

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
7:30 P.M., COMMISSION CHAMBERS
FEBRUARY 12, 2008**

**MAYOR DON CARROLL
MAYOR PRO-TEM RON GRIGGS
COMMISSIONER INEZ MONCADA
COMMISSIONER ED COLE
COMMISSIONER MARION LEDFORD**

**COMMISSIONER CHRIS LUJAN
COMMISSIONER STEVE BROCKETT
CITY MANAGER PAT McCOURT
CITY ATTORNEY STEPHEN THIES
CITY CLERK RENEE CANTIN**

CALL MEETING TO ORDER, ROLL CALL, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Carroll called the meeting to order at 7:30 p.m., and roll call was taken by the Clerk. The Invocation was given by Mrs. Dotti West, and the Pledge of Allegiance was led by Commissioner Moncada.

Mayor Carroll stated that they had learned of the untimely death of Mr. Chuck Dugan. Mayor Carroll expressed condolences to his family and friends.

PUBLIC HEARINGS:

1. Public Hearing for Applications to grant new City Liquor Licenses to:
 - A.) Heart of the Desert/Eagle Ranch.
 - B.) Tularosa Vineyards.
 - C.) Luna Rossa Winery, Inc.
 - D.) New Mexico Wineries, Inc.

Recommendation: Approve the applications for a city liquor license for Heart of the Desert/Eagle Ranch, Tularosa Vineyards, Luna Rossa Winery, and NM Wineries, Inc.

Mayor Carroll explained that the purpose of the licenses is to allow wineries that are located outside of the City of Alamogordo to be able to sell wine at events in the City of Alamogordo.

Commissioner Brockett asked if the licenses are temporary, and they are renewable on an annual basis. These are different from liquor licenses that would be available for restaurants or grocery stores.

Mayor Carroll stated that in the current Ordinances there is nothing that talks about a cost for a license such as these. If it is the pleasure of the Commission to grant the applications initially, the Commission may want to look at incorporating a charge for the licenses.

Commissioner Cole made a motion to approve the applications for a City liquor license for Heart of the Desert/Eagle Ranch, Tularosa Vineyards, Luna Rossa Winery, and NM Wineries, Inc. Mayor Pro-Tem Griggs seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.

CALL OF THE CONSENT CALENDAR:

MINUTES:

2. Minutes of January 22, 2008 Regular Meeting.

Recommendation: Approve the minutes.

CONTRACTS AND AGREEMENTS:

3. Approval of an amendment to collective bargaining agreement.

Recommendation: Approve the amendment to the agreement.

4. Approval of a Memorandum of Understanding between the Housing Authority and the Department of Public Safety for performing criminal history inquiries on Housing Authority applicants.

Recommendation: Approve the memorandum of understanding.

5. Approval of an amendment to the 2007 General Fund Legislative Projects.

Recommendation: Approve the amendment.

ORDINANCES AND RESOLUTIONS:

7. Consider Ordinance No. 1322 amending certain sections of the personnel manual concerning additional compensation, holiday pay, overtime, and paydays.

Recommendation: Approve the ordinance for final publication. . [Roll call vote required]

OTHER BUSINESS:

9. Consider approval of Change order #1, Public Works Bid No. 2006-012, Westside Water Line Improvements Project.

Recommendation: Approve the change order in the amount of \$168,954.95, including NMGR.T.

Commissioner Ledford made a motion to approve Items #2, 3, 4, 5, 7, and 9 of the Consent Calendar. Commissioner Moncada seconded the motion. A roll call vote was taken because of Item #7, and all voted "aye." The motion carried with a vote of 7-0-0.

ORDINANCES AND RESOLUTIONS:

6. Consider Ordinance No. 1321 amending sections of Chapter 8 of the Code concerning buildings and building regulations.

Recommendation: Approve the ordinance for final publication.

Mayor Carroll explained that the changes to this Ordinance were a result of the problems that they ran into when they didn't have an electrical inspector in order for the State to be willing to do inspections and certify inspectors in the future. They required that the City get rid of what they had with the International Building Codes and adopt the blended Code that the State has.

City Manager McCourt stated that they had told the State that they would do this within 90 days, and it has now been about 150 days. He said he felt they had been very patient, and he did not want to portray that it is a perfect document. That said, it gets the City where it needs to go. It does need additional review, and they need to come back at a future date to consider some concerns that have been expressed perhaps making minor amendments.

Mr. Klad Zimmerle stated that it has been said that the Ordinance is being put out to comply with the State as far as inspections go, but he asked if that meant they wouldn't allow any review of the Ordinance at the meeting. Mayor Carroll said that's why it was published for first publication, and Mr. Zimmerle stated he had sent something to the City Attorney but got no response. One of his concerns

had to do with Section 1, the application, and what appeared to him to have happened was that the section from the Subdivision Regulations, Section 22-01-044(44)A and B, was copied, and the drainage report was changed such that the Ordinance for the Subdivision Regulations states one thing and the Building Ordinance will state another on drainage.

City Manager McCourt asked what the difference was, and Mr. Zimmerle stated that in the Subdivision Regulations they were changing it from 10-year and 50-year storms to 100-year storms. The engineering and design that would be required for the 100-year storm is much more intense than what would be required for the 25-year or 15-year storm. He stated that it is basically a contradiction to the Subdivision Regulation, and he thought that it had even been a surprise to the Commission at the last meeting. Mayor Carroll clarified that it had been mentioned by the City Manager at that time that it was one of the significant changes. Mr. Zimmerle stated that it is fairly significant and would be an expensive addition to what developers would have to do.

City Manager McCourt stated that 100 years is a very normal control point for planning for flood control measures, and there has been vivid evidence in the Alamogordo community that perhaps stricter steps should be taken to protect the public from flood events. City Manager McCourt believes it to be extremely appropriate, and it also, as he understood it, brings the City into compliance with Chapter 13 of its Codes, which is flood control. What needs to happen, is they need to go back and amend the Subdivision Code. The people of the community deserve the 100-year protection. There is no mandate, but it is a common level of protection.

Mr. Zimmerle stated that everything in the City is in a flood zone, but the criteria required to prepare for a 100-year flood when an area is in a C flood zone is not necessary. City Manager McCourt pointed out that he could tell that to the people whose houses got flooded out, but Mr. Zimmerle stated that they were in an A flood zone.

Mr. Allan Gorby from the Contractors Association asked why they were going through a full change to the Ordinance when they could just make the change according to the Construction Industries Division (CID). Mayor Carroll explained that when the Ordinance re-write was done, there was an extensive review and there was a lot of interaction with the building community. Mr. Gorby stated that they would prefer that they just change what needed to be changed to comply with CID and allow more time to review the rest to see what could be worked out between the Contractors Association and the City that might make things more feasible. City Manager McCourt reiterated that they promised CID that they would get it done in 90 days. They need to move forward and comply with the State. He agreed that it was not a final document, and he concurred with the recommendation that they would need more time to review the document and make other possible changes. City Manager McCourt stressed the importance, however, of moving forward.

Commissioner Lujan stated that part of it falls under compliance with the State, but there is a percentage that is extra. He asked what part they have 90 days to come into compliance with—the whole thing or the parts that are enough to come into compliance with the State. City Manager McCourt reiterated what they had told the State in terms of switching to the blended code in 90 days, and he stated that it is his understanding that if this is not passed that they have to go back and start over. In City Manager McCourt's opinion, they needed to pass the Ordinance and then go back and review it as is being suggested to take out what may be inappropriate language.

Mayor Carroll explained that the document took quite a bit of time, and there were a lot of areas that were intertwined. As he had previously mentioned, he felt it was important for them to pass the document and then re-address those things that needed to be looked at in greater detail. Commissioner Lujan asked again what is necessary to pass to be in compliance with what they had told the State because he didn't know that all of the changes were necessary. He would like more time to review those things.

Mayor Carroll stated that the former City Attorney had spent a lot of time working on the change and coordinating with CID. The impression that Mayor Carroll got in conversations with him was that he

had put in what he had felt was needed to come into compliance and to make the other Ordinances mesh. If there were changes that the building community wanted, there would be time afterwards to sit down and discuss them.

Commissioner Moncada reiterated that they could go ahead and approve the Ordinance and then at a later date sit down and address any issues that might be raised after which they could do an Ordinance change if necessary.

Commissioner Brockett pointed out, however, that in the meantime the contractors would have to comply with what is in the Ordinance. He asked what guarantees could be offered to the contractors that between the time of adoption and the time any changes could be made that some of the changes would not be applicable to them.

Mr. Gorby stated that the document was not brought to their attention before it was put in place, but Mayor Carroll stated that is why they had a first publication a month ago. It was to put the community on notice that a change was coming.

Mr. Tom Messer, a member of the Builders' Association, asked if the document they were looking at was the same document that was passed for first publication, and Mayor Carroll stated that it was. Ms. Lora Nelson stated that the only change since first publication was in the adoption of the Fire Code. Being that they were unable to adopt the 2006 fire codes, they had taken out the changes to adopt the 2006 and went back to the 1997 ones that were listed in the original document. They had taken the Fire Code out of Chapter 8 and moved it into Chapter 12, the fire prevention chapter, so that everything would be found in one space.

City Manager McCourt strongly endorsed passing the Ordinance and then setting up a meeting with the Building Association to go through the Ordinance.

Commissioner Ledford stated that it's a pretty technical document and there seemed to be a lot of confusion about what had taken place. He asked how long it would take to get with staff and discuss the issues in question to come up with a final document. If the City was already two months late he wondered whether it would make a difference to wait and discuss the issues and come up with a compromise. He thinks it is appropriate to attempt to accommodate the industry that it affects the most. Mayor Carroll stated that the problem is if it is tabled to the next meeting and then there are substantial changes made, it is back to square one. It would then have to go back for first publication. Commissioner Ledford reiterated the concern that the contractors will have to abide by the changes until they can get something reasonable. He then asked if staff had any communication with the Builders' Association since first publication.

Mr. Messer stated that they believed the Commission needed to proceed with it and get it passed. The thing they differed on was that there were some serious concerns about the flooding in particular in terms of having a chance to look at the impact it would have in certain areas. He asked if they could strike out the flood timeframes for long enough to get it passed and then review them in a timely manner. They recognize that there are changes that do need to be made, and he stated that they would commit as an industry to get on with it as quickly as possible to make changes later. He asked that they pass it without those.

City Manager McCourt reiterated that they are at risk because they are already in violation, and he recalled the development community coming to the Commission and asking them to get on the stick so that they could get their inspections going when they lost the electrical inspector. He is not willing to get back in that exact same situation because the City loses an inspector and then the State won't do the inspections so that they shut down the whole industry. The City needs to be in compliance with the State requirement. Second, he stated that he would not back off on the 100-year protection. The people in the community deserve 100-year flood protection. Furthermore, the changes to the Ordinance bring it into compliance with Chapter 13, Flood Control.

Commissioner Lujan said that if what mattered was coming into compliance with CID he didn't understand why they couldn't just pass what is necessary and keep out the rest for right now.

City Manager McCourt stated that there are areas that are subject to interpretation that may not have to be passed in order to be in compliance with CID, and he is in agreement with the Building Community that they should go back and look at it. What he knows is that staff prepared it and took a long time to review it and get it ready and recommended that they needed all of the changes. If the industry was saying they were not needed, then that is what needed to be debated and worked out. In the meantime, he wouldn't want to get them back into a situation where they couldn't get their inspections done. He thought they needed to pass it and then set up a work force with definitive time lines to review the Ordinance, work on it, and bring the recommendations back to the Commission.

Mr. Zimmerle asked if the 90 days that the City was allowed included the publication periods, and it did. He asked why they did not ask the industry for some help or input.

Commissioner Lujan stated that it was his understanding that if the document were changed, they would have to go back for first and second publication and by the time it got passed they would be way beyond the agreement time. He believed that they would have to go back and pass it, and Commissioner Lujan committed to doing what he could to make sure that the City staff gets with the Builders' Association to review it and bring back whatever is necessary.

Mr. Gorby stated that he understood where they were coming from, but what he did not understand was why they went above and beyond what was needed to be in compliance with CID. He stated that in the past they have been promised a simple checklist so that they could get the permitting process and work on that. They never received that. They have been made promises in the past that they would be worked with on certain things, and that has not taken place. Here is a document that would impact them tremendously, and even though it was being said that they would go back and work on it, they so far hadn't had that happen even with much simpler things. City Manager McCourt provided his personal assurance that with the Commission's permission he would direct his operations analyst to put very direct attention to it and move it forward rapidly.

Commissioner Brockett asked how the changes would affect ongoing construction, and City Manager McCourt stated that any permits issued are issued under the existing code. They would move forward under that code.

Mr. Harris Blankenship stated that he would be very surprised if the Ordinance would satisfy CID's requirement particularly as it was not adopting their code but was adding a lot of stuff that would make it harder to do work in Alamogordo. It just further complicated Alamogordo's process. A lot of the stuff doesn't address or work with trying to satisfy CID's requirement. He said that the clean thing to do to satisfy CID would be to adopt their code. If the issue was clouded, it wouldn't help the City. He felt that this would add to the problems that they already have. City Manager McCourt stated that the CID has indicated that the changes would bring the City into compliance.

Mr. Blankenship went on to say that Section 108.3, Fees, Item B.3 talks about 50% of the permit fee. That is the way Alamogordo administers it, and it is a duplication and snowballs the way the State does it. The State says that the fee is "X", and 50% of that is for the plan review. The way Alamogordo administers it, the 50% is paid plus the full permit fee. He went on to say that 108.4 talks about penalties, and it only encourages owners to completely avoid the process. There are many hurdles. Finally, 108.9 has nothing to do with State inspectors inspecting work.

Ms. Nelson explained that the sections had been moved within Chapter 8, such as the 50% plan review fee and the expiration of permit applications. All of those currently exist. It is not an addition but was a matter of relocating it to fit with new codes that were adopted.

Mr. Dennis Crimmins, White Sands Construction, stated that he took offense at City Manager McCourt's issue of the 100-year flood and flooding. He didn't think the flooding in recent history had

much to do with the 100-year flood plan because most of the City of Alamogordo did just fine other than in the arroyo area. If the arroyo were dug out and kept at the right depth, probably 95% of that problem would have been contained. He also asked for clarification on the publication process if changes were made in the future, and Mayor Carroll explained the process of first publication and final adoption as related to any future changes. Mr. Crimmins asked if it was approved if they were agreeing that in a timely fashion they would look at the document and make any necessary changes.

Mayor Pro-Tem Griggs asked for clarification on the differences between the Subdivision Ordinance and this Ordinance in terms of 50-year versus 100-year events. He wanted to know if a subdivision was built to address the 50-year event and if then a builder wanted to build on a lot in that subdivision if he would have to modify the lot to provide for the 100-year event. Mr. Arthur Alterson, Community Development Director, stated that Chapter 13 still required that it be built with 100-year protection. Mayor Pro-Tem Griggs asked if that were a conflict that could not be resolved which Ordinance would prevail. City Manager McCourt stated that the strictest ordinance should prevail.

Mr. Alterson stated that if the property were within the 100-year flood plane, a builder would still have to build to the 100-year flood elevation. It is true right now whether this Ordinance is passed or not. The Subdivision Chapter says that in the event of a 50-year storm, the water has to be kept in the street and up onto the curb six inches. What the Subdivision Regulation is addressing is where standing water or flowing water is in the streets. As far as houses, the houses still have to be elevated above the 100-year flood plane. That doesn't change one way or the other. People owning the property have that burden right now. This Ordinance would not increase their burden.

Commissioner Lujan asked how the Ordinance would affect plans that had already been reviewed and approved. Anything that had already been approved wouldn't be subject to it. Ms. Nelson stated that if the Ordinance were to come to fruition on the 22nd the way it should, plans would not be pulled that were already in review. The State also goes with a six-month timeframe to choose what codes are being designed in. It gives the contractors time to adjust to what was being done. Renee Cantin, City Clerk, stated that the effective date if approved would be five days after publication, which would be February 22nd.

Mr. Zimmerle explained that for large-lot subdivisions, the Contractors would have to provide a drainage report when right now all they have to do is provide an elevation certificate. He suggested that they look at what he submitted to the City Attorney and refer to the flood maps. To get an engineer to do a 100-year drainage report, for instance in Los Lomas, is going to be expensive, which is what the Ordinance is asking for. He thinks they need to work with it, and the bottom line is that the City should ask for help in doing some of it. City Manager McCourt said that he would look at Mr. Zimmerle's memo.

Mayor Pro-Tem Griggs asked for clarification on larger-lot subdivisions and what would meet the criteria for the Flood Ordinance. Mr. Dean Hunt, City Engineer, stated that Chapter 13 regulates the floor elevation in a special flood hazard area. There are certain areas in Alamogordo that are in a special flood hazard. Chapter 13 doesn't regulate the floor height. Now, his understanding is that the change in the code is just a change in the years of the event from a 50 to 100-year flood. Mayor Pro-Tem Griggs asked if what they are talking about in the new ordinance was a drainage report and if that is required for a larger lot subdivision right now. He also asked if there was a big distinction between what was being asked for right now and the drainage report that is asked for in the Ordinance. Mr. Hunt did not believe there was because what is being required is not being changed. The storm event that the analysis is based on is what is being changed.

Mayor Carroll reiterated the point that they need to discuss certain areas in terms of what is the impact if any and what are the changes.

Ms. Lora Nelson added that when they talk about the drainage report that is required on residential properties, it is only required when more than 60% of a property is being developed. It is seldom required.

Commissioner Lujan made a motion to approve Ordinance No. 1321 amending sections of Chapter 8 of the Code concerning buildings and building regulations. Mayor Pro-Tem Griggs seconded the motion. A roll call vote was taken. The motion carried with a vote of 5-2-0. Commissioners Ledford and Brockett voted nay.

Mayor Carroll recessed the meeting at 8:38 p.m. and reconvened it at 8:48 p.m.

8. Consider Ordinance No. 1325 amending Section 14-01-110 of the Code of Ordinances regarding the rates for Solid Waste Collection.

Recommendation: Approve the ordinance for first publication.

City Manager McCourt explained that this ties back to the private contractor. The City of Alamogordo has a private contract with Southwest Disposal, as it is more efficient for the City. They do have a long-term contract, and within their contract they have a provision for a cost-of-living increase, which is what this Item would do. It is kept as a self-supporting fund, and this is to be able to pay the expenses in the Solid Waste Fund and keep it as a solid, viable fund. There is a continuation of an action that was started last year, and that is to bring the convenience center into being supported under the fees, and a limitation has been put in on the change of the fees to cover the convenience center—to restrict the increases.

Commissioner Brockett made several comments on some service issues that had been brought to his attention. He asked when there is a residential container that is split or the top has been torn off if they look at that as they are driving around. He wanted to know how quickly they would respond to someone reporting that they had a problem with their trash cans. On more than one occasion, people have called Southwest. They have had no luck getting anything done, and so they have called Commissioner Brockett. The last time he went to speak with Mr. McNeile, and from the time the issue was brought up to the time it was addressed and a new can was brought it took in one instance a month and a half and in another instance about a month and a week. Commissioner Brockett also spoke about having had to contact Southwest on occasions when pick-ups were not done when scheduled, and three of those times he had conversations with extremely rude, sarcastic and condescending employees of Southwest. The last time it was fine. He questioned how they interact with private citizens. He hoped the issues would be brought to the attention of Southwest. He thanked Mr. McNeile for his help. City Manager McCourt thanked him for bringing these things to his attention, and he stated that Mr. Brian Cesar, Public Works Director, oversees the contractor.

Mayor Carroll commented that he thinks the City continues to be a little remiss in not letting the citizens know that it's not their responsibility to call Southwest Disposal. The citizens should be able to call City Hall, and it is up to the City to get Southwest Disposal to respond. Commissioner Brockett explained that individuals take it upon themselves to call because they thought perhaps things just weren't seen, but he appreciated the Mayor's comments.

Commissioner Cole stated that complaints had been called in to him as well. Questions that have been raised to him are when the wind blows over containers, getting new lids for containers, who does the supervision of Southwest, which has been answered, and who should be communicated with. He did make the point that Southwest did take the time to go out and speak with citizens about some of their complaints, which he thought was a big plus.

Mayor Pro-Tem Griggs stated that he hasn't had complaints yet, but he was sure the City Manager would take some sort of action with Southwest. He did reiterate, however, that they were the only company that bid on the contract.

Mayor Pro-Tem Griggs made a motion to approve Ordinance No. 1325 for first publication. Commissioner Moncada seconded the motion. A vote was taken, and the motion carried with a vote of 6-1-0. Commissioner Brockett voted nay.

OTHER BUSINESS:

10. Appointments to Boards and Committees.

Mayor Carroll appointed the following people:

Airport Advisory Board. One (1) vacancy.

Lance Grace

Cemetery Board. One (1) vacancy.

Mary Work

Mayor's Committee on Aging. One (1) vacancy.

Lothar Butzkies

Parks and Recreation Board. One (1) vacancy.

Richard Haskell

Mayor Carroll asked if the clerk would so notify the individuals, and there are still openings on the Community Development Advisory Board, Senior Volunteer Programs Advisory Council and the Airport Zoning Board.

SCHEDULED COMMUNICATIONS FROM THE PUBLIC:

11. Request from Sedona Development Inc. to discuss amending the current Amended Florida Avenue Development Contract.

Mayor Carroll stated that they had received a letter from Sedona Development outlining some of the issues that they have raised with the current contract. City Manager Pat McCourt and Sedona Development had met earlier in the day, and Mr. Mark Bolin, Sedona Development, commented that they have a good concept. They can't put the agreement in place, but they are going to work diligently to finish it before the next Commission meeting. He outlined some of the issues and stated that the biggest issue was to get it so that they can chip seal the road to get everybody happy. There was a bit of a problem in that also, as it is kind of out of their hands, but City Manager McCourt will be working on that with the property owner.

City Manager McCourt commented that they have been working on getting it done in a timely fashion, and they feel the issue is to get the chip seal finished where the City road ends on South Florida up to Oakmont. They have to acquire an easement from the third party, and they've had a two-minute conversation with the property owners. He believes that they are receptive to that, and City Manager McCourt will follow up. They want to get that agreement done and get the road done, and they want to make sure that whatever they do will provide a safe road and address the long-term needs of the community both where it will be chip sealed and further on as the road is extended further south. They do have some concerns about the elevation in terms of maintaining the flood protection as substantial flows come from the east. They did, however, have a productive meeting with the Sedona Development, and they think they have an agreement worked out that will allow them to move forward rapidly on the chip seal. They will work to secure the long-term development so that it is safe for travel and provides the protection that the people in the homes there need.

Commissioner Moncada asked what time frame they were looking at in terms of starting, and City Manager McCourt stated that the third-party easement is what is unclear. Mr. Bolin has assured him that 45 days after they have approval from the third party, the chip seal road would be in place. City Manager McCourt stated that the Commission hasn't seen the document, and it is the only party that can ultimately agree or not agree with that.

Ms. Olga Perez stated that she is glad the issue with the road is getting resolved, but she has a concern about the increasing traffic that paving that road will introduce into Birdie Loop. She asked if they were planning on taking any measures to address that. Mayor Carroll stated that DPS could monitor that to see whether traffic signals or other measures would be warranted.

Mr. Steve Morgan addressed the Commission and stated that he had been before the Commission three times about the road. The first time, City Manager McCourt said that it didn't have to be paved, and Mr. Morgan researched it and found a contract where it said it did have to be paved. Now, there will be another amendment, and Mr. Morgan asked if they could use the chalkboard to show them what they would be doing. He also asked for clarification about the easement that is needed. Mr. Morgan referenced some courthouse documents, and City Manager McCourt then presented some slides to explain what would be done in the area as well as the easement that is needed. Mr. Morgan asked if the property owner is the French brothers, and Mr. McCourt said that it is and he has had an extremely brief conversation with them. The immediate reaction, however, was there wouldn't be a problem. Mr. McCourt went on to show a picture of the steep hill that needs to be removed. One of the challenges is to have a line of sight when the vehicles are coming and get a passable road through the area.

Mr. Morgan stated that in the last meeting it was mentioned that the City was not responsible for a particular area, and Mr. McCourt showed him the section that he was referring to. Mr. Morgan stated that the weed inspector had written up many property owners for weeds, and he stated that if it's not City property, it's not their responsibility to take care of that. Mr. Morgan said that the City couldn't have it both ways. Mr. Morgan stated that it has become a dumpsite for trash, and he offered to show City Manager McCourt the next day at one o'clock. City Manager McCourt stated that they needed to blockade that road to restrict the access.

Ms. Michelle Heeley addressed the Commission and stated that either an unfortunate death or accident is going to occur on that hill. They wanted to know the timeframe of when it would be paved because since October one car has gone off the road, bicyclists have been nearly hit, and a couple of other things. She asked who they sue, and City Manager McCourt stated that the road is on private property. He didn't know if they had received rights to drive over their land, but that is something that would have to be cleared up. Ms. Heeley also requested that the property owners in that area be included in meetings that are held. She asked once again for the time frame, and City Manager McCourt reiterated that the chip seal road would be done 45 days after they get the easement.

Commissioner Moncada asked for clarification on when the hill would be reduced, and City Manager McCourt stated that was one of the items they were trying to see if they could get done quickly.

Commissioner Brockett asked if long-term GRIP2 money would pay for the road down to Martin Luther King, and City Manager McCourt said that they had hoped to get some money under the GRIP 2 program to work on Florida. They were assured last year that they would get some, but they have not received any and have no contract from GRIP2. He speculated that the State had over promised what they could do and does not have enough money to complete the projects that they promised under GRIP-1 and so are not awarding contracts under GRIP2. In the meantime, the goal of the City is to get a road through there so that it would be usable by the residents.

Commissioner Brockett asked if the State had contacted City Manager McCourt or the other way around. City Manager McCourt explained that they had sent out notices to which the City had responded. That was the end of it. Mayor Pro-Tem Griggs commented that it shouldn't take long to reach an agreement with the French Brothers, and Ms. Heeley suggested that the City consider that what now may cost a miniscule amount of money could end up costing millions if they don't act.

Commissioner Lujan asked if DPS could do a study while waiting for these things to take place or place some patrol officers out there to monitor it. Chief Trujillo stated that the talk of dirt bikes and dumping cement have peaked his interest, and he does not have any problem committing some officers to that area though they would be limited on what they could do on private property.

Commissioner Ledford asked if City Manager McCourt was intending to continue the conversation with the French Brothers the next day, and that was his intention. Mr. Morgan said that he had a copy of the warranty deed, and it seemed to him that they had already given the easement.

Commissioner Moncada asked what right the DPS officers would have to issue citations since the road is on private property, and City Manager McCourt stated that is exactly the concern in that they would like an easement agreement in place so that they could enforce the traffic rules.

Mayor Carroll stated that they would move as expeditiously as they could to get it moving forward.

12. Request by MJ Hernandez to consider reviewing the code or policy for blowing leaves into the street.

Commissioner Brockett made a motion to postpone this Item to the next meeting.

Commissioner Moncada seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.

UNSCHEDULED COMMUNICATIONS:

A. Commissioner Brockett

Commissioner Brockett extended his appreciation to City Manager McCourt for writing the response to the complaints by the Tularosa residents. He thinks they have been silent for far too long, and he wanted to tell City Manager McCourt that he respected his strong stand and appreciated the comments.

B. City Manager McCourt

City Manager McCourt stated that he had been putting the requested weekly reports into the mailboxes of the City Commissioners. He drew their attention to the water report, which was included in their packets.

C. Mayor Carroll

Mayor Carroll received a couple of letters commending David Clement for work at the Chamber building. Mayor Carroll asked Brian to pass along the City's and the Chamber's grateful appreciation.

In addition, Mayor Carroll will be attending the Southwest Defense Alliance this month. He will be relinquishing that position at the end of the month, and another representative will take his place from Alamogordo.

EXECUTIVE SESSION: Recess into Executive Session to discuss threatened and pending litigation (Sedona Development & Snake Tank) and revocation of a license (Alamogordo Furniture Center).

Commissioner Brockett made a motion to go into Executive Session to discuss threatened and pending litigation (Sedona Development & Snake Tank) and revocation of a license (Alamogordo Furniture Center) at 9:38 p.m. Commissioner Lujan seconded the motion. A roll call vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.

OPEN SESSION: Motion to go into open session.

Commissioner Brockett made a motion that the City Commission come out of Executive Session and back into open session for the purpose of conducting business in accordance with what was discussed during Executive Session at 10:50 p.m. Commissioner Lujan seconded the motion. A roll call vote was taken, and all voted "aye." The motion carried

with a vote of 7-0-0.

13. Action if any from the Executive Session.

Recommendation: Need a motion to approve any action taken on any posted items discussed in Executive Session. If no decisions were made the following statement should be read: The matters discussed in the closed meeting were limited only to discuss threatened and pending litigation (Sedona Development & Snake Tank) and revocation of a license (Alamogordo Furniture Center) as specified in the posting of the closed meeting.

Commissioner Brockett made a motion to approve that the Commission adopt a statement that the matters discussed in closed meeting were limited only to threatened and pending litigation (Sedona Development & Snake Tank) and revocation of a license (Alamogordo Furniture Center) as specified in the posting of the closed meeting. Commissioner Lujan seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.

ADJOURNMENT.

Commissioner Lujan made a motion to adjourn at 10:52 p.m. Commissioner Brockett seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.

/s/Donald E. Carroll

Mayor Donald E. Carroll

(SEAL)

ATTEST:

/s/Reneé L. Cantin

City Clerk Reneé L. Cantin

(Prepared by Ubiquis Reporting)

Approved at the Regular Meeting held on February 26, 2008.