

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
7:00 P.M., COMMISSION CHAMBERS
NOVEMBER 5, 2013**

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

**AL HERNANDEZ, MAYOR PRO-TEM
JIM TALBERT, COMMISSIONER
JIM STAHLER, CITY MANAGER
STEPHEN THIES, CITY ATTORNEY
RENEE CANTIN, CITY CLERK**

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

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

 **APPROVAL OF AGENDA**

Mayor Galea asked for a motion to approve the agenda.

Commissioner Talbert said he had questions on two items. Commissioner Talbert said Item #16 he believed should be handled in Executive Session because it's dealing with employee/employer.

Mayor Pro-Tem Hernandez said absolutely not and said it was not dealing with a contract and was to deal with an employee agreement. Mayor Galea said the contract with the City Manager was what was on the agenda, and Commissioner Talbert said that contract was to be reviewed in February. Mayor Pro-Tem Hernandez replied no, sir. It is to be reviewed tonight.

Mayor Galea stated the contract with the City Manager is to be reviewed in February. Mayor Pro-Tem Hernandez said we will do it tonight. Mayor Galea asked him if it could be moved to the Executive Session and he said no; it should be done in public because it was a public discussion. The Mayor said ok, and remarked Commissioner Talbert had a motion. Mayor Pro-Tem Hernandez said that was fine.

Mayor Galea asked if anyone wanted to second Commissioner Talbert's motion to move Item #16 to the Executive Session.

Commissioner Sikes seconded the motion.

Mayor Galea said Commissioner Talbert had mentioned another item. Commissioner Talbert said Item #17. Commissioner Rentschler suggested to the mayor handling one item at a time, and Commissioner Rardin agreed. Mayor Galea restated the motion made by Commissioner Talbert and seconded by Commissioner Sikes to move Item #16 to the Executive Session.

 **The motion carried with a vote of 5-2-0. Commissioner Rentschler and Mayor Pro-Tem Hernandez voted nay.**

Commissioner Rardin asked if per City Charter we could remove a commissioner's item off of the agenda. Commissioner Rentschler remarked Robert's Rules of Order allow that.

City Attorney Thies said you could discuss anything that's permitted in Executive Session but any action to be taken has to come out and be taken in an open meeting.

Mayor Pro-Tem Hernandez told the City Attorney Thies he had actually put this item on the agenda to seek action tonight based on items that had passed, that had happened in the last month. So he was

actually asking to seek action; that's why he had asked for it as an action item. So an action item has been removed.

Mayor Galea asked if we could move the action item to at the end of the Executive Session to re-adjourn into an open meeting after the Executive Session. We would only recess then into Executive Session.

Mayor Pro-Tem Hernandez said in the past this is how it is. You can't take action without putting it on the agenda. I wanted to ask the Commission to take action on something and that's why I put it on the agenda. So, I'm basically being censored, I believe. Mayor Galea said we aren't censoring, and Mayor Pro-Tem Hernandez interrupted her saying yes, I'm being censored because I asked to put this item on the agenda to take action tonight. Mayor Galea said she thought it goes, she thought it was an impropriety to discuss a contract of the City Manager on an open meeting when it should be moved to Executive Session where limited personnel matters belong.

Mayor Pro-Tem Hernandez said ok, he would just do it in..... Mayor Galea interrupted him to say we could recess into Executive Session and come back out in open session to take action after.... Mayor Pro-Tem Hernandez interrupted to say I will just do it under Remarks from the City Commission, and I won't be able to take action, but I'll do it then. Mayor Galea said ok and asked him if he would like to recess into Executive Session so action can be taken tonight and he said no. He said the City Commission had already made a motion and it's moved to Executive Session, so we can't put it back. Mayor Galea said we could recess into Executive Session to take action later on. Mayor Pro-Tem Hernandez said he would just do it during Communications. Mayor Galea said ok; that is resolved.

Mayor Galea addressed Commissioner Talbert who had mentioned there was another item on the agenda.

Commissioner Talbert said that again, this is a procedural question. He said #17 was voted on and passed earlier and as he understood it, the only way that could be brought back up was if one of the parties wishes to change their vote that would affect the outcome of the issue. Mayor Galea said that is correct. She said Commissioner Rardin had added this to the agenda and he was not on the approving side of the vote, so it should not.....Commissioner Rardin interrupted her to say if you guys leave it on the agenda and listen to my argument later on when the item comes up, you'll understand where I'm coming from. So it needs to be discussed tonight in this meeting. Mayor Galea said ok.

Mayor Galea said she had a motion by Commissioner Talbert to delete..... Commissioner Rardin said he didn't make a motion. He asked Commissioner Talbert if he had made a motion to remove it. Commissioner Rardin said if you guys will wait and listen to me, and if not I'll just discuss it in Unscheduled tonight so the public can hear what I have to say. I think it is a bunch of B.S. that we're sitting up here pulling commissioners items off the agenda; that is not correct. The Charter does not allow us to do that.

Commissioner Rentschler said he believed we could discuss it, but he didn't believe it's someone *[sic]* we can vote on and the affirmative has to bring it back up for a vote. He felt discussion was appropriate. Mayor Galea said that's correct.

Commissioner Rardin said let's discuss it. Once you hear my reasoning behind it, you all might..... Mayor Galea interrupted him to say this is an action item, Commissioner Rardin, and it's a discussion and possible action..... Commissioner Rardin said he knows what it is; he put it on there as an action item. Mayor Galea said that's inappropriate to bring it back as an action item if you're not on the approving side of the vote. Commissioner Rardin said that's fine; if you want to play that argument, that's cool, that's fine. I'll bring it up in Unscheduled.

Mayor Galea asked Commissioner Talbert if he had a motion.



Commissioner Talbert made a motion to remove Item #17 from the agenda.

Mayor Galea said she had a motion by Commissioner Talbert to delete Item #17 from the agenda and asked for a second.

Commissioner Sikes seconded the motion. The motion carried with a vote of 4-3-0. Commissioner Rardin, Mayor Pro-Tem Hernandez and Commissioner Rentschler voted nay.

 Mayor Galea asked for a motion to approve the agenda as is with Item #16 being moved to the Executive Session and Item #17 being deleted.

Mayor Pro-Tem Hernandez moved to approve the agenda. Commissioner Talbert seconded the motion. Motion carried with a vote of 6-1-0. Commissioner Rentschler voted nay.

Mayor Galea turned the time over to City Manager Stahle.

 City Manager Stahle said he wanted to introduce somebody important to the City of Alamogordo. He is actually coming back to the City to work for us and he once held the same position. He is back, though. He is our new Airport Manager as of a week and a day ago and, of course, that is Duke Pruitt. He asked him to stand and be recognized. City Manager Stahle told him welcome back home. It was noted his wife, Anita, was with him. The City Manager said he just wanted to recognize Duke and tell him how much he appreciated him being back. Quite frankly, there is a lot to do at our airport, as you all know. You have quite an interest in seeing some successes out there and he felt comfortable that we have a good fella in that position to lead that organization, that function of the City. Again, he told him welcome back.

PRESENTATIONS

 **1. Presentation related to the Promotion of National Recycling Day scheduled on November 15th, 2013. (Stephanie Hale, Presenter)**

Ms. Stephanie Hale thanked the Commission for allowing her to come this evening to briefly tell them about what Otero County and Recycle Otero County (ROC) were doing for the National Recycling Week which begins Monday, November 9th and America Recycles Day which is Friday, November 15th. She had some brochures for anyone to look at. Ms. Hale said Otero County was actually doing several things throughout the County in recycling. We have our little brochures all over the County as well as the City, she hoped. We have several recycling locations within Alamogordo – one in the Wal-Mart parking lot on the north end and one in the south-side parking lot of White Sands Mall. We also have about six other recycling locations in the County including the Otero County Convenience Center on Gravel Pit Road which is where our recycling center is located. At this recycling location at the Convenience Center, we recycle all kinds of fun things. We are just starting to recycle electronics, which we haven't done before here in Otero County; that just started in the last couple of weeks. They already have quite a collection. What we do gather at all the locations though are mixed paper, cardboard and different kinds of plastics, and at each location we have visual aides for the ones of us that may not be educated in recycling since it is fairly new in this area. She read some statistics and then was going to tell them what they are doing next week for the National Recycling Week. Last year in the fiscal year 2012, we collected over 300 tons of scrap tires, 16 tons of motor oil, 33 tons of mixed paper, and cardboard which is one of our biggest collections, or we are trying to get it to be one of our biggest collections, was 108 tons. We do collect scrap metal and she had mentioned plastics. Last year we didn't have enough different plastics to send off to the facilities but this year along with last year's should certainly get that going. We have locations in Cloudcroft and Tularosa and are putting one in Chaparral. With those locations, next week several of us within Otero County are going to different elementary schools and focus on getting the kids involved. A lot of classes in Tularosa especially and in Cloudcroft now are doing activities to recycle in their classrooms, so we are getting lots of help with the kids involved. She said they also have started collecting glass and have a glass facility at the Convenience Center on Gravel Pit and there is staff available at that location if someone needs assistance. Sometimes they come in with truck loads and try to decipher where they go. If you

haven't been out to the Gravel Pit location, she welcomed them to come out and see it. It is really fancy and it is very cool to see what they are doing out there, actually. It is starting to pick up really well so she apologized that she didn't have a lot of fun gadgets to get everyone involved, but she wanted it known that next week would be a busy ROC week with recycling. She asked for any questions.

Mayor Pro-Tem Hernandez commented he had used that facility quite a bit and said our facility was catching up and was almost there. He said it is very convenient and he thought the oil drop-off was one of the most convenient for him since he takes 55 gallons at a time out there. The staff there is very great and helpful. Ms. Hale said they have a great director out there with the Convenience Center who has taken it on well.

Commissioner Rentschler asked how long this had been in operation and Ms. Hale told him the recycling side of the Convenience Center had been in operation for a couple of years, but wasn't quite sure how long. Commissioner Rentschler said he thought it had been two years and originally it was put together on a grant. Ms. Hale agreed. Commissioner Rentschler said when Susan Flores came and presented it to them he had asked if this would become self-sufficient, and he now asked Ms. Hale that same question. Ms. Hale said eventually it would. He said, too, that in his business he was glad to have a place to take cardboard; it was convenient for them to take it out there. He also stated that electronics was a good thing to have.

Ms. Hale said they had other locations and hopefully we will start gathering additional locations within the County. She said they greatly appreciate citizen feed-back and they had heard both good and not-so-good comments of locations so they tried to make them more noticeable. We are trying to get the public more aware and start recycling a little more so that way we can be self-sufficient in the near future. She knew Mr. Letinmeyer, who handled most of the glass recycling, was doing a phenomenal job with that. Of course, the locations are being checked several times a week and they are constantly full.

Mayor Galea thanked her for her presentation.

PUBLIC COMMENT

A. Joe Ferguson commented on the following:

1) Mr. Ferguson introduced himself and said he had been a Commissioner from 2008 to 2012 and when he left the Commission, the City had a debt to equity ratio of 8-1. In other words, we had eight times more assets than we had debt. Now the only requirement to be in good standing for having good credit is a ratio of 2-1. The State Legislature in this past legislation took away our Hold Harmless. The Hold Harmless act protected the cities and counties from a loss of revenue when the State took taxes off food and drugs. Yvette Herrall and Bill Burt voted against taking this help away from our city, but our former mayor, Ron Griggs, voted to take this Hold Harmless away from us. Now, it is my understanding you want to go behind folks back and raise taxes on the taxpayers here in Alamogordo without them having a say so. Mr. Ferguson noted Ordinance 736; Section 201 says you cannot raise taxes without consent of the folks. He believed if you try to change this, even in a very limited way, you are setting a precedent for future commissions who may think they have a special need to raise taxes without the folks consent. Then where will we be? It is a very slippery slope. It was his understanding that by not raising the taxes it will cost the City \$200,000.00 in the first year. You spend \$150,000.00 on a truck and lift to change the lighted street signs over there, and that truck won't even go high enough to change the light bulbs at Griggs Field. He also understood they had purchased a small Desalination Plant and you don't even have desalinated water to desalinate. Those expenditures alone are more than part of the lost revenue for the first year. There is an election in only five months. This raise of taxes needs to be put before the voters for them to decide. You need to make a good case of why you need the money so they will vote it in. For many other reasons and because you as a commission even consider going behind the taxpayers' back and not looking out for the folks, I'm announcing to you, the Commission and to the taxpayers of Alamogordo that I will run for mayor come the next election.

Mayor Galea thanked him and clarified some things that were misinformation. She said it was true the liquidity of the City was 8-1 so we can borrow because we do have assets. Desal water will be coming to the City next fall as a contingency against the drought, and this commission does not want to penalize the City with taxes. We will discuss that further tonight. She said we do certainly want our ordinances to line up with the State statute and the State statute does say the tax of 1/8 up to 3/8% can be enacted. Should we have an ordinance that contradicted State statute..... Joe Ferguson interrupted to ask if it was on the agenda later on and she said it was. He said we can talk about it then. Mayor Galea said we would; she was simply redirecting misinformation for the record.



B. Eugene Downer commented on the following:

1) Mr. Downer thanked them all and said he was here to make a short request for Commissioners to consider taking positive action on the maintaining of the water tower on 10th Street in the City right away. It is between Walgreens and the Liberty Park which is part of the Zoo. He thought that is a definite, visible landmark that historically connects with the culture of the community, and he noted several photographs were in the handouts he gave out of other cities with large water towers and who have used the American Flag on the water tower. The flag could be painted, you could use the local billboard outfit to create a vinyl flag or you could just light it. First things first, confirming the City does own it; the County claims it is the City's. He thought structural soundness was important and also coating to prevent rust, and then having the Commissioners initiate input from citizens as far as how it can be used to continue to welcome visitors and the thousands of servicemen who are connected with our country and the American Flag. Mayor Galea thanked him for his comments and said we could certainly work with our grant writer to see if there were things we could do as we pursue this potentially.

Mayor Pro-Tem Hernandez said on the first steps of this last item, he would recommend totally against it. Mayor Galea said the last step was to determine the structural stability of the structure, and Mayor Pro-Tem Hernandez said absolutely, because it will happen like the tower at the Blind School. Anything they find, even if minimal, will cause it to come down. Once we know about it, it will have to come down. Mr. Downer thanked him for his comment.



C. Mike Espiritu commented on the following:

1) Mr. Espiritu said he wanted the Commission to be aware that OCEDC and the Chamber of Commerce jointly, have put together a Veteran's Job Fair for Thursday at White Sands Mall from 10:00 to 2:00. He encouraged each of them to be there and knew Commissioner Sikes would be there as well as the Mayor. The Secretary for Veteran Services, Tim Hale, would be there to give a keynote address to the folks. There will be 23 businesses already signed up to be there and one of them is in our audience – FRST on New York Ave. He said they were pretty excited about the participation from local employers and he again encouraged them to attend.



CONSENT AGENDA (Roll Call Vote Required for Items No. 7 and 8)

2. **Approve Minutes of the October 15, Special; October 15 Joint City/County Special; and October 22, 2013 Regular Meetings of the Alamogordo City Commission.** *(Renee Cantin, City Clerk)*
3. **Approve statement related to the Executive Session of October 22, 2013.** *(Renee Cantin, City Clerk)*
4. **Approve the Public Celebration Permit and a Temporary Alcoholic Beverage Dispenser's License for Carino's Italian for the Downtown Merchants Association (DMA) Blues Festival to be held downtown at 926 New York Avenue on November 15, 2013.** *(Renee Cantin, City Clerk)*
5. **Approve the Public Celebration Permit and a Temporary Alcoholic Beverage Dispenser's License for Kwik Stop/Jerry's Lounge for the Winter Wonderland Auction**

to be held at First American Bank at 1300 N. White Sands Blvd. on December 5, 2013.
(Renee Cantin, City Clerk)

6. **Approve the Investment Report for the quarter ending September 30, 2013.** (Ken Johnson, Finance Director)
7. **Approve Resolution No. 2013-33 approving the DFA Quarterly Report for the period ending September 30, 2013. [Roll call vote required]** (Ken Johnson, Finance Director)
8. **Approve the final publication of Ordinance No. 1451 amending the official zoning map of the City of Alamogordo, changing the classification of the north half of Lot 8 and the south 37.5 feet of Lot 9, Alamo Blocks, Block 64 (commonly known as 1218 Michigan Ave.) from R-3 (Two-Family Dwelling District) to R-4 (Multiple-Family Dwelling District). [Roll call vote required]** (Marc South, City Planner)
9. **Approve Change Order No. 2, Public Works Bid No. 2013-006 to Burn Construction Co., Inc. related to Intersection Improvements Indian Wells Road and Washington Avenue/Pecan Drive in an amount not to exceed \$33,636.35, including NMGRT.** (Edward Balderrama, Project Manager)

Mayor Pro-Tem Hernandez moved to approve items # 2, 3, 4, 5, 6, 7, 8, 9 of the consent calendar. Commissioner Talbert seconded the motion. Roll call was taken for items #7 & #8. Motion carried with a vote of 7-0-0.



PUBLIC HEARINGS

10. **Public Hearing concerning Ordinance No. 1454 repealing City Code Section 2-01-040 (Ordinance No. 736) related to No additional or increased taxes without the vote of the public.** (Stephen Thies, City Attorney)

City Attorney Thies presented the item stating that at the Special Meeting held on October 15th, an ordinance was introduced at that time – Ordinance No. 1454. It would repeal the ordinance referenced by Mr. Ferguson, Ordinance No. 736 which was adopted in 1988 by initiative. The ordinance provides that any time the Commission wants to enact any new GRT, Gross Receipts Tax, that the matter has to go to the voters for approval. Subsequent to the enactment of that ordinance the issue was presented to the Attorney General. The Attorney General reviewed it and said that local municipalities, home rule charter municipalities specifically, did not have the authority to alter the legislative scheme for enactment of taxes. For example, if Gross Receipts Tax says you do not have to take to the voters, the local municipality cannot require you to take that to the voters if you have the authority to act without taking it to the voters. One of the issues that came up was whether any taxes were enacted without voter approval after the enactment of that ordinance. That's the large sheet I have in front of you. I am going to go through that quickly.

At the very top, that was the....all these ordinances are current Gross Receipts taxes that are on the books. The first one was enacted back in 1981. Different columns indicate when the tax was enacted, the amount of the tax, whether election was held, and then some notes to explain that particular tax. The first one was a one half of one percent. That was enacted, like I said, in 1981 shortly after there was a restructuring of our State tax. Prior to that time, it appears that the local municipalities had the authority to tax occupations. That was removed from their authority and instead of that authority to tax occupations, they were given the authority to impose a gross receipts tax of 1/2 of 1 % on the same items that are currently subject to gross receipts tax. The second time gross receipts tax was enacted was a couple of years later. That, again....the first one did not go to election but it was subject to referendum. State statute said that a governing body had the option of presenting it to the voters before it became effective at that time. The Commission elected not to do that. The second one, again, was 1/4 of 1% enacted a couple of years later. Once again, that was

subject to a referendum and it was never voted upon by the voters. Third tax was enacted a year later of 1/4 of 1%; that was dedicated to capital improvements. Once again, it never went to the voters; it was subject to a referendum and no one initiated any type of referendum to have the option to vote on it. The fourth tax was probably the tax that prompted the initiative petition; that was enacted in 1986 at 1/4 of 1%. Again, that was dedicated to a particular purpose. Once again, it was subject to referendum, but there was no vote on it. The voters elected not to have a referendum on it. That's when the Ordinance No. 736, the ordinance that requires that you present it to the voters – any new tax, was passed by initiative. After that, these are broken down into different categories. We have enacted four different taxes in four different categories; that's why they have jumped somewhat out of sequence. The fifth municipal gross receipts tax was passed in 2007. That was 1/4 of 1% dedicated for the construction of roadway projects that's commonly referred to as our 2008 Gross Receipts Tax we use for rebuilding roads. Again, it was at the governing body, in this case the Commission, had the option of submitting it to the voters; it had a right of referendum in this particular case. The Commission voted to have it voted on by the electorate and it did pass. Going down, we have the Municipal Infrastructure Gross Receipts Tax. The first one was enacted in 1991, three years after Ordinance No. 736 became effective, and it was 1/16 of 1%. This particular tax you can enact the first 1/8th without submitting it to the voters. The 1991 tax was never submitted to the voters. The second tax, 1/16th of 1% was enacted a year later. Again, it was not subject to a referendum by State statute, and it was not submitted to the voters for their approval. The third tax is the Economic Development Tax. Legislation authorizing that requires that before any economic development tax becomes effective, it has to be submitted to the voters. This particular tax was submitted to the voters in the year 2000 and it has been extended a couple of times since then. Then we come to the Municipal Capital Outlay Gross Receipts Tax. We have one currently on the books that was enacted in November of 2003. Again, that was used for growth projects and the authorizing legislation required that it be voted upon before it could become effective and, of course, it was voted upon and passed. Now we have the Municipal Environmental Services Gross Receipts Tax. We have two of them – 1/16th of 1% and 1/16th of 1%. The first one was passed in 1992 and the second one was passed three months later. The authorizing legislation did not require voter approval and neither were submitted to the voters for approval. Briefly, since the Ordinance No. 736 became effective we've had 1,2,3,4,5,6,7 taxes enacted and during that time four of them never went to voter approvals; to the voters for their approval.

Mayor Galea thanked him and noted this is a Public Hearing and so it is for the public to discuss these items with the Commission and if there are members of the public that would like to come before the Commission now to discuss the repealing of the Ordinance No. 1454, you are welcome to do so at this time.

Commissioner Rardin commented on this saying who are we to tell the people who passed this that you guys can't pass that and we're going to take it away now. He thought we owe it to the taxpayers of Alamogordo to send it out to a vote before then. Whether we have the authority to do it without it or not, not these guys, but in 1988 the public brought this ordinance forward to the City and said, 'Hey, we would like this passed', and got it passed. Who are we to say, 'Hey, you know what? Yawl's opinion doesn't matter.' We represent you but we don't care what you say. That's what we are saying if we repeal this ordinance.

Mayor Galea began speaking to Commissioner Rardin and he interrupted to say No; that's the way it states. If we repeal this ordinance, so what. We have the authority to put the tax in place. We can put the tax in place without having voter approval, but who are we to tell the residents who passed the ordinance that it doesn't matter. We aren't going to abide by the ordinance that you asked us to pass. He thought we should have voter approval on it if we're going to raise the tax, period.

Mayor Galea said she agreed with him. She told Commissioner Rardin this was enacted without any authority to begin with, and then it also goes against what the Attorney General has stated, that we are in violation by having..... Commissioner Rardin interrupted to state he thought we should write a letter and get another ruling from the AG's office that he is telling the voting public that their opinion doesn't matter. Mayor Galea said generally this Commission does serve the people of Alamogordo

and their opinion does matter, but by repealing this ordinance that was enacted without authority to begin with, and it does not adhere to State statute. But, we are open for public comments and you are welcome to come to the podium as you like.

Paul Sanchez introduced himself as a resident of Alamogordo who lived down on 7th Street. He said this was a very unique situation because the Mayor is essentially correct that the AG back in 1990, asked for the opinion that's in the agenda, does state clearly, the Attorney General states clearly that this should not have been passed; it's not a legal, so to speak, there is no force in this law that was passed. However, with that statement, what was interesting to him in hearing the City Attorney speak was that even though this ordinance is on the book, and perhaps, maybe the people during these times weren't paying attention, but people now are starting to pay attention, according to the City Attorney if I heard it correctly, and please correct me if I'm wrong, Madam Mayor if you'd ask the City Attorney to correct me if I'm wrong about this, he just said the City did enact, I believe it was seven taxes since this was originally passed in direct opposition to this referendum. So, even though we have this on the books, the City Commission went behind past taxes, no matter what even though it was against their own City ordinances. Now, whether or not the AG's opinion said this was illegal, the referendum is still on the book and that's where I completely agree with Commissioner Rardin in the fact that the residents approved this and now for the Commission to come forth, and if you choose to move and then pass repealing this ordinance and publishing the repeal of this ordinance, you are telling the citizens back in, he believed it was 1988, that what they put in place doesn't matter. And that what the City Commission thinks is best is what does matter and that you are smarter than the residents. If the residents want this repealed, then it should be put forth on the ballot in March for the residents to repeal. If, as Commissioner Rardin just pointed out that this is an illegal or unconstitutional law, then we should get a new reading from the AG, the current Attorney General, to review this law in relationship to the State Constitution and determine if it is illegal. His personal opinion was if we have seven taxes on the books that were passed in opposition to this, and this is a legal ordinance if the AG comes forth and says that, there are seven taxes that are illegal that this City Commission, not these people here but City Commissions since 1998 have passed that were completely illegal and we were taxed without representation in that sense, and he believed that was absolutely offensive and at the very least, this Commission should keep this ordinance on the books, legal or not, as a caution to this Commission and forward Commissions that if you are going to tax the people it should be the people as, excuse me, former Commissioner Ferguson pointed out, the people should be making these decisions in this case. Taking this voice away from the people is truly amazing that it was even brought up in this case. He said he supported Joe Ferguson and Commissioner Rardin in their statements that at the very least, this should be sent to the AG for a new review before any action on repeal or not repeal is taken, and then if repeal of this ordinance is considered, he believed sincerely that it should be put up to the vote in the March election and not just done by fiat, by your vote here in any meeting where we have no vote. We have a voice because it is a public hearing, and he told the Mayor he appreciated her letting them speak, but we don't have a vote here; we just have a voice and you can choose to ignore every word I just said. He thanked them for their time.

Mayor Galea asked the City Attorney if he had a current opinion from the current AG. City Attorney Thies responded no. The City Commission itself or myself cannot request the Attorney General to render a legal opinion. It has to be done by a State elected official or like the County Attorney. It's conceptual that we could talk to one of our legislators who voted for the Hold Harmless tax to submit an opinion and request the Attorney General, current Attorney General, to weigh in on the legitimacy of this ordinance. Whether they would or not is another matter. The Mayor thanked him.

Commissioner Rentschler said on October 15th, and the City Attorney affirmed the date that we had before on this, can you tell me exactly what it was we did, because it was his understanding we had this emergency meeting and part of this emergency meeting was repeal this. Now, only one commissioner sitting up here and that would be our Mayor voted to repeal this at that point in time. So he was curious how it comes back to us again when the person that lost brought it to us. Is it not the person on the winning side that has to do that. Mayor Galea said she did not bring this. Commissioner Rentschler said it is ok for Staff to do it; that is my second question.

City Attorney Thies responded that at the Special Meeting there was a request to have a Public Hearing on the potential repeal of the tax. Commissioner Rentschler interrupted to say the repeal went down 6-1 and this Commission is going to vote again the same thing here, right now. Mayor Galea said there was a request for a Public Hearing, hence the Public Hearing. City Attorney Thies said that's correct; there was a request for a public hearing.... Commissioner Rentschler interrupted to ask who made the request. City Attorney Thies said he wasn't sure, and City Clerk Cantin told them the minutes were in their packet. Mayor Galea said yes, you can review the minutes, Commissioner Rentschler and they are in our packet. Mayor Galea said this is a Public Hearing.

Mayor Pro-Tem Hernandez said he had a couple of problems with this. One is that the opinion is over 13 years old. Number two, and he said he would bring this up at a later time, is when we talked about this on October 15th, we asked, this was brought up that we had to get a legislator to ask for an opinion. He said he was just guessing that wasn't done between October 15th and today, just a wild guess. So, he said he would bring that up later. The other thing is, he asked to put an action item on this and so, because he doesn't trust this Commission any more at this time because his action item was taken off, he would not support this because he does not support this entire Commission to do what's right by the public when we can't do what's right by each other.

Mayor Galea said this is a Public Hearing. Are there members of the public that would like to speak at this time. Are there any other Commissioners that would like to discuss this item at this time.

Commissioner Talbert directed his comments to the City Attorney. He said the last tax increase we are showing on this sheet you gave us was 1992. Have there been any increases since then? City Attorney Thies said no, and then he said yes. Commissioner Talbert said he was sorry; there was one in 2003. City Attorney Thies said 2003 and then again in 2007 there was a in 2000. It's because it's not in sequence; I broke it down into the type of taxes. Commissioner Talbert said that's ok, it's fine. Commissioner Talbert said so that's still six years since there's been a tax increase and City Attorney Thies said no. Actually, he said yes, he guessed it would be. 2007 was the last time it was voted upon. Commissioner Talbert said ok.

Mayor Galea asked if any of the other Commissioners would like speak on this item. She wanted to state for the record that the reason she voted to repeal this in the Special Meeting was not to enact taxes, but only because we have an illegitimate ordinance on the books. She believed it was ignorant for the Commission to have an ordinance which does not adhere to State statute. That is why she asked that if you repealed in that meeting and we have it here today as it is a Public Hearing and so members of the public are certainly welcome to discuss this ordinance that is stated, well, illegitimate as it is.

Commissioner Rardin said to City Attorney Thies he knew like on the building side of this, you either have to abide by the code or more stringent; you can't be less stringent like in building codes and stuff. How come with this State law, basically what we've done, the voters have done, is they made the law more stringent. They are making it less stringent, they are making it more stringent. How come we can't do that? City Attorney Thies told him because your authority to tax is granted to you by the State Constitution and the Legislature, and when they tell you that you can enact this tax if you follow these procedures, that's the procedures you need to follow. That's the reasoning that the Attorney General used in reaching his conclusion. Commissioner Rardin said when our voters, the ones that vote and put us up here to represent them say we want you to take this to a vote before you impose this tax, we can't make it more stringent? City Attorney Thies said that is correct; you cannot make it more stringent. Your authority to tax is granted by the Legislature. If they wanted some change, they should have gone to Santa Fe and accomplished some change up there. They can't accomplish a change here at the local level. Commissioner Rardin said wow. So we basically don't have a voice and the City Attorney said yes they do. They have a voice by going to Santa Fe and expressing their opinion and next time election came up they could have voted out the legislators that enacted the tax.

Commissioner Rentschler said however, we could choose to make it more stringent by, in other

words, not approving a tax, but by allowing the voters to do it for us. City Attorney Thies said the particular tax that brings this issue is the Hold Harmless Tax. That specifically says that there's no right or referendum on the tax. By implication, because there's no right or referendum, you wouldn't have the authority to submit it to the voters for them to vote on. Commissioner Rentschler said what you are saying is we would just turn it down in that case, because we can't take it to referendum, you tell us. It would not be legal for us to take it for referendum, is that what you are telling us? City Attorney Thies told him the referendum would not have any effect. If you passed the tax..... Commissioner Rentschler interrupted him to say the referendum would indeed have effect. It would effect me and the way I would vote. City Attorney Thies said if you want to look at it from that way, you could.

Mayor Galea asked City Attorney Thies if the Commission could enact an affidavit or resolution as this Commission that would not bind future commissions to not enact a tax without voter approval. City Attorney Thies said resolution is just a motion; it's not binding. Mayor Galea said right, it's not binding. City Attorney Thies remarked it could be undone at any future meeting. Mayor Galea said right; it couldn't bind a future commission but, certainly as a public statement of this current commission. City Attorney Thies said the future commissions could abide by it or they could totally ignore it. Mayor Galea said ok.

Commissioner Rentschler called the question.

Commissioner Rardin said he had just one more comment and then he would be done. He would like that we direct the City Manager to get with one of our State legislators and ask them to ask the AG's office to get a ruling on this, to whether it's illegal or not illegal. We got our attorney's opinion on it, but he really didn't think we should go against the people. The people brought this up, they got it passed; who are we to go against that. He said that is kind of where he is standing on this and he would like the City Manager to get a hold of one of our three or four or how ever many we have up there, the two Senators and two Representatives, and get the AG's opinion on that.

Mayor Galea asked if there were other members of the Commission who would also like to proceed as Commission Rardin to have the AG's opinion. Mayor Pro-Tem Hernandez said absolutely and Commissioner Talbert said absolutely, yes. Mayor Galea said that is a consensus of the Commission that we work with our State legislators.

Commissioner Rardin said then in the event he does find it one way or the other, if he finds it is legal for us to have that ordinance on the books, then maybe we ought to look at amending it to allow the Hold Harmless taxes to pass without a vote, but just for that specific purpose so we don't just give future commissions free reign to raise taxes at any given time whenever they felt necessary.

City Attorney Thies said with a lot of these GRTs you have the option to submit it. This particular, the Hold Harmless, you are not given that option. The Gross Receipts tax, the ones on the top two thirds of the sheet, you have the right to submit it to the voters if you so choose.

Commissioner Talbert asked what the deadline was to get it on the March ballot, that we would have to either say vote to repeal that or vote for the tax. What's our deadline for that? City Attorney Thies told him it would be a Special Election and he believed it would be sometime in December where we'd have to pass the resolution placing the issue on the ballot. Commissioner Talbert said so we need to get moving City Attorney Thies interrupted to say again, there is no urgency. This is an issue that has to be addressed whether it's now, this upcoming year, a year later. The Hold Harmless Tax is implemented over 15 years; we lose 6% of our Hold Harmless tax each year. First year 6%, second year 12%, third year 18%, 24% and so forth. Based on our internal review, we could just by tightening our belt, survive the first couple of years, but down the road the difficult decision that is going to have to be made by the Commission because we now are going to have such a decrease in revenues, is what service do you want to cut.

Commissioner Rentschler said it may come to that. However, he moved to not approve Ordinance No. 1454. Mayor Galea said ok.

City Attorney Thies stated this is not an action item. It is only a Public Hearing to take public input on a consideration of repealing a tax. As was pointed out it failed the last time around, but we had this Public Hearing to take public input in the event that a Hold Harmless tax would be presented to you at a future time.

Mayor Galea said there is no action needed to be taken tonight. She called one last time for any members of the public that would like to discuss this Item #10 under Public Hearing. If not we will move on further into the agenda.



UNFINISHED BUSINESS

11. Consider, and act upon, the selection of a location for the Family Entertainment Center and approve the wording for the March 2014 Ballot. (*Renee Cantin, City Clerk & Matt McNeile, Assistant City Manager*)

Mayor Galea said this was brought to us by our City Clerk, Renee Cantin and Matt McNeile our Assistant City Manager. It looks like Matt McNeile will discuss or provide an overview of this item.

Assistant City Manager McNeile said we do have some visual aides. He said Staff has looked at some locations for potential Family Fun Center and the footprint we are looking at is between 36,000 square feet and 50,000 square feet. That is based on the last study which parts of it are included in your agenda packet, based on getting a prototype Family Entertainment Center which would have bowling alleys, restaurants, a pro shop, arcade area and perhaps a laser tag area. So Staff, including the Planning Department and City Manager have looked at various locations throughout the City.

Commissioner Rardin said he thought we only needed 26,000 square feet for a bowling alley. Assistant City Manager McNeile told him that actually, the recommended if you are going to have a Family Entertainment Center, the recommended square footage is 1,500 square feet per lane. So if you go to 24 lanes it would be 36,000 square feet. Commissioner Rardin said alright. Assistant City Manager McNeile said that's how we came to the cost estimate last time; based on \$125.00 per square foot times 36,000 square feet plus wave acquisition.

Assistant City Manager McNeile referenced maps showing the various locations. He noted the first location that would be the south end of the White Sands Mall. The advantages of this location is this is a lot of unused area with ample parking and also not close to a school or church. The second potential site location is on Indian Wells Blvd. on some vacant property that is currently zoned appropriately. He asked City Planner, Mark South if this was correct and he answered in the affirmative. This is Indian Wells and College and again this footprint shows a 50,000 square foot building; we don't need that much area for the Family Entertainment Center. The third option could be right south of City Hall in Washington Park. Again, the radius we show around all these footprints, we wanted to show that it does not come close to a school or church. This area would have to be rezoned appropriately and we would have some challenges with parking. Mayor Pro-Tem Hernandez said that is for the liquor license, correct, Matt? Assistant City Manager McNeile affirmed and thanked the Mayor Pro-Tem for pointing that out. The fourth location would be moving the location a little bit further south. Originally, we looked at the idea of moving it over here to where the old swimming pool was at the corner of First and Washington, but the radius gets close to a church over here. Then the last location we are presenting tonight is on Hamilton Road south of the Hampton Inn. There is some property for sale there. This has some good advantages that it's already zoned appropriately and it is not close to religious or educational institutions. Assistant City Manager McNeile said these are just five ideas we had and we had other ideas. We looked at a lot of locations that we discussed the last time and so we're open to any other locations you may have.

Mayor Pro-Tem Hernandez stated he had been working with a guy that's kind of interested in it and

on the public side is having trouble with his funding. One of the places that was discussed was Mesa Verde and there's actually some incentives out there because it helps them, and so they offered some pretty good deals for him. I believe the land and dirt work was offered as part of the deal to put it out there to help them bring others. That's another thing because we had the data out there and if we can get something for half of nothing.....

Commissioner Rardin said one of the locations he would like Staff to explore is behind the Buffalo Wild Wings on the piece of property we've had multiple issues on, and if we were to acquire that property we might be able to resolve some of those issues. He thought the piece right behind the Palm Side/Buffalo Wild Wings, and he thought Mr. Shyne owns another piece that's back in there also that would both be very suitable locations. He said Mayor Pro-Tem Hernandez mentioned Mesa Village out there and Commissioner Rardin wasn't completely against that as long as we could get it in town, but he would rather it be a little more centrally located, if it is possible.

Assistant City Manager McNeile said that was one of our priorities to get it located in town where people could walk to it. Commissioner Rardin said down there on White Sands Blvd. if we looked at this location, it is close to the motels, it is close to dining if you have bowling tournaments that come into town, you know, it would be easy access right off of White Sands Blvd. That's one he wanted to look into.

Mayor Galea thanked him and said she had been looking at the White Sands Mall location for those exact reasons, but if it's possible to look at behind the Buffalo Wild Wings.....Commissioner Rardin said that's another good one at the Mall. That would kill two birds with one stone. It would revitalize that out there in that area because you have all that traffic out there and those businesses would start thriving.

Commissioner Rentschler asked how much he estimated the land would be to acquire this if we don't already own it. Part of these sites are already on City land. Assistant City Manager McNeile said we would have to come back to Commission once we got more direction to even begin looking at the prices of a piece of property. Commissioner Rentschler asked if it was safe to say it would increase the price of this increase of government significantly, and Assistant City Manager McNeile answered last time we were looking at this, if you recall, one of the options was the old IGA and the reason we asked the voters for up to \$6 million dollars was \$4.5 million dollars in new construction and then \$1.5 million dollars in property acquisition. Commissioner Rentschler said so you are adding at least \$1.5 million dollars for property acquisition if we do it somewhere that the property is not granted to us or is off the City property and we have to buy it. Assistant City Manager McNeile said we would have to purchase property, that's correct.

Mayor Galea asked the Assistant City Manager what direction he needed from the Commission tonight. Do you need a firm location where we'd like to consider the cost because there are multiple options. She noted Commissioner Rentschler brought up a very good one. Assistant City Manager McNeile said if we could narrow it down to a few options where we could bring some prices back for land acquisition and he wasn't sure what the timing was that Renee needs.

City Clerk Cantin told them her main interest at this point is the wording for the item for the election resolution and we will need cost for that. So, the election resolution at the latest has to be passed at the December 3rd Regular Meeting, so you have one more meeting and the December 3rd meeting to make that determination.

Mayor Galea said Commissioner Rardin mentioned behind the Buffalo Wild Wings area and also White Sands was brought up. Are there other locations Commission would like Staff to look at the acquisition costs of the property.

City Attorney Thies said as to those acquisition cost of property, based on some of the appraisals we had done in the last couple of years for real estate that we have acquired, you can factor in about \$4.50 a square foot upwards to about \$9.00 - \$10.00 a square foot, all depending on where it's

located. The closer it is to White Sands the higher you get. Then you're talking \$9.00 - \$10.00 a square foot. The farther you get off of White Sands, then you are getting down to the \$4.5 maybe even lower depending on if you would select a more isolated area farther east of White Sands. So you're looking at anywhere from....if we had to acquire the property 200,000 square feet, we are probably looking at acquisition costs of anywhere from \$900,000.00 to \$1.8 million dollars.

Commissioner Rardin had a question of when you get contact with the property owners of some of these locations, you need to see if it's for sale. The one behind Buffalo Wild Wings may not even be available. It's just one that popped in my head, you know. It's building up down there with all the restaurants and everything that's moving in, you know, and there's perfect access right there, but, you know, it may not be for sale. We don't necessarily need that whole big area back there; we just need a portion of it. You know, I'm assuming the site at the Mall would be for sale because they actually have signs up, so that one's kind of a no-brainer, and then as Mayor Pro-Tem Hernandez said Mesa Village out there might be an option. Assistant City Manager McNeile said the property is for sale behind, south of Hampton Inn. There's a 'For Sale' sign on the property.

Commissioner Talbert said every picture I'm looking at here doesn't show parking. The only.....looking at Number 1 there by the Mall that would double-use the parking that you would have; the parking available that's already there at the Mall, and especially if this was an evening activity when the stores are closed you can double-use their parking. None of the other sites look like they even have potential of parking. What was it, three to one on the ordinance for parking? Mayor Galea responded it is three to one. I don't quite see that much on 2, 3 and 4, but 5 does.

Commissioner Baldwin suggested if Staff is looking for direction from us, how about we choose one of the five we like and then come back with prices for the two properties that the Commission gave them. Assistant City Manager McNeile and Mayor Galea both said ok. Commissioner Rardin said then you'd have three and you could bring it back to us with prices. Mayor Galea asked him if there was one that he favored. He said it would be Staff's recommendation of Number 1 and what's been discussed already looks pretty favorable to him. Number 1 is the Mall site; there is some parking there and it's a little more central to town. There was a comment of revitalization of some of those areas access. This really looks like a pretty good site to me. Mayor Galea said ok.

Mayor Pro-Tem Hernandez said, again, the guy that I was talking to that's looking to do this on the private side, he had looked at it and studied two locations and they were the one behind the Hampton Inn and the one at Mesa Village. So he's actually spent money to look at those two locations and the feasibility of them because of the motels and all that stuff and because of future growth. I mean, he's looked at everything and actually spent some money doing that so those are the two locations he's picked. Mayor Galea said that is very good to know that from a site selector. She asked Mayor Pro-Tem Hernandez if he would also like the Staff to look at the Mesa Village area. Mayor Pro-Tem Hernandez said anywhere on White Sands Blvd. or the Mesa Village area, he thought, is where it's going. The Mall is still trying but it's still very iffy. It's a great location, it's just very iffy on future growth. Mayor Galea said ok.

Mayor Galea asked if anyone on the Commission had comments at this time. So far, Option 1 – the White Sands Mall and Mesa Village and also behind the Buffalo Wild Wings.

Commissioner Rardin hated to throw another one in there but out there in that new subdivision where Desert Sun Toyota was just built. You know, there might be some.....he wasn't sure how large of lots those are back there where they are building a new Taco Bell and Desert Sun. That might be another potential location with easy access. Assistant City Manager McNeile said it was the Market Place and Commissioner Rardin said is that what it's called. Commissioner Rardin wasn't sure those lots were large enough for the size of building we need. Mayor Pro-Tem Hernandez said it's Michael Shyne's and it's for sale.

Mayor Galea asked Commissioner Rardin if he would like.....and then recognized someone in the audience and asked if they would like to make a comment on this item. She asked Heather Stahle to

please come to the microphone for the record. The Mayor said we know who you are, but need for you to state that for the record and the minutes.

Mrs. Heather Stahle wondered if the old Wal-Mart building over there by the underpass was an available site. Mayor Galea responded it was not; they want to only long-term lease that building and they will not sell it. The cost to rehabilitate that building is far greater than the investment of a long term lease in our research. Mrs. Stahle thanked the Mayor.

Commissioner Rardin said two of the locations that were talked about before when we brought this up last time was the old TG&Y. Some of you newcomers wouldn't know where that's at, but that building was available at the time. He didn't know if it still is. He said there's another shopping center down from it and he didn't know what they called it. That was another potential site. When he first brought this up two or three years ago he was trying to kill a couple birds with one stone. Revitalize the core of the City, put it in the center of town where kids could walk to it, you know. The old IGA was the perfect location, but that one's gone because he sold the building, but you know, I'd like everyone to keep that in mind when we are looking at the site selection. What's going to benefit the town the best by revitalizing certain areas or helping. Mayor Galea asked him if there was a fourth option he was mentioning. Commissioner Rardin said he mentioned those two but he thought they had both sold. Mayor Galea said ok.

Assistant City Manager McNeile said we just have the three: White Sands Mall, behind Buffalo Wild Wings and Mesa Verde. Mayor Galea said yes. Mayor Pro-Tem Hernandez corrected saying Mesa Village and all agreed. The Mayor said that's the consensus of the Commissioner. She thanked Assistant City Manager McNeile for preparing this presentation.



12. Consider, and act upon, approval of the wording for the Florida Avenue and First Street Intersection Realignment for the March 2014 Ballot. (Renee Cantin, City Clerk & Jason Thomas, City Engineer)

Mayor Galea read the item and noted the City Engineer, Jason Thomas and City Clerk, Renee Cantin have added this item to the agenda. She asked the City Engineer to provide an overview to the Commission of what we will be bringing to the voters.

City Engineer Jason Thomas said you have the packet with the two options. The first one was prepared by HDR Consultants in 2011 with a pretty good amount of preliminary engineering to back it up. Option 2 was the alternative proposed by Commissioner Rardin to actually take Florida north into the neighborhood to tie it back in. City Manager Stahle and Mayor Galea corrected him saying it was Commissioner Rentschler, and City Engineer Thomas apologized and agreed it was Commissioner Rentschler. He continued saying we haven't really developed a whole lot with Option 2, really nothing at all. No preliminary engineering has been done with Option 2. The traffic history is kind of interesting with crash analysis. Just a three year period between 2007 and 2009 there were 23 crashes at First Street and N. Florida and 35 crashes at First Street and S. Florida. There's really no other project he had heard more about since he had been here than this particular project as far as just point blank comments from citizens at the various meetings. We did carry this project on our ICIP Project List. He went on to say we are faced with some challenges on both options. The Option 1 which was in the report, the cost estimate provided as you can see there, \$739,000.00. It won't be any surprise to you that he thinks it is very low.

Commissioner Rentschler asked him to repeat that cost again and the City Engineer said \$739,000.00. Commissioner Rentschler asked if that was to do this realignment, Item 1, and City Engineer Thomas said that's correct. City Manager Stahle added that didn't include acquisition of property and several other things and the Mayor agreed. City Engineer Thomas said it was just a cost estimate for construction. Commissioner Rentschler said we are looking probably close to four to do this.

City Engineer Thomas said we did some checking on the alignment; we kind of traced over it and Auto-Cad and found that they had kind of missed a large area of new pavement. Almost by... we did that calculation and it almost doubled the amount of new road that we're going to have to build. That was one issue we found with their cost estimate. The other one, obviously, is it didn't include acquisition. As you can see, it would take out the First National Bank right there and also require other portions of property to make the alignment happen. With Option 2, there are definitely some uncertainties there as well. It creates an issue with Miami Street which is just to the north, and what we do with the remnant of N. Florida right there at the Donut Shop. Another issue is punching a road through a well-established neighborhood taking homes that may not be willing to sell, that sort of thing. We also don't know if the space between the two businesses, that we can actually get all the turning lanes in there. The concept plan you had we did in about an hour so we haven't really laid out anything in there and really we had to look at the zoning, too, to make sure we'd meet any set-backs of what ever remnant we leave behind for those two businesses. So, if it's your desire to move forward with this and make it a bond issue, we need to reactivate the project number, go ahead and get the appraisals for the properties that are being impacted, and if you want to go with Option 2, we really need to hire a consultant to do some preliminary engineering work to model that intersection to determine what happens with the remnant of N. Florida and Miami. He said he could get them a pretty good number by December 3rd on Option 1 because of all the work that has been done; he can't do that on Option 2.

Mayor Galea asked how much a consultant would cost and why would we need a consultant versus using staff in-house. City Engineer Thomas said, well, we don't have the software to actually model the interchange. We would have to look at our horizon year, for example the 2011 report looked at 2030 as a horizon year or when you would start to see level of service issues with the proposed configuration. And also because of our current work load with our other intersection projects.

Mayor Galea asked if he knew about how much a consultant would cost if we went with Option 2, and City Engineer Thomas told her probably in the realm of, and you are talking all the way through to finish the project? Mayor Galea said yes. He said it would be in about the realm of about 10% of the construction project and that could be around \$170,000.00. Of course, we can't get them on board and have them do anything by December 3rd. The Mayor said ok.

Commissioner Rentschler said he was curious, you know I mean, that you were pretty quick to point out how much the extra cement was going to cost and the extra was going to cost on N. Florida in the Option 1. And it just befuddled him that, you know, given what a month from now, you can't come up with something to just have an idea of what it costs. I mean that's basically where we're at on this, right? Most of what we are really trying to do is fill in blank on, for instance, the City of Alamogordo issue up to, you know, some million amount of dollars in General Obligation Bonds. So, that's what he's curious about. We're not looking for, you know, and even if we were looking for a little more than we needed to do it either direction, the Bond money could be turned back in. The Bond money could be used for additional roll-over that you're telling us we are way behind on anyway. And so, I don't know how necessary it is to go spend a lot of money on a consultant right now when I think the Staff, including yourself, should be able to make a pretty good educated guess on this.

City Engineer Thomas said we can on Option 1, yes sir. Option 2 Commissioner Rentschler interrupted saying you can't make any guess at all, enough to do that? City Engineer Thomas told him we would have to model it, sir, and we would want to look at preserving N. Florida since there are houses and businesses on there. The remnant, I mean, that gets cut off with the Option 2 and possibly using that as a free right, and we just don't have the ability to model that at this time. Mayor Galea asked if it was because of the software and the City Engineer said that's correct. He said we could go and pull the estimated Option 1 and assume it would be a higher value and move forward. Commissioner Rentschler said that sounds reasonable. I mean, I'm surprised we're here trying to figure out what options we need, and I think that's probably the way you ought to go is to figure out what the higher value option is and go that way because we do not need to, even if they approve it, we don't need to use all this money, you know what I mean. If it doesn't pass next March then there's no sense in spending any more money on this at all. So, the idea is to get this to a point that can

present it to the voters and do that as cheaply as we can. In other words, do we want to spend a lot modeling this, and the answer is no. I mean, Alamogordo has been here a long time and we haven't always had the software; there are easier ways to figure this stuff out than to have some sort of million dollars worth of software to do this. A lot of it is good old-fashioned looking at it and engineering that has been done for a hundred years around cities in the United States here. So, what he would suggest is that you look at Option 1 and figure out that cost because we know it will cost more than Option 2 would cost, and then we look at that, at presenting that to the voters.

Mayor Galea thanked Commissioner Rentschler and said she knows that we, as a Commission, need to give a vote of consensus to our Engineer which option to move forward so the City Clerk has this language for the ballot. The language on the ballot is what is of interest tonight. Commissioner Rentschler said that is exactly what I said. Mayor Galea asked if any other members of the Commission had comments or questions.

Commissioner Talbert said on Option 2 it looks like you're taking two properties and clipping two more so there's four properties that are privately owned. He asked on Option 1, is First National Bank the only property or you're clipping some others. He really liked that picture on Option 2 because we can see what the, you know, the effect on the property owners is. City Engineer Thomas said we would be required to get more pieces of property, not just the Bank properties. There are parking lots kind of adjacent to the Bank and the other business north of First Street; we would require a piece of that, as well. Commissioner Rardin asked if it was not anybody's residence and the City Engineer told him that was correct. Commissioner Talbert said thank you.

Mayor Galea asked if any other members of the Commission had any questions and if there was any members of the public who would like to speak.

Mr. Paul Sanchez made a quick comment in relation to something Commissioner Rentschler just pointed out. Mr. Sanchez said Commissioner Rentschler made the point that if it is over-budgeted, let's say you say it would be \$3 million on the ballot initiative and that was passed, but the cost was only, say \$2 million, Commissioner Rentschler just stated we could always turn the money back in or use it for other road projects. Mr. Sanchez stated that is a valid point and in a lot of cases he thinks it's a good point because that is money that could be used for necessary projects, particularly Hubbard Drive comes to mind when we talk about that kind of stuff. The catch is, at least one Commissioner and probably two tonight have stated they don't have a lot of faith in the City Commission itself to appropriately use the money and from my talks with the public, he also agreed with that. So, while the idea of having the extra money and spending it in good areas would be a good idea in most cases, he didn't agree with that in this case and he thought the due diligence should be done and the Commission should vote for a specific project and price it as that before it goes on the ballot. That way, this Commission and future commissions will be held to that particular standard, because there are definite concerns out there about how the Commission has handled tax money in the past and will continue in the future. So, while he understood the idea, he wasn't sure the public would support the looseness of that concept. He thanked the Commission.

Commissioner Rentschler responded by saying he would like to see language that would say whatever was requested in excess would be turned back over. He asked Mr. Sanchez if that would satisfy his concerns. Mr. Sanchez said absolutely, because then that would absolutely specify, and he said he agreed with Commissioner Rentschler on that concept, but that's not what you said earlier which is why I stood up to speak. You gave a looseness in that. I appreciate your changing of the verbiage and with that verbiage I would absolutely support it.

Commissioner Rentschler said the reason that I'm like that about this is we just went through the alignment at Washington and Pecan and Indian Wells and what we found is the residences were perfectly willing to sell at the prices we were going to. So, he didn't know that that would be a problem and he saw it as a cheaper option. Paul Sanchez said the Washington/Pecan issue is very much a separate one and in fact, in support of our local business women, their business. So that's not a good issue to bring up at all because there's a lot of controversy over that talk. Commissioner Rentschler

said we weren't talking about that; we're talking about the residences that were acquired to do that. Mr. Sanchez said he understands the residences, but it's not just the residences that were hit in that particular event. Commissioner Rentschler said it had nothing to do with the business and thought we were beyond that argument. Mr. Sanchez appreciated that but Commissioner Rentschler had brought that up so he wanted to make sure the full thing came up. He said he appreciated his rewording in that and with the rewording where it specifies it, any excess money out there would be returned, that would be something he would support and hoped the people would, also. He knew the First Street Project that is the worst intersection in town as the Engineer clearly stated, and it is his biggest pet peeve in town. So, he would support that whole, and he said thank you, sir.

City Attorney Thies said regarding that issue, if this is presented to the voters and they approve it, it is a General Obligation Bond. Last time we did issue a General Obligation Bond we had to issue the bond within a specified time period after election was approved. They go out and they sell those bonds; people buy those bonds with expectation of a certain return on their investment. We would be unable to pay those bonds off early without incurring a substantial penalty, likely a lot more than we would save by not spending money on the project. Similar to last time when we put a street project on the GO Bond, we identified a number of streets. That gave us the option; the most expensive street once that was paid for, we looked at the second, third and fourth streets that were on that list and we spent the money on those streets. I believe we ran out of money and had to look at other sources to finish off those particular projects. That's what we'd more than likely have to do is under-estimate and then we would have to look to some other street monies to complete the project if necessary.

Mayor Galea asked if there were any other comments or questions at this time; any opinions on Option 1 versus Option 2 and the cost.

Commissioner Rardin said he kind of agreed with Robert on that. Before, with two City Engineers ago, he was more than capable with what we had in staff and stuff to bring us back preliminary cost estimates that were close. He never ever had seen a project come back from a bid that his estimate was lower than what they came in at. We've never had one come in higher than what the engineer's estimate at. Even with the former engineer, Bill Watson, we never had one come back that it was so he thought Staff should be able to, without the model, get us some preliminary numbers as far as property acquisition for those three houses it looks like we need to have. You know, you look at Option 1 and we have to buy two different commercial properties; we've got to buy a bank and the old All-State Insurance office. You know, if you look at Option 2, we've got to buy three houses on the corner and the little sliver of property between Domino's and the All-State and maybe a portion of All-State's building, I don't know exactly. He thought we are capable down here with Staff to design that preliminary and get us some rough cost estimates by the next meeting so we could potentially get the question worded, one way or the other. He didn't know why we've got to farm it out when we've got an engineer on staff.

Mayor Galea said to the City Engineer she didn't think everyone on the Commission heard him when he said he was able to provide a cost estimate for Option 1. Commissioner Rardin said he wanted Option 2. He said he wanted a cost estimate on both Option 1 and Option 2. He didn't see why Staff couldn't design that preliminary and get us some rough numbers. The Mayor said ok and asked Mr. Thomas to answer that.

City Manager Stahle told them that we absolutely could. It does take away time from other projects, but we absolutely can give you some rough idea of what both options are. He thought the comment is simply you have a lot more information on Option 1, so it is a lot cleaner to be able to give you more precise numbers. It still is going to be estimates either way because we don't know what this bank will sell for, we don't know what the residential will sell for. We could certainly approach them as you were saying a minute ago. If the residents are interested in selling then that changes a lot because the condemnation process adds to the expense, as well.

Mayor Galea asked for any questions or comments or would someone like to provide direction. She liked Option 1 the best. She just thought it was a good model and liked it better than Option 2.

Commissioner Rentschler replied he thought we just did provide direction to bring us back some costs on both of them. Mayor Galea said that was Commissioner Rardin and she would like to hear from all the Commissioners. She asked if there were any other Commissioners that would like to provide an opinion.

Commissioner Rardin asked City Clerk Cantin if she had to have this back for us to vote on by December for the question to be on the ballot in March. City Clerk Cantin said that was correct. Commissioner Rardin said we basically have one more meeting to decide this and she said that was correct. Commissioner Rardin asked if we could decide it early on in the December 3rd and then you could..... City Clerk Cantin told him he could and she could revise the election resolution. She told them to keep in mind this week the agenda book will be put together for the 19th by Friday, so to add it to the 19th meeting it might not be ready by this Friday, for sure, if you want the cost estimates.

Mayor Galea asked would the Commission like cost estimates on both options or on one option, saving time and aps. Which option looked best, or would you not decide tonight and like to decide later on when you have cost estimates for both. Two commissioners said they would like both.

Commissioner Rentschler said without cost estimates it is a very difficult decision to make. We need to see both of them to figure out which way we'd like to go.

City Manager Stahle said he thought that was right and just to understand the rough estimate, he thought Commissioner Rentschler's point earlier was that he believes Option 1 is the more expensive one, and frankly, as long as we have the amount of money necessary for whichever you so choose, it will be fine. He suggested they give us the time until December 3rd to bring you rough estimates on both, some design things we've come up with, we'll have time to talk to some of the property owners and you can make a decision at that time.

The Mayor said ok and thanked him. She remarked they would move forward and that the Staff will be coming back to the Commission at a later date with cost estimates for both options. She thanked City Engineer Thomas for his presentation.

 **13. Discussion, and possible action, related to the Gross Receipt Taxes (GRT) Distribution as affected by the Hold Harmless issue and possible options to consider as a result of lost GRT. (Ken Johnson, Finance Director)**

Finance Director Johnson told the Commissioners he wanted to start off with the note at the bottom. We didn't make a lot of assumptions and it's pretty clear we are looking at \$2.8 million reduction by the time we go through all of the.... City Manager Stahle interrupted to ask the Finance Director to speak into the microphone so the folks in the audience could hear him.

Finance Director Johnson said that at the last meeting that we had on this subject matter, we talked about bringing forth a number of options. He wanted to note that the Hold Harmless distribution is going to equate to approximately \$2.8 million dollars for the City of Alamogordo. Of that, 52% is for the General Fund and it comes out to approximately \$1.5 million dollars. Our management team has met and what we will see here is what we have come up with thus far. We are really up for direction to contend with the affects of the Hold Harmless in the coming budget process. The phase-out is going to be over 15 years. In the last legislative session, House Bill 641 was passed and it impacts New Mexico cities differently. We are in the middle group of 10,000-50,000 and in that group there are 16 cities; 10 will be impacted negatively. We probably number three on that listing. Under current law, without any changes this next legislative session, beginning fiscal year 2016 we are going to have the first five years of reductions; it will be 6%. As the mayor noted, we can go 1/8th of a %, up to 3/8th of a %, or .375% GRT tax increase; that's the provision. The first five years is going to be a 6% reduction that equates to approximately \$171,000.00 for the City of Alamogordo in the General Fund. After that, the last 10 years will be 7% reduction and that will be about \$200,000.00. Now, we have held a number of things constant in looking at that particular number. That is just the layout as we look at the 15 years gradual phase-out of the current Hold Harmless.

Finance Director Johnson next told the Commission their management team had looked at a number of different options. The first phase of that was to take a look at reductions in appropriations. As you are well aware, the New Mexico Municipal League (NMML) will ask that we support a number of legislative solutions. We will also look in-house at reductions in both Capital Appropriations as well as reductions in our Operational Appropriations. This is the Team's listing of the 12 different items that were requested to come back regarding options for reduction. The first one was really an initiative by our Human Resources office, and the second one was an initiative by our Police Department. The third one is a look at how we currently have our Benefit Package structured. There are some Union challenges with this particular option; there are also some Union challenges on some of the others and they are noted. One of the things we have done previously here in the City is do it across the board; reduction in our appropriations, so it is on the list. We also have had some selective through reductions and appropriations, number 5. Number 6 is a hiring freeze followed by reduction in force. We still have Item #8 - we could implement across-the-board reduction in pay. Number 9 is furloughs. We also have #10 which is reduction in our contract services that we currently have, followed by contracting out selective services only if comparable services are offered with reduction in operational cost. As the counselor alluded to, Item #12 is elimination of some of the services which we currently offer here in the City for our constituents.

The Finance Director said the flip side was a look at the increase in revenues; we wanted to at least put that on the table. We have the increase in fees, and one area was for revenue is, of course, an increase in taxes. We've had other dialog on that one today. One other option is to have a combination in reductions as well as increases. He then asked for questions and direction.

City Manager Stahle pointed out several of the executive staff did have a conversation with the NMML this afternoon as well as a dozen or so of our counterparts. We talked specifically about Hold Harmless and what the next legislative session might involve for the cities, particularly the top 10 that are hurt, essentially, by this the most. A couple of points that were made by the legislative staff, actually the League Staff, about the potential for legislative fix next legislative session was don't hold your breath – bottom line. It is an election year for legislators as well as the Governor. If there is going to be some movement, it might be in two areas: 1) Trying to reconcile the fact that both the City and the County can create up to 3/8th tax. They might tinker with that. One thought shared by the League Director was maybe the County portion could be reduced to 1/8th because that would get them whole as far as the consequence of Hold Harmless. That's his observation and the city manager didn't know the facts on that one. The other one has to do with, basically, having the he commented it had slipped his mind for some reason. It would essentially keep those jurisdictions who might take advantage of applying the tax quicker than they need to from getting a windfall. There have been two jurisdictions, actually, who have already acted on that one – Las Cruces and Corrales. Corrales is a different situation completely; the amount they get in Hold Harmless is minimal compared to how much they would get on the tax, so they went ahead and implemented the tax. The folks in Las Cruces take a different situation there; their original proposal was rejected by the State and they had to re-enact. They won't even start affecting their rates until July. Even with that, there may be some windfall they receive. That has gotten the attention of some folks, and it is not out of the question the legislature try to tinker with that as well. The idea behind allowing the local jurisdictions to create that 3/8th% tax was to, essentially, try and make them whole again from what was taken out. The city manager said you understand in our case, even if you did pay 3/8ths, it still would not make us whole. We would still be in the hole.

Commissioner Rentschler said we would still be in the hole at the end of the run of 2030, and City Manager Stahle said that is correct. Commissioner Rentschler said to take a little about what you are discussing here is, this tax is really there to be implemented as the losses were felt among the counties and municipalities. City Manager Stahle said that is exactly right. Commissioner Rentschler said right now we are seeing, like our county debating about a \$25 million dollar wish list so they could implement right now, and they would be losing \$25,000.00 a year. Right away they gained \$1.3 million dollars a year. That is what the legislature is going to fix. It would be unconscionable for them not to fix that kind of stuff. When it comes to this, when you think about what has been happening since the legislative session and our budget hearings, I've been beating this drum for quite a while.

He said he beat it when we lost to, when we bought a bowling alley that we are now trying to find a location for, for \$200,000.00 – one year worth of this that we have nothing to do with. We decided we should grow government by a job that would cost us \$2.5 million dollars to recover from. The one thing he said we wasn't seeing here from the Finance, is what the increase in economic activity within Alamogordo with this, and the projection for what economic activity is. He realized \$200,000.00 was \$10 million dollars worth of economic activity, essentially, and we'd have to add that every year for the next 15. He was curious about whether this was 2015 or 2014, because your first year of loss was 2015, so do we feel it next year; is that the beginning of it; is that the first year we'll loss \$200,000.00.

Finance Director Johnson responded saying it would be effective with fiscal year 2016, so we still have to finish out this year and then we'll have fiscal year 2015; it will be 2016 when it is effective. As the city manager made note, when we had that conference call today, many of them want to wait and see what the legislature does, not just in this particular session but in the next session. They believe that a fix may not come in this go because it is an elective season, but they do believe that we will see a fix perhaps before we get to fiscal year 2016.

Commissioner Rentschler asked the Finance Director how premature we were. He said we don't know what the Legislature was going to do; we don't know if they will finally figure out how to actually fix this thing. The other thing was we are looking a significant economic activity starting up in Alamogordo and Otero County in the next year or two. For us to even consider raising taxes now because of this is really.....he didn't think all the options had been felt out, as well. He said that right now, if this is budgeting by fear – hiring freeze, reduction in force, across the board reduction in pay – he said he didn't know what it is. He felt there was a lot that could be done in the next two years to tighten our belts. We do not need money we are giving away to these 503C's. There are things we just need to pay more attention to when it comes to this. When it comes to growing government, and we are talking about this bowling alley which he saw as growing government, maybe it would pay for itself, but he didn't know that. Commissioner Rentschler was concerned we were out ahead of the game here and we really need to see what the Legislature brings to it, and his understanding was after having long talks with the Board of Directors of the NMML and Mr. Fulginiti, he was optimistic. Commissioner Rentschler asked if he was part of today's conversations and City Manager Stahle said he was. Commissioner Rentschler said he was optimistic two weeks ago that the Legislature might do something that was reasonable. He said he realized Paul didn't trust us, but as a New Mexico resident he had some faith in people being reasonable, especially elected officials; they need to be reasonable. He thought they would look at this and correct it in such a way that we won't have any need to implement any of this and we'll wind up out of it, but at the same time you can't count on that. So, you start looking at the austerity message you have to take – you start doing things like not growing the government; looking at where we can cut without laying people off; if we can make the situation palatable if it comes to fruition two years from now. He said he was done.

Mayor Galea thanked him for his comments and made note that one of our state senators, Senator Burt, sent a message earlier today before the meeting that he had heard from the Tax and Revenue Department. His findings were the county and city both may implement up to 3/8th % tax as was previously stated here. Also, initial computation of Tax and Rev., 3/8ths will give the City a shortfall over 15 years, and that is about \$800,000.00 we see we won't be made whole by. He said the third point was Tax and Revenue suggest waiting to act to legislation until after the session. Legislation in the upcoming 30 days should correct this issue. Also, the city will have a window between the Session and the Governor signing this legislation to enact the Hold Harmless tax, if you should believe you should. Senator Burt's final point was that we all take this to the voters for their input prior to enacting taxes.

Commissioner Rardin said he thought it was illegal to take it to the voters. Mayor Galea said no one said it was illegal to take to the voters; just the ordinance we had. Commissioner Rardin thought we had discussed earlier it was illegal as per the AG's office, to take it to the voters.

City Manager Stahle was relieved to hear Commissioner Rentschler's position and he happened to agree with it completely. The reality was he didn't want anyone in the room or within our organization

to freak out by the Hold Harmless situation we face. He thought Commissioner Rentschler was exactly right that there was some time. He felt we should obviously take actions that were prudent and necessary and those that are within our reach. We should not lose a whole lot of sleep in assuming that something isn't going to be addressed in this catastrophe. We are not in a dilemma; there are other agencies, other jurisdictions that are also feeling this pinch. He had confidence, as well in the legislative process; it will be addressed. It won't necessarily, completely over for us and it might not completely relieve us, but he did believe like you do there is some time here and we shouldn't panic and take any drastic actions. Frankly, we were directed to put in some of these options, or list options for you that may be a little uncomfortable, because he agreed it put the fear of these things in people's minds and he didn't think it was necessary. That being said, he thought this was a legitimate conversation the staff within the City needed to have and he could tell them they had been. We have been heavy into this conversation as your staff. We will, of course, be keeping a sharp eye out on this issue and, frankly, the current trend in terms of revenues from our existing GRT has to be contended with. We will be presenting to you during regular budget process, a budget that will be balanced and prudent in terms of not getting carried away with our expectations, and we hope the economy here, much less the entire country, does improve. That will make a big difference, too. This whole sequestration and the freezing out of the Federal Government has had an impact. We haven't even seen the impact it will have on this city, and it will probably be pretty significant. So, we are going to have to gear up as a staff to be prepared for it. This is the standard drill – you look at your options, and you probably knew these options before we wrote them down and put them in front of you. He hoped they would follow the leadership already stated, that we shouldn't get too carried away with worrying about this. We need to let the legislative process work and we need to take prudent steps in the mean time to make sure we don't get carried away with our big expenses.

Mayor Galea thanked the City Manager and said she did know that prior to the legislative session ending our staff does need to be busy in preparing a balanced budget, so she asked if he recommended there be some direction given to them. City Manager Stahle thought we are not blind to our situation and he intended fully to make certain that the Staff lives within the means we have. He didn't think they needed direction, but if you would like to give it they would certainly be eager to hear it. At this point, frankly, that eagerness to give such directions can do more harm than good. If you'll give us a chance, he thought they would be satisfied and comfortable with what the Staff could bring to them.

Commissioner Rardin commented saying he thought it shouldn't be so much direction as information he would like to receive. He wanted Staff to get him and the whole Commission a list of services we provide out of the General Fund, and he wanted to know exactly how much each one would cost us, and what cuts or reductions we could do. He agreed with Commissioner Rentschler saying we are rushing into this a little bit, but we do need to be on top of it because if the Legislature doesn't fix it come February or March of next year, we have a short window to get that tax passed if we have to in between when they do what they do and she signs it. We need to be prepared to know whether we are going to have enough cuts to absorb this or if we are going to have to be the bad guy that the State will make us be and pass the tax. So he would like us to be prepared and have a list. He remembered Commissioner Rentschler had mentioned in the morning meeting we had that we want invisible cuts. He thought the unfilled positions we currently have would be a perfect place to start. When he got on this Commission in about 2009, the 2008 budget was tremendously cut compared to what we are right now. It has grown tremendously since the 2008-2009 year and we have been deficit spending for every year he had been on here. We have spent about \$1 million to \$1.1 million, somewhere in that area more than what we have been bringing in to the General Fund. All the other funds seem to be self-sufficient; it's the General Fund that has the hole in it and we need to figure out how to cut that fund and plug that hole. He would like a list of the services we provide out of that General Fund and he would like a list of positions that are not filled that we could potentially freeze. Commissioner Rardin went over his notes and said again that he would like a list of positions that are not filled that we could potentially look at freezing like we did in 2008, and a list of services and potential cuts for those services with numbers so we know what we are looking at. He said the bullet points of 12 points here really doesn't do a lot for him; it just says we could do this but it's not being very creative. He thought you guys could be a little more creative than this.

City Manager Stahle suggested that would be exactly the conversation we have during Budget process. Commissioner Rardin said he would like to have it before the Legislative Session so that in the event the State doesn't do what's right, that we could hurry up and do what's right for the City of Alamogordo. That way we have that information available to us. Budget Hearings won't be until May of next year and by then it might be too late depending on what they do up there. We can listen to what they are telling us now, but Senator Burt, who he got the same message from, is only one vote out of how ever many there are up there. How ever many senators and house of representatives we have, he is only one vote. If they decided they want to do something different, he can vote against it, but if the majority votes for it than we are going to take it. We have to figure out how to, you know, we have to be on top of it and be prepared for it if they do the wrong thing up there, in order to keep Alamogordo protected and have that money rolling in.

Commissioner Baldwin said this process has been about due diligence, having you all bring this to us and he appreciated their time and effort into this. None of this surprised him and he thought we were all kind of prepared to see some of these things on there. What is sad is that there are 12 reduction in services or cuts or basically everything with Union challenges in parentheses next to it, which is understood. The options to increase revenue, there are only two things – increase fees or increase taxes. Commissioner Baldwin was not for increasing taxes; we've had this discussion before and, of course, increase fees is a very difficult thing to come across, and he's not really for that. He said that thinking outside the box in this area in increase in revenues is somewhere we need to direct our attention, as well. We as a city commission sat in several meetings with each other and planning retreats and talked about how economic development should be on the fore-front. We redesigned our vision statements and, of course, kept our mission statement for this community, but it was economic development and quality of life that were the top two things we wanted to focus on. Economic development does get difficult in a community; there is only so much we can do. He did believe there were other things that if we really put our minds together and step outside of the box that we can do to increase business in Alamogordo so we can get more gross receipts tax collections. Support our businesses – some of the things that have been discussed lately are Buy Local, a bowling alley and there's the thought that is an increase in government. We have to discuss or will discuss the freezing or un-freezing of the position of the Special Events Coordinator that can potentially bring in large numbers of people to our hotels, our restaurants, our places of business to increase gross receipts tax collection, as well. So, it isn't always about a reduction in services and it's not always about hiring freezes. We as a city can get together and do things to increase the business in our community and get people to come here and do this, and that should be a focus, as well.

Finance Director Johnson said he wanted to briefly go over the slide he had on the screen, on the left hand side. That is the listing of our General Services, our General Fund, Departments and Divisions. You need to note that approximately 50% or so is in salaries and benefits and about 65% of our General Fund is in our Public Safety – Police and Fire. In addition to that, we also have our subsidies and we'll have the listing for you today, who bring back the dollars associated with them. The largest one is going to be Fund 32 which is our Quality of Life issues – Rec. Center, Parks, Zoo and the Library. He wanted to leave the Commissioners with those comments - our biggest items, Public Safety regarding the General Fund and our Quality of Life Issues.

Mayor Galea thanked him for his presentation. To follow up on what Commissioner Baldwin had stated, she agreed that our focus as a Commission is in economic development, but as preparing a budget we have to work within what revenues we have existing. It looks we have to look at reducing services or increasing taxes, and it is rather a harsh reality. We have a military base here that recently won an award named by the Commander and Chief of the 2013 Installation Excellence Award. We have the best base in all the world here in Alamogordo, and the budget will establish the services that will be provided in this community. So, will be facilitate the Base existence here or not, we will have to decide if we are going to increase taxes or reduce services and increase fees. Economic development is certainly our focus so we can increase revenues, but we must budget according to the revenues that are existing at this time.

Commissioner Rentschler asked the Finance Director what the first date was that we stand to lose a dollar if Hold Harmless continues the way it's currently legislated. Finance Director Johnson said that would be with our fiscal year 2016 budget, so July 1, 2015. Commissioner Rentschler said 2015, we aren't talking 2014. We are talking almost two years from now, and Finance Director Johnson said it would be approximately 1.5 years. Commissioner Rentschler said yes, or 20 months; that's the first dollar we will lose and Finance Director Johnson said that was correct.

Mayor Galea asked for other comments, questions or direction at this time and no one responded. She then thanked Finance Director Johnson for his presentation and said there would not be any direction given at this time. She addressed Commissioner Rardin saying he had made requests for reports for the Commission and she asked him to reiterate those requests about the General Fund.

Commissioner Rardin wants a list of services which he knew the budget has, but he wanted a little more detail of all the services we pay for out of the General Fund, and a list of all positions that are currently unfilled that could potentially be frozen. He said if they all remember that in the Budget Hearings, he and Commissioner Rentschler and Mayor Pro-Tem Hernandez had argued about that raise that everyone had to have. Here we are now looking at potentially staff saying we have to furlough or cut because we wouldn't look ahead at the Budget Hearings. He wanted to be prepared come February/March, after they get out of Session, that if we have to do a tax increase that we have as much information as possible for us to know where we need to make cuts. There has been talk up there that they may potentially take away our rights to increase that tax. They may take it away or they may leave it there or change it; there are all kinds of different things you are hearing coming out of Santa Fe. He said again, he wanted to be prepared. He would like budget numbers instead of little Power Point bullets saying this is what we could do. It isn't very creative and he agreed with Commissioner Rentschler about government having grown, and it can be whittled back down to where it needs to be in order for us to stay within our means of what we have.



14. Consider, and act upon, the review of Boards & Committees Mandates and possible selection of any that can be eliminated. (Renee Cantin, City Clerk)

Mayor Galea asked the Assistant City Manager to address the Commission.

Assistant City Manager McNeile told the Commission that in their packet there was a spread sheet that Staff did. We did the research on all our existing Boards and Commissions that we currently have. If you follow the spread sheet it tells you the number of members of each board, current members, current vacancies, is the board active and is it filled or do we have vacancies often, and when they meet. Then we get into the final three categories are that we looked at each of the activities of the board and we sought to see if there's a State statute that references this type of board for municipalities. The second to last column is if it is a reference in our City Code and then the third and last column is whether it is a State mandate to have the board. So, that last column is important because you can see there's only two boards that we currently have that the State says you shall have a board – the Promotion Board that's the use of Lodgers' Tax funds for advertising and operating activities in a facility which will bring in tourism to your community and the other board that you must have is if you are in the housing business, which we are, you shall have a Housing Authority Board which currently you all are members of the current Housing Authority Board.

Mayor Galea thanked him and asked if the Commission had questions or comments.

Commissioner Talbert said he used to be on the Airport Board, so he may be blaming himself. He asked if it was possible to say if you are on the Airport Advisory Board, two of you will be on the Airport Zoning Board and the same people be on two boards. Assistant City Manager McNeile told him we looked at that several years ago and at that time the city attorney came across some language that did not allow that and he thought it had to do with because there are County members specifically on the Zoning Board. There was some conflict that we could not combine those two boards and the City would sponsor it. He asked the city attorney if that was his recollection.

City Attorney Thies told them yes, they are different creatures – the Advisory Board versus the Airport Zoning Board. The Airport Zoning Board is something the FAA requires you to have when you acquire and operate an airport. The Airport Zoning Board, once you enact an initial airport zoning ordinance they have nothing to do unless you have an item structure then someone comes in and wants a variance from the, or in the event you have density restrictions, if there is any density restrictions. They meet maybe once every 10, 15 or 20 years and that's it.

Mayor Galea said that just for the Commissions knowledge, the Airport Zoning Board tonight, should the Airport Zoning Board stay as we are trying to grow the airport community with Regional Jet Service, there is a gentleman she would like to appoint tonight who would help us with recruiting volunteers. She asked if there were any other boards the Commission would like to discuss.

Commissioner Sikes commented to Assistant City Manager McNeile that even though there are only two boards that are required according to State statute, it's not a State requirement or State statute for the Library Board. The New Mexico Library Association actually requires the board, she thought and asked to be corrected if she was wrong, to be able to receive funding or any sort of grant funding or allocations from them. Assistant City Manager McNeile told her we have not been able to find that; that could be an administrative role. The City Attorney was also going to look into that, as well.

Commissioner Sikes said she thought Sharon Rowe, Library Manager, had something to say. Mayor Galea asked Ms. Rowe to come to the microphone so we would have it on the record. Sharon Rowe said she didn't know the exact statute, and it probably is not a State statute, but the State Library has informed her that in order to receive funding from the State they had to have a Library Board. Mayor Galea thanked her and reiterated that in order to receive money from the State we need to have a Library Board.

Commissioner Rentschler remarked he was curious now that we see here we have two waiting for the County to appoint. Now that the County isn't contributing at all to the Alamogordo Public Library, he guessed we wouldn't appoint from the County anymore. Ms. Rowe and Mayor Galea said we don't appoint from the County. Commissioner Rentschler said what he was saying was we eliminate those two positions. Ms. Rowe said she was sorry.... Mayor Galea explained to her what Commissioner Rentschler would like to know was since the County is no longer funding the Library's operations, would they still have members on the Board; would there still be seats for the County to appoint or would those two seats be deleted, eliminated. Commissioner Rentschler said policy is what this is all about and he was hoping she would say I don't think so, but he guessed the whole idea for the Commission while we are talking about these boards in particular is that in this point in time we eliminate those two positions.

Commissioner Sikes said as she understood it, and told the Assistant City Manager he could correct her on this, that's an ordinance. Assistant City Manager McNeile said it is a City ordinance. Commissioner Sikes said that in order to eliminate the two County positions, which she thought was an excellent idea, we would have to change the City ordinance. Mayor Galea said ok. Commissioner Sikes further commented that she didn't understand why we were spending so much time discussing all the different boards in the city. The Mayor gets the applications and can make the appointments to the boards, and Commissioner Rentschler interposed also with the approval of the Commission to which Commissioner Sikes agreed. Commissioner Sikes continued by saying this is one area that the citizens have an opportunity to have a say in the various goings-on in Alamogordo. Why would I want to eliminate their ability to do that, whether they are an active board or inactive board, who cares? The citizens have the opportunity to be a member of a board and for a lot of people that is an important thing. So, why not keep these boards in place, let people have their say, let them give their input to the various organizations. She didn't understand what it's taking away from or what it's hurting. None of them are funded; she guessed the Tourism Board was the only one with any fiduciary responsibility. So, what's the problem here? What are we fixing that isn't broken?

Commissioner Baldwin asked a question on the previous comment in reference to the two County seats that are still available, and he said he was not wanting to add fuel to the fire, so he did

apologize. He asked Commissioner Sikes if she would be ok with eliminating those two positions and she replied certainly; she did not have a problem with it. Commissioner Baldwin asked who was appointed – was it citizens from the county. She told him they were citizens from the County, but the County appoints them and the County doesn't seem to have much of an interest in the Library so she didn't understand why they would want to have..... Commissioner Baldwin interrupted to say he kind of thought that was the thought process. It concerned him just to one extent; we seem to do this on occasion when the County does something. We retaliate or do something back and some of this stuff is getting petty, in his mind. If it's citizens, people from the County that are being appointed to this position they probably have good, you know, opinions or ideas that could potentially help your board out. So, he just questioned going down that road because funding is eliminated from the County side to the Library to eliminating County positions. When we all recognize that a full third of the people that use the Library are from the County, now we are eliminating the representation. City Manager Stahle said we are all County residents. Commissioner Baldwin said that was true, but you see how it looks. Mayor Galea said she could see how it looks, but to provide a broad view, the County with the two appointees to their board it became very political, the County's view of their appointees interaction with the Board and they pulled their money back from the Library's operational fund hoping that would, you know, hurt the Library. That was because of politics that happened on the Board with the people they had appointed. Commissioner Baldwin asked if the two people caused part of this problem and the Mayor told him the people they appointed didn't cause a problem; the County's choice to involve themselves politically on the Board as it was. Commissioner Baldwin said let's not involve ourselves politically by eliminating this.

Mayor Pro-Tem Hernandez suggested we wait, let's say 90 days, 120 days and see if they appoint anybody. If not, change the ordinance to where the City appoints two County residents outside of the City boundaries, and that way they still have representation. Commissioner Rentschler suggested a little more than that; we wait 90 days or 120 or six months, he wasn't too particular about the time, and then bring the entire question up for review to include if we need or if the Library has to have these funds. We've kind of counted on them and he didn't remember exactly what our loss was. Commissioner Sikes told him it was \$33,000.00. Commissioner Rentschler continued saying then we look to see and make sure the County understands that, you know, if we have to make up those funds that we do it in such a way that it does not impact our budget. He guessed he would like to see us come back as a discussion after a certain amount of time.

Commissioner Baldwin said let's charge them \$16,000.00 for each appointment.

Mayor Galea asked if there were other Boards or Committees the Commission would like to discuss at this time. She asked Commissioner Rardin if there was a certain Board or Committee that he didn't like that are on the list.

Commissioner Rardin said he had been here almost five years and he'd seen the Airport Zoning Board come before us, he'd seen the Promotion Board, the Housing Authority that we all used to be members of until we changed that, and the Planning and Zoning Board. Short of that, he didn't think he'd ever seen any of these other boards come before the Commission. He knew they did stuff, but he wasn't aware of what they do. Mayor Galea invited him to especially attend the Library Board, of course, but also the Mayor's Committee on Aging. For example, the last meeting she attended they talked about the large trash cans in the alley ways were very hard for some of the seniors to lift up, and they were talking about ways they could think of that could resolve that issue for the seniors. And so, she thought it was a great board where they talk about issues relating to seniors and they find solutions amongst themselves. Commissioner Rardin said the purpose of the board is for representation, then to discuss that among themselves without us being there, and bring that to us. Mayor Galea said she will invite the Boards to make presentations. Commissioner Rardin said that's his thing; if we are going to have them, you know, why not utilize them. Short of the four he had mentioned, like the Mayor's Youth Advisory Council that used to be very involved until last year or the year before last. Mayor Galea said prior Commission is when it was very active. Commissioner Rardin said basically what happened was everyone that was involved in it graduated from high school

and then it hasn't had a whole lot of participation since then. He didn't know; he just brought it up because he thought we should do away with the ones we don't necessarily need.

Mayor Galea said the Boards are open so even though you are not a member of the Board, you are welcome to join in, and she will reach out to the boards and ask them to make a time where they will have a presentation for the Commission; how the City can better do things for the seniors and those that have disabilities and the parks and recreation and so on and so forth. She thought Commissioner Rardin was right that we need to have a presentation by these members of the Boards and Committees, so that we can make the proper adjustments to make this a better quality of life city for everyone.

City Clerk Cantin interjected that as you can see from the annual report that's attached in your agenda book, we require the Boards and Committees to submit that report after the end of the calendar year and we bring it to the Commission, usually, the second meeting in January so they have enough time to compile it since they are volunteers. We do peruse that and run it through the city manager and we peruse their annual report to see if there are any issues that they need to bring before the Commission; we just haven't had any in the last few years. At that point, we'll ask them to come and make a presentation. The annual report is put into place by ordinance in the code for them to report for you without coming to every commission meeting which would take up quite a bit of time. So, we do pay attention to that and she was in communication with quite a few of the Boards and Committees. Whenever they have questions they will ask me and if it's something I think they need to put together and bring to you guys, I definitely suggest they do that.

Mayor Galea said if the Commission would like to see Boards and Committees make presentations formally before the Commission, she could certainly ask that they do that, otherwise it can remain as is and they can provide reports prior to our preliminary budget hearings. She agreed with the City Clerk that it would create a lot of time used in a public meeting. It is open to the public to attend all of these Boards and Committees and they certainly do report to us at the preliminary budget hearing and by formal written reports. She asked for any other comments or questions. She said ok, we will move forward and no action will be taken.



NEW BUSINESS

15. **Consider, and act upon, the first publication of Ordinance No. 1456 amending the official zoning map of the City of Alamogordo, changing the classification of a certain tract of land commonly known as 1300 Indian Wells Boulevard from its present designation and zoning district of MH-1 Manufactured Housing District to C-3 Business District. (Marc South, City Planner)**

Mayor Galea asked City Planner, Mark South to address the Commission.

City Planner South told the Commissioners, as was stated, this involves the property known as 1300 Indian Wells. The applicant is Allsup's Convenience Stores. Staff recommended approval and the Planning & Zoning Commission also recommended approval of this rezoning. He said the area involved you are familiar with and is pretty close to the center of this (he was pointing to the area on the overhead). It is the brown part and there is a little bit of light gray part right there because that is in fact the chunk of this that needs to be rezoned. The Allsup's that exists now is right in that part of the property. The bulk of the rest of this property was formally the Mountain View Mobile Home Park. Many of you are familiar; that park was closed and the property was cleared off some time ago. Allsup's has acquired it to expand their operations at this location. They came to us to collapse the lots that they own on the north side of 20th Street – between 20th and Indian Wells. They wanted to collapse those lots together. We said we were certainly amenable to that; that will facilitate what they are doing. However, one chunk of one lot in the mid-1970's was rezoned as MH-1 because the mobile home park was there, and basically what you are being asked to do now is to undo what was done in the early 1970's and take it all back to C-3 which is consistent with what Allsup's intends to do with the property. Just so you know for the record, this green parcel here which is on the other side of

20th Street, Allsup's also owns. They are not collapsing that in with this rezoning. That will stay exactly as it is, as R-4 property. This right here is the chunk that is currently mobile home and will be returned back to C-3 if you approve this.

Mayor Galea asked if there were questions for Mr. South.

Commissioner Talbert asked City Planner South what they are planning to do with it. Are they going to make it a parking lot? He guessed they were building a new building next to their existing building. City Planner South told him they will be building the new facility that Allsup's will have that will cover significantly more space than what they have now. This will be part of their drainage plan, actually. Part of this will be part of their retention basin, although it will be paved. You could, theoretically, park on it if you wanted to; park behind the station and walk around into the front to go to Allsup's, but it will be paved, but it is part of the comprehensive development plan for that parcel.

Mayor Galea asked if there were other questions.

 **Commissioner Rentschler moved to approve first publication of Ordinance No. 1456. Commissioner Rardin seconded the motion. Motion carried with a vote of 7-0-0.**

16. Consider, and act upon, a review of the Contract with the City Manager. (Al Hernandez, Mayor Pro-Tem)

Removed from agenda and added to Executive Session.

17. Discussion, and possible action, related to the potential freeze of the Special Events Manager position due to the Hold Harmless issues. (Josh Rardin, Commissioner)

Removed from agenda.

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

Mayor Galea said that to the Airport Advisory Board she would like to appoint Manny Gonzalez; and the Airport Zoning Board she would like to appoint Mr. Darron Williams; and to the Parks and Recreation Board she would like to appoint Mrs. Doris Neosham; and to the Public Library Board she would like to appoint Mrs. Kim Gallagher. She asked if the Commission had any comments or questions regarding those appointments.

Airport Advisory Board. One (1) vacancy. Staff Liaison – Jan Wafful
(Opening due to the resignation of John Battle)

Manuel Gonzales Jr. – if appointed this will be his first term.

Airport Zoning Board. Three (3) vacancies. Staff Liaison - Jan Wafful
(Opening due to the resignation of Fran Nelson, Paul Vigneault and Randel Wilson)

Darron Williams - if appointed this will be his first term.

Parks and Recreation Board. One (1) vacancy Staff Liaison - Jan Wafful
(Openings due to expiring term of Kim Detmers)

Doris V. Neosham – if appointed this will be her first term.

Public Library Board. One (1) vacancy. Staff Liaison – Melissa Garcia
(Opening due to the expiring term of Linda Barker)

Kim Lopez Gallagher - if appointed this will be her first term.

 **PUBLIC COMMENT**

A. Sharon Hodges commented on the following:

1) Ms. Hodges introduced herself and told the Commission that in sitting here tonight, she just again

wanted to remind you all, and she said she had been here before, that each and every one of you represents us. And with that comes a lot of expectation. And when I hear talk about our Boards; our boards are as good as the people you put on them and the process you put in place. And I think we have excellent boards. I am on the Aging Board and she addressed Commissioner Rardin to say that she had come before him, because she invited you to some of the dances we have there. And so, I just wanted to encourage you as Commissioners to help recruit people on those boards. They shouldn't be political; they should be about quality of life. Voices from our citizens, each one of us that are on these boards are charged with a mission. We not only represent our voice, but we go out into our community and we look to the people that we know and we bring their ideas back to the table. And when things get political, that polarizes it. And that's the second thing I want to talk to you about. I sat here tonight and heard when the County pulled the Library money and that hurt my heart because I was one of the ones, back in the day, when we worked so hard to get that funding because our residents that live out there that utilize our library. What happened, I don't know and I don't care, but we have a problem and it's systemic of a bigger problem that I thought I had talked to each and every one of you. I live in Alamogordo, New Mexico, but I'm also a resident of Otero County; I pay taxes in both. And my expectation from both the County and the City representation is that you put aside whatever it is that builds walls that prevent you two working together for the citizens of our county. Thank you, Commissioner Baldwin, because you hit it right on the nail. Tit-for-tat, petty, whatever reaction, knee-jerking, all your actions that do both Commissions hurt the very people that you are charged to serve. So I issue an ultimatum, because I'm going to make this an issue in the mayoral election and any of you that are up for election this coming term, and I'm doing this same thing for the County. What are you doing, what steps are you putting in place that you can work together because this nonsense has gone on too long. And I can't control what's going on in Washington but I doggone can sure try to control what's going on in my own backyard when we have elected officials who can't get past their own whatever to work together to make it better for us. So, that's my challenge and my ultimatum and my request of each and every one of you. Let's not talk about pulling people off the Library Board, let's talk about mending fences and see if there isn't any money down the road that the County can re-open their purse, because it doesn't serve them well, either. Everyone gets a black eye in this. So please, start working together. I know you can do it because that's what we expect of you. She thanked them for their time.

B. Eugene Downer commented on the following:

1) Mr. Downer had a question about the appointee to the Parks and Rec. Board. He didn't hear who it was. Mayor Galea said it was Ms. Neosham, Doris Neosham. He asked again who it was and the Mayor replied it was Doris Neosham. He asked if there were any vacancies because he knew Theda Harshey the Mayor interrupted to say yes, Theda Harshey did apply to that same board. The Mayor said she appointed Ms. Neosham; she has a lot of expertise. She worked alongside her husband who did run many National Parks services. Mr. Downer said so there's no, all the vacancies are filled. Mayor Galea said yes, at this time with the Parks and Recreation Board, there's maybe one coming up soon, in the soon future, yes. Mr. Downer thanked her for the information.

Mayor Galea asked if there were any others of the public who would like to make a comment at this time.

 **CITY MANAGER'S REPORT**

1) City Manager Stahle said there was just one thing. He congratulated the Finance Department and particularly Armando Ortega and his team for putting together the On-Line Bill Pay for our Utilities. Good job, folks. I appreciate your work. That's it. Thank you.

 **REMARKS AND INQUIRIES BY THE CITY COMMISSION**

Mayor Pro-Tem Hernandez commented on the following:

1) Mayor Pro-Tem Hernandez said actually he had three, but you just stole one from me. I was in the office the other day when they started down-line bill pay and were having very good success with it.

2) The second item I would like to bring up is mental health. I just recently, it hit really close to home and have dealt with DPS over the weekend and they were very supportive, but one thing I found is that there are probably several officers that need additional training in mental health issues and how to deal with it and how to just basically see when that's an issue. There were several instances in Albuquerque where people with mental health had been shot and killed, and had the officers known a little bit more it could have come out different. So, like he said, it hit really close to home. It's my father and you notice I've got a different haircut this time. I just would really appreciate it if our officers of our city would really look into training with mental health issues and how that would help in how they deal with people on a daily basis and on emergencies.

3) The second thing I'd like to bring up is my item that's #16. We will discuss it here tonight and we will discuss it right now, tonight. We just won't vote on it tonight. But I will ask the City Clerk to put it back on the agenda for the November 19th meeting, and I will ask that tonight, in public, that it's placed back on the November 19th agenda. Ok? I am very disappointed in how the Oktoberfest festivities were handled and have been handled. I won't go into discussion on people, what they did and what was not done, but I'm very disappointed we still have not been paid back for that. That was a very big issue for me when we gave it out, and so I will be asking that we terminate the City Manager's employment on November 19th, again, since it was taken away from me tonight. I am very disappointed in this Commission that it did that. It is my right as a Commissioner to bring that in public; it is how it is supposed to be done is in public not in private. We cannot do that in private. So it will be back on the agenda November 19th. Thank you.

Mayor Galea said I appreciate what you would like to do. The contract with the City Manager that the Commission has established with the City Manager states that his contract would be under review not until February. We, the Commission would be breaking that contract should we bring it for review before then. We can certainly do that and take action. The contract of the City Manager should be discussed in Executive Session and certainly in the public, action should be taken.

Mayor Pro-Tem Hernandez said No, ma'am. He is an at-will employee and we can bring up at any point his termination, at any time. Mayor Galea said yes. Mayor Pro-Tem Hernandez said at any public meeting and it can even be brought up in a special meeting. I'm not going to ask for a special meeting because I don't really enjoy special meetings and the time it takes for me. So, we'll do it on November 19th and that can be brought up November 19th, the following meeting, the following meeting and every other meeting after that if the Commissioner chooses to. It doesn't need to be discussed in private session. It's done in public; it's always been done in public and it's done by putting it on the agenda and you can't bring it up just like I did now. I can't vote on it, I can't ask for a vote on it because that was taken away from me tonight. But, we will vote on it on November 19th.... Mayor Galea said No, sir. Mayor Pro-Tem Hernandez continued saying whether I have the votes or not.

Mayor Galea told him we could have recessed into Executive Session, discussed the item, and then taken action. Mayor Pro-Tem Hernandez said No, ma'am. Mayor Galea said yes. Mayor Pro-Tem Hernandez said that's fine. If that's what you all want to do; it will be on the agenda on November 19th and we'll vote on it then. Mayor Galea said ok.]

Mayor Galea asked if there were any other items of discussion and Mayor Pro-Tem Hernandez said that's it.



Commissioner Rardin commented on the following:

1) He said that on Item 17, my argument on this, and you guys chose to do this same thing, you know. You guys are all equal to me, Mayor Pro-Tem Hernandez, Commissioner Rentschler, Commissioner Sikes, Commissioner Baldwin. We're all equal up here. It's wrong of you guys to pull items off the agenda just because you don't agree with them. In my opinion, you guys had a rolling quorum on those two items this morning, earlier today when you pulled those off of there. My argument on this is..... Mayor Galea interrupted him to say that is accusatory. Commissioner Rardin said I have the floor; let me finish. On my item, when we voted on that, we did not vote to unfreeze the position. We

essentially created a new position, when you guys created this, because the job description for the prior Special Events Manager is not the exact same one you all approved. They've got additional duties, they stepping up in pay grade by two positions so it was not an unfreeze. An unfreeze is taking the existing position and unfreezing it; same job description, same amount of pay except for the cost of living increases. That is what you guys supposedly unfroze, but it's not the same. So, when I checked into that; so essentially we created the position and we did not unfreeze an existing position. And, you know, we are sitting here looking at budget cuts, we are sitting here looking at Hold Harmless and where to look for money; that's \$60,000.00 right there. Come January, like I mentioned in Budget Hearings earlier, you know, three of us up here were sitting here arguing no raises for staff this year and that's a hard decision for us to make. And then, some of you are arguing for a raise. Come January this next year, if the revenues aren't there, which they're not, then the staff doesn't get that extra percent and a half increase, you know. So, this right here is a very, very obvious no-brainer, that we can cut this right now, save our taxpayers \$60,000.00 and maybe save somebody that's on staff currently their job next year come Budget Hearings if this Hold Harmless stuff goes the way it looks like it may or may not go. That's all I was asking, and like I say, it's appalling that you guys would take that off of the agenda without even a discussion, saying it is a parliamentary procedure issue, and that's wrong. How do I represent my constituents out here if all you guys have got to do is say, 'Hey, we don't want to discuss your issue', and vote to take it off of the agenda. You know, if I have, say Mr. Espiritu right there has an issue and he calls me, so I put his issue on there and you guys don't want to talk about it; you guys vote to take it off? I can't represent that constituent because you pulled my item off that agenda and that is wrong, and that needs to stop, you know. I've never, in five years I've been here, I've never seen that. Actually, I used to come to meetings for three years prior to that and I've never seen a commission do that to another commissioner. It needs to stop.

Mayor Galea told Commissioner Rardin his argument was fallacious and it's inflammatory. Commissioner Rardin said it's not. Mayor Galea repeated it's fallacious and inflammatory. She continued saying that no item of the agenda would ever be removed if it were not inappropriate. The item was passed by the Commission and it was not the Commission's will; it was the will of the community. Each Commissioner does represent members of the community and those 4-3 did represent the members of the community and it was passed. I'm sorry that you are acting out.

Commissioner Rardin asked how did they get represented? Mayor Galea said you will answer, you will answer where was this rolling quorum? Commissioner Rardin said he believed there was a rolling quorum on this. Mayor Galea said you accused of a rolling quorum and you will state where it was. Commissioner Rardin said he believed there was a rolling quorum earlier today in a meeting. Mayor Galea said you cannot make a true statement. Commissioner Rardin said he didn't have any way to prove it; I believe there was a rolling quorum. As a personal statement, I believe it happened. Mayor Galea told him his opinion was false.

Commissioner Sikes asked if she could make a comment and said she thinks that's accusatory, also, Josh. I was not involved in any rolling quorums. I happen to read the agenda ahead of time. Commissioner Rardin said maybe I was wrong. Commissioner Sikes said what I do when I get the agenda packet is I read it ahead of time and I study all the information in it. As soon as Mr. Talbert made that motion I seconded it because it was going to be my intention to make the motion. It just so happened it that it worked out pretty well. That's very accusatory. The only reason I think we took your item off the agenda was the way it was placed on the agenda. If you'll remember back when we talked about Juniper, there were a few of us who voted against the Juniper project. For months, people wanted it back on the agenda but we were not allowed to bring it back. The people who voted the way you, I and the Mayor voted were not allowed to bring it back in the agenda. Commissioner Rardin said that is a different issue. Commissioner Sikes said it had to be somebody who voted for it. Commissioner Rardin interrupted saying, but like I'm stating, we created.....Commissioner Sikes interrupted saying it's the same parliamentary rule.

Commissioner Rardin said we created a position; we did not unfreeze the existing position because if we did, then you would be hiring somebody, I don't know what the base salary was on the existing position, but it was not \$36,000-\$60,000 dollars. It was, like, way down in the 20's. That position that

you guys approved changed two pay grades. Now, talking to staff, I'm not sure of their pay grade system, but it changed two pay grades and the job description changed. So you created a new position; you did not unfreeze an existing position.

Mayor Galea asked the City Manager if he'd like to address what's happening with our beloved Raul Ruiz who is leaving the Civic Center and how we have this opportunity now to have more special events in the City, and what is being done with this new position.

City Manager Stahle said I think, first of all, that's a different position all together. He agreed with Commissioner Rardin that, indeed, we brought to you a change in the Special Events position from a Special Coordinator, he thought that was the title, to Manager and yes, there was an adjustment in pay ranges that since the position is not filled it's hard to dictate or figure out how much we would actually have to pay in the position. But, you are exactly right; it did get changed. I believe that was all part of the process. I do have a concern about, of course, future staff and retirements. The staff that we have, many of them do a particularly fantastic job and it's a big loss whenever we lose them. I think the focal point for me is going back to some of the other comments made. First, on the budget, it is premature to over-react. Second, I think there is an opportunity to bring in additional economic development, more GRT, by having a position. That was why we, I specifically, requested this position be created. We won't know until we try, but I respect the conversation in terms of whether or not we should implement a freeze immediately and not fill the position. But, that's up to you all. Mayor Galea said thank you.

Commissioner Rardin said I don't know; like I say, we sit here and fill this position today, and come May of next year if we decide we can't afford it, we've got to lay somebody off. City Manager Stahle said I'm fully aware of that, sir. Commissioner Rardin said that's wrong to employ somebody for six months and then potentially lay them off. City Manager Stahle said there're some big 'ifs' there. Commissioner Rardin said I still have some comments, and the Mayor said you still have some comments, ok. She then asked Commissioner Baldwin if he had some comments on this issue. Commissioner Rardin said for him to go ahead.

Commissioner Baldwin said there were two things. I'm going to dovetail off of the accusation of a rolling quorum; it's a horrible thing to say and I feel like I need to defend myself. And, everybody up here knows that I don't talk to any of you, so. So, I would be one of the votes that supposedly was a part of this and that hurts my feelings, if I had one. Secondly, when the Special Events Coordinator was brought to us, it was my understanding it was an unfreezing of a position, but he was never told and it was never presented to us as an unfreezing of that exact position. The title was the same but it was obvious to me that everything under that was completely different from the old position. I operate under no pretense of we're unfreezing a certain position and we change it later, just for the record. This does bring up a point; I'll give it to Commissioner Rentschler. It would potentially change my vote since I was one of the four that voted for this position, because I believe it would be a very good position for the City of Alamogordo to actually consider with the potential budget cuts or potential things that could happen with the budget, before we hire this position and put them in place and potentially look at reduction in services. That is something I hadn't considered. It's a valid point. It might be better not to even create this position in lieu of getting rid of it later on down the line. I happen to believe in the position; I happen to believe there's a lot of things that could be done in the meantime, and I believe that by the time it comes to July 1, 2015 when we lose our first dollar, probably things will be in place, but that is a valid point.

Mayor Galea thanked him and told Commissioner Baldwin that to redirect his comments, she did talk to Commissioner Rardin when he did want to put this item on and asked him to bring this to Commissioners that they'd approve this and ask in approving that Commissioner that voted in favor of this item to bring it back, but I was verbally accosted by Commissioner Rardin instead. Commissioner Rardin said it was because you were overstepping your authority pulling a Commissioner's item off the agenda, period. But, I don't want to get into that argument right tonight. I've got other issues I want to talk about here.

2) Commissioner Rardin said he also wanted to clarify on the ordinance on whether that tax has to go before the voters or not. So, we stated in our discussion earlier that it was ruled illegal by the AG's office, but then in our comment from the message we received from Senator Burt it states in there that he recommends that we take the tax before the voters. So which one's right or which one's wrong? Senator Burt had actually even mentioned in his message, because I got the same message, that we take the tax before the voters. We offer it and put it on the ballot to have them pass it or not pass it. So which one's correct?

City Attorney Thies responded saying Senator Burt is a Legislator. He's not in the position that the Attorney General is to make that type of ruling. The Attorney General, the issue was presented to him in 1990 and there is a review of it. He concluded that the City of Alamogordo did not have the authority to impose that restriction on the City Commissioner, or the City Commission. Commissioner Rardin said that answers my question.

3) Commissioner Rardin said then on this other side of this too, I would also like to look, due to this discussion we are having earlier, all seven of us up here are equal. I know I'm rocking the boat a little bit here, but per City Charter we all have the exact same powers and duties, and one thing that the Mayor has over and above us is ceremonial for ceremony and running the meetings and for military purposes. And, the rules of conduct that we passed essentially contradict the Charter by giving, for you to approve the agenda prior to it going out, if you get to approve it then all seven of us should get to approve it, because we all have the exact same powers per the City Charter. So, I would like those rules to be back on there for us to look at again and tweak and change, because it may not be a problem today but come next March with the new Mayor-at-Large, they may think they have more authority than they do and it may be an issue to some of you Commissioners that will be here, like Jason, Robert and Al. It may be an issue in the future that just like tonight, you may put an issue on there, an item, and the At-Large elected Mayor may not like that particular item or want to discuss it and say well, 'I'm not going to approve the agenda with your item on there', and kick it off. So, I would like for the next meeting that we bring those rules of conduct forward and we review those and make sure they are legal with what the Charter states. The Charter is what we have to abide by. That's all I have.

Mayor Galea said there are many items on agendas I don't like but have never removed, and I've only asked that you change the wording on your item, or ask an approving member of the vote prior to, to bring this back to the Commission so that we can do this appropriately. I only ask that we are professional as Commissioners when we add items to the agenda. She asked if any other Commissioners had comments.

 **Mayor Pro-tem Hernandez commented on the following:**

1) He said he had one question for, actually, a task for the city attorney. He said as my item was removed, Item #16, I would ask if that was done, and I don't want your opinion. I want you to research it and tell me if it was done appropriately or not, because I asked for this Commission to vote on this and if it was not done appropriately, what actions can I or the City take.

 **Mayor Galea commented on the following:**

1) She thanked FRST for being here with Mike Espiritu. She thanked them for being here in our community and we are grateful to have you here.

2) She would like to make mention and celebrate Holloman Air Force Base for receiving the Commander and Chief 2013 Installation Excellence Award. That is military-wide so we have the best Air Force base in the world.

3) Mayor Galea went to the AUSA Conference. She was grateful to the Commission for approving so she was able to attend that conference. She attended it with the Greater Chamber of Commerce of El Paso, the AUSA Bradley Chapter of El Paso, the Arms Committee, the Economic Developers of El Paso, and a Ft. Bliss team, namely Commander General MacFarland and members of his board there. The result was there were various meetings with Congressional Staff and Senators' Staff and

she was grateful to address veteran hiring issues. Currently in the City, we guarantee an interview to any veteran that meets the minimum qualifications and education and experience, but often veterans meet the minimum qualifications for education but not experience because the military MOS does not relate or translate well, I should say, into the civilian job sector. But, we have learned that there is a VA program called VA Apprenticeship in which the City or other corporations could enlist to adopt, and I'd like to bring that back to the Commission to look at adopting the Apprenticeship Program through the VA. Veterans could then be brought into the City offices and under this apprenticeship, potentially be hired after the apprenticeship, and there's the ability to, not the City but other private businesses, receive the opportunity to work credit of up to almost \$9,000.00. That would be a large tax savings to any private corporation. Also, working with the El Paso group, they are trying to implement a new pilot program called Boots to Jobs Program to assist those systems, and working with them would be a great advantage to the City which hires and we have more than 300 people, and as you know, we are trying to improve our work culture. Certainly we can do that with those that have the military background and experience. Also, with the AUSA, they have a great interest in strengthening our region. They notice that Ft. Bliss has taken a mission, essentially, of the 2nd Engineering Battalion from White Sands Missile Range (WSMR). They'd like to strengthen WSMR by seeing more Army tests and evaluations operations to their base. They are working on bringing other military components such as police and the DOD Departments to WSMR to strengthen them. With the loss of the 2nd Engineering Battalion, that would be only 200 personnel left in uniform on that base. Also, they recognize the opportunity to expand missions at Holloman Air Force Base (HAFB) and what's great about working with Ft. Bliss and the members of Texas is they are advocating to their Texas Congressional leaders missions in other states to bring to New Mexico. It's something New Mexico couldn't do for ourselves. In New Mexico, we can't go to a Congressional leader and say, 'Could you please move your base over to New Mexico.' We have a great ally with Ft. Bliss and they recognize that when we are strong as a region, then they also are strong, so it's great to have their advocacy.

4) Also, working with them the US Chamber of Commerce would like to do something together through all the businesses and advocate that the definition of part-time employee be changed to 35 hours a week. As you know with the Affordable Care Act, those having more than 50 employees full-time employees must provide a certain level of benefit. For example, a corporation that has 60 full-time employees, if you must drop your employees, 11 of them down to part-time, those 11 employees would have 30 hours a week instead of 40 hours a week of productivity to be able to manage the cost of the Affordable Care Act. Well, if you can challenge the definition of part-time and change it to 35 hours a week then you also benefit the employer, work productivity and also the employee. That's something that would be of great benefit to the City of Alamogordo as well as our region.

5) There are a number of things I worked with the members of for AUSA; mostly funding for HAFB and I would be happy to make a formal report. I'm already working on page five. I will get that printed and typed out fully to the Commission and then spread out to the community after it's gone first to the Commission.

6) I also did work on Immigration Reform. I went back a second week and that was privately funded. Immigration Reform, what that would do for Alamogordo is to improve the quality of life, especially for the German Air Force whose family members are here. We have more than 600 German Air Force here and there's not really a work/visa program for them. It would improve our ability to hire the German Air Force family members and certainly would improve our work force if we had other immigrant workers here, as well.

7) She also addressed the Budget. I understand that we are looking at options today when we don't really see an affect until 2016. She would like to see that we don't have to implement a tax in 2016. She'd like to be pro-active now so that when 2016 does come and we have to enact a tax or do something, the burden is lessened; if we do something now; if we make reductions now.

8) She addressed some of the comments that were made particularly Mrs. Hodges who accused our Commission of being involved in politics on boards, and there's not been that. That's not the case at

all. We've not gotten involved in politics in any way on any of the boards and we've really tried to work with the County. She remarked she had no other comments or questions at this time and asked if anyone else did.

Commissioner Rardin asked if any members of the audience had questions. Mayor Galea remarked that Public Comment was over but if Commissioner Rardin wanted to entertain, that is fine. Commissioner Rardin said he'd like to hear what he has to say.

 Paul Sanchez apologized for interrupting once again. The conduct I just witnessed up here over the rolling quorum comment and the responses really has to make me, and I believe some of the people who read his blog, wonder about what you guys are doing up here. The comment in regards to a rolling quorum, I'm not sure where the Commissioner got that comment, but what I do know is.... Well, let me ask a question first, and I'm not sure if it's a question for you, Madam Mayor, or if it is for the city attorney, but let's say there was a board that you felt personally needed to be abolished. Whether or not the Commission agreed with you or not, do you have the power as Mayor to abolish that board or is it required for the Commission to abolish that board. Mayor Galea told him the Commission. Mr. Sanchez said, so you cannot do that by yourself and the Mayor said no. He said the reason I'm asking that question, ma'am, is earlier today you made a phone call to Mr. Darren Williams. You informed him that you were not going to appoint him to one of the boards, I believe it was the Airport, not the Zoning Board but the other one, and you also told him that the Airport Zoning Board was going to be killed tonight. Mayor Galea tried to say something and Mr. Sanchez said excuse me, ma'am. I'm quoting Mr. Williams, ok? I'm getting a direct quote from him and I'm asking you what this was about because he says you directly told him that that Zoning Board was going to be killed tonight. Now, it wasn't killed and not only was it not killed, you also appointed him to that board, but the information I got was opposite of that and I don't understand how you made that comment earlier without the fact that the Commission was going to support you in that.

Mayor Galea said perhaps I'll conference you the next time I phone Mr. Williams. I did let him know I would like to appoint him to the Airport Zoning Board, but all the boards were up for review tonight and I was not sure if the Commission would eliminate a board. Mr. Sanchez said so you're denying that you told him that board would be killed, and she said I said it could be eliminated. Mr. Sanchez said he said you said it would be and I'm just simply asking you the question are you saying it wouldn't, and you didn't say that. Mayor Galea said I said it could be eliminated by the Commission. I'm telling you exactly what I stated. Mr. Sanchez said ok and thank you, ma'am.

Paul Sanchez said the other thing is that tonight during the meeting the Daily News quoted the City Attorney as saying on Face book and they quoted him, that the Commission does not have the authority to put the Hold Harmless Tax on the next ballot. They quoted that from the City Attorney. It's out on Face book; it's on their page. You earlier said that that hadn't been said, so I'd like to know from the City Attorney, does the Commission have the authority to put the Hold Harmless Tax, whether or not the vote would be effective, does the City Attorney have the authority, does the Commission have the authority to put it on the ballot. Mayor Galea said the Commission does have the authority to put it on the ballot. Mr. Sanchez then said, so the quote that the Daily News put on the page tonight was wrong. Mayor Galea asked the City Attorney to answer and respond.

City Attorney Thies said he had not seen the quote so he really did not want to comment on it. Mr. Sanchez thanked the Mayor and said he appreciated her time.

Mayor Galea asked if there were any other comments or questions from the Commission at this time. She said we do have another comment from our members of the audience.

 Helen Viscarra-Reno introduced herself as the Assistant Finance Director with the City of Alamogordo and was very proud of it. She said that on a positive note, she would like to recognize the people she works with on their efforts for Halloween. The number of kids we actually gave candy to, she had no idea, but I tell you, a smile from just one of those faces makes it all worth it and may I add this is out of our expense. Our costumes, our candy that we give out is at our expense and she

would really appreciate it if one of you had taken the time to mention that. Mayor Galea thanked her and for bringing that to her memory and said she was sorry she had not brought it up tonight. She said it was really an amazing, well, the Finance Department set the bar for all other departments. It was well decorated and she was sorry for not making mention of that. She felt she was already long-winded herself.

Commissioner Sikes wanted to make mention that she and Mrs. Stahle got to be judges for the decorating and the costumes, and also Laurie (Anderson) who is here. It was absolutely incredible to walk through the Finance Department, Municipal Court, the Administrative part of the offices; it was incredible. I wish everybody could have seen it. The themes and the candy and the costumes just blew us away. She said she knew they got a trophy there in Finance. Didn't you get a trophy or two? Thank you for giving us the pleasure of getting to judge you.

Mayor Galea asked if there were any other members of the Commission or audience who would like to address the Commission at this time.

 Commissioner Rardin said he has one more comment. It's a positive comment tonight. He also would like to thank the Community Services for Zoo Boo that was a very, very successful event down at the Zoo. There were so many people coming out of the Zoo parking lot we had to have DPS keep them off the train tracks because the line was all the way down 10th Street, so. I'm not sure how many people we had, but I think they said they quit counting at like 5,000 or 6,000 people down there. That's very, very successful considering Staff. I wanted to give them an 'Atta Boy' pat on the back for getting that done.

 Mayor Pro-Tem Hernandez said Commissioner Rardin just jogged my memory. The safety on the train tracks and the 'No Trespassing'. I have a friend who is basically homeless, helpless, and he got cited for trespassing on the train tracks, so he went to court and he got a year probation and \$850.00 fine which he cannot pay so he's going to have to do community service. So, just to let you know, that's what they are giving.

 Commissioner Rentschler said yesterday morning his wife was involved in an accident on First Street and the officer that responded, Officer Watts, really didn't know who she was or that she was related to me at all. But, he and officers with him and I don't know what their names were, were very professional and she really appreciated what the officers did at that accident. I want to say thank you.

 **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:

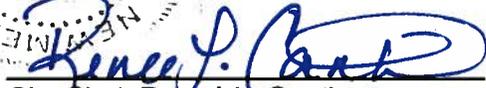
- **Acquisition, disposal or sale of Real Property (La Placita Building)**
- **Limited Personnel Matters (City Manager Contract)**

Commissioner Baldwin moved to adjourn into Executive Session to discuss Acquisition, Disposal or Sale of Real Property (La Placita Building) and Limited Personnel Matters (City Manager) at 9:52 p.m. Commissioner Talbert seconded the motion. Roll call vote was taken. Motion carried with a vote of 7-0-0.

ADJOURNMENT



ATTEST:


City Clerk Renee L. Cantin



Mayor Susie Galea

(Prepared by Nancy Jacobs, Deputy Clerk)

Approved at the Regular Meeting held on November 19, 2013.