, profit margins, employee turn-around rates and many other factors. The City wouldn't have access to non-disclosure statements and would have easier access to quarterly reports by the Chamber and our Economic Development firm. Year to date, construction is down 17% in January, but oddly, a local retail tile and carpet company has seen a 4% profit increase. Can we assume construction has decreased in new home building or remodeling? We could do so by using these two statistics, but large scale data has proven to provide more accurate information for analysis. She told the Commissioners she brought this item to them because the City has the financial resources to invest in the costs to build this type of software program. It would cost about \$7,000 and licenses for each user would be about \$1,000. All businesses who are Chamber members would have access to the system with Smart Technology and she felt the City could achieve better business retention and expansion if we all work together.

Commissioner Talbert moved to consider, and act upon, the purchase of business retention and expansion software that would utilize data to assist in the retention and expansion of businesses in Alamogordo in the upcoming preliminary Budget Hearings for the General Fund. Mayor Pro-Tem Baldwin seconded the motion.

Commissioner Rardin had a problem with the City purchasing this software because it sounded more geared toward the Chamber and OCEDC, and he thought they should purchase the software. He felt the City already gives them enough, since we give them \$26,000-\$36,000 per year and the building for free plus do all maintenance. The same with OCEDC; we give them \$100,000 per year, so perhaps they should purchase this out of their budget.

Commissioner Hernandez didn't really have a problem with this. He offered the example of picking out golf clubs for Mayor Pro-Tem Baldwin who is a golfer, when Commissioner Hernandez is a plumber. He felt we should work together with them on this to find the right program. He then remarked that if he bought Mayor Pro-Tem Baldwin those golf clubs, he probably wouldn't use them since Commissioner Hernandez picked them out. Commissioner Hernandez thought OCEDC and the Chamber should be more involved so it would work.

Mayor Pro-Tem Baldwin said he could play with anything and thanked Commissioner Hernandez for the thought. He said Economic Development was the Commission's number one thing during their retreat and he would toot that horn as often as he possibly could. That's what we said we were going to do. Commissioner Galea's idea is not a bad idea, but he asked if she had communicated with the Chamber and OCEDC and what they thought about it

Commissioner Galea said this would be something we would have to work with the Chamber and OCEDC on. She wasn't asking to purchase the software tonight; she brought it tonight for discussion. We pay the Chamber and OCEDC for promotion and marketing and the City has the means. Looking at the GRT revenues, we are all wondering where the \$600,000 went to we were expecting by this time year-to-date. We can't ask the Chamber what it is that is hurting business because they don't have the data, analysis or tools to help us communicate with them. She gave the example of if there was a part of the City where business traffic was down, we would know it is perhaps a traffic issue. Mayor Pro-Tem Baldwin interjected that he got the jest and would like to have this be on our upcoming Budget Hearings, but he wanted to check with the Chamber and OCEDC first and said it was a good idea. Commissioner Galea said if they can find something better than Salesforce.com it would be great; this is simply a starting point.

Mayor Rentschler stated he talked to OCEDC, in particular Mike Espiritu and he said this software is available for free from the State Secretary of Economic Development. He didn't believe this was something the City should do in a vacuum; we should have them here to discuss the software. Commissioner Galea said this makes it so the City through the software can communicate with the Chamber and we can all share the same data, and that is not available. Mayor Rentschler said that was not the indication he got. He told her we can agree to disagree once again.

Commissioner Hernandez asked to amend the motion to have Staff work with OCEDC and the Chamber to look into the software and bring it back to the Commission for the Budget Hearings. Commissioner Talbert accepted that amendment.

Motion carried with a vote of 6-1-0. Mayor Rentschler voted nay.

23. Discussion, and action, considering beautification by implementing a Public Arts Charter and to have the Planning & Zoning Commission look into it. (Susie Galea, Commissioner)

Commissioner Galea said she had been asked to do this by one of the Command Chiefs at HAFB who said it was used in Arizona. He sited specifically that in Phoenix it is a Public Arts Charter where 1% of the cost of road reconstruction goes directly to Public Arts. Commissioner Galea gave the example of spending money on roads and 1% goes to a Public Arts Commission that would then decide how the money would be spent to beautify White Sands Blvd. Parts of Tucson and Phoenix, AZ have public displays of art along the roadways, painted bridges or landscapes and it is a beautiful thing to see. She thought it could work in Alamogordo and asked for the Commissioners to consider it and then have it go to the Planning & Zoning Commission.

Commissioner Galea moved to approve a request to have the Planning & Zoning Commission look into considering beautification by implementing a Public Arts Charter. Commissioner Sikes seconded the motion.

Mayor Pro-Tem Baldwin thought we had approved this about a year ago. Commissioner Galea said she had brought it to the Commission in a concept form earlier in the year, but it was never presented as an item. Mayor Pro-Tem Baldwin thought we had already voted on this. He thought it was a good idea back then.

Commissioner Rardin thought that technically, this should go to the Planning & Zoning Commission before being presented to the City Commission. That is what they are for; to look at it and give us another point of view. They make the recommendation to us and then we either say yea or nay.

Commissioner Galea said the only reason she brought it to the Commission was to see if the consensus was to take the idea to the Planning & Zoning Commission. She didn't want Planning & Zoning to spend a lot of time on it if the City Commission didn't like the idea. Mayor Rentschler understood that, but also felt we had the cart before the horse.

Mr. Sanchez apologized for having to come up here again, but he said he was from New York and remembered spending weekends in New York City in the Art Districts. A lot of his cultural experiences came from that and he appreciated art quite a bit. However, he said we are running about a \$600,000 deficit and he wondered where we had the money to even talk about this type of thing. It isn't something we can afford at this point in time; we need to be concerned with repairing roads and things of that nature before talking about art projects. He voiced that the article in the Agenda Book had price quotes of \$10,000 to \$100,000 before the artist gets engaged. He repeated he appreciates art and had quite a bit of it in his home, but was concerned with putting City money into this. He stated it was almost campaigning when you look at the amount of items the Commissioner is putting on the agenda that should have gone to Planning & Zoning in the first place. There are proper procedures for these things to be taken care of, and he felt it was wasting the Commissions time with things that should have gone in another direction. He was very concerned with the deficits we are running.

Commissioner Galea said she has been working on this since this summer with a Chief Master Sergeant on HAFB and it's in no way connected to her campaign; it has been a project that has been long-term and ongoing. She understood the deficit of \$600,000 in the year-to-date GRTs, but we have until July 1st to make it up. The 1% of Public Arts Funding would come directly from the Roads and Street projects we already have funded, so there are not any additional monies spent.

Mayor Rentschler asked City Attorney Thies if we could apply this retroactively. Commissioner Galea said it would not be retroactively. Mayor Rentschler told her she had said what we already have funded, so he wanted to make sure that is not correct. City Attorney Thies replied it would not be applied retroactively.

Commissioner Hernandez said he doesn't have too much of a problem with this other than a lot talks about Phoenix and other places, and we are very individual in New Mexico and Alamogordo. He wanted to make sure we stay within that and don't try to become somebody else. It is very important to stay ourselves.

Commissioner Rardin commented that the estimate of \$110,000 is based off the #109 balance, #118 balance and Fund 44 balance. The majority of #118 is already budgeted for various projects and a majority of them have been bid out. Technically, that number is rather distorted. All of that money has to be spent by the end of the Fiscal Year; 7 ½. That will basically leave #109 and #44 and will only be \$40,000 - \$50,000. We can't afford to add any more cost to the #118 projects; we are short on money anyway.

Commissioner Galea said just to redirect, she didn't say this would be retroactive in any way. She only cited those funds and the balances as an example. When we do have \$100,000 street projects, the 1% of whatever the road project cost is would go to Public Art. It's simpler than we are making it out to be; 1% of future road project costs.

Mayor Rentschler asked City Clerk Cantin to call the roll on this one.

Motion carried with a vote of 6-1-0. Mayor Rentschler voted nay.

24. Consider, and act upon, facilitating city presence to promote the community during the Bataan Memorial Death March or appointing a volunteer committee to proceed. (Susie Galea, Commissioner)

Commissioner Galea declared there are about 6,000 participants in the Bataan Memorial Death March and many of them go through Alamogordo in order to stop and stay. The City hasn't been there in the last two years she has participated in the event; there hasn't been a City representative to promote our community. She felt this was an opportunity at a very low cost to promote our entire community and invite people to stop and stay this coming March 23rd.

Commissioner Talbert moved to approve to appoint a volunteer committee to proceed with facilitating city presence to promote the community during the Bataan Memorial Death March. Commissioner Galea seconded the motion.

Commissioner Rardin asked who was going to appoint volunteers. Commissioner Galea said we have a Promotion Board that would perhaps fund this. She proposed asking them to do this since they know our community very well.

Commissioner Hernandez said if we are going to ask people to do this we should have done so prior to this, because we would be telling them the Commission approved this and it would be hard for them to say no. Appointing a volunteer sounds funny to him. Commissioner Galea said if the Commission approved it, she would man the booth instead of running the 26.2 miles this year. She reiterated it is important we promote our community and have some of those 6,000 runners stop and stay.

Mayor Pro-Tem Baldwin asked if this would come back to the Commission to approve committing the small amount of funds to this. Commissioner Galea asked City Attorney Thies if the Commission needed to approve the small amount of the sponsorship fee. City Attorney Thies told her we would probably enact some type of ordinance to implement that fee. He felt you would have to talk to Assistant City Manager McNeile since it is his money, whether it is budgeted and would have to be taken out of a budget, or amend his budget and bring it back for the Commissions approval.

Assistant City Manager McNeile said it could be taken out of the Promotional Fund, Fund #16 which our Promotion Board approves. Then it would be part of their monthly report of recommended spending which you do approve on a monthly basis. He thought it should go to the Promotion Board first. Commissioner Galea agreed.

Motion carried with a vote of 6-1-0. Mayor Rentschler voted nay.

25. Appointments to Boards & Committees. (Robert Rentschler, Mayor)

Mayor Rentschler announced the Boards and Committees with current vacancies, but there were not any nominations that were eligible. No one was appointed to any vacancy.

PUBLIC COMMENT

None.

CITY MANAGER'S REPORT

Assistant City Manager McNeile did not have anything to report.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Hernandez commented on the following:

1) Commissioner Hernandez thanked Fire Chief Ward and the Staff who have been working on ordinances, zoning and codes which he has found problems with. They are very responsive and he thanked them again.

Commissioner Galea commented on the following:

1) Commissioner Galea attended the Substance Abuse Task Force; the Commission worked with the Otero County Commission some time ago to form it. There were not many who attended and she would like to see the Commission promote that meeting so there is more attendance. She felt this task force was important as they identify new drug problems as they arise.

2) On January 24th, the Secretary of Interior, Sally Jewel, was in Las Cruces with Senator Udall and Senator Heinrich. Commissioner Galea met with them to discuss concerns for the watershed that would be on the new National Monument of the Organ Mountains.

3) Today she attended the memorial for the Airman Deshon Wartley and was glad she attended since there were not any other community members present. There will be another memorial on Thursday and she encouraged other Commissioners and community members to attend.

4) Commissioner Galea corrected Mayor Rentschler on Item No. 18 in his dissatisfaction with Habitat for Humanity for acknowledging her as mayor. She hoped he didn't take offence because she has been working with them long before the change happened on December 3rd. She noted she received Ron Griggs mail for six months after she had become mayor.

Mayor Rentschler said he understood that and his point was to make sure someone informed them that a change had been made. He said he did not take any offence.

5) She said it had been brought up by a community member that her webpage says she is the mayor. She will check that and work with her campaign team to make sure there are corrections.

Mayor Rentschler commented on the following:

1) He said he wouldn't bore them with a lot of the things he has been doing for the last couple of weeks. He said we already know what he hasn't done.

EXECUTIVE SESSION (Roll Call Vote Required)

Adjourn 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 (Thunder Rd. Water Tower)
- Sale, Acquisition, or Disposition of Real Property (Washington Extension South of First Street)
- Limited Personnel Matters (City Manager & Finance Director)

Mayor Pro-Tem Baldwin moved to adjourn into Executive Session to discuss Sale, Acquisition, or Disposal of Real Property (Thunder Rd. Water Tower & Washington Extension South of First Street) and Limited Personnel Matters (City Manager & Finance Director) at 8:39 p.m. Commissioner Hernandez seconded the motion. Roll call vote was taken. Motion carried with a vote of 7-0-0.

ADJOURNMENT



Renee L. Cartin
 City Clerk Renee L. Cartin

Robert Rentschler
 Mayor Robert Rentschler

*(Prepared by Nancy Jacobs, Deputy Clerk)
 Approved at the Regular Meeting held on February 11, 2014.*