

**CITY OF ALAMOGORDO, NEW MEXICO  
CITY COMMISSION REGULAR MEETING MINUTES  
7:30 P.M., COMMISSION CHAMBERS  
MAY 13, 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  
CITY CLERK RENEE CANTIN**

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

Mayor Brockett called the City Commission meeting to order at 7:30 p.m. The roll call was taken, and Commissioner Brewer was absent. The invocation was given by Reverend Jim Forney, and the pledge of allegiance was led by Cassie Branch, a senior at Alamogordo High School.

**Commissioner Brewer joined the meeting at 7:33 p.m.**

Mayor Brockett introduced Cassie Branch, and he explained that her presence at the meeting was the unofficial kick off of the Mayor's Youth Advisory Committee. The primary goal of that Committee will be to engage the youth of the City to promote good citizenship, volunteerism, and interaction with adults. The committee is in the planning stages, and they are hoping to have that ready at the start of the next school year.

Ms. Branch introduced herself and told about her current and future plans including her desire to become a doctor.

Mayor Brockett congratulated Ms. Dorothy Murphy for completing her certification to become a certified paralegal. Mayor Brockett also read a letter of commendation from Cheryl Kline regarding Officer Artiaga to express her appreciation for his act of humanity. Mayor Brockett asked Director Trujillo to convey thanks and appreciation to Officer Artiaga.

**PRESENTATION:**

1. Presentation by Cathy Harper and Randall Hayes regarding the Hale Bopp Star Parties, formerly known as the White Sands Star Party.

Randall Hayes, director of the New Mexico Museum of Space History, explained that the Hale Bopp Start Parties were something that they came up with last fall right after the White Sands Star Party. They noticed that there were lots of people at that party from all over the country even as far as Maine, and they also realized that it was a neat thing to do in that it is participatory science. They began to wonder what they could do in the community to bring tourists, and they came up with the Hale Bopp Star Parties. In that process, they realized that one thing the community has is one of the greatest assets in the world—the best skies. There are more observatories in the mountains than just about anywhere in the country, and individuals are even moving to the area to set up their own private observatories. They started talking to some of the astronomers and talking to people around town. They also met with the Chamber, and one of their goals with the Hale Bopp Star Parties is to create an event and grow it annually so that they can bring people from all over the country into the community for a period of time to do astronomy. They want to be to astronomy what Albuquerque is to balloons realizing that Alamogordo has the people, the mountains, and the skies. They are going to go back to White Sands, as they have for the last several years, and they'll expand it is much as they can within the monument. They are also looking to take it up into the mountains. The idea is to bring in about 500 people this year from out of town for several days, and then each year they are going to grow it incrementally. They are looking for other venues in the community. They see it as economic development and tourism, and looking at the numbers in terms of what tourists spend and what they

do when they're in a town, they believe the Hale Bopp Star Parties can be grown into a national event particularly as there is not a national astronomy event anywhere in the country. There are regional events, and in two weeks the Texas Star Party will take place in the Davis Mountains. They have 900 people coming, they are going to be there a week, and they will spend lots of money and time. It is a positive experience, and everyone who goes to the event participates and can look through the telescopes. It's great education, it's great science, and it's also great development.

Mr. Hayes went on to say that they have talked with people from service clubs, businesses, and the chamber, and they have put together a small planning committee. Alan Hale has not only lent his name to it, but he is also working on the planning committee. People know Mr. Hale all over the country and all over the world, and by calling them the Hale Bopp Star Parties, with multiple venues, their hope is to draw people. Their goal is to make the parties a community event, and the museum has no intent on owning them. They are looking for partners, service clubs and local businesses to participate such that in a few years when people hear about Alamogordo it will be known as the national astronomy center. The whole community will benefit. The dates of the next event will be September 26<sup>th</sup> and 27<sup>th</sup>, and the goal is to eventually extend it to weeks, perhaps even two weeks.

Mayor Brockett commented on the communities that this project could impact, and he said that when he first heard about the idea it just knocked him over. He thinks it is a great idea. Mr. Hayes said that people will congregate to their interests, and astronomers are everywhere. There are numerous magazines, and you can buy a telescope for \$25 at Wal-Mart or spend \$25,000. The first time you see the rings of Saturn, you're hooked. Mr. Hayes concluded by saying that they will keep the community up to date as they go along. They want to generate interest and revenue across the board.

Commissioner Ferguson asked Mr. Hayes to give the Commission an update on the new things that they are doing at the Space Hall, and the big change this year is Shuttle Camp, which is their summer youth program. Last year, they had 440 students enrolled, and they are at 700 and still taking registrations. They created a STEM program, which stands for science, technology, engineering and math, and it is a national education initiative. They wrote curricula, and they recruited and negotiated with the charter schools in El Paso to bring their entire eighth. They are bringing in nearly 300 students for one week to reside in Alamogordo this summer, and the number of locals has risen dramatically. All of the students will go through egress training and flight training, and they are working with the Air Force on rocket building. The Air Force will send out a crew of volunteers to build the lunch patio and launching pads for shuttle camp so the base is very involved. In addition, their new research library center for space research is open and running, which was started last fall. Their attendance is up 20%, and they have the highest growth in attendance of any state organization in the division of cultural affairs. They are working hard, driving people in, and trying to become the center for space and science education in the state.

Mayor Brockett expressed his appreciation for the information that Mr. Hayes gave to them.

2. Presentation by John Genta regarding the Alamogordo Tennis Association.

Mr. Genta thanked the Commission for allowing him to speak, and he thanked the City for helping them to prepare for the 34<sup>th</sup> annual tournament that they had in April. He especially thanked Eric Marion who provided them with a lot of assistance and people. They replaced the windbreaks on the courts, trimmed trees, painted benches and did a lot of stuff to get the courts in good shape for the tournament. Mr. Genta said they also took a look that day at the prospective site for the new courts, and the area seems to be a good site. It's been about a year since they got the grant, and they are looking forward to moving forward on it though they are looking for a little bit more grant money from the USTA and Parks and Rec, perhaps \$25,000 from each.

Mr. Genta explained that Mr. Grady Nichols has put on the match for 34 consecutive years, and he and his wife have done a fabulous job of putting on the tournament.

Mr. Nichols explained that the tournament is sanctioned by the USTA, and it is not a championship thing but they are very proud of it. They had participation from 16 different cities and 18 if one includes Alamogordo and Cloudcroft, and they were only able to have the tournament because the ATA and the City spent a lot of man hours getting the courts ready. They are planning a bigger event for the 35<sup>th</sup> tournament, but the existing courts are in bad shape. They may not make it through another winter, as they are becoming irreparable and nonplayable. The south courts have been around the longest, and they are rippling. To fix them like they should be fixed is going to be extensive and expensive and will take a lot of time. In addition, the north courts have a lot of cracking, but it is conventional cracking and can be repaired with means that are perhaps not too expensive. If they get four or even six new courts, they will need at least four of the existing courts available in order for them to continue their tournament and for the high school to have its annual tournament that it has in the spring every year, which involves about 100 kids. Mr. Nichols went on to say that the ATA has about 35 members that qualify as senior citizens, and most of the people spend their recreation time on the tennis courts.

Mr. Matt McNeile stated that they look forward to continuing to work with the Tennis Association throughout the design and building process. He agreed that the existing courts are in need of repair. Public works has a new crack seal machine. Individuals need to be trained on that, and then perhaps they can seal some of the cracks. Mr. McNeile said that some of the courts really need to be torn out and rebuilt altogether. Mayor Brockett asked Mr. McNeile to give directions on how to get to parking for the new courts, and Mr. McNeile said that one would need to go south on Canyon Road off of First Street, head west and then access the parking lot, which is very large.

### **PUBLIC HEARINGS:**

3. Public Hearing for Application No. 533855 to grant a new Beer and Wine Liquor License to Sunset Run Restaurant, located at 54 McDonald Rd., Alamogordo, NM.

*Recommendation:* Approve the application and Beer & Wine license for Sunset Run Restaurant.

Mayor Brockett read the item and asked for comments. There were no comments.

**Commissioner Cole made a motion to approve the application for a new beer and wine liquor license for Sunset Run Restaurant. Mayor Pro-tem Lujan seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.**

4. Public hearings to consider a temporary structure special permits:
  - A. Vision Ford Lincoln Mercury Inc. from July 31, 2008 to August 4, 2008. [SP-2008 0118(A) at White Sands Mall, 3199 N. White Sands Boulevard].

*Recommendation:* Approve the special permit from July 31, 2008 to August 4, 2008, with the finding that it will not be detrimental to surrounding properties

- B. Vision Ford Lincoln Mercury Inc. from June 12, 2008 to June 16, 2008. [(SP-2007-0119(A)) at Lowes Pay-N-Save, 675 E. 10th St.].

*Recommendation:* Approve the special permit from June 12, 2008 to June 16, 2008, with the finding that it will not be detrimental to surrounding properties.

Mayor Brockett read items A and B, and there were no comments.

**Commissioner Ferguson made a motion to approve both of the special permits, from July 31, 2008 to August 4, 2008, and from June 12, 2008, to June 16, 2008, with the finding that it will not be detrimental to surrounding properties. Mayor Pro-tem Lujan 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:**

5. Minutes of April 22, 2008 Regular Meeting.

*Recommendation:* Approve the minutes.

**CONTRACTS AND AGREEMENTS:**

8. Approval of an agreement between the City and the New Mexico School for the Blind and Visually Impaired for Student Resource Officer.

*Recommendation:* Approve the agreement.

**ORDINANCES AND RESOLUTIONS:**

11. Consider Ordinance No. 1327 consenting rezoning to District C-1, Neighborhood Retail Business from MH-2, Manufactured Housing Park District requested by Michael A. and Jennifer E. García [Case # Z-2008-0678(A) located at 800 Post Avenue].

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

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

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

14. Consider Ordinance No. 1333 consenting rezoning to MH-1, Manufactured Housing Subdivision District from R-1, Single Family Dwelling District requested by Edward L. & Susan L. Woods [Case # Z-2008-0682(A) located at 2407 Holly Ave.]

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

16. Consider Resolution No. 2008-09 writing off outstanding accounts deemed as uncollectible in Utility Billing/Library/Miscellaneous Accounts Receivable.

*Recommendation:* Approve the resolution. [Roll call vote required].

**OTHER BUSINESS:**

18. Public Works Bid No. 2008-001, South Florida Avenue Reconstruction - Phase 2.

*Recommendation:* Award the bid to Mesa Verde Enterprises, Inc. in the amount of \$1,420,553.15, including NMGRT.

19. RFP No. 2008-005, Engineering Design Services for Dry Canyon Master Drainage Plan.

*Recommendation:* Award the proposal to Bohannon Huston, Inc.

21. Approval of Temporary Alcoholic Beverage Dispenser's License for Palm Side.

*Recommendation:* Approve the temporary license for May 24<sup>th</sup>, 2008 at the Willie Estrada Memorial Civic Center.

22. Waiver of permit fee for the 4<sup>th</sup> of July fireworks display.

*Recommendation:* Approve the waiver and the Special Permit.

**Commissioner Ledford made a motion to approve Items 5, 8, 11, 12, 14, 16, 18, 19, 21 and 22 of the Consent Calendar. Mayor Pro-tem Lujan seconded the motion. A roll call was taken was taken because of Items 11, 12, 14 and 16. All voted "aye," and the motion carried with a vote of 7-0-0.**

**PLANNING ITEMS:**

6. Public hearing to consider surplus land transfer (0.535 Acres) to Tierra de Sueños, Inc. [Case # M-08-0333 (A), locations 300 & 304 Casa De Suenos].

*Recommendation:* Approve the property transfer with the condition that Tierra de Sueños Inc. will meet the requirements of all the cost to title and recording fees, a 300 feet long 5-foot wide sidewalk and 3-foot retaining wall (or rock reinforcement) at entrance.

Mr. South, City Planner, addressed the Commission and explained that the Tierra de Sueños land transfer deal is pretty straightforward. It is a return of land that was originally deeded to the City for potential park use. It was a situation where it wasn't exactly determined what the final layout of the subdivision was going to be. To be more precise, it was a function of how much development was actually going to take place within the subdivision. The parcel that is proposed to be returned is landlocked in the sense that it is separated from the park that ended up being built as part of Tierra de Sueños by a street. That happened because at the time that the project was originally done, they weren't exactly sure that the street was going to be built because they weren't exactly sure how great the demand would be for the property. Mr. South went on to say that within the deed there is a document entitled, "Tierro de Sueños Unit Five Deed Restrictions to Park Land Dedication," and one of the terms under Part B, Restrictions to Land Use, Number 4, "No part of the park area may be sold, traded, bartered, leased or deeded to any other entity except Tierro de Sueños Inc." The amount of flexibility involved in the transaction is relatively limited. That is constraining the whole nature of the transaction, and Mr. South showed some pictures to the Commission to explain the land transfer.

City Manager McCourt stated that more property was provided to the City than required under the subdivision dedication, and the City will still have more property than was required. The City could have potentially used it for a parking lot, but that isn't the type of park they wanted to develop in that area, as they wanted more neighborhood type usage with people walking to it. They don't want to encourage people to drive to that particular facility. Staff is supportive.

Commissioner Ledford asked what the purpose was of appraising the property, and City Manager McCourt explained that they are required to do an appraisal before the release of any property. City Planner South said that they there was an effort to try to balance out the relative amounts of what the appraised value of the parcels were with what the enhancement were that were being provided. Mr. Tom French from French Builders added that the reason they had an appraisal done was that the staff and he were in a little disagreement in terms of how they ought to have proceeded, and he explained that in the Subdivision Ordinance it states that if they donate property for a park and it is not developed within two years it reverts back to the developer. What staff said was that when they developed the park plan, the area was left as a buffer so that it was a part of the development plan. What they did was they followed all of the Ordinances that were in surplus land transfer that required that an appraisal be done. It doesn't require that the property be sold for the appraised value, but the appraisal is required. Tierra de Sueños also paid for the archeological survey on the property to make sure that it was legal to transfer it back to another entity. They paid for the survey and will pay for the land transfer back to the City. They have also agreed to work cooperatively with the staff, but they feel that a balanced approach would be that Tierra de Sueños will pay for a sidewalk that is on the other side of the street so that it completes the park and the neighborhood. They feel that it is a win/win.

**Commissioner Cole made a motion to approve the property transfer with the condition that Tierra de Sueños Inc. will meet the requirements of all the cost to title and recording fees, a 300 feet long 5-foot wide sidewalk and 3-foot retaining wall (or rock reinforcement) at entrance. Mayor Pro-tem Lujan seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.**

7. Public hearing to consider a request from the Planning Staff to proceed with a proposal to amend the zoning map and comprehensive plan to change the zoning of the area of these properties from R-1 (Single Family Dwelling District) to MH-1 (Manufactured Housing Subdivision District). [Property Addresses - 894, 884, 874, 864, 854, 844, 834, 824, 814, 804 Lindberg, 2523 Walker Avenue and 2524 Travis Avenue; Total area 3.092 Acres].

*Recommendation:* To proceed with proposal and waive the application fees of \$460.00.

Mr. South, City Planner, explained that they are trying to unscramble an egg, as at some time in the past there was a screw up. He showed some slides showing the properties under discussion, and he explained the zoning. They cannot find a record of a zoning change, and yet somehow the parcels got put into HTE as manufactured housing. They don't know how or when it happened, and it is one of the things that leads them to believe that there may have been a request to rezone it at the time it was subdivided. Again, there is no evidence of that. Because the parcels were listed in HTE as manufactured housing, three of the eleven lots on the north half actually now have manufactured housing units on them with permits that were approved by the City. About three months ago, an individual came in whose realtor had just sold him a piece of property. He was going to place a mobile home on the property, and he had gotten two permits in relation to that. However, when the third one came in, Ms. Dominguez instead of going to the HTE went to the zoning maps. The zoning map says that it's R-1, which led to finding out that the map says it's R-1 because it really is R-1 and never was rezoned. They need the guidance and approval of the Commission to proceed.

Commissioner Ledford asked if they would be sending out letters to all property owners, and Mr. South stated that they would be.

**Mayor Pro-Tem Lujan made a motion to proceed with the proposal and waive the application fees of \$460.00. Commissioner Ferguson seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.**

Commissioner Griggs pointed out on the map a tract of land that is zoned M-1, which is light industrial. A family lives across the street at the corner of Right and Walker, and they have complained to the City on several occasions regarding smells, which may have come from the taxidermy shop. The Environment Department has been there, and they have required that they cease the burning. Hopefully, no more issues would be faced by the property owners with regard to odors. Mr. South said that the property was zoned to light industrial in 1968. Commissioner Griggs said that is the type of zoning he would suggest avoiding when they are rewriting the zoning code. Mr. South said that they would be looking at those types of things going forward.

Commissioner Cole asked how the property owners had come to be doing the burning, and Mr. South said that prior to 1966 the property was a construction yard. After that, it has been through several different owners under light manufacturing zoning. How it turned into a recycling yard, he has no record of. In 1968, it was re-zoned for light industrial, and between then and now it morphed into recycling, which is not inherently inconsistent with light manufacturing depending on what is being done and how it is being done. It is within the City limits.

#### **CONTRACTS AND AGREEMENTS:**

9. Approval of an amendment to an agreement with New Mexico Aging and Long-Term Services Department for the Foster Grandparent Program to increase funds.

*Recommendation:* Approve the amendment to the agreement.

City Manager McCourt explained that during the budget hearings this area was discussed, and it is associated with the senior center. This particular program had run out of money. The City pays some stipends to the volunteers to help defray their traveling expenses. If the Item is approved, it would help to keep that program operating.

**Commissioner Ferguson made a motion to approve the amendment to the agreement. Mayor Pro-tem Lujan seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.**

10. Approval of an amendment to an agreement with the Non-Metro Area Agency on Aging Department for Nutritional Service Incentive Program (NSIP) to increase funds for food.

*Recommendation:* Approve the amendment to the agreement.

City Manager McCourt stated that this item pertains to the congregate meals program, which also was discussed during the budget cycle. This amendment would allow them to operate that program, and it would reduce the amount of transfer necessary from the general fund for the operation of that program.

**Commissioner Cole made a motion to approve the amendment to the agreement. Mayor Pro-tem Lujan seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.**

#### **ORDINANCES AND RESOLUTIONS:**

13. Consider Ordinance No. 1330 amending Chapter 8 of the Code of Ordinances regarding building codes.

*Recommendation:* Approve the ordinance for first publication.

Mr. Mark Threadgill, Acting Community Development Director/Operations Analyst, explained that the Item was an amendment they had worked on with the Building and Contractor's Association for about two and a half months, which would essentially allow them to implement on new single family dwelling plans only what they call stamp and go. The way the Ordinance reads right now, if the building official finds a code error, the plans are rejected and returned for correction to then be brought back in at a later date for re-review. There is no mention of a minor or major defect. The amendment would allow the building official to stamp the plans as being not within code. It would cite the code that needs to be met, and the review process would continue. Major items would be sent back for corrections, but minor omissions or minor code errors would be stamped, the code referenced, and passed with a permit issued for it. It is something that the State does at its own discretion. The amendment also changes one of their processes internally in that they would no longer accept incomplete sets of plans for applications. They have developed in conjunction with the contractors a checklist that they will use at the counter when they come in to make a new application for a new single-family dwelling permit. If the checklist is not completed and they don't have all of the required items, and it's a mutually agreed upon list, the plans will be rejected, as there is no need to go through the review process if they are incomplete. It also changes the requirement to keep a set of stamped plans at the construction site while the inspector is there inspecting. If the plans aren't there, the inspection automatically fails, and the contractor will have to re-schedule the inspection. There will then be a re-inspection fee, and all of the amendments have been negotiated with and agreed to by the contractors they have discussed them with.

Ms. Amber Sanchez from the Building and Contractor's Association agreed that the process is working. Mayor Brockett stated that he is pleased to see that both sides are working together. What they have agreed on they believe will benefit the City, the contractors and the taxpayers.

**Mayor Pro-tem Lujan made a motion to approve Ordinance No. 1330 for first publication. Commissioner Ferguson seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.**

15. Consider Ordinance No. 1335 amending section 13.020 of the Personnel Manual regarding group insurance for part-time employees.

*Recommendation:* Approve the ordinance for first publication.

Mayor Brockett explained that presently only full-time regular employees who work for the City of Alamogordo are entitled to receive insurance benefits. The City pays 60% of the premiums for medical, dental, group life and disability and the administration fee. The employee pays 40% of the premiums and 100% of the cost for benefits such as vision, supplemental, legal, cancer and accident insurance. The amendment would allow part-time regular employees to enroll in the benefits with the understanding that 100% of the premiums would be paid by the employee. It would apply to part-time employees that work a minimum of 20 hours a week. The benefit of it is that healthcare benefits could be accessed by part-time employees who work for the City. The con, however, is that in time a future commission could amend the ordinance such that the City would pay percentages for part-time employees as it does for full-time.

Mayor Pro-Tem Lujan asked if the part-time employees are part of the union, and City Manager McCourt said that he did not believe they have union representation. This issue came up as a result of the surveys that the City conducts, and many people are interested in having the availability of healthcare services, which is an important benefit and attraction. At this point, there would be no impact on the budget because though it allows part-time employees to become part of the group insurance, they have to pay the full cost.

Commissioner Ferguson asked how much money the employees would be saving versus them going out and buying insurance individually. Ms. Elsie West, Acting Personnel and Safety Manager, and Ms. Naomi Munoz appeared before the Commission to answer questions. Ms. Munoz stated that the cost for family medical coverage for a part-time employee would be \$551.48 as a bi-weekly contribution, and for a single employee it would be \$186.96. Adding vision, dental or group life would be additional. A lot of part-time employees try to get into full-time positions.

Commissioner Cole asked for clarification on who would be included in this, and Ms. West clarified the hours that are required.

Mayor Pro-Tem Lujan asked what the employee perspective is on it, and it is the result of a poll indicating what they would like to see. If this is approved, they would be able to get the part-time employees in to receive benefits by July 1<sup>st</sup>. Offering this to part-time employees would also not exclude them from participating in other insurance programs at their discretion.

Commissioner Ledford stated that offering this is not an unusual benefit, and it shouldn't impair or damage the risk pool.

**Commissioner Ledford made a motion to approve Ordinance No. 1335 for first publication. Mayor Pro-tem Lujan seconded the motion.**

Commissioner Griggs asked that the change specify that it is offered to part-time, regular employees.

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

Mayor Brockett recessed the meeting at 8:56 p.m., and then it reconvened at 9:11 p.m.

**OTHER BUSINESS:**

17. Request by Stan Rothenberg to release liens placed by the City.

*Recommendation:* Deny the request.

City Attorney Thies stated that Mr. Rothenberg currently lives in Florida.

**Mayor Pro-tem Lujan made a motion to deny the request. Commissioner Ferguson seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.**

20. RFP 2007-017, Environmental Services for Various Public Works Projects.

*Recommendation:* Award the RFP to Intera, Inc.

Mr. Mark Threadgill explained that the item was an environmental services contract that would be used as needed. The estimated amount is \$300,000 to \$500,000, and the funds would be budgeted for individual projects. This was designed to allow the City to contact companies when services are needed rather than going out on RFPs for individual projects.

Commissioner Ledford asked if there was an item of pricing in the RFP, and Mr. Threadgill stated that it was a Request for Proposal that was qualifications based. They would negotiate the price with the firm for each project as each project would require a different scope of services. If it were estimated that a project would go over \$50,000 for an individual job, another RFP would have to be issued.

The intent was to use it for multiple projects, and City Manager McCourt stated that they have quite a few projects coming up including Fairgrounds Road and Lavelle Road.

**Mayor Pro-tem Lujan moved to award the RFP to Intera, Inc. Commissioner Brewer seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.**

23. Notifications of Boards and Committees.

Mayor Brockett appointed Patrick Sudduth to the Community Development Advisory Committee. He asked that the Clerk notify Mr. Sudduth.

#### **UNSCHEDULED COMMUNICATIONS:**

##### **A. Commissioner Cole**

Commissioner Cole thanked City Manager McCourt for what he did in relation to the budget hearings. He also gave special thanks to Community Development, Community Services and Finance. He asked City Manager McCourt to pass on his thanks to the staff for their input and for answering questions that he had.

##### **B. Commissioner Ferguson**

Commissioner Ferguson also commented that the staff did a great job on the budget hearings, and he appreciated the work that they did. He also wanted his appreciation passed on to the staff members.

##### **C. Commissioner Griggs**

Commissioner Griggs commented that earlier that day in Socorro the Lady Tiger Golf team finished second in the tournament. The Alamogordo boys' team didn't place in the top three, but the new state champion is Jeffery O'Dell.

**D. City Manager McCourt**

The water report was passed out, and City Manager McCourt commented that the City was doing okay. The reservoir levels are at a lower point than they were last year, but that is planned. They are still holding back on the well production, and they lowered the reservoirs intentionally in anticipation of the rains in June and July. They had a well failure that day at the South Prather Well, but they would take immediate action to get that back on-line.

City Manager McCourt passed out information on the Gus Macker three-on-three that would be going on the following weekend. That was being done in conjunction with Armed Forces Day at Washington Park.

City Manager McCourt will be out of the office the following week Wednesday through Friday, and Mr. Matt McNeile will be in charge in his absence.

Finally, City Manager McCourt stated that on Thursday at 2:30 p.m. at the Willie Estrada Memorial Center there would be an open discussion on the spaceport. The director from the New Mexico Spaceport would be there and available to discuss the Spaceport, the development, and the possible future funding. He encouraged anyone that wished to attend to avail themselves of that opportunity.

**E. Mayor Brockett**

Following up on what City Manager McCourt said, Mayor Brockett stated that on Thursday evening at 6 p.m. at the Courthouse the Otero County Commission would also receive a presentation regarding the Spaceport. They would be voting on whether or not to submit before the voters a gross receipts tax of one-eighth of 1%.

**EXECUTIVE SESSION:** Recess into Executive Session to discuss disposal of real property (Windstar), and threatened and pending litigation (Morrison Supply/Hershey Meters Company).

**Commissioner Ledford made a motion to go into executive session to discuss disposal of real property (Windstar) at 9:25 p.m. Mayor Pro-tem 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.

24. 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 disposal of real property (Windstar), and threatened and pending litigation (Morrison Supply/Hershey Meters Company) as specified in the posting of the closed meeting.

**There was a motion to go back into open session by Mayor Pro-tem Lujan at 9:43 p.m. Commissioner Cole seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.**

**Mayor Pro-tem Lujan made a motion that the Commission adopt a statement that the matters discussed in the closed meeting were limited only to disposal of real property (Windstar) as specified in the posting of the closed meeting. Commissioner Brewer seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.**

25. Cancellation of award of IFB 2007-18, Water Meters – Re-bid to Morrison Supply, and re-award to H.D. Supply.

*Recommendation:* Approve Re-bid to H.D. Supply in the amount of \$45,000.00.

Mayor Brockett explained that the Item was a re-bid. City Attorney Thies stated that at the last meeting they had discussed the issue, and they are requesting that the Commission revoke their acceptance of Morrison Supply and cancel the contract. The City had purchased roughly \$45,000 worth of meters from Morrison Supply Company. When they tried to interface them with the remote readers, the meters and the readers just simply did not work despite all of the efforts that the City workers have undertaken. The second part of the action would be to enter into a contract to purchase different meters from HD Supply Company.

Commissioner Ferguson said that Morrison had sent one of the meters to the Firefly people to figure out what the problem was because they were the ones who had advertised that the software worked with that meter. City Manager McCourt said that was correct, but they still hadn't been able to get it to consistently and successfully read the sweeps.

Mr. Armando Ortega, Customer Service Manager, stated that he has had a number of conversations with Datamatic, and they were able to get a background to qualify at a very minimal amount. The City has an optimum background of 125, and they were able to successfully get only backgrounds of 103. The minimum is 100, and Mr. Ortega spoke with Datamatic. They are not willing to call that a successful process until they get that optical to identify sweeps with that meter, which to this point they haven't done. They are not confident that they will be able to do that.

City Manager McCourt stated that Morrison Supply understands the situation, and he met with them on Friday with a representative. They understand that the City is not going to be able to get the City's particular brand of meter to work. They have asked that the City continue to work with them on some restocking charges and freight charges, and City Manager McCourt has assured them that they will work with them to try and reach an equitable solution.

Mayor Brockett said also that he spoke with Rick McCracken who is the general manager of Morrison, and he expressed his understanding that they needed to get moving on replacing the meters. He had no trouble with the City doing that. Mayor Brockett also said that the City's experience with Morrison and with Rick has been very positive, and the fact that he has been working with the City doesn't surprise him. Mr. McCracken is a very capable businessman, and Mayor Brockett would not hesitate for a minute to do business with him again. It wasn't his fault or Morrison's fault. City Manager McCourt and Mr. McCracken will continue to work together to work out the restocking.

City Manager McCourt asked City Attorney Thies if the Item would require two separate actions, and City Attorney Thies stated that the first recommended action would be for the Commission to revoke the acceptance of the meters and cancel the contract with Morrison Supply.

Mayor Pro-Tem Lujan asked if this was going to cause any legal problems down the road if they re-bid the contract. City Attorney Thies stated that if they were not able to reach a resolution with him and the City had to bring legal action, Mr. McCracken could counter sue alleging that the City had breached its contract with him to purchase all the meters. He could bring a suit forward requesting various damages, but hopefully they won't reach that point.

Mayor Pro-Tem Lujan asked why they hadn't originally gone with a local contractor, and City Manager McCourt explained that Morrison Supply used a local bidder's preference in the original award. The company they were looking at awarding it to was low bidder, but the purchasing ordinance allows a local bidder that is within 5% of the low bid to reduce their price to meet the low bid. That is what Morrison Supply had done, but unfortunately it was not possible to successfully integrate their brand of meters. The City will be getting the same price as they would have gotten with Morrison.

Mayor Pro-Tem Lujan asked if they had tested the meters that the City will get so that this doesn't happen again, and Mr. Ortega said that they have fifty Neptune meters in the ground with Fireflies on them. They have been in the ground for at least six months.

Mayor Brockett asked what the normal warranty is, and it's five years.

**ADJOURNMENT.**

**Commissioner Cole made a motion to revoke the acceptance of the meters and cancel the contract for Morrison Supply. Mayor Pro-tem Lujan seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.**

**Mayor Pro-tem Lujan made a motion to approve the re-bid to H.D. Supply in the amount of \$45,000.00. Commissioner Brewer seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.**

**ADJOURNMENT.**

**Commissioner Ferguson made a motion to adjourn at 9:55 p.m. Commissioner Brewer seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.**

*/s/Steve Brockett*

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Mayor Steve Brockett

(SEAL)

ATTEST:

*/s/Reneé L. Cantin*

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City Clerk Reneé L. Cantin

*(Prepared by Ubiquis Reporting)  
Approved at the Regular Meeting held on May 27, 2008.*