

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
7:30 P.M., COMMISSION CHAMBERS
JUNE 26, 2007**

**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 WILLIAM BROGAN
CITY CLERK RENEE CANTIN**

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

Mayor Don Carroll called the meeting to order at 7:30 p.m., and all of the Commissioners were present. The invocation was given by Mrs. Dottie West, and the pledge of allegiance was led by Commissioner Steve Brockett.

PRESENTATIONS:

1. Presentation by Cathy Harper on the NM Spaceport Authority Community Advisory Committee.

Mrs. Cathy Harper thanked the Commission for having her at the meeting. She considers it an honor and a privilege to represent the City of Alamogordo to the Community Advisory Council for the Spaceport Authority. Their first meeting was held on May 24th in Las Cruces and was opened by Chairman Rick Holdridge, who is a County Commissioner from Deming. Mr. Holdridge outlined the mission of the Community Advisory Council, which is to encourage space-related economic development in Southern New Mexico and monitor its impact on the spaceport along with keeping the communities involved and informed about the progress of the spaceport while at the same time bringing back to the Spaceport Authority the needs and concerns of those communities. He stressed educational and business opportunities along with the schedule and status of the spaceport.

Rick Homans, now executive director of the Spaceport Authority, briefed the CAC on the status of the spaceport. He began by stating its mission, which is to build, operate and manage Spaceport America. The budget is \$200 million—\$140 million of which is from the state, \$125 million of which has been secured with an additional \$15 million expected in 2008. There are three conditions connected to the money. Number one, construction estimates must be under \$225 million, and they are coming in currently at about \$198 million. Number two, there must be a signed lease with an anchor tenant, which has been accomplished with Virgin Galactic. Number three, the spaceport must receive an FAA license to operate, and the licensing procedure is going well according to Executive Director Homans. They anticipate receiving the license in the first quarter of 2008. Immediately following the receipt of the license, the Spaceport Authority wants to break ground on the facility. The goal is to have the facility operational by late 2009 or early 2010. In connection with the RFP for architectural design of the terminal, three finalists were chosen shortly after the meeting that Mrs. Harper attended, and concepts are due back to the Spaceport Authority by July 26th. Preliminary road construction is also set to begin in Sierra County from the north entrance to the spaceport though construction near Hatch is being delayed to deter tourist traffic during the construction phase of the spaceport. Currently, there are people who would just like to go out there to check it out and look around.

A Spaceport America Planning and Design Advisory Committee has been formed and will consist of members from the Bureau of Land Management, the National Parks Service, Sierra County, Dona Ana County, El Camino Real, National Trust and Historic Preservation, SHPO and the New Mexico Spaceport Authority. The first meeting is scheduled, and meetings will be held the last Tuesday of each month. It is an invitation-only committee designed to minimize the impact on the Camino and maximize opportunities for collaboration between the communities.

The Spaceport Authority has hired Wilson Brinkley, a marketing and promotions group in Las Cruces, to handle public relations and marketing for Spaceport America. Lou Gomez of the Spaceport Authority gave the committee a report on the background of the spaceport and how it came to be. Pat Hines of the New Mexico Space Grant Consortium reported on the International Symposium for Personal Space Flight, which will be held in conjunction with the X Prize Cup activities. Her event will be October 24th and 25th at the Farm and Ranch Museum in Las Cruces.

Rick Holdridge mentioned several topics that will be of importance to the CAC including tourism, regional transportation and business recruitment opportunities for the various communities. Bill Mattiace, who is the Mayor of Las Cruces, stated that transportation was one of the biggest concerns for Las Cruces adding that people coming to the spaceport would most likely be coming through El Paso. Dona Ana County is targeting a bypass to Santa Teresa.

Rick Homans talked about the New Mexico Spaceport Partnership, which is a recently formed group that focuses on business recruitment opportunities. Once the Spaceport Authority has met with potential businesses, they refer those businesses to the Partnership, which then sends out a Possible Recruitment Opportunity, or PRO, to local economic development entities. The local entities in turn prepare a response and send it back to the Partnership, which then presents all of the proposals to the interested company. Homans said that it is important to these new businesses that communities that respond to the PRO "speak space," new space. He said that at least one or two PROs per week have been going out and that some local communities are not as responsive as they could be. They encouraged the members of the Community Advisory Committee as representatives of the communities to encourage the economic development people to respond to the PROs in the event that there is something there for the community.

Mr. Homans also said that it is vital that CAC representatives go back to their communities with a comprehensive report on each meeting and that they return with any questions and/or concerns that the communities might have. The next meeting is scheduled for August 14th, 2007, at 10 a.m. at the Las Cruces City Council Chambers. Mrs. Harper provided some handouts that included the report that she provided as well as information on the upcoming Wirefly X Prize Cup, also known as the Holloman Air and Space Expo, which will be taking place at the end of October. A press release was also included regarding what could be expected from F-22's to F-16's and F-117's along with ground displays from the Air Force. It also talks about the different lunar lander challenges and the elevator games that the X Prize will hold. Those are NASA-sanctioned "games." The press release gave an overview of the event itself, which is free to the public, including the times and dates. October 26th will be the education day when schools from all over the State of New Mexico and West Texas will be invited to attend and learn about the future of the new commercial space industry. October 27th and 28th will be the public days when everyone is invited to attend free of charge.

Mrs. Harper also included copies of some news articles that she recently pulled off the internet that talk about space development and the commercial space industry not only in New Mexico and not only in the United States but across the globe from China, to Japan, to France, to the United Kingdom. Everyone is interested in the race to space. Mrs. Harper completed her presentation by asking if there were any questions or concerns.

Mayor Carroll thanked Mrs. Harper for providing the report in person, and he expressed appreciation for Mrs. Harper's willingness to take time from her busy schedule to represent the Alamogordo community on that committee. He welcomed her to bring future reports to the Commission meetings or to provide written reports. Mrs. Harper asked that if the Commissioners have any concerns or questions for her to bring back to the Council, they contact her.

2. Presentation regarding an update on the comprehensive re-draft of Municipal Code Chapter 29, Zoning.

Mr. Arthur Alterson, Community Development Director, appeared before the Commission and gave a presentation regarding the comprehensive re-draft of the Zoning Ordinance. He explained that the

Planning and Zoning Commission is currently conducting a hearing on the revisions to the Zoning Ordinance, and his presentation is accompanied by a transmittal that was included in the packets provided for the Commission meeting.

Mr. Alterson thanked the panel members by name for their participation as well as staff for its support. He welcomed the Commission to scrutinize, study and provide comments on what he would present, but he clarified that no action was being recommended at this time in relation to the material included in the packets. Mr. Alterson said that his mission was to address the City Commission's and the public's attention to some functional differences between the current zoning and the draft cuts that the Planning and Zoning Commission has passed on.

Mr. Alterson then touched on some concepts and definitions though they had not received the blessing of the working panel or the Planning and Zoning Commission. They were some fundamental concepts and a work in progress, and he lifted them from the definitions as they have been drafted thus far. Mr. Alterson stated that the City Commission as a collectivity is the corporate authority for the City of Alamogordo, and in the sense that the City is a person the corporate authorities are that person. Mr. Alterson said that it is important for them to keep the definitions in mind though he was not expecting them to read the definitions as they go through the presentation. What was crucial to him, however, in the drafting was to distinguish the legislative from the administrative functions—the legislative ones being those that only the City Commission does and the administrative functions being those things that the City Commission and staff can conceivably do depending on how the legislation allows it.

Mr. Alterson then went on to point out some of the significant changes, most of which he felt safe to say were in appearance, which he felt the Commissioners would see in going through the materials in their packets. There were some big changes, however, and he was going to point those out. He did not intend to point out everything in the re-draft. Mr. Alterson did provide the disclaimer that Planning and Zoning is working on a re-draft of the Zoning Regulations but not a new Zoning Ordinance although in appearance there would be a lot of differences. The reason for this is that the current regulations contain some regulatory policies that the State allows to be retained but not enacted anew. Further, and possibly more significantly, for a full-scale revision the City needs to undertake the planning exercises necessary to tell themselves what it is they want to see in neighborhoods in areas of the City, what the vision is for individual streets, blocks and districts and how those blend into an action plan for the whole. The planning is an ongoing activity, and the City has been planning for many years. However, the purpose for the immediate exercise is the clarification of the existing document with an eye to future planning exercises that will cause revision in some of the district regulations.

In the packets provided to the Commissioners, in the item that said Draft General Section 29-01-010, etcetera, revised to 6/21/07, the section on page two is a list of what the City Commission gets to do under the zoning re-draft, and Mr. Alterson did not think there was actually very much difference between what was current and what they had there. Mr. Alterson also focused the attention of the Commissioners on the fact that they were striving to establish consolidated hearing procedures so in as much as they could accomplish it, the hearing procedures would be the same across different types of submittals. Hopefully, that will eliminate errors and make the procedures clearer to all of the participants.

Mr. Alterson then went to page five and stated that the "Certificate of Occupancy," to him is a major foundation block for the new re-write in that to use land one needs a valid Certificate of Occupancy. In theory, it is no change from what is in effect right now, but part of what they are attempting to streamline is that for purposes of zoning compliance a land user gets a zoning certificate that remains good until something happens regarding that land user's use of land to make it invalid. Each year, for instance, when a person comes in to re-apply for a business registration or a business license, it should not be necessary to re-investigate whether or not there is a zoning compliance issue unless something has changed in the course of the previous year. In an effort to try and streamline and perhaps regulate the "differences," Mr. Alterson explained there is language in the

bottom section that references the North American Industrial Classification System, which is a federal system for classifying businesses. It is not a regulatory system, but they are attempting to use that in part to define changes in businesses in terms of when they go from one classification to another.

Mr. Alterson then went on to explain that currently when property is annexed, the property defaults to the most restrictive zoning district that the City has, which right now is R-1 and under the re-draft as structured so far will be a rural residential district. However, they are trying to encourage that when individuals have their property annexed, the re-zoning takes place as part of the annexation process in every instance that they can so that the planning for the property is more coherent.

Another major difference that Mr. Alterson explained is that in the current zoning regulations there is an administrative variance that staff can grant without a public hearing in addition to variances that are determined by the City Commission. The administrative variances have not ever been used although there is currently an application in for such. The re-draft retains the staff-determined variances and makes virtually all of the other variances final with the Planning and Zoning Commission. Mr. Alterson intentionally shied away from calling the "staff-determined" variances "administrative" variances because all variances are administrative, and in all variance situations the agency that determines whether to grant or not grant the variance should be evaluating whether the request meets certain criteria. If it does, the variance should be granted, and if the request does not meet the criteria, the variance should be denied. There should not be any discretion, as that should be left for the legislative function.

In the current Zoning Ordinance there is a Special Event Permit section, and in the re-draft that is replaced with Section 29-01-060. However, in his experience a section that is not in the Zoning Ordinance but is in the Building Regulations as Section 8-01-170 is more widely used, which is the section that gets invoked, for instance, when entities come in wanting to do an automobile tent sale at the White Sands Mall. What they are proposing is to reduce the process for those types of approvals. It is a staff initiative to put in language that would allow for off-site commercial use of a tent sale type of activity as long as it meets the criteria in the middle paragraph.

Staff makes the call much like an umpire in any zoning decision, and in any review there are hundreds of individual different zoning decisions. The call is the call until and unless the land user appeals and the call is overturned or someone else appeals and the call is overturned. The re-draft that they are working on gives the City Commission the authority to hear and appeal virtually any zoning-related decision, which is no different than what is part of the Zoning Ordinance right now. The City Commission is, in fact, the zoning board of appeals for zoning decisions. Mr. Alterson pointed out that an appeal involves the City Commission ruling that staff for the Planning Commission has made a mistake as distinguished from the appeal being an invalidation of a regulation on a case-by-case basis. The theory is that if the regulation is wrong and an administrative call is the correct interpretation, then the administrative call should stand and the regulation should be changed.

Mr. Alterson went finally to the section in the packets that was a memo entitled, "Draft of R-1, R-2, R-3, and R-4 as recommended by the Planning and Zoning Commission on 6/6/07." One of the things that they are trying to do is to the greatest extent possible establish a consistency in the arrangement of the regulations for the various districts and as much as possible to have the regulations for the various districts in the sections for the various districts rather than as it is currently with various regulations spread all over the Zoning Ordinance.

Mr. Alterson then showed a slide dealing with the concept that the distancing and setback requirements to the extent that they are aimed at ensuring public safety should be set by the Building Code and not by the Zoning Ordinance. There may be non-Building Code reasons, such as open space preservation, aesthetics, retention of pervious surface or noise abatement, that would call for having a greater zoning setback, but those should be established with an eye toward the public purpose that is served by the regulation. In terms of accessory buildings, currently the zoning regulations do allow accessory buildings to be built to the side and rear lot lines if they are masonry. What controls their setback, if there is one, is the Building Code. There was some discussion on clear

site triangles, and Mr. Alterson explained that many people have approached him with the opinion that it is a problem. His opinion of the issue is maturing. Having large plants sitting at the edge of the driven portions of the intersection of two streets may be interpreted as a good traffic-calming device. However, what they have in the re-draft is language that will establish the framework for a clear site triangle requirement. Mr. Alterson provided an example of a clear site triangle requirement though they have not come up with the numbers for that yet. When and if they do, those numbers will be incorporated into the section appropriately. The section does provide a considerable amount of latitude for the Public Safety Department and the City Engineer to make a call in terms of something being in the way, blocking traffic visibility and causing a safety hazard.

With regard to the carport section, Mr. Alterson explained that his intention in the re-draft was to implement what the City Commission adopted in Ordinance 1218 in October 2004. Somehow in the codifying process, Mr. Alterson explained, the regulations seem to have slipped out of the Zoning Ordinance, as he could not find it in the print copy or in the copy on the internet. It is, however, essentially what the City Commission enacted three years ago.

The use list for the R-1 district, the single-family dwelling district, is essentially the same though the other residential districts have experienced some tinkering. The R-2 district, as proposed, is very much like a combination of the R-1 and the current R-3 townhouse district. In looking at the R-3 district, which is a one and two-family district, the question arose as to whether there is really a need for a separate two-family district. In essence, what the proposal does is attempt to keep the same approximate dwelling unit to acreage ratio as is currently in the R-3 district while allowing any type of residential configuration. The proposed R-3 would also allow for two principle residential buildings on a single residential lot. The non-residential uses would be essentially as they are currently in the R-1 district, and the regulations concerning manufactured housing are also essentially as they are currently in that residential manufactured housing is restricted to manufactured housing districts.

Mr. Alterson went on to say that the R-4 district today is a mixed-use district allowing any residential configuration except manufactured housing. In addition, the R-4 district now allows offices. The proposed R-4 district is very much the same also allowing a certain amount of service retail such as barber/beauty shops.

A web site has been established for the Zoning Ordinance rewrite, and it is alamogordozone.org. All of the documents are contained therein though his PowerPoint presentation is not. Another town hall meeting on the Zoning Ordinance will be held Thursday, August 16th, at 7:00 p.m. at the Civic Center. Mr. Alterson invited all to attend and thanked the Commission for allowing him to make the presentation. He offered to take questions or comments and reiterated that they are not expecting action to be taken at this time.

Mayor Carroll asked how the Certificate of Zoning Compliance would be handled in terms of the 1,700 to 1,800 business registrations that have already been granted without that document, and Mr. Alterson said that in effect any zoning approval that has been given up to this point has been a Zoning Certification. The assumption is that the businesses that are operating under business licenses and registrations have Zoning Certifications. The Certificate would simply be the document utilized from some point going forward. Mr. Alterson explained that it would be the same for the issuance of building permits and occupancy certificates.

Mayor Carroll thanked Mr. Alterson for his presentation and expressed that they would look forward to the completion of the project.

CALL OF THE CONSENT CALENDAR:

MINUTES:

3. Minutes of June 12, 2007 Regular Meeting.

Recommendation: Approve the minutes.

CONTRACTS AND AGREEMENTS:

8. Approval of agreements with Chamber of Commerce
 - A) For promotional services.
 - B) For operational expenses for Aubrey L. Dunn, Sr. Visitors Center

Recommendation: Approve the agreements.

10. Approval of Joint Powers Agreement between the City and Otero County for West First Street between White Sands Blvd. and the Relief Route.

Recommendation: Approve the agreement.

ORDINANCES AND RESOLUTIONS:

13. Consider Resolution No. 2007-29 to re-adopt the updated CDBG consolidated plan.

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

14. Consider Resolution No. 2007-35 adopting the City of Alamogordo Right-Of-Way Excavation Regulations.

Recommendation: Approve the resolution. [Roll Call Vote Required]

OTHER BUSINESS:

16. Public Works Bid. No. 2007-004, Re-Roof Alamogordo Family Recreation Center.

Recommendation: Award to All American Enterprises, Inc. for \$73,973.54, including NMGRT.

17. Statement regarding the Executive Session of June 12, 2007.

Recommendation: Approve the statement.

Commissioner Ledford made a motion to approve Items 3, 8, 10, 13, 14, 16, and 17 on the Consent Calendar. Commissioner Brockett seconded the motion. A roll call vote was taken because of Items 13 and 14, and all voted "aye." The motion carried with a vote of 7-0-0.

PLANNING ITEMS:

4. Public hearing and final publication of Ordinance No. 1300 for rezoning of Mesa Village West of Red Arroyo [Case Z-07-0671].

Recommendation: Approve the ordinance for final publication.

Mayor Don Carroll read the item and asked if anyone was present to speak for or against the Ordinance. There were no comments.

Commissioner Brockett made a motion to approve Ordinance No. 1300 for final publication. Commissioner Cole seconded the motion. A roll call vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.

5. Public hearing and first publication of Ordinance No. 1302 rezoning to District C1, Neighborhood Retail Business from R-3, Two Family Dwelling requested by Arthur and Sara Condito. [Case Z-07-0671 (A)], for 1222 Indiana.

Recommendation: Approve the ordinance for first publication.

Mayor Don Carroll read the item and explained that the item was tabled at the last meeting. He invited those present to speak for or against the Ordinance.

Mr. Arthur Condito apologized to the Board for the miscommunication that resulted in his not attending the last meeting. He offered to answer any questions that the Commissioners might have.

Commissioner Brockett asked Mr. Condito what is planned for the property in terms of commercial signage and particularly if they are looking to have some kind of a sign to attract customers to a specific business. Mr. Condito said that it would be very subdued. The issue was discussed with the Zoning Board, and though it may have a small light, it would not be neon or of such a nature that it would be a distraction in the neighborhood.

Mayor Pro-Tem Griggs asked if the property is several lots and whether the house sits on just one lot, and Mr. Condito explained that the house is likely on two or more lots though it is not clear as far as the records for that property. It was a state-built building. Mayor Pro-Tem Griggs went on to ask if the house is on the same lot as another building or if the house is the only dwelling on any particular lot. Mr. Arthur Alterson clarified that they are looking at the property as one zoning lot because it was purchased from one user who used it coherently. There are three and a half or perhaps four lots in the underlying subdivision, and the house is on the same lot as one of the other buildings. However, the lot lines in the original subdivision do not have anything to do with the arrangement of the buildings.

Mayor Pro-Tem Griggs explained that he is not certain that he sees the reason for re-zoning the house. He understands the request to re-zone the rest of it, but if the house were on say lot six or lots six and seven, he doesn't see the reason for re-zoning it. Mr. Condito stated that there would be no reason because the house would remain residential, but because they are not clear on the lots themselves, that is what Planning and Zoning recommended. The property has not been surveyed, and since the thirties the property was owned by the state. There are not many records in terms of what has taken place. Mayor Pro-Tem Griggs stated that they don't have any records indicating that the property was consolidated into one lot so he supposed that an actual survey would indicate if the house was on a particular lot. Mr. Condito explained that the way the buildings were structured, they were placed in randomly and cross lots. When he purchased the property, he bought it as one unit. According to a sketch that the Commissioners have, the house could quite possibly be overlapping an alley or at least some lot lines. It is possible that as the state owned the whole thing at the beginning, they just put the buildings wherever they wanted to on the property without regard to individual lot lines.

Commissioner Moncada asked Mr. Condito if he was going to have individual businesses on the property, and he explained that one part would be two residents. The main building is approximately 8,000 square feet, but approximately 2,600 to 2,800 would be made into a home for Mr. Condito, leaving approximately 4,800 square feet for commercial use. Commissioner Moncada asked for clarification on what would be done with the parking area, and Mr. Condito said that there is 15,044 square feet of parking space that the state had. No new construction would be done. It would basically be remodeled and restored. Commissioner Moncada asked if a business would be using the off-street parking. Mr. Condito said there should not be a need for that, as they have approximately 40 parking spots in the parking lot.

Mayor Carroll said that he has no real problems with what they are trying to do, and from what he has seen, it will be a marked improvement to what was previously there. However, he does have some concerns regarding the recommendation of the Planning and Zoning Commission to put so many

restrictions on the use of the property. With regard to the existing C-1 zoning, it appears that what the Planning and Zoning Commission did was to take a number of the permitted uses and put the word "no" in front of them. Mayor Carroll does not believe that is appropriate in this instance. He is in favor of approving the re-zoning, but he feels that all of the restrictions are unnecessary and could be the start of a bad precedent in terms of picking and choosing what businesses are allowable in a zone.

Commissioner Lujan asked if they could proceed with the item without tabling it again and still not put the restrictions in. Mayor Carroll said that it is a recommendation from Planning and Zoning and the Commission is able to override the recommendation. Commissioner Brockett asked if Mayor Carroll's concerns had to do particularly with the religious usage, but Mayor Carroll explained that his concern has to do with almost every restriction that was put in. Commissioner Lujan reiterated his agreement that the restrictions should not be a part of the approval.

Commissioner Cole raised a question as to how the motion should be worded, and City Attorney Bill Brogan asked that they provide staff direction on how it could be re-written and that it then be sent back to staff so that they could bring it back to the Commission to ensure that the language is correct. This is an Ordinance and becomes law. It affects the zoning map and changes the Master Plan. He would like the opportunity to re-word it.

Mayor Carroll suggested that the language of the motion could be to approve the Ordinance for first publication putting a period at the end of "...neighborhood retail zoning," and deleting everything from that point to numerical item 13. Commissioner Lujan asked if they could just approve it for first publication removing all restrictions except those that automatically accompany a C-1 zoning. City Attorney Bill Brogan asked him to restate his suggestion, which Commissioner Lujan did. City Attorney Brogan then suggested that they adopt the Ordinance to comply with the terms and restrictions of the current Ordinance, 2903-340, but he reiterated that he would like the opportunity to bring it back before the Commission. It will come before the Commission for final publication, but it will have been published by then and to make changes they would have to start over.

Commissioner Brockett asked if this would be setting some precedent regarding restricting the hours of operation, and it would. Mayor Pro-Tem Griggs said that it appears to him that what Mayor Carroll had recommended in terms of removing the 13 restrictions would be adequate. City Attorney Brogan said they could certainly do that if that was the Commission's pleasure. Commissioner Ledford said they have had zoning previously with restrictions, and he doesn't understand the issue. He asked if there are any restrictions that are legitimate particularly in terms of neon signs. Mayor Carroll explained that a restriction in C-1 zoning is that signs shall not be intermittent, flashing or scintillating and shall be non-animated. Mayor Pro-Tem Griggs said that does not necessarily preclude them from having a lighted sign. Commissioner Ledford said that restrictions normally come from issues regarding property usage or protests, and there have been none related to this property.

Commissioner Cole made a motion to approve Ordinance No. 1302 for first publication with a comma after "zoning," deleting everything to the word "and" in the last sentence, and taking out the "subject to conditions" in the third recital with a semicolon after "district." Commissioner Moncada seconded the motion.

City Manager Pat McCourt was comfortable with the motion but asked the City Clerk to re-read the motion for clarification. There was no further discussion offered.

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

6. Consider Ordinance No. 1305 consenting to the annexation of 97.37 acres requested by Sedona Development Inc. [Case # A-07-0069 (A)].

Recommendation: Approve the ordinance for first publication.

Mayor Don Carroll read the item and asked if there was anyone present to speak for or against the consideration of the Ordinance. Mark Bolin was present and spoke on behalf of Sedona Development offering to answer questions the Commissioners had.

Mayor Carroll said that a couple of issues had been raised, and one was a potential water pressure problem in the area if the property were to be annexed and water service provided. Mr. Bolin said that they spoke with staff regarding that issue, and staff didn't see that as being a problem

Mayor Carroll said that another issue was that the annexation would create an island of the County within the City, which is something that the City has tried to avoid. Mr. Alterson provided maps to the Commissioners regarding the property, and Mayor Carroll asked if attempts had been made to talk to the adjoining property owners in terms of being able to annex the entire area. Mr. Bolin said they had not attempted that, but he believes that on the northwest property line, the area would be connected to rural residential property that had been annexed in with water meters already. Mayor Carroll acknowledged that the property is contiguous, but his concern is that it would leave an island of property that would not be part of the City. Commissioner Cole asked if some effort had been made to bring in the other area so that it would be geographically connected, but Mayor Carroll stated that is what he had asked of Mr. Bolin. Mr. Bolin said that Klad Zimmerle had discussed with them that the individuals to the East of the property in question may be interested in annexation, but a meeting had not been held.

City Manager McCourt explained that the City has had problems with "islands" of County property in the past that have resulted in service delivery problems. The City has moved aggressively to eliminate those, and the desire has been not to create islands but to have a contiguous boundary. City Manager McCourt said he did speak with individuals from the Sedona Development when they originally had come in and suggested that it would be beneficial to look at incorporating the area to the immediate West of the proposed annexation. It was also discussed, however, that it could create political problems because those property owners may not want to be annexed into the City. City Manager McCourt had suggested that those property owners be talked to in terms of what their feelings might be regarding annexation. If the Commission wishes to go forward with the annexation, City Manager McCourt assured them that it would create service delivery issues. City Manager McCourt also thought there would be a water pressure problem in delivering water to the east that would potentially create problems in terms of water pressure not just for homeowners but for fire-fighting purposes.

Mayor Pro-Tem Griggs asked if the properties to the north on the east of Scenic are on City water, and City Manager McCourt explained that there is a block to the northeast that is served by City water. He doesn't believe, however, that the most eastern part of Adobe Ranch is served by City water. There are wells there. Mayor Pro-Tem Griggs then pointed out that the recommendation includes that the annexation of the property does not guarantee approval of any development plan or the availability of water and/or sewer services for such development, which could ultimately be an issue in terms of what type of development is attempted. This property would be more like a peninsula instead of an island. He suggested that it would be good to hear what the property owners in that area have to say in terms of their interest in being in the City or not. From the City's standpoint, it may not be good to have that peninsula of property.

City Manager McCourt stated that he remembered what Commissioner Cole alluded to earlier in that one of the problems in that immediate area is the property owners putting their trash in the City's park dumpsters to an overflowing level. If they are in the City, they would be on trash service and that would no longer be an issue.

Commissioner Lujan asked Mr. Bolin why they want to be annexed, and he explained that it is for the possibility of having the City water. Sewer service is not feasible, but they would like the water service if possible. Commissioner Cole stated that he has received calls from people in that area already because of low water pressure, and he is concerned about what may happen if more housing is added.

Commissioner Lujan asked if this is passed and then later on a subdivision or at least some development is approved the City would be responsible for providing more pipes and pumps to provide better water pressure. City Manager McCourt explained that politically the City would be under a significant amount of pressure to provide adequate services, which probably means that at some point in the future the City would have to place another storage tank at a higher elevation or build an elevated tank to create adequate pressure to serve the area. However, that may happen regardless of whether this is approved. He is generally in favor of annexation; however, he feels that the Commission should be aware of potential concerns if they decide to move forward with this item. City Manager McCourt said they are having similar concerns in other parts of the community that will also have to be addressed, and it will be take a major investment to address those with either ground storage tanks at a higher elevation to serve the area or elevated tanks to get enough pressure to provide an equitable level of service.

Commissioner Lujan reiterated that the City wouldn't have to provide the services but would be under some pressure to do so, and that really is regardless of whether this particular item is approved. City Manager McCourt reiterated that somewhere down the road the City would have to address the water pressure problems, which would be major infrastructure.

Mayor Carroll stated that the City will not be able to provide sewer service and may not be able to provide water, and whether or not the item is approved, it does not prohibit the property from being developed. It would just be a question of whether it could be developed with the guarantee of City water, which Mr. Bolin agreed with.

Commissioner Lujan asked if the City has in the past run into issues with annexing property but not providing services until years later. Mayor Carroll said that if the City were to annex the property in, it would be with the understanding that water may not be available. That caveat was put in a number of years ago to not only address water pressure issues but with the understanding that at some point the City may not be able to provide water to additional subdivisions as they come in. Commissioner Lujan voiced his support for annexation but expressed concern that the City should be able to provide services to property that is annexed. Mr. Bolin said that they did some checking with staff, and they felt that there would be sufficient pressure all the way to the east boundary of the property. Commissioner Lujan made the point that it may depend on the number of houses that are put on the property.

Commissioner Moncada asked if there are going to be wells on the property, but Mr. Bolin said that the only way they could do that would be if there were not enough water. They feel it is better if they could get the City water. The sewer is the prohibitive issue in terms of a higher-density subdivision. Commissioner Moncada said additional consideration needs to be given to the City being able to provide ambulance and fire services.

Mayor Pro-Tem Griggs asked if the water access is from the same line that the new subdivisions on Ocotillo would access. City Manager McCourt said that the transmission line comes from the tank that is in Desert Hills Park, which is a transmission line that takes the water to the ground tanks that are located at the end of Ocotillo and Scenic. The problem is that there is not much elevation. It is a large line, but there is not much pressure. As one moves eastward, the property is further up hill, and so more pressure is lost. Ultimately, the line does serve that area because it then goes down Ocotillo. The areas by the golf course, on the other hand, are isolated by pressure reduction valves, which is a different type of problem. What is being proposed in this item probably does not have a significant impact on that area.

Commissioner Lujan asked what the time period and cost would be to provide services with respect to this proposed item, but City Manager McCourt said he does not have an idea of what that cost would be except that as a general rule of thumb it costs the City money to provide services to residential areas versus commercial areas. The spin off is as more residential areas are developed, the residents of those properties spend money in the stores through which the City picks up the gross

receipts—hence a long argument. City Manager McCourt's real concern with regard to this item was the creation of the island.

Mayor Pro-Tem Griggs asked if what was being proposed for this property had any similarity at all to the subdivision immediately to the north. The concerns regarding the City surrounding the County property are definitely valid. He made the point that it would be more of a plus if the island were eliminated, and the two options to do that are to get everybody to join or to force them to annex, as has been done in other places, which has not been much fun. The Commission's options are to ask the developers to postpone it or go ahead and bless it. If it is postponed, they need to give good, solid reasons for why that is being done, and the Commission would need to give them direction on what they want the developers to do.

Commissioner Lujan said that his concern was to be able to provide the City services to the annexation, and he wanted to know why the creation of the island of County property is a bigger problem. City Manager McCourt explained that it creates confusion in service delivery, and the property owners in the island basically use City services without paying for them.

Mayor Carroll stated that he is not comfortable at this point in time with annexing the property. He said he doesn't know if the developers want to take the time to contact property owners in that area to see what their interest may or may not be in terms of being part of the City. At some future date, the property may become part of the City, but even if it is not annexed now, the developers still have the ability to develop the property. The only thing that would be lacking would be the potential of marketing the property as having City Water.

Mr. Tom Messer from Sedona Development said they are just before the Commission asking for annexation with no guarantee of water. They want to become a part of the City so they can then proceed with designing the subdivision and developing it within those parameters. They are not interested in sitting around and waiting, and they will proceed one way or the other. They will create a larger island that will never become part of the City if they have to do that for economic reasons. They want to be a part of the City, and he doesn't see the island creating more of a problem than already exists, as there is a large enough piece of property that it would be an enhancement to the City. Mr. Messer does not feel it is their place to approach people to see if they want to be a part of the City. When they purchased the property, they made it known that they wanted to be a part of the City, and he doesn't believe that most of the property owners are interested in being a part of the City. He asked that they not table the issue. When it goes to publication, anyone who is interested in becoming part of the City will have already contacted the Commission.

Commissioner Moncada asked if anyone in the island of County property has animals, as that is the only reason she could think of why someone may not want to be in the City limits. Mayor Carroll said that he doesn't know if there are animals out there, but there are a number of reasons why property owners may prefer not to be a part of the City.

Commissioner Lujan said that he appreciates the enthusiasm of the Sedona developers in terms of wanting to become part of the City, but he is not comfortable annexing a piece of property for which the City cannot provide services, as he believes it will become a problem down the road. Commissioner Lujan suggested tabling it and getting some input from the surrounding property owners as to how they feel about the annexation. In addition, he would like additional information from staff as to what it may end up costing the City to provide services in that area.

Mr. Messer reminded the Commission that developers are responsible for building the infrastructure necessary for the subdivision. If water can't be provided by the City, the developers will have to leap that hurdle as they go.

Commissioner Lujan asked for clarification as to what City Manager McCourt's understanding is and what staff has indicated to the developers in terms of whether water service could be provided. Mr. Brian Cesar, Acting Public Works Director, spoke with Dean Hunt from engineering to provide

pressures from the Foothills and Alamo tanks so that he could evaluate the property. Mr. Cesar didn't remember once he finished his calculations what the pressure would be on the eastern boundary, but he suggested perhaps it was around 30 to 35 PSI. It is a transmission main there and not a distribution line. It was designed just to transfer water between the Foothills and Alamo reservoir. City Manager McCourt said that is relatively low pressure, and what happens is as the tank levels drop, the pressure drops even more.

Mayor Carroll pointed out that this item is for first publication, and the Commission can move forward with first publication though that doesn't guarantee that when it comes up for final adoption that would take place.

Commissioner Lujan made a motion to approve Ordinance No. 1305 consenting to the annexation of 97.37 acres requested by Sedona Development Inc. Commissioner Brockett seconded the motion.

Commissioner Moncada asked if the annexation doesn't pass if they would still be able to connect to the City line, but they would not be able to. They would have to come up with their own water supply.

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

Commissioner Lujan asked how the Commission could get input from the property owners in that area regarding annexation. City Manager McCourt said they could direct staff to notify the property owners, but Mr. Alterson said the property owners were notified but did not respond. Mayor Carroll suggested following up to see if there are any who are interested in becoming part of the City.

Mayor Pro-Tem Griggs asked Mr. Bolin why they are not bringing in all of the property that they have, and Mr. Bolin said that they did not buy the property on the west side of the road, only the east side. Mayor Pro-Tem Griggs said that one thing everyone needs to understand is that whatever happens to the west, whether there are some property owners interested in participating or not, it will likely not be all of them. Commissioner Cole asked if this would include going to the property owners to the west to see if they want to be annexed, but that was not part of the motion.

Mr. Paul Jackson addressed the Commission. He is one of the property owners to the west, and he and an additional property owner have approximately 50 acres. Neither one of them want to be in the City.

Mayor Carroll recessed the meeting at 9:13 p.m., and it was reconvened at 9:19 p.m.

7. Consider variances to §29-04-050 reducing the required separation between an accessory building in a required rear yard and a main building to 5 feet from 10 feet for Stephan & Adriana Morgan at 2449 Desert Bloom Court [CaseV-07-0513 (A)].

Recommendation: Approve the variance.

Mayor Don Carroll read the item, and Mr. Stephan Morgan appeared before the Commission to answer questions. Mayor Pro-Tem Griggs said that the only issue he would have is regarding the roof overhang, and Mr. Morgan stated the way they measure buildings is from wall-to-wall and not roof-to-roof.

Mr. Morgan said that in the Building Code there are several variances he could have asked for. His yard is not big enough so one way or the other he would need a variance. Mayor Pro-Tem Griggs said he is sure there may have been other things they could have done. His point is not relating to this situation in particular, but it's just something to think about.

Mayor Pro-Tem Griggs made a motion to approve the variance as requested. Commissioner Brockett seconded the motion. A vote was taken, and all voted “aye.” The motion carried with a vote of 7-0-0.

CONTRACTS AND AGREEMENTS:

9. Consider an amendment to the employment agreement with City Manager Pat McCourt.

Recommendation: Approve the amendments and direct the City Attorney to prepare the agreement.

Mayor Carroll read the item and explained that this item would be pursuant to the annual evaluation—an increase of 5% of base salary and a one-year extension

Commissioner Brockett made a motion to approve the amendment to the City Manager’s employment agreement to include the 5% increase and one-year extension and directed the City Attorney to prepare the agreement. Commissioner Moncada seconded the motion. A vote was taken, and all voted “aye.” The motion carried with a vote of 7-0-0.

Mayor Carroll expressed his appreciation to City Manager McCourt and his anticipation of meeting to discuss some loftier goals for next year. City Manager McCourt thanked Mayor Carroll and the members of the Commission.

ORDINANCES AND RESOLUTIONS:

11. Consider Ordinance No. 1303 amending Section 5-01-035 of the Code of Ordinances concerning Temporary Alcoholic Beverage Dispenser Licenses.

Recommendation: Approve the ordinance for first publication.

This item was withdrawn from the agenda.

12. Consider Ordinance No. 1304 amending certain sections of the Code concerning purchasing and construction project administration.

Recommendation: Approve the ordinance for first publication.

Mayor Carroll explained that this item is an effort to bring the Code in line with State regulations, and City Manager McCourt concurred with that explanation and added that it would also remove superfluous language and bring it into compliance with State auditor requirements for fixed assets.

Mayor Pro-Tem Griggs made a motion to approve Ordinance No. 1304 for first publication. Commissioner Brockett seconded the motion. A vote was taken, and all voted “aye.” The motion carried with a vote of 7-0-0.

15. Consider Resolution No. 2007-36 accepting the donations of \$24,000 for DPS, and \$18,846.35 for Fire Services.

Recommendation: Approve the resolution.

Commissioner Brockett made a motion to approve Resolution No. 2007-36 accepting the anonymous donation. 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.

OTHER BUSINESS:

18. Notification of Boards and Committees.

Mayor Carroll announced the following openings:

Community Development Advisory Committee—one (1) vacancy.
Housing Authority Board—one (1) vacancy.

Mayor Carroll asked that anyone interested in serving in these roles notify the clerk.

UNSCHEDULED COMMUNICATIONS:

A. Mr. Stephan Morgan

Mr. Morgan lives on Desert Bloom Court, and he asked about the status of paving or development on that road. City Manager Pat McCourt explained that it's a developer's road that has not been accepted in the City's system. It's, therefore, the developer's responsibility to maintain the road though they are not required to have an asphalt road. Mayor Carroll explained that there is an agreement under which if there is a certain amount of development on that road the developer will be required to make certain improvements to the road. City Manager McCourt asked Mr. Arthur Alterson to check on the status of the subdivisions in terms of occupancy.

B. City Manager Pat McCourt

City Manager McCourt provided the water report and said that the City is probably in the best shape it has been in terms of water supply in 10 years due to not only the increased moisture in the mountains but the steps the Commission has taken as far as additional wells, covers on the reservoirs and other measures. The cumulative effect is that the City is in very good shape.

City Manager McCourt will be out of town July 7th to 14th on vacation, and Mr. McNeile will be back and in charge. He hopes everyone will enjoy the 4th of July celebration particularly as the City is a major funder of that activity in the amount of approximately \$15,000 a year.

C. Mayor Don Carroll

Mayor Carroll expressed his hope that the Commissioners have all received an invitation from the Space Hall and a VIP pass for the fireworks. He also reminded the Commissioners of the annual 4th of July parade. This year, Brigadier General David Goldfein, Commander of Holloman Air Force Base, will be the grand marshal of the parade, and the theme is, "U.S. Air Force: 60 Years and Still Flying High."

EXECUTIVE SESSION: Recess into Executive Session to discuss threatened and pending litigation and purchase of real property (Drainage Channel), water issues, and limited personnel matters.

Commissioner Brockett made a motion to go into Executive Session to discuss threatened and pending litigation and purchase of real property (Drainage Channel), water issues, and limited personnel matters at 9:35 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 for the City Commission to come out of Executive Session and return to Open Session for the purpose of conducting business in accordance with what was discussed during Executive Session at 11:35 p.m. Commissioner Moncada seconded the motion. A roll call vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.

15. 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 threatened and pending litigation and purchase of real property (Drainage Channel), water issues, and limited personnel matters 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 and purchase of real property (Drainage Channel), water issues, and limited personnel matters as specified in the posting of the closed meeting. 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.

ADJOURNMENT.

Commissioner Brockett made a motion to adjourn the meeting at 11:38 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 Donald E. Carroll

(SEAL)

ATTEST:

City Clerk Reneé L. Cantin

(Prepared by Ubiquis Reporting)
Approved at Regular meeting held on July 10, 2007.