

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
7:30 P.M., COMMISSION CHAMBERS
APRIL 8, 2008**

**MAYOR STEVE BROCKETT
MAYOR PRO-TEM CHRIS LUJAN
COMMISSIONER RON GRIGGS
COMMISSIONER ED COLE
COMMISSIONER MARION LEDFORD**

**COMMISSIONER ERIC BREWER
COMMISSIONER JOE FERGUSON
CITY MANAGER PAT McCOURT
CITY ATTORNEY STEPHEN THIES
DEPUTY CLERK CAMERON STERN
DEPUTY CLERK MARSHA D. BRADY**

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

Mayor Steve Brockett called the meeting to order at 7:30 p.m., and the roll call was taken. All of the commissioners were present. The invocation was given by Pastor Mary Taken, and the pledge of allegiance was led by Commissioner Marion Ledford.

Mayor Brockett noted the passing of Jose Oscar Ortega. He retired from the Alamogordo Parks and Recreation Department after 20 years of employment, and he was a long-term Alamogordo resident who also lived in the Sacramento Mountains.

PRESENTATIONS:

1. Presentation of certificates to outgoing Planning & Zoning Commissioners.
 - a) Mark S. Goga 5 years of Service
 - b) Wyatt D. Earp 2 years of Service
 - c) Sharon Gardiner 3 years of Service

Mayor Brockett presented certificates to the outgoing planning and zoning commissioners.

2. Presentation of a proclamation for the Alamogordo Music Theater 50th Anniversary.

Mayor Brockett also presented a certificate to representatives of the Alamogordo Music Theater celebrating as they are celebrating the 50th anniversary of the AMT. The certificate proclaimed the month of April 2008 as Alamogordo Music Theater Month in Alamogordo. .

CALL OF THE CONSENT CALENDAR:

MINUTES:

3. Minutes of March 25, 2008 Regular Meeting.

Recommendation: Approve the minutes.

Commissioner Ledford made a motion to approve Item 3 on the Consent Calendar. Commissioner Cole seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.

CONTRACTS AND AGREEMENTS:

4. Approval of an agreement between the City and Otero County for housing animals at the City's animal control facility.

Recommendation: Approve the agreement.

Mayor Brockett explained that the County has requested that the City provide back-up services for housing animals in case they are unable to use the services of their contractor. On several occasions, County residents have been turned away due to lack of space, and that probably will continue. They will then bring their animals to the City animal control facility. The County has already approved the agreement.

City Manager McCourt went on to say that the agreement is a continuation of the existing agreement. The County has made arrangements for a primary site to take care of their animals, and the agreement addressed will take care of the remainder of the animals.

Commissioner Cole made a motion to approve the agreement. Seconded by Commissioner Ferguson. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.

5. Approval of the proposed amendment to the APSOA agreement and authorization for the City Manager to sign the agreement.

Recommendation: Approve the amendment to the agreement.

City Manager McCourt explained that at the time of the agenda preparation the agreement had not been approved by the Alamogordo Public Safety Officers Association, but that approval has now taken place.

Commissioner Ledford made a motion to approve the agreement. Seconded by Mayor Pro-Tem Lujan. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.

6. Approval of an airport facility lease for Linda Madron d/b/a Airport Grille.

Recommendation: Approve the lease.

Mayor Brockett explained that the lease addressed by Item #6 would begin April 1st, 2008, and the rental amount would be 150 per month plus 5% of the grow receipts. Included in the agreement is also the potential use of an area of about 400 square feet that used to be used by the airport manager, which would increase the rent.

Commissioner Cole made a motion to approve the lease. Seconded by Mayor Pro-Tem Lujan. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.

ORDINANCES AND RESOLUTIONS:

7. Consider Ordinance No. 1328 amending Chapter 7 of the Code of Ordinances dealing with animals.

Recommendation: Approve the ordinance for first publication.

Mayor Brockett explained that the Ordinance has several components. The first section of the code requires persons who are involved in the injury of an animal to either transport the animal to a place where it can receive immediate care or to notify DPS of the particulars of the incident so that animal control can be dispatched to retrieve the animal.

The second section amends the current Ordinance so that it more explicitly comes into compliance with state regulations governing rabies vaccinations. The third section eliminates provisions of the Ordinance calling for a spay or neuter deposit. The fourth section increases the fees for the first day of boarding an animal and the fee for picking up a dead animal. Sections five through seven in the amendment create a new article to govern the sale of dogs and cats. If approved, the Ordinance would require a license to sell dogs or cats in the City. It provides that a vet must examine a dog or cat prior to sale and provides that certain vaccinations are required before a dog or cat may be sold.

Mayor Brockett explained that staff developed the article in response to concerns raised during the past year over persons selling sick or diseased puppies and kittens in the City

Lieutenant Kelly Wallace and the manager of the animal control facility, Robert Jones, were available to address any concerns or questions.

Mayor Brockett asked Mr. Jones to provide some background regarding individuals selling sick or diseased puppies and kittens and what kind of feedback there has been from that. Mr. Jones explained that he has had a lot of complaints about individuals setting up in parking lots and selling puppies that are undernourished or not of age to be sold. They have a City license so the City can only do a welfare check on them, but there have been a number of complaints. Numerous vets have also said that some of the puppies have had diseases including parvo. The puppies are sold at a discounted rate, but the Ordinance is being enacted to try to have some control over selling the animals. Without the Ordinance, there is no way to really control the selling of the animals in parking lots. It will require documentation that animals have been to a vet and are healthy and okay for sale as well as of age. State law requires that all animals have a rabies vaccine, and they have to be at least 12 weeks old to have that administered.

Commissioner Ledford asked how they would monitor the enforcement of the Ordinance, and he wanted to know how they would monitor the health of the animals. Mr. Jones said that right now they are asking for proof of vaccinations, and they are asking that animals have a current rabies vaccination as well and the parvo distemper vaccine. The staff can also do a visual inspection of the animals. The Ordinance would require proof of vaccines before animals could be sold.

Lieutenant Wallace clarified that there is no stipulation and no desire to prohibit the selling of dogs and cats within the City limits. It is only an assurance to try and help the cities and citizens as a whole have healthy animals. They feel the Ordinance is the best thing to do for the safety of the citizens of Alamogordo and the welfare of animals that are currently in the City.

Commissioner Ledford asked if when an individual gets a license if a copy of the related Ordinance is provided to the individual getting the license. City Manager McCourt said that could be done.

Commissioner Brewer asked if the Ordinance would apply to individuals giving animals away, and Lieutenant Wallace said that the way the Ordinance is written it applies to people who offer dogs and cats for sale in the City limits. Lieutenant Wallace explained that the intent was to address individuals seeking to make a profit from the selling of animals. Mayor Brockett's opinion was that the giving away of animals would not likely be an issue.

Mayor Pro-Tem Lujan pointed out that if somebody were going out to give an animal away in public, it should be addressed by the same Ordinance though he did not feel going to people's homes who were giving pets away was warranted. Commissioner Ledford pointed out the distinction of not getting into regulating people's right to give away items.

Ms. Josephine Carnes acknowledged the work that DPS and public safety officers do on behalf of the citizens in controlling animals, but she cautioned that the private property rights of citizens should not be violated.

Commissioner Griggs pointed out that if they apply the Ordinance to individuals who are giving animals away, they would be asking people to pay \$50 to \$150 to give something away, which would be a difficult sell. Giving animals away is just a different circumstance. Commissioner Griggs felt that would need to be addressed outside of the Ordinance.

Commissioner Brewer pointed out that in terms of addressing the problem of sick animals, it doesn't come down to money, and he felt strongly that the Ordinance should be across the board.

Commissioner Cole strongly opposed any government involvement in individuals giving things away.

The point was made that individuals giving animals away likely don't know if the animals are sick, and no complaints have been registered regarding individuals giving away sick animals.

Commissioner Cole made a motion to approve Ordinance No. 1328 amending Chapter 7 of the Code of Ordinances dealing with animals. Seconded by Commissioner Ferguson. A vote was taken. The motion carried by a vote of 6-1-0. Commissioner Brewer voted "nay,"

8. Consider Ordinance No. 1330 amending sections of Chapter 8 of the Code concerning buildings and building regulations.

Recommendation: Table the ordinance.

Commissioner Cole made a motion to table Item 8 indefinitely. Seconded by Commissioner Ferguson. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.

9. Consider Resolution No. 2008-11 amending the animal control fees.

Recommendation: Approve the resolution.

City Manager McCourt explained that in the last Ordinance that was sent for publication there was a list of fees, and those are being taken out of the ordinance and put in a resolution. Many of the fees need to be reviewed on an annual basis specifically the each day or portion day charge at the facility. Putting them in a resolution expedites the ability of the Commission to alter those fees as they deem appropriate.

Mayor Brockett asked if they have removed parts of an Ordinance before, and City Manager McCourt explained that it is a common practice.

Commissioner Ledford made a motion to approve Resolution No. 2008-11 amending the animal control fees. Seconded by Mayor Pro-Tem Lujan. A roll call vote was taken, and all voted "aye." The motion carried by a vote of 7-0-0.

OTHER BUSINESS:

10. Consider projects to be completed with the Municipal Gross Receipts Tax of One-fourth of one percent (1/4 OF 1%) for Street Improvements that was passed by the voters during the March 2008 election.

Recommendation: Provide direction to staff.

Mayor Brockett explained that the information was compiled as a result of the last City Commission directing the City Manager and staff to come up with a funding mechanism to expedite road construction. A PowerPoint presentation was presented by Brian Cesar, Public Works Director. He went over some of the existing street maintenance programs especially for the new commission members, and they try to accomplish the right treatment at the right time whether that is crack sealing, slurry sealing, reconstruction, or the Cutler method. They always have to look at the replacement of the sub-surface utilities, and they have to comply with the ADA requirements. They also look at drainage improvements, and their goal ultimately is the preservation of good driving surfaces. Since fiscal year 2002, which was when they began the street maintenance program, they have rehabilitated over 95,00 linear feet of pavement, replaced over 40,000 linear feet of water and sewer lines, and installed hundreds of ADA-compliant alley aprons and driveways.

Mr. Cesar then went on to show what was passed by the voters in March—the dedication of the new gross receipts tax. They did not specify any particular project, and it went through just as the 2004

gross receipts tax did. It is for the construction, re-construction or improvements of municipal streets, alleys, roads or bridges including acquisitions of right-of-way, just as the 2004 gross receipts tax.

Current cost estimates for rehabilitating a street put it at a little over \$1.5 million per mile. Street reconstruction is roughly \$3.6 million per mile, and new drainage structures are about \$137,000 each. The estimates were based on the New Mexico Environmental Finance Center 2000 statewide average figures for the State of New Mexico, and it has been increased to compensate for the CPI adjustments up to 2007 dollars, meaning the estimates could already be low. The estimates also relate only to the street project. The ADA accessibility, engineering and testing does not include any of the water or sewer infrastructure or any other utility. The other costs to be considered are the sub-surface utilities such as the water and sewer, drainage, ADA compliance and everything that goes along with the actual asphalt on the road.

Mr. Cesar explained that for the projects they have, they are looking at approximately \$4 million of water and sewer line replacements that will need to be done, which cannot be paid for with the gross receipts tax. That will have to come from the water and sewer rates that are charged to the citizens of Alamogordo. In September 2007, after it was brought before Commission, a town hall meeting was held at the civic center where a number of citizens were present. They went through a short presentation and ranked the streets and projects that had been presented. Number one was Hamilton on down to number thirteen, which was New York. Mr. Cesar then showed the 2004 gross receipts tax money and the projects that had been completed since that time. He also showed the recent crack sealing that was just completed and the top six projects from the previously-mentioned town hall meeting.

Finally, Mr. Cesar showed an overview of all of the proposed projects and how they fit into the overall scheme of what they are trying to accomplish. They have tried to hit each of the districts, and they try to spend roughly the same amount of money in each of the various districts. Having moved farther into the maintenance program, however, it is becoming difficult to treat everybody as equal. For instance, in District One it is very hard to find good candidates for crack sealing and slurry sealing. There is much more extensive work that needs to be done on the remaining streets in that district. In District Seven there are fewer and fewer streets where it would be appropriate to do anything but crack and slurry sealing. Mr. Cesar provided some examples of different streets and how long the crack seal and slurry seal might last.

Mayor Brockett asked if it was part of the maintenance plan that Mark Threadgill had given to the public about a year and a half ago that extends the life of the street perhaps 25% longer. Mr. Cesar then also provided a description of the differences between the Cutler method and the slurry seal. The crack sealing comes first. What was done on Abbott from Sunrise and up was crack seal and then a slurry seal.

Commissioner Ledford asked what the life is of a road before it becomes a candidate for rehabilitation, and he wanted to know in relation to the 150 miles of roads that are in Alamogordo what the debt service would be. City Manager McCourt stated that they have a couple of proposals, and what the finance department has been working on has been what the options are as far as raising dollars and maximizing the dollars that get to be put on. They have been looking at a revenue bond, borrowing through the New Mexico Finance Authority, which be either 20-year borrowing or 30-year. Under the 20-year, it is estimated that the City could raise approximately \$16.6 million. And under the 30-year they could raise \$18 million. The goal for the street maintenance program is applying the right treatment at the right time. What has been lacking in the past has been that the right treatment has not been done at the right time. With the right preventative maintenance street life can be stretched out to 40 and 50 years before a major reconstruction is needed. Commissioner Ledford said that basically according to his thinking, at the current rate it would take 200 years to rehabilitate all of the roads. The key is extending the life of the roads. The numbers aren't there. The street maintenance money has to be used wisely to extend the roads thereby maximizing the project money.

Commissioner Cole provided some examples of streets that are in such bad shape that it seemed to him they needed to be torn up and replaced. Mr. Cesar explained that in the last two years they have really gotten more into the preservation of the streets that are not in the type of condition that they require a complete redo.

Mayor Brockett commented that he personally thought that a work session was in order, and he commented on the different needs in the different districts. He commented that when he saw the list of proposed projects the first time, he liked the list, and he would love to see every one get done. Three districts passed the tax. Some districts were close, but they still failed. District Seven passed it with a considerable majority, and one district that passed it did so by two votes. The thing that Mayor Brockett doesn't want to get into is comparing districts in terms of dollars to dollars because there are reasons why the costs in some districts are going to be more. Some districts have several projects, and one district just has one project. Mayor Brockett went on to say that another thing he had looked at earlier in the year was that they have a GO bond retiring in August, and City Manager McCourt pointed out that it is \$5.7 million. They may want to look at renewing that, which would have to go to the voters, but that is a potential source of revenue that would not raise property taxes.

Commissioner Ferguson asked whether anything was being done about West First Street from the railroad tracks going to the bypass. City Manager McCourt commented that they have been pursuing moneys through the state legislature for that, and pieces of money have been acquired. They do have a project planned for another section of improvement there, and they have acquired the right-of-way to develop First Street with a gradual "S" curve instead of the sharp one that currently exists. They don't have enough to redo the entire street, but they are continuing to work on that. It remains at the top of the Commission's priority list when they request assistance from the state legislators.

Mayor Brockett asked City Manager McCourt to provide information regarding North Scenic, South Florida, Alaska and North Florida, and he stated that they have several programs in place. They are doing some redo and some maintenance, and it is also ¼%. As time goes by, they are attempting to shift it more toward maintaining rather than rebuilding. Alaska is scheduled to get done in the September timeframe. In addition, 23rd Street is scheduled for paving. Sixteenth Street is scheduled. Mr. Cesar then provided a list of the streets that are scheduled for repair and paving with the 2004 gross receipts moneys. The next phase will be to work on major roads, and then the following year they will concentrate on local streets again. In addition, there are some additional road projects that the City is participating with the State in funding, and one of those is North Scenic. City Manager McCourt then described the work they are planning for Lavelle Road and Fairground Road.

Part of the direction from the Commission had been in considering the rapidly rising construction costs, 43% in five years, to protect the maintenance money while trying to get some road done before the costs go up considerably. If the decision is not to bond but to put all the money into maintenance, then only one could be done. Mr. Cesar also described how the cost to the contractor and the City is dropped if the road is closed while the contractor is working on it. For instance, major pieces of Hamilton could be closed off, and people would still be able to access their property. To do it on 18th, they would be hard-pressed to be able to let people get to their homes.

Commissioner Ledford agreed that a special work session is definitely in order, and Mayor Brockett didn't think it would be possible to provide direction to staff without more information. They also concurred that one session wouldn't likely be adequate. They would also like to discuss how to finance the projects so they know how to stretch their dollars. In addition, they need to consider closing roads to maximize dollars, and it may be worth it to be inconvenienced for two or three weeks to get another half a million dollars worth of work. Commissioner Ledford said they need to take an intelligent approach that minimizes politics and maximizes the potential to meet the needs. City Manager McCourt stated that their plan is to break the projects up into pieces, and their concern is about accessibility within the community. They are also interested in trying to make sure that local people have a shot at successfully bidding on the projects.

A meeting date of June the 3rd was tentatively set, and the meeting would be at 6:00 p.m.

11. Appointments to Boards and Committees.

Mayor Brockett re-appointed Linda Elliott to the Alamogordo Promotional Board, and there is still one vacancy. There are also vacancies on the Senior Volunteer Programs Advisory Council and the Airport Zoning Board. The Alamogordo Disability Council will appoint Michael B. Smith to the Public Library Board.

UNSCHEDULED COMMUNICATIONS:**A. Jerry Johnson**

Jerry Johnson, chairman of the Alamogordo Chamber of Commerce Transportation Committee, addressed the Commission. He commended City staff for a very good, intelligent approach to street maintenance. He hoped they would be listened to and that politics would not interfere, as they approached it from an economic perspective. He also commented that the priority list was the outcome of the last town hall meeting. In addition, the Chamber of Commerce endorsed the tax before it was passed. They worked very hard to get it passed, and they talked to every City club that they could get on their program. The list that was presented has been put in the paper two or three times, and in people's minds that is the list. He expressed that they should be careful if they are planning to change the list.

B. Commissioner Ledford

Commissioner Ledford congratulated the University of Kansas on their national championship.

C. City Manager McCourt

They are monitoring the water, and Alamogordo is now slightly behind where it was last year as far as reservoirs. They have begun to turn on some of the wells, and they are discussing some plans to replace wells. They do not anticipate problems at this time.

City Manager McCourt also distributed monthly reports to the Commissioners. They will continue to provide those reports.

D. Mayor Brockett

Mayor Brockett stated that last week at the Municipal League District Annual meeting Commissioner Cole was unanimously selected as director for another year for the next year. Mayor Brockett congratulated him.

EXECUTIVE SESSION: Adjourn into Executive Session to discuss threatened and pending litigation (Randall vs. Alvillar).

Mayor Pro-Tem Lujan made a motion to adjourn into executive session. Seconded by Commissioner Cole. A role call vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.

ADJOURNMENT.

(SEAL)

/s/Steve Brockett

ATTEST:

*/s/Reneé L. Cantin*_____
Mayor Steve Brockett_____
City Clerk Reneé L. Cantin*(Prepared by Ubiquis Reporting, Approved at the Regular Meeting held on April 22, 2008)*