

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
7:00 P.M., COMMISSION CHAMBERS
MARCH 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, UNVEILING OF THE "IN GOD WE TRUST" logo
donated by the Ministerial Alliance, 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.

Mayor Galea announced a community group working with the Ministerial Alliance donated the letters of the 'In God We Trust' logo to be placed in the Commission Chambers. She then unveiled the logo which was placed behind the dais above the Centennial Proclamation.

Invocation was then given by Pastor James Forney and the Pledge of Allegiance was led by Commissioner Jim Talbert.

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 Exceptional Service and Life Saving Awards to DPS Officers. (Susie Galea, Mayor and Robert Duncan, Police Chief)**

Mayor Galea presented the following awards:

On March 3, 2013, Captain Trujillo was off-duty and was driving east on Tenth Street, near Spruce Avenue, when he smelled smoke. He scanned the area and discovered a structure fire at 902 Spruce Avenue. A woman who lived in the residence was running in the front door with a garden hose attempting to extinguish the fire. Captain Trujillo ran inside the billowing smoke-filled residence, identified himself as a police officer, grabbed the woman by the arm and removed her from the residence. The woman wanted to go back into her residence in an attempt to save her house from being destroyed. According to an officer at the scene, the woman was covered in soot, especially around her mouth, nose and eyes. The woman told the officer she was glad he went in after her; otherwise they could have found her dead. Captain Trujillo's actions reflect great credit upon himself, the Alamogordo Department of Public Safety and the City of Alamogordo. Mayor Galea awarded Captain Israel Trujillo the Life Saving Award.

On March 9, 2013, officers were dispatched to a residence for an unknown problem. A 911 call was received but the only information given was an address. Upon arrival, Officer Woods and Officer Julian entered the residence and located an elderly female. She was not aware of the 911 call and advised that she had a son who also lived at the residence but he was always in and out of the home at all hours of the night. Officers then searched the residence but did not locate anyone else. Officers then exited the residence and searched the backyard. Officer Julian then noticed a male subject suspended in the air, hanging from a tree in a hangman noose and he appeared to be

unconscious. Officers were able to cut the rope releasing the male subject. He regained consciousness and Officer Julian was able to speak with him and listen to his life problems. Officer Julian and Officer Woods displayed professionalism and dedication of their job duties. The Officers could have left the scene when they did not get a response. They could have left thinking the son had left the premises, but the persistence of these Officers to continue their investigation saved a life. Mayor Galea awarded Officers John Julian and Warren Woods the Life Saving Award.

On December 1, 2012, at approximately 7:56 am officers responded to a shoplifting call at Wal-Mart. They learned that a male and female broke the jewelry glass case and took several pieces of jewelry. A witness was able to identify the suspects and the surveillance video showed the suspects leaving in a vehicle. At approximately 10:24 am Officers responded to Gerald Champion Regional Medical Center regarding a larceny. Two suspects entered numerous areas of the hospital and took numerous articles of medical equipment. The suspects left the scene in a vehicle matching the vehicle in the Wal-Mart surveillance video. Officer Funk was able to locate an address for the female suspect and Officer Thompson made a traffic stop in front of the residence. Officers recovered approximately \$6,543.00 worth of stolen jewelry and approximately \$6,772.00 worth of hospital equipment. Mayor Galea awarded Exceptional Duty Award to Officers Ken Funk and Troy Thompson. She awarded the Grand Cordon Award to Officers Jancie Smotherman, Justin Mitchell, Clint Corvinus and Richard Denton.

On December 15, 2012, at approximately 6:05pm officers were dispatched to the Alamo Quik Pik in reference to an armed robbery in progress. The suspect fled the area on foot. He was last seen running on foot and then entering a vehicle. Interviews with the witness were conducted and a good description of the subject was obtained. On December 25, 2012 Sgt. Esquero was on patrol and had made an encounter with subject that matched the description of the robbery suspect. The subject was arrested on an outstanding parole violation, on the original charges of attempted murder and 2nd offense robbery. Sgt. Esquero was able to obtain DNA samples and the match returned to the robbery suspect. He was then charged with the armed robbery and other related charges. The officers' action in the investigation of the armed robbery case and Sgt. Esquero's encounter with the subject resulted in the apprehension of the robbery suspect and the recovery of all the stolen cash. Mayor Galea awarded the Exceptional Duty Award to Sgt. Mark Esquero. She awarded the Grand Cordon Award to Officers Richard Denton, David Kunihiro, John Julian, Ryan Glidden, Chris Hughes, Troy Thompson, Justin Mitchell, Frank Shepherd, Roger Schoolcraft and James Guinn.

On April 20, 2012, Officer Hughes responded to a report of a burglary. Investigation revealed that between April 17 and April 20 persons had forcibly entered a residence and removed numerous firearms, ammunition, and prescription medication. Officer Hughes did an outstanding job of documenting the stolen property with detailed descriptions. Officer Becker responded to a vehicle crash and during this investigation determined that the driver had a stolen firearm. Officer Becker obtained a confession from the driver regarding the burglary. As a result Officer Hughes was able to obtain a search warrant. Officers recovered thousands of dollars worth of stolen property and firearms. Mayor Galea awarded the Honorable Service Award to Officers Chris Hughes and Karl Becker. She awarded the Grand Cordon Award to Officers Kyle Garrett, Ernest Granados and David Kunihiro.

On June 8, 2011, around 04:13 am officers and AMR Medics responded to a shooting at Burger King. Within minutes of the shooting, Otero County Sheriff's Office Deputies and ADPS Officers apprehended the three suspects who were in a vehicle heading out of town. The victim passed away before she could be air lifted to El Paso, TX. The quick action of all the officers involved and the follow up investigation provided probable cause to charge all three suspects with one Open Count of Murder in the First Degree, Conspiracy to Commit Murder in the First Degree, Shooting at or from a Motor Vehicle, Conspiracy to Shoot at or from a Motor Vehicle, Residential Burglary and Conspiracy to Commit Residential Burglary. The investigation included the assistance of other law enforcement agencies including the Otero County Sheriff's Office, Ruidoso Downs Police Department and the Vaughn Police Department. I believe the officers involved in this case are deserving of recognition for their outstanding work. Mayor Galea awarded the Grand Cordon Award to Officers James Watts,

Roger Schoolcraft, Eliza Fernandez, Mark Esquero, Adam Prudencio, Jack Jackson and David Kunihiro.

Mayor Galea thanked them on behalf of the City Commission for their exceptional service. Interim City Manager Carter thanked the officers and their support staff, and said we are proud of them.

DPS Director Duncan said he was proud. This is the first time since he's been chief and he thanks them and their wives and families for being here. He noted it is an honor and a privilege.

2. Presentation by the German Air Force and action requested for approval of the use of Griggs Sports Complex for the German Air Force Oktoberfest in September, 2013. (Matt McNeile, Assistant City Manager and Renee Cantin, City Clerk)

The following people were in attendance for this presentation:

German Air Force:	1 st Lt. Sven Jesse
EMS Alamogordo:	Mr. Bill Boehm MD Voluntary Fire Dept.
Security Services:	Mr. Pete Hampton Las Cruces Security
Insurance:	John Suekinos, Charles, Garland and Harris Agency
Equipment:	Mr. Chava Castillo from American Tent Rent - Albuquerque

1st Lt. Sven Jesse, who is responsible for the German Air Force (GAF) Oktoberfest this year, said first he would like to explain the changes. He explained they would like to make it as safe as possible and may spend a bit more on security than they need, but are anxious to have the event as safe as possible. They have had 16 Oktoberfest Events at Holloman Air Force Base (HAFB) and last year had 6,000 attend. This year is one of their busiest years ever with more pilot students than ever before. Shortly after this upcoming Oktoberfest they will have their largest deployment ever to Idaho. Thus, it will be impossible to hold the Oktoberfest on base and they are looking for an off-base solution. Last year they had over 6,000 tickets sold for one day and the US Air Force was a great help. This year, they would like to extend the Event to two days in order to provide enough food and drink. They would plan for about 3,000 in attendance per day. They will provide a bus shuttle for in-town transportation only and will have equipment provided by the American Tent Rent Co. of Albuquerque. This company provided tents for the Balloon Festival and has tents as large as a football field. Security will be provided by Las Cruces Security and EMS services will be provided by the local Volunteer Fire Department. The beer and wine will be provided under the City of Alamogordo's liquor license, and the food will be prepared by two German experts at the Civic Center.

He noted they would like to use the Griggs Sports Complex which he said was the only green place in town. He went on to point out on the overhead where things would be located. There would be room for vendors and a temporary ATM. The American Tent Rent Co. will also provide a high fence for the area. There will be a tent big enough for 2,000 people, as well as tents for Security and EMS. The tents will cover only 30% of the total area while the rest is open for the crowds, and there will be plenty of space. They may try to have an area for an Oktoberfest Fair. Lt. Jesse told the Commission that last year they sold almost 10,000 liters of beer, 65 cases of wine, and various soft drinks while no hard liquor was served. They used the US Air Force's liquor license and the GAF served. He felt they would have almost the same numbers as last year. The GAF is in need of a liquor license to work under this year.

Commissioner Rentschler asked him about damage to the softball fields from the tents. Assistant City Manager McNeile told them he had walked the area with the GAF representatives and was pleased with the logistics at this point.

1st Lt. Jesse said they will have authentic German food that will be prepared one week in advance at the Civic Center. There will be a combined security concept of 12-15 guards from Alamo Security, 12 guards from Las Cruces Security Service and 25 guards from the GAF for a total force of about 50. Last year they had 100 guards for 6,000 people and it was more than enough.

Commissioner Rentschler asked if any DPS officers will be part of the force. 1st Lt. Jesse told him

they could be included if the Commission wished. City Clerk Cantin told the Commissioners she and Assistant City Manager McNeile had already been working with Chief Duncan concerning this, and it will definitely be part of the plan. This will add additional coverage along the streets.

1st Lt. Jesse explained they would have liability insurance provided by the Charles, Garland and Harris Agency. They are waiting to finalize the liquor license issue before completing any agreements, but know how much the cost will be. Both the Security company and the Tent company have their own insurance. They are planning on providing 10 busses – some belonging to the GAF and some rented. The buses will shuttle throughout town and the wait time should be very short.

Mayor Pro-Tem Hernandez said the Sherriff's Posse might be another security group to include with the DPS officers. 1st Lt. Jesse told them the Fairgrounds had been their first consideration for this event, but had been informed it would be difficult to find a reliable liquor license holder since it is a county entity inside the city limits. He was under the impression the Sherriff's office was not responsible in the Griggs Complex, but Mayor Pro-Tem Hernandez told him they were so Lt. Jesse said he would include the Sherriff's Department in the Security meetings.

Mayor Galea added Z-Trans might be able to work with the MADD organization to obtain State grant monies to provide buses for transportation.

City Clerk Cantin noted they had been working on this since last year. Since they would have had to acquire a County liquor license at the Fairgrounds, it was dropped from consideration. The Griggs Complex seemed ideal because it was already fenced and the City had a liquor license. When she and the GAF representatives considered this area, they considered how much damage might be done to the field and Mr. Walker told them it shouldn't be a problem as long as it was aerated the next day and watered. All Pupfish games would be over by that time. Ms. Cantin noted she was the resident agent on the governmental liquor licenses and she will take every step necessary to protect the licenses and City property. Action would have to be taken by the Commission and if approved she would begin working on cost estimates that would be beneficial to the City, get a RFP for the purchase of liquor and prepare and present a proposal to the GAF. She remarked that the GAF was not in this to raise money but instead to provide a community event. In the past they have charged one dollar per ticket, but any excess could be used to repair the field if need be.

Commissioner Rardin moved to approve the use of Griggs Sports Complex for the Oktoberfest in September 2013 and for City Clerk Cantin and Assistant City Manager McNeile to work with them on the cost estimates and proposal. Commissioner Talbert seconded the motion. Motion carried with a vote of 7-0-0.

3. Presentation related to the South Central Regional Transit District "Regional Transit Service and Financial Plan(s)" (Jack Valencia, Jr. - TransCom - LCNM, Presenter)

Mr. Jack Valencia, Jr. gave a presentation related to the South Central Regional Transit District. He first mentioned the basic information he gave the Commission last May. He noted the Mayor and Commissioner Sikes had helped some with the plan in the last few months. The membership is comprised of Otero, Doña Ana and Sierra Counties, and the municipalities of Alamogordo, Elephant Butte, T or C, Williamsburg, Hatch, Mesilla and Las Cruces. The members that presently provide transportation within this jurisdiction are Zia Trans in Alamogordo, Roadrunner Transit in Las Cruces, Ben Archer, a rural transportation out of Hatch that goes to T or C and Las Cruces, and Sun Metro that takes care of Chaparral and Sunland Park. Z-Trans is going to Las Cruces five days a week with three routes per day. They stop within medical facilities, both Las Cruces hospitals, Mesilla Valley Mall, Doña Ana Community College and NMSU. In 2003, the State of New Mexico passed the Regional Transit Act allowing two or more government entities to come together in order to form a Regional Transit District. There is a North Central Transit District operating in the Santa Fe area, a Mid-Region within the Albuquerque, Rio Rancho, Belen, Los Lunas area, and there is a District for the Silver City, Lordsburg and the Deming area. We are trying to get the South Central Regional Transit District going by participation from the various entities. We were certified by the Transportation

Commission in 2006, and are a district political subdivision in the state. We received a \$250,000 grant from NMDOT in 2008-2009 that we have utilized to update information. We are supported by the South Central Council of Governments (fiscal agent) and Las Cruces MPO (planning support) and the RPO of northern Doña Ana County. We are a stand alone organization and hope to move forward with varying grants. He let them know they had been before the Chamber of Commerce Transportation Committee and other organizations this past year to get public input. He said they were getting ready to bring the present updates to member entities and move plans forward for consideration, modification, and adoption. We will then apply for federal, state and local funding and a match will be required. The state funding will expire in June of 2013, and they will be requesting local partners to assist with a financial commitment of \$.50 per citizen assessment based upon the 2010 census. From Alamogordo he respectfully asked for \$15,200.00. Las Cruces has committed to \$48,000 per year, Elephant Butte, Mesilla, Sierra County and others have also committed to this.

Mayor Galea asked about the amount requested for FY13-14 and if it would be in addition to what we currently pay for the Z-Trans subsidy. Mr. Valencia said it would be in addition to what you budget for Z-Trans. The participation level for the pilot program of the NMDOT is costing about \$110,000 of which \$55,000 has to come as an operating match. Las Cruces is contributing \$10,000 to that \$55,000 to try and maintain the Alamogordo/Las Cruces route. The money will be under the direction of the board of directors. There are other pilot programs in the district that will be considered.

Mayor Galea said she understood we will be contributing \$30,200 over the next two years and if we have voting members on the board, they can help decide where the funding goes. Mr. Valencia agreed. Mayor Galea noted County Commissioner Tommy Herrell had requested to opt out of this and she asked how the County had responded to Mr. Valencia's presentation. Mr. Valencia said he had not heard from the County. He had sent them the information and procedures they would need to withdraw from the program. Mayor Galea asked how Alamogordo would be affected if the County opts out, and Mr. Valencia told her that with regard to a funding referendum, it is required the County Commissioners call an election by County resolution and/or ordinance. The County is the entity with prioritization with regard to the legal part of creating that mandate. It doesn't necessarily withdraw you from some form of contractual relationship with the SCRTD, but it would require the use of your General Fund in order to fund any relationship with SCRTD. If the County participated, that revenue source would not affect the County or the City, and there would be significant revenues of about \$2.5 million generated from Otero County.

Commissioner Rentschler noted SCRTD would be a stand alone organization once a Service and Financial Plan is in place. He asked if that means the organization will be self-sufficient, and expressed his concern of using monies from the City's General Fund. Mayor Galea said that's only if the County opts out. He went on to say if the amount of \$.50 per citizen would possibly be coming out of the General Fund, he didn't feel he could support that. The Commission had paid for a pilot program for Zia Trans last year with the idea it would eventually support itself. He thought this should happen with this program, also. Mr. Valencia said as far as not having any impact to your General Fund, the easiest way would be a positive outcome to the Referendum. There would not be a need to come to the City of Alamogordo in any form or fashion if this happens. Presently, there is a need to seek a contribution so we can advance the issue with some pilot programs and analysis for factual information. Commissioner Rentschler asked him what more would the City see, based upon what Zia Trans is doing and our funding of the pilot program. Mr. Valencia said it would be up to the board of directors to decide the initiatives. There could be another daily route, a Saturday route, a one day service to Chaparral, and any other possibilities the board might consider.

Interim City Manager Carter asked Mr. Valencia about going to a referendum and whether it would be a gross receipts tax, a property tax, or what type of dollars. Mr. Valencia said the statutory authority given to the Regional Transit Districts is GRT. Under this allotment, the Legislature provided up to a ½ cent authority, although in his analysis, we would be looking at a recommendation of ¼ cent GRT. Within the District, that would generate about \$12 million dollars and of that approximately \$2.5 million would be derived from Otero County. Doña Ana County would be providing about \$10 million and Sierra County, the smallest partner with the most need, would be generating about \$500,000.

Interim City Manager Carter asked about the makeup of the Board. Mr. Valencia said there are 11 members and each member has at least one vote with incremental increases based upon population, while no two members may have a majority of the board makeup. That keeps the two largest members from controlling the board. Interim City Manager Carter asked if there was a sunset clause on the referendum. Mr. Valencia told him there was not.

Mayor Galea said \$15,200 per year sounds like a lot, but that funding will not be required after 2014. Instead, there will be a tax of about ¼% assessed through the GRT. Mr. Valencia noted potentially for an approximate \$30,000 investment over the next two fiscal years, Otero County and the City of Alamogordo could see a significant increase far in excess of that initial investment.

Commissioner Rentschler asked what would happen if the referendum fails. Mr. Valencia said he takes direction from the Board and they could decide to dissolve the board, or they could find other mechanisms to find the money elsewhere. He concluded he respectfully requested the Commission adopt the \$15,200 into the upcoming budget for FY2013-2014.

Mayor Galea thanked Mr. Valencia and noted no action would be taken tonight.

CONSENT AGENDA (Roll Call Vote Required for items No. 10, 13, & 14)

4. **Approve Minutes of the March 12, 2013 Regular Meeting of the Alamogordo City Commission.** (*Renee Cantin, City Clerk*)
5. **Approve statement related to the Executive Sessions of March 11th, 12th, 18th, and 19th, 2013.** (*Renee Cantin, City Clerk*)
6. **Approve the award of IFB No. 2013-02 to multiple vendors, related to Miscellaneous Foods, Dairy Products & Items for the Alamogordo Senior Center Nutrition Program in amount not to exceed \$115,527.90.** (*Matt McNeile, Assistant City Manager*)
7. **Approve the award of IFB 2013-07 for Concrete to be used by various City Departments, to Mesa Verde Enterprise in the amount of \$46,330 including NMGR.** (*Brian Cesar, Utilities Director*)
8. **Approve the award of IFB 2013-08 for Sodium Hypochlorite Disinfectant to be used at the Water and Wastewater Treatment Plants, to DPC Industries in the amount of \$123,000 including NMGR.** (*Brian Cesar, Utilities Director*)
9. **Approve the award of Public Works Bid No. 2013-002 to LANCON Inc. related to Alameda Zoo Entrance Complex in an amount not to exceed \$216,532.89, inclusive of NMGR.** (*Edward Balderrama, Project Manager*)
11. **Approve the membership in the National Joint Powers Alliance, an intergovernmental purchasing agency.** (*Stephen Thies, City Attorney*)
13. **Approve Resolution No. 2013-11 requesting written approval from the Local Government Division of the Department of Finance & Administration, State of New Mexico for the revised budget figures computed as of March 26, 2013. [Roll call vote required]** (*Kathy Gilsdorf, Budget Analyst*)
14. **Approve Resolution No. 2013-12 approving a Power Purchase Agreement between Affordable Solar Installation, Inc. and the City of Alamogordo. [Roll call vote required]** (*Stephen Thies, City Attorney*)

Item # 10, 12, 15 were removed from the consent calendar.

Commissioner Hernandez moved to approve items # 4, 5, 6, 7, 8, 9, 11, 13, & 14 of the consent calendar. Commissioner Rentschler seconded the motion. Roll call was taken for items #13, & 14. Motion carried with a vote of 7-0-0.

ITEMS REMOVED FROM CONSENT AGENDA

- 10. Approve the final publication of Ordinance No. 1433 repealing Article 2.05 in the Code of Ordinances and establishing a Police Department and a Fire Department. (Stephen Thies, City Attorney)**

Commissioner Baldwin noted he had not received requested information on this item and he wanted to see the financial impact information on this. Interim City Manager Carter apologized to Mr. Baldwin that he had not prepared this information for him. He went on to say the budget numbers were still being prepared and he requested this be tabled and put on the next agenda. Commissioner Rentschler remarked he understood this would be budget neutral.

Commissioner Baldwin moved to approve to table until the next meeting. Commissioner Rardin seconded the motion. Motion carried by a vote of 7-0-0.

- 12. Approve the proposed settlement agreement for the Ernie Bussell lawsuit. (Stephen Thies, City Attorney)**

Commissioner Rentschler said he was concerned we would be sending the wrong message for someone who quits instead of being fired. The Self-Insured Fund had recommended we do this, but he was not convinced this is the way to go.

Mayor Galea asked him if he would rather go to court and spend tax payer dollars to pay for exorbitant court fees, as opposed to \$30,000 now. Commissioner Rentschler said we don't know it will cost an exorbitant amount, but Mayor Galea said the Self-Insured Fund staff had advised them it would. Mayor Galea commented again this would not be prudent to spend tax payer dollars in this manner.

Commissioner Rardin called the question.

Commissioner Rardin moved to approve the settlement agreement for the Ernie Bussell lawsuit. Mayor Pro-Tem Hernandez seconded the motion. Roll Call vote was taken by the Clerk. Motion carried with a vote of 4-3-0. Commissioner Baldwin, Commissioner Rentschler, and Commissioner Talbert voted nay.

- 15. Approve a Professional Services Agreement with Souder, Miller & Associates related to the Juniper Widening Project in an amount not to exceed \$49,905 plus NMGRT for design. (Nancy Beshaler, Project Manager)**

Commissioner Rardin pulled the item from Consent for clarification and so he could vote no. He noted the fiscal impact was \$53,460 with budget revisions in process, and he thought anything over \$50,000 had to go out for RFP. He asked City Attorney Thies about this. City Attorney Thies told him the amount of the services was under \$50,000 and currently our ordinance does not include the GRT for calculation of one that has to go out for RFP. Commissioner Rardin thought it was ironic the amount was \$95.00 under the threshold. City Attorney Thies noted the attachment showed how the amount was obtained.

Commissioner Rentschler moved to approve a Professional Services Agreement with Souder, Miller & Associates related to the Juniper Widening Project in an amount not to exceed \$49,905 plus NMGRT for design. Mayor Pro-Tem Hernandez seconded the motion.

Mayor Pro-Tem Hernandez wanted to clarify this agreement was for ascertaining what it would take to go ahead with the project. It is not a part of the actual project.

Mayor Galea said she had learned through Public Records Requests this project was approved by the Commission with a vote of 4-3-0, but she thought there had been misleading information provided to the Commissioners. She noted multiple Commissioners had reported receiving many emails in support of this project when the Records Request showed no positive support. Thus, she felt this project was passed and approved with erroneous information and she couldn't approve this amount of taxpayer money on the study. Commissioner Sikes told the Mayor she had received numerous emails over the past two weeks and one consistent question was why a study was not done prior to the approval of the project. Now the emails she receives are concerned with why we are doing this after the fact in order to cover why it was approved.

City Attorney Thies addressed the scope of the services. He noted this engineering agreement would take us all the way through the construction. He named the five different tasks in the agreement: 1) to provide preliminary design, 2) final design and preparation of construction documents, 3) final design review, 4) assist the City in bidding, and 5) provide construction services if requested. At any point in time, we can pull the plug on this project and won't have to pay the engineering firm for services rendered to date. After they complete their preliminary design, we will bring this back to you for review and assessment, and you will decide whether to end the project or move forward with it.

Commissioner Rardin commented we should have done this prior to approving the project, or at least had a survey crew go in and make sure it fit into the right-of-way before getting the citizens all riled up. City Attorney Thies said normally the crew makes the calculations and provides them to an engineering firm. At that point, the engineering firm designs the road.

Roll Call Vote was taken by the Clerk. Motion carried with a vote of 4-3-0. Commissioner Sikes, Commissioner Rardin, and Mayor Galea voted nay.

PUBLIC HEARINGS

- 16. Hold a public hearing, and act upon, a Special Permit application for a temporary structure permit from Vision Ford at the Otero County Fairgrounds. (Marc South, City Planner)**

City Planner Mark South told the Commission Vision Ford will be having a tent sale at the Fairgrounds from May 2 – May 7, 2013. They would like to put up three tents to do this. Letters were mailed to the 19 surrounding property owners and no one responded back.

Commissioner Rentschler moved to approve a Special Permit application for a temporary structure permit from Vision Ford at the Otero County Fairgrounds. Commissioner Rardin seconded the motion. Motion carried with a vote of 7-0-0.

UNFINISHED BUSINESS

- 17. 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)**

Interim City Manager Carter announced the property owner is with us tonight. The buildings are on the ground and they are proceeding to haul them off, so the property owner has taken care of his part.

The property owner, Mr. Morris Calkins told the Commission it looks a lot better. Mayor Galea thanked him for taking care of this.

Commissioner Rentschler asked Mr. Calkins where the debris will be taken to, and Mr. Calkins said they were still figuring on it. He has been approached by some people to see if they could have some

for firewood. He might donate some to anyone who will haul it off and what remains, he will haul off. He suggested the new fire department come out to practice on it. Commissioner Rentschler said the problem is how we can help to dispose of 20 dump truck loads of debris. Mr. Calkins said they figure there are 15-20 loads. He has spoken to Jamie Neal about hauling it and hasn't talked to the Ravens yet to find out how much they would charge. Mayor Galea had previously brought a demolition incentives program to the Commission which will be addressed in the future after Staff has looked at it. It would cost the City something but would be an incentive for clean-up and disposal of debris.

Commissioner Rardin would like to see if the City Manager couldn't work with Mr. Calkins to get some of our roll offs out there. Interim City Manager Carter said we would be working with him for the next three months to get this cleaned up. Senior Inspector Lora Nelson had told Mr. Carter she would be happy to work with Mr. Calkins on this since he has been energetic to get this down and do what we asked.

Commissioner Talbert asked Mr. Calkins if the trailer and cab had been removed, and Mr. Calkins told him yes. He told the Commission he appreciated them working with him.

18. Consider, and act upon, the request for a Leak Adjustment for ABC Auto Sales located at 606 Hwy 70 West. (Linda Efird, Requestor and Armando Ortega, Customer Service Manager)

Customer Service Manager Ortega gave an update on the information that was requested. He reminded the Commission this had been brought to the March 12, 2013 Commission meeting requesting full abatement. We had been asked to get more information and worked with Utilities Director Brian Cesar to do so. Mr. Ortega said staff had put in requests to other cities to get unbiased opinions, but weren't able to get them in time. Using AWWA standards, we ascertained a 1" meter at 50 PSI can use 58 gallons per minute or 3,510 gallons per hour. With those figures, the 347,000 gallons that they used could be used in four days. We also had our Water Shop go out and do a PSI inspection on the property and rated them at about 79-80 PSI's, which is more than we figured in the previously mentioned figures so that amount of water could have been used in a shorter amount of time. He noted there are multiple variables to consider when looking at PSI's, such as line sizes, and all variables were considered. At 20 PSI's we are looking at 37 gallons per minute at full flow.

Commissioner Rentschler asked Mr. Ortega if this could have possibly been a frozen hose left on and then thawing. Mr. Ortega said this was correct, and added it wasn't known when this happened in the 30 day billing cycle.

Mr. Efird came forward to say the figures Mr. Ortega gave were for a 1" pipe running for days. He said a 1" pipe goes to a ¼" hose in order to go to a toilet and how much water can run through a ¼" hose in 30 days. He thought this was a bunch of bull. He has dealt with water and knows how long it takes to run a five gallon can of water through a ¼" hose. He felt 340,000 gallons couldn't be used in a month. If a hose was running, someone would have seen it. He asked the Commission to make the choice. He reiterated they had not used that much water.

Mayor Pro-Tem Hernandez moved to deny the request for a Leak Adjustment for ABC Auto Sales located at 606 Hwy 70 West. Commissioner Baldwin seconded the motion.

The Mayor Pro-Tem noted the reason he had moved for denial was because our ordinances and policies do not allow for an adjustment when there is not a leak. There was no documentation of a leak, and he didn't feel the Commission had a choice.

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

19. Consider, and act upon, the first publication of Ordinance No. 1435 related to use of cell phones in vehicles. (Michelle Reeves, Assistant City Attorney)

Commissioner Talbert moved to approve adding the words 'cell phone' and 'for everyone' into the ordinance and the first publication. Commissioner Sikes seconded the motion.

Commissioner Rardin asked if this would include DPS, and Commissioner Talbert said that was his intent. Commissioner Rardin noted Item 5 said 'In an authorized emergency vehicle while in the performance of official duties' and he felt it was more dangerous for them driving with their lights on and talking on a cell phone than it was for a citizen talking normally. He asked this section be taken out of the ordinance.

Commissioner Talbert felt the newspaper had sent the wrong message by saying the Commission was for cell phone use while driving. He felt we need to send a message of safety and concern. He said it is difficult to tell if someone is dialing a number or texting. We need to make our intentions clear.

Mayor Pro-Tem Hernandez asked for clarification on whether he meant no texting or no use of cell phones at all. Commissioner Talbert told him he could go with hands-free even though he wasn't completely in agreement with that, but it was a reasonable compromise. Commissioner Rentschler asked if that means hands-free devices, and Commissioner Talbert said that would be acceptable.

Commissioner Rentschler said if we vote this down at this point, we will be voting down the entire ordinance without a second shot for this. Mayor Galea affirmed this.

Commissioner Rardin stated last weeks version was better since it had both. The hands-free was included but we didn't want the law enforcement part in there.

Mayor Galea said she understood from the last meeting that everyone felt it could not be enforced throughout the city, and we wanted it to come back with 'no texting' specifically.

Commissioner Rentschler said he wouldn't want to see this voted down. His problem was he felt it was unenforceable since a police officer could not prove you were doing anything. He wanted first to address the amendment and then the ordinance instead of doing them all together.

Mayor Galea said for further discussion she would like to talk about other communities, such as Albuquerque, that has a No Cell Phone ordinance. She asked DPS Chief Robert Duncan for his thoughts on how this could be enforced.

Commissioner Rentschler said one of the things to consider is the legislation from the last session in Santa Fe, and whether this had been deemed unenforceable. Mayor Galea asked Chief Duncan how it could be considered enforceable.

DPS Director Duncan said the only way he thinks it could be enforced is if we actually see the person talking on their phone, without a shadow of a doubt. Officers have radios and don't need to have cell phones. He was in support of no cell phone use and noted they couldn't enforce a law when they weren't themselves abiding by the law.

Mayor Pro-Tem Hernandez said he witnessed four officers using their cell phones while driving down the road today. Mayor Galea said it's not law yet, and he said he understood that. He said it was something we all can get used to, but he thought it would be very hard to enforce for both citizens and the enforcers. Commissioner Talbert said if Chief Duncan tells them they can't do it, they won't.

Mayor Galea said it starts with her, and she needs to become hands-free.

DPS Director Duncan said when he lived in Albuquerque, it was amazing how many cops were on their phones. He expressed we have radios in our cars so we don't need to be on our cell phones.

Commissioner Rentschler asked Chief Duncan about citizens that use scanners to monitor the police airways for various reasons, some of which are not good. Did he ever see using a cell phone by an officer in order to keep any information off the radios for this reason?

DPS Director Duncan truly thinks that happens all the time. Commissioner Rentschler agreed and thought that is why law enforcement was exempted from the ordinance. He asked if the officers can talk seamlessly by radio to all law enforcement agencies in Otero County and the State Police. Chief Duncan affirmed they could and they have capabilities to keep scanners from picking up radio communications. Commissioner Rentschler asked why they didn't do that all the time.

Commissioner Rentschler asked if our officers would be obliged to give a citation to State Police officers who drove through town and talked on their cell phones. He thought the problem he had seen recently concerning this was an individual who had been texting and was involved in a serious accident. It took over a year to prove he was actually texting before any charges were brought. He wondered if it would be this difficult to prove for every one of these citations. He then noted he puts addresses into his cell phone and uses it as a GPS, so would GPS and similar devices need to also be included in this ordinance. Commissioner Rentschler brought up the computers in police cars that need to be used as location finders.

Commissioner Sikes said there are a lot of laws that unless someone sees you, you won't get a ticket. The incident of the person texting that caused a serious accident was a little more serious. They simply needed to get the cell phone records to see he was using the phone at that time. She said 39 states have outlawed texting or using cell phones while driving. For the last six years the Department of Defense has made it illegal to use a cell phone on a military base. At this point with Commissioner Talbert's amendment, this ordinance would have enough teeth to be enforceable by the police department. She felt it was only common sense and she had heard from many people in favor of this ordinance. She felt it would provide for more public safety.

Mayor Galea agreed with Commissioner Rentschler about the enforcement issue, but she agreed with Commissioner Sikes that we need to begin somewhere and be the change we want to see.

Interim City Manager Carter asked the Commissioners to look under Section 1, Exception C – Item 2.

It says, 'for making a cell phone call' and needs to be excluded. Mayor Galea noted Item 6 under C-2 is also for making a cell phone call and needs to be excluded. Mr. Paul Sanchez asked for clarification on the agenda book listing. Mayor Galea stated we are under Section 1, Sub 6,C2 – for making cell phone calls.

Debbie Raymond addressed the Commission saying the 911 Dispatchers have a 911 Confidential Form, and it is usually given to the elderly and disabled. In that form, they put down any health conditions, medications and any flammable items in any structures on their property. Police, Fire and Ambulance personnel can then be called confidentially to let them know there is a 911 call at a residence and these are the conditions so they know ahead of time what to expect when they arrive at the residence. These emergency responders will only communicate with cell phones so the information remains confidential.

Interim City Manager Carter said under this exception if it's not taken out it would exclude cell phones. If you take it out, you would be including cell phones.

Mayor Galea re-stated the motion on the floor to approve the first publication of Ordinance 1435 related to the cell phone use in vehicles to include no cell phones will be permitted at all and this will be enforced for everyone.

Commissioner Rentschler asked if the hands-free motion was being removed and was told hands-free would be permitted.

Roll Call vote was taken by the Clerk. Motion carried with a vote of 4-3-0. Mayor Pro-Tem Hernandez, Commissioner Baldwin, and Commissioner Rentschler voted nay.

Recessed at 8:52 p.m. and reconvened at 9:07 p.m.

NEW BUSINESS

20. Discussion, and possible action, related to a weed abatement request for 1500 Ohio Ave. (Edward Hawkins, Requestor)

Code Supervisor James Baker presented the item. He said he had spoken with Mr. Hawkins and he had expressed he was uncomfortable speaking to the Commission, so had left. Mr. Baker explained they had received a complaint 10/07/2012, and left a notice of violation at the residence as well as sending a certified letter to a mailing address for this residence obtained from the County Assessor's office. They went back on 11/16/2012 to re-inspect and it was still in violation. On 12/12/2012 we contracted with Clean Cut to correct the violation and they charged us \$125.00 plus tax to do this. The mailing address we obtained for Mr. Hawkins was 1500 Ohio. We sent the certified letter to that address and it was returned after being unable to forward. Mr. Baker showed pictures of the violations before and after abatement.

Commissioner Rardin asked Mr. Baker if we left the red notice, and he told him yes. He said the problem was Mr. Hawkins had moved to a different address and had not changed the address at the County Assessor's office. Mr. Baker suggested to him to get this done for future reference. He reiterated his staff had gone through the complete notification process, but there was no way of knowing he had moved.

Commissioner Rentschler asked if the individual still resides in the City and if he could have driven by this property. Mr. Baker affirmed on both counts. Commissioner Rentschler commented he should have been aware what the property looked like.

Mayor Galea noted the agenda book showed Mr. Hawkins explained he had been fighting cancer and was unaware of the issue. She said she was aware through her family of the issues concerning this disease, and she didn't feel one spent that period of time (October – January) away from their home.

Commissioner Rardin moved to approve abating the \$200 administrative fee and have him pay the \$134.53 that was paid for the clean up. Commissioner Rentschler seconded the motion. Motion carried with a vote of 7-0-0.

21. Consider, and act upon, a Request for a waiver from Alamogordo Public Schools related to the Sidewalk Ordinance for the properties located at 2624 N. Florida and 2410 E. Tenth Street. (J. Vance Lee, APS Director of Support Services)

Alamogordo Public Schools (APS) Director of Support Services, Mr. Vance Lee addressed the Commission. He stated APS was respectfully requesting variance from the Sidewalk Ordinance for 2625 N. Florida – in front of the APS Maintenance Yard, and 2410 E. Tenth St. – behind Heights Elementary School. This request is based on limited availability of funds to construct sidewalks, wheel chair ramps and fencing. Since they are currently developing planning and budget for the Washington Ave. Extension Project, they feel this funding will be part of what helps them with this project.

Commissioner Rardin asked how long of an extension they needed. Mr. Lee thought it would be a couple of years in order for them to get through the new elementary project and the Yucca project. Commissioner Rardin noted they had a citizen at their last meeting oppose putting in sidewalks on his property. Mr. Rardin thought they could go a couple of months, but not a couple of years. Mayor Galea interjected we need the access for the handicapped. Commissioner Rardin continued saying we had everyone else in that area comply with the ordinance, including our own property. It would send the wrong message to be lenient to the Schools while everyone else had to comply.

Mayor Galea said the sidewalks add to the safety of children walking to school, and felt it an important addition. Mr. Lee said the APS Maintenance Yard is a ways from the schools. She mentioned the Bellamah/Heights Elementary streets and Mr. Lee said the Bellamah has sidewalks with crosswalks, crossings and handicapped ramps on the opposite side of the street.

Commissioner Rardin asked if we are doing road construction on Bellamah. The ordinance reads you must do this, but the previous Commission took the opinion that if the City is working on the road you have to bring them into compliance, and if the City is not working on the road you do not have to bring them into compliance until the City gets there to work on the road. He noted we had done Bellamah on the north side of 10th St., but not the south side by Heights. He asked Mr. Lee if APS had received a letter from the City and Mr. Lee affirmed they had for both locations. Commissioner Rardin said we might have staff look into this.

Interim City Manager Carter asked Utilities Director Cesar if we have done work on Bellamah. Mr. Cesar told him that was related to Snow and Dewey streets. Mayor Galea asked if by doing these two streets, would Bellamah have to come into compliance as well? Commissioner Rardin remarked Bellamah was behind Heights School while Snow and Dewey were on the north end of town.

Commissioner Rentschler remarked when the sewers were caving in, the City paved from McKinley/Bellamah down to Abbott. Utilities Director Cesar said Bellamah was part of the 2008 GRT Streets project and was done from 10th St. to Abbott.

Mayor Galea asked Mr. Lee when APS expected to have the funding after the School projects. Mr. Lee said we haven't budgeted for it this year, and it would be a stretch to get it into the SB9 Funding for next year, so they were looking at the following year. Mayor Galea asked for a date, and Mr. Lee told her it would be 2015.

Interim City Manager Carter asked if they had looked at concrete or asphalt. Mr. Lee said they looked at concrete, but not asphalt. With concrete, he said, there would be some replacement fencing at Heights Elementary.

Mayor Pro-Tem Hernandez moved to deny the extension for that period of time. Commissioner Rardin seconded the motion.

Commissioner Rentschler asked if APS didn't do this, would the City do this as they typically do. Commissioner Rardin said this is school property, and we don't lien school property. Commissioner Rardin asked Mr. Lee if the APS staff could do this to cut costs, and he replied they would definitely have to look at that option, but they have 18 buildings to be maintained. Commissioner Rentschler asked if there was anyway they would qualify for our loan program, and City Attorney Thies told him homeowners were the only ones eligible.

Mayor Galea asked if there are other projects on which we could combine resources. Mr. Lee felt there were opportunities out there, but they hadn't anticipated combining with another project. Mayor Galea felt there must be some way the City and School System could work together to help with the cost of \$41,000.

Commissioner Rentschler asked Mr. Lee if they had considered doing this a piece at a time. Mr. Lee told him if APS didn't receive the variance, he would adapt.

Commissioner Rardin asked Utilities Director Cesar how many had to comply with this ordinance in the Bellamah area. Mr. Cesar told him on the lower section of Bellamah from 10th to Abbott, he recalled it was only the School property. Lower down, there were some issues with heaving sidewalks and he remembered all of these had been addressed. On the opposite side of the street there is existing sidewalk in front of the homes, but not on the School property. It is the last remaining area to be done. Mr. Lee said there is a fence on the School property with a parking lot inside of it with a curb.

Commissioner Rardin considered giving APS until 2015 on the Bellamah portion, but have them get the Florida portion done as soon as possible. Mayor Galea asked him if he would like to make an amendment to the motion.

A motion was made by Commissioner Rardin to amend so there is a variance until 2015 to complete the Bellamah project at 2410 E. Tenth Street. Mayor Pro-Tem Hernandez seconded the motion. Motion carried by a vote of 7-0-0.

Original motion to deny a waiver from Alamogordo Public Schools related to the Sidewalk Ordinance for the property located at 2624 N. Florida. Motion carried with a vote of 7-0-0.

22. Request for discussion, and possible action, related to the Widening of Juniper Drive Project. (Shirley Owen, Requestor)

Mayor Galea announced this project has already been approved and passed so this will be the last time this item will come before the Commission, unless addressed under Unscheduled Communications.

Mrs. Shirley Owen who lives in District 3, addressed the Commission concerning Juniper Dr. She defined the word 'misinformation' used in some of these discussions. Misinformation means incorrect information spread unintentionally. She felt the correct word to use would be 'disinformation' which means deliberately misleading or inaccurate information announced publicly and deliberately by government in order to influence public opinion; an act of deception and false statements to convince someone of untruths. She stated the residents of Juniper feel the arguments given for this project are weak and unsubstantiated, and the City has failed to prove the need for this project. The citizens want to know what the real reason is for this wasteful spending. She noted the project had allegedly been in progress for four years, but no one was notified until December 10, 2012 even though the Commission had approved the project on November 5, 2012. She also asked why those who opposed the project had to get out and walk the neighborhoods to collect legitimate signatures while our Commissioner said everyone he talked to wants this project to move forward. She wondered where these people were, where were their signatures, and why aren't the Commissioners held to the same standards of proof as the citizens. It is disinformation when you refer to invisible people with invisible names who support this project. It has been stated the Commission has to consider not only the wishes of the insignificant few who live on Juniper, but also "a vast number of Alamogordo citizens who want the street widened". We have collected over 300 signatures from citizens opposed to this. This too is disinformation. The claim is being made that Juniper has become a main artery and collector street because Alamogordo "now has a college and hospital in the area". This is disinformation because the hospital and college are not new and not suddenly causing an explosion of traffic along a peaceful, residential street. She clarified the NMSU campus opened 45 years ago in 1968 and Gerald Champion Medical Center opened 14 years ago. Ambulances and college students use other streets to get to these locations. She asked the Commission why they didn't finish Fairgrounds Rd. which would be a good artery to both the hospital and school. She felt the only real reason the residents of Juniper were fighting this was because widening the street would not make it safer. It will increase traffic and the speed of the traffic, even though it is posted at 30 MPH. This is the same speed posted on Scenic Drive and 10th St. which are both 4-lane streets. Ms. Owen said an early founder of Alamogordo, Carol Wood whose father helped Mr. Eddy lay out the town, stated in an interview the streets were perfectly off-set so that as the city transportation evolved beyond horses and buggies, it would be harder for cars to speed and put residents in danger. The recent emphasis on aligning the streets is not an improvement, but a contradiction to the safety precautions the city's founders took to make Alamogordo a safe and pleasant place to live. She said the residents have been told they may be required to sell two feet to the city for the project. Eleven residents have heard the City Attorney and Project Manager say the city still does not know if the project will require the purchase of our property. An article in the newspaper contradicted that by stating the city would not need to purchase any property from the residents. She said this is more disinformation. We have heard an unending stream of contradictory measurements, estimates and statements. Without an engineer on staff she asked how they could possibly know how long it would take, what would be

required and how much it will cost. Why do you need a \$50,000 feasibility study to find out what the people on that street already have told you? We found out there was a State Traffic Study done and it recommended the street not be widened. She asked the Commission to reconsider the cost-saving alternatives the residents have given them. The citizens of Alamogordo are finding out the truth and if you continue to declare the vast number of Alamogordo citizens want this project, you believe too much in your own disinformation. Ms. Owen asked the Commission to reconsider and cancel the project. She closed by saying she referred to a song that says "it always seems to show, you don't know what you've got till it's gone. Pave Paradise, put in a parking lot".....and this is exactly what's happening.

Mayor Galea added the Commission had received the petition she had sent to the Clerk's office and it could be pulled up for reference if need be.

Roxanne Kasehagen, a resident of Juniper Ave., addressed the Commission. She had been reading all she could about this project and finding out their rights as citizens. She was trying to find the reasons for justifying any of this. In Chapter 42 of the New Mexico State Statutes, it states the government must establish in its powers of eminent domain that the project must meet the requirements for public purpose or public necessity. Ms. Casehagen asked if this project met the requirements for public purpose or public necessity. One of the reasons given was the necessity to replace water and sewer lines in this section of the street, but from the minutes of the February 26, 2013 Commission meeting Utilities Director Brian Cesar said, "The water main on Juniper was tested and is in very good condition". It was also noted that because of population growth of Alamogordo, Juniper needed to be widened, but census statistics do not show this. When asked if a traffic study had been made to determine any increase of traffic, the City Attorney said the report had been lost. She remarked this is a residential neighborhood and there is no need to turn it into a collector street or main artery. She reiterated what Ms. Owen had said about the number of signatures they had received in opposition to this project. She asked the Commissioners what evidence they had to support their conclusion they had a mandate from the people of Alamogordo to continue with this project. She spoke about the comments made concerning traffic to the hospital and college. Ms. Casehagen noted on March 5th, they had requested an APS Location Occurrence report for the dates of January 1, 2012 – January 31, 2013. From Aspen to 10th St. there were only two incidents reported for that year, neither of which involved the safety of citizens. She spoke on the alternative suggestions given by citizens and felt it would be logical to try them first before spending \$1.1 million on this project.

Commissioner Rardin asked what the city standard was concerning how many cars have to pass down a road daily before we can warrant widening a road. Utilities Director Cesar said there is not a city standard for this. Commissioner Rardin had a copy of a 2011 report where the City asked the State to change the classification of Juniper Rd. from a local urban to a minor arterial urban. The report showed 943 cars on the north bound lane and 722 on the south bound lane. He didn't see a reason to widen the street when only 1,000 cars were using it. The State didn't pay for this study because they did not feel it needed to be widened.

Mayor Galea said this is a Commission approved item so no action can be taken unless a Commissioner who approved the project makes a motion to cancel it.

Theda Harshey who lives at 1109 Juniper St. told the Commission she had been sitting in these meetings since Commissioner Rentschler's re-election, and Mayor Pro-Tem Hernandez' and Commissioner Baldwin's elections. She noted on the night Nadia Sikes was appointed as a Commissioner, Commissioner Rentschler had asked each nominee if they had walked their precinct and talked to the constituents. She asked Commissioner Rentschler to please change his vote. Ms. Harshey said they had purchased their home in 1985 and in 1996 put in a circle drive in order to get their cars off the street. If you take 1' – 2' we won't be able to access this circle drive, she noted. She explained they park in the back and any one who comes to visit parks in the back. She then addressed Mayor Pro-Tem Hernandez and Commissioner Baldwin and asked why they didn't want some of this money for their districts. Mayor Galea asked her to please address the Commission.

Ms. Harshey asked the Commissioners to withdraw this. She noted there had been eight handicapped ramps installed in 2011 on Juniper and these will have to be ripped out and put back in to do this work. Commissioner Rentschler had told her the taxpayers use this street and they want it widened, but Ms. Harshey wanted to tell them they could travel other ways. She again asked them to change their vote.

Mayor Galea again told everyone no action would be taken tonight.

Commissioner Rardin asked if it was legal to not allow anymore comments on Juniper. Mayor Galea told him we would not entertain another requestor on this item because it has been approved, but anyone was welcome to address the Commission during Unscheduled Communications. City Attorney Thies said rules had been passed by the Commission a few years ago stating the director could regulate agenda items. All items would have to be approved by the Mayor. Commissioner Rardin didn't remember it that way and thought the Mayor could only decide the order of the agenda. The City Attorney Thies told him that if individuals wanted something heard, there were other avenues to have it heard. Mayor Galea reiterated we would still hear the public on any subject under Unscheduled Communications, but it is time for our City Staff to move forward.

23. Consider, and act upon, the first publication of Ordinance No. 1439 amending the Code of Ordinances to create a Housing Authority Advisory Board. (Stephen Thies, City Attorney)

City Attorney Thies remarked that in February the resolution to create a quasi-independent Housing Authority had been discussed and the Commission elected to not pursue that avenue. They directed staff to come back with something to create an Advisory Board. He pointed out the ordinance in front of them would closely track the resolution creating the quasi-independent board. It would meet monthly and be a five member board composed of one member with real estate or construction experience, one member would be the mandatory resident member, one would be a banker, one would be at-large, and one would be the Mayor. Each member would serve five years with exception of the Mayor. They would be appointed by the Commission and would receive no compensation. The duties, with exception of conducting studies and hearing grievances, would be advisory in nature. If you approve this ordinance, it will become effective as of July 1, 2013.

Commissioner Rardin moved to approve the first publication of Ordinance No. 1439 amending the Code of Ordinances to create a Housing Authority Advisory Board. Commissioner Talbert seconded the motion. Motion carried with a vote of 7-0-0.

24. Consider, and act upon, a request for authority to commencing foreclosures proceeding on unpaid liens. (Stephen Thies, City Attorney)

City Attorney Thies said this item is one we've been talking about for several years. We frequently deal with abatement of property, and if the property owner fails to pay us for the abatement, we file a lien. We also file liens for unpaid utility services, and even though we require a security deposit, it doesn't always take care of the lien. He noted there was a court case in the past that ruled the four year statute of limitations applies to utility or other governmental liens. This means we no longer have the right to enforce that after the four years. We currently have \$155,000 on the books in liens and will have almost \$67,000 of that become four years old after April 1st. He pointed out there were four properties listed in the agenda report where the 48 months will expire prior to the next election. He is requesting permission for the legal department to begin foreclosure proceedings on these four liens. If approved, we will be bringing liens back monthly with requests for authorization to foreclose.

Commissioner Talbert moved to approve the foreclosures on unpaid liens. Commissioner Baldwin seconded the motion.

Commissioner Rardin said the bank will pay the lien if there is a mortgage, and City Attorney Thies agreed. He continued by saying we would notify anyone with outstanding liens against the property

and if it is a current mortgage, the mortgage company would pay the lien and add it on to the balance of the mortgage. Commissioner Rardin asked him what we would do if a property doesn't have a mortgage and we have to take it. City Attorney Thies told him we would bring the property back to Commission at a future date and try to sell it. Commissioner Rardin asked if we would enforce this in the case of property bought by a person who didn't know there was a lien against the property. Mayor Galea agreed with him and said we could not take property with liens on it. By writing it off, it would be a deduction. Mayor Galea didn't know if it would be right to take property with a smaller lien.

Commissioner Rentschler said this is the city's only avenue of recovering fees that are assessed. If we are not going to try and recover these fees, why do we bother with enforcing these regulations. Mayor Galea agreed with Commissioner Rentschler. Commissioner Rentschler said there is no other alternative. Mayor Pro-Tem Hernandez said we must follow the ordinances.

City Attorney Thies echoed Commissioner Rentschler's statement that if we are not going to enforce liens, we need to discontinue the process of filing liens. We are out \$50.00 to file each lien, and the \$200.00 administrative fee. When we have to abate a property we could send the property owner an invoice and if not paid within 30 days we could turn it over to a collection agency. Mayor Galea asked if we could foreclose on the initial owner of the property in the case of more than one owner. City Attorney Thies said what has happened with a lot of these properties is we clean it up or they have an outstanding water bill and the property goes into foreclosure. The title companies haven't been diligent in keeping up with these liens and they take the position that foreclosure extinguishes the lien. The lien follows the property, not the property owner. That means a future purchaser suffers the consequences of someone else. Recently, we had an issue where we were contacted by a person who was the second or third owner and there were several hundred dollars of liens on the property. He had told her attorney they perhaps should check with the title company since it ignored the liens. They did this and the title company had to pay the liens.

Commissioner Rardin said some of these could be rentals where a past tenant left an unpaid water bill. The landlord is not going to want to pay this, but it is his property that has the lien. City Attorney Thies told him there is an ordinance that protects the property owner under those circumstances. All they need to do is file the paperwork with us, and then we have to look to the renter.

Commissioner Sikes asked City Attorney Thies how often we have commenced with foreclosure and someone came to pay the bill. He told her in his five years they have not commenced foreclosure. Commissioner Rardin interrupted to say in 1987 this happened and we ended up with all the property on Black Street.

Commissioner Rentschler called the question.

Motion carried with a vote of 6-1-0. Commissioner Rardin voted nay.

25. Consider, and act upon, changing the Regular Commission Meeting times back to 7:30 p.m. (Robert Rentschler, Commissioner)

Commissioner Rentschler would like to see us go back to 7:30 p.m. during daylight savings time and 7:00 p.m. during standard time.

Commissioner Rentschler moved to approve going back to 7:30 at Daylight Savings time. Motion died for lack of a second.

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

Mayor Galea announced there are no nominees for any boards and committees, so there will not be any appointments.

UNSCHEDULED COMMUNICATIONS

None.

CITY MANAGER'S REPORT

1) Interim City Manager Carter said this Friday, staff will be going to Bonito Lake with the Forest Service to look at the trees around the roads we own to see if any of the severely burnt ones are in any danger of falling. We want to make sure our liability is covered.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Talbert commented on the following:

1) He asked about a flight over the Little Bear Area and if we are still interested in doing that. Interim City Manager Carter said if some of the Commissioners would like to do it, and if he is still here, he would arrange it.

Mayor Galea commented on the following:

1) She said the Commission had signed a sympathy card for Sgt. Tristin M. Wade of White Sands Missile Range who died on March 22, 2013 in Afghanistan. He was 23 years of age.

2) On March 14th she had been a speaker at the Political History for Women Seminar put on by NMSU-A.

3) On March 22nd, the City teamed with Linda Gulley's office for a two day benefit for an orphanage in Juarez, Mexico in which \$4,600 was raised. She especially thanked Raul Ruiz, Civic Center Manager.

4) On March 23rd, she had donated with many others to help raise \$7,000 for the Dolly Parton Imagination Library. This organization will continue to send books to 3,000 children in Otero County.

5) On March 15th, the Border Patrol had the REAL Graduation. REAL is a six week youth program that works with kids referred by the Juvenile Probation Office. She saw a great transformation from when they began until they graduated.

6) She said the Jamestown College of North Dakota was in town to help with a Habitat for Humanity project.

7) The Airport Advisory Board recently contacted her to report the runway will be extended to a total of 9,200 feet. FAA grant funding will provide matching funds.

8) The Commission has been meeting with City Manager candidates and there will be a community-wide Meet and Greet on April 5th from 7:00-9:00p.m. at Desert Sun Toyota.

9) She recently had the opportunity to work with Gen. Gwen Bingham. The Mayor and her 11 year old daughter stayed in the General's home while participating in the Bataan Death March Event. Mayor Galea also extended her congratulations to Gen. Bingham for her nomination to Major General.

10) She noted there would be a lot going on this week such as another college coming in from San Diego to work on a Habitat for Humanity project and Easter in the Park at 10:00a.m. this Saturday beginning at City Hall and going to Washington Park.

EXECUTIVE SESSION (Roll Call Vote Required)

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

- **Purchase, Acquisition or Disposal of Real Property (200 S. Florida Ave. and 2293 S. Florida Ave.)**
- **Limited Personnel Matters (City Manager Recruitment)**

Mayor Pro-Tem Hernandez moved to recess into Executive Session to discuss purchase, acquisition or disposal of Real Property (200 S. Florida Ave. and 2293 S. Florida Ave.) and Limited Personnel Matters (City Manager Recruitment) at 10:10 p.m. Commissioner Baldwin seconded the motion. Roll call vote was taken. Motion carried with a vote of 7-0-0.

RECONVENE INTO OPEN SESSION

Take any action as a result from Executive Session.

Commissioner Rardin moved to go back into open session at 10:36 p.m. Mayor Pro-Tem Hernandez seconded the motion. Motion carried with a vote of 7-0-0.

Statement by the Mayor: The Governing Body of the City of Alamogordo, New Mexico, hereby states that on March 26, 2013 a Closed Executive Session was held and the matters discussed in the closed meeting were limited only to Purchase, Acquisition or Disposal of Real Property (200 S. Florida and 2293 S. Florida) and Limited Personnel Matters (City Manager Recruitment) as posted on the meeting notice.

No action was taken.

ADJOURNMENT

Commissioner Rardin moved to adjourn at 10:38 p.m. Mayor Pro-Tem Hernandez seconded the motion. Motion carried with a vote of 7-0-0.



ATTEST:

Renee L. Cantin

City Clerk Renee L. Cantin

Mayor Susie Galea

*(Prepared by Nancy Jacobs, Deputy Clerk)
Approved at the Regular Meeting held on April 9, 2013.*