

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
7:30 P.M., COMMISSION CHAMBERS
DECEMBER 4, 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 7:32 p.m. Roll call was taken, and Mayor Pro-Tem Griggs was absent. The invocation was given by Mrs. Dottie West, and the pledge of allegiance was led by Commissioner Leford.

PRESENTATIONS:

1. Report on Effects of State Minimum Wage Act.

Ms. Betsy Keller explained that there are significant changes that the City will face due to changes in both the Federal Minimum Wage Law and the State Minimum Wage Law, both of which, of course, affect the minimum wage rate. The State law changes will affect the ability to use comp time in lieu of paying overtime, the exception for calculating overtime on police and fire personnel over a longer work period and the ability to allow unpaid sleep time. The legislators who sponsored the bill to amend the State Minimum Wage Act have told the New Mexico Municipal League executive director that it was not their intention to remove the public sector exemptions for comp time and public safety personnel.

The Governor's office has placed an amendment to restore the exemptions on the call for the January 2008 session. Ms. Keller said that they are optimistic that the issues will be resolved by mid to late February, but in the meantime, the City is going to have to comply with the changes until the law is amended. The City is working with its bargaining units on resolutions and the impacts to labor agreements. The City presented an Ordinance to change the Personnel Manual that will give the City flexibility in responding to the changes in law that involve work periods. It was approved for first publication at the last City Council meeting, and it will come back for final publication at the meeting of December 18th.

Ms. Keller further explained that the amendment to the State law was signed March 23rd, 2007, and the Federal law was signed May 25th, 2007. The minimum wage rate was \$5.15/hour, and on July 24th, 2007, the Federal law increased it to \$5.85/hour. On January 1st, 2008, the State increases to \$6.50/hour, and on July 24th, 2008, the Federal increases to \$6.55. As of January 1st, 2009, the State increases to \$7.50, and then there is one more Federal increase though it won't impact any New Mexico employer because the New Mexico State law will already be higher than the Federal rate. The January 1st, 2008, increase to \$6.50 will only impact the City's seasonal employee pay rates. There are 28 positions that are equivalent to 3.5 full-time positions, and the impact to fiscal year 2008 is approximately \$1,004.60 for salaries and benefits. The July 24th, 2008, increase is not expected to impact the City any more than what is already being budgeted because they expect to budget a cost of living increase, as the Commission has in past years. As long as the cost of living increase is at least 1%, all pay rates will be above the minimum wage rate, and the cost of living increase has averaged 2.7% over the last five years. The increase to \$7.50 an hour will impact some of the City employees' rates. There are 49 positions, including those previously talked about as well as 28 additional positions. The impact for fiscal year 2009 is \$10,648.80 for salaries and benefits. The increase on July 24th, 2009, will not impact the City.

Ms. Keller stated that the City is currently able to use compensatory time off in lieu of paying overtime, which gives the City the ability to schedule and use human resources when they are needed the most and give them time off when it is more convenient for City operations. The state law that goes into effect January 1st, 2008, removes that ability. Looking at fiscal year 2007 compensatory time hours worked if paid in overtime instead, it would cost the City over \$129,000 in salary/benefits for one fiscal year using the current pay rates. During the period of time that the law will be in effect, which they are anticipating will be a six to eight-week period in 2008, they have worked with department directors and they are going to have to find a way to minimize overtime costs through scheduling, time management and project management. The City currently calculates time for public safety overtime on a pay period basis instead of on a weekly basis, which results in an average payment of 40.47 hours per week for fire equipment operators and police officers on patrol. It is paid at the regular rate of pay, and the City is not required to pay overtime when they work over 40 hours in one week. The law that goes into effect requires that the City pay overtime for any hours worked over 40 hours in a week for all employees. The same law affects the sleep time where the City can no longer allow FEOs to spend a portion of their schedule in sleep and not have to pay them for that time.

Commissioner Cole asked why if the bill was in error from the beginning and the State government is going to try to change it whether there could be an objective by the Attorney General stating that it would not be effective. Ms. Keller said she was not aware of that, and they have been working with the New Mexico Municipal League to see if there are any opportunities to have an injunction on the law. They were looking at filing a case in the Supreme Court, but they can't find any reason for which they could ask for an injunction on the law.

Mr. Sam Trujillo, DPS Director, explained that the Alamogordo Department of Public Safety includes police, fire, dispatch, code enforcement and animal control services, most of which are 40 hour/week divisions that the Minimum Wage Law won't impact. The police and fire are 24 hours a day, 7 days a week. He went on to explain that right now the police operate on 12-hour shifts on a three day on and three day off rotation. Shifts include day shifts, swing shifts, multiple swing shifts and night shifts. Fire operates on a 24-hour schedule with 48 hours being off, basically one day on, two days off, and they have another day thrown in every 13th day. Their schedule also includes sleep time, which is unpaid right now.

The shifts allow for maximum coverage for both law enforcement and for fire. According to the Fair Labor Standards Act, police are exempt from the 40-hour workweek, which includes an exemption for paying overtime for any time over 40 hours per week. Fire is also exempt from the 40-hour per week requirement, and the exemptions also allow for the unpaid sleep period. The work periods were negotiated with the labor union along with pay averaging, which allows employees to receive a consistent paycheck throughout the year.

Mr. Trujillo stated that according to the interpretation of the new Minimum Wage Law, overtime exemption, sleep time, and pay averaging would not exist. If the City stayed on the current schedule, the City would have an increased cost of over \$300,000 per year. They have been trying to figure out how to keep law enforcement coverage and fire services at each fire station without a significant financial impact. They have also been working with the union to be sure that none of the negotiated agreements are violated that are in place. A union representative from the police union was present at the meeting. Mr. Trujillo said they believe they have found a short-term solution to the problem. It does result in a reduction in services, coverage and training, and it will place restrictions on employee vacations.

Basically, they want to put all employees on a 12-hour, three-day-on, three-day-off schedule, which would mean there would be one week that is six hours too long, and one week that is six hours too short. In order to meet the 40-hour week requirement, they would have to let officers off for six hours on the long week and require them to work an extra six hours on the short weeks of the three on/three off schedule. Because they have overlapping shifts, they can control when they let employees off, and basically if the call load is high or emergencies are occurring, they would not

allow them to leave. The employees that have to make up the six hours on the short week would be called back in to fill in for fire duty, which would allow the City to keep all stations in operation. The police officers are also trained fire equipment operators so the City is able to use the manpower in either the police or fire services divisions. The end result would be that all public safety officers would be working 40 hours per week, and all fire equipment operators would be working 42 hours per week, two hours of overtime. This does not include court time, overtime handling late arrests, or things of that nature, which currently exist and will still exist on the new procedure.

Mr. Trujillo explained that a couple of things that are working in their favor are that January and February tend to be slower months. There are also employees that are at the law enforcement academy being trained in police operations, and that ends in December so they will be returning in January. Mr. Trujillo stated that they have a very strong relationship with their union, and they are both working toward a solution. The solution needs to be finalized with the union, but they do think they can continue to provide the services that they are providing to the City on a short-term basis. If the law doesn't get changed during the next legislative session, they believe that there will be a significant impact to the City to maintain the schedule on a long-term basis.

Commissioner Brockett stated that the way he understands it is if the Governor enacts the amendment there will be just a short period of time to deal with the changes, but he questioned when the amendment takes effect. Mr. Trujillo explained that the new Minimum Wage Law takes effect on January 1, 2008. The amendment, if signed by the Governor, would go into effect immediately. Mr. Trujillo stated that as far as they are concerned currently, it is law, and the City has to come into compliance. They do know what the intentions were and that the legislators believe they can correct the Fair Labor Standards Acts that weren't brought into the law, but right now it is law. Mayor Carroll suggested that City Manager McCourt draft a letter for his signature to send to all of the legislators to reinforce the importance that they address it early in the session.

Commissioner Brockett commended DPS for their preparation and professionalism as demonstrated by the flood situations. Mayor Carroll explained that everyone is aware at this point that this was strictly an unintended consequence. Basically, the federal law says that the federal law prevails unless the State has a more stringent requirement, which New Mexico didn't until the last legislative session. The impact of it will be felt by every community as well as the State government.

Commissioner Ledford asked for clarification regarding the State and federal minimum wage and how in New Mexico the State increase will cover the later federal increase. Ms. Keller explained that the State increase that happens about six months prior to the federal increase brings minimum wage up to \$7.50 in New Mexico whereas the federal minimum wage will be \$7.25. Commissioner Ledford commented on how the change will affect every employer in the state, and he said he would be interested as to why the legislation hadn't done it so as to fit in with the annual budget process. Commissioner Ledford also commented on how removing the compensatory time is unfortunate, and Ms. Keller stated that is the case and that private sector already cannot use compensatory time.

City Manager McCourt explained that it was City Manager John Waters out of Ruidoso Downs that was reading the action and preparing like everybody else for the increases in the minimum wage rate when he noted the exemptions were not included. He then brought it to the attention of the Municipal League. It was not something that was known at budget time.

2. Update regarding comprehensive re-draft of Municipal Code Chapter 29, Zoning – Draft Sections from Planning & Zoning Commission to City Commission: Nonconformance's; Special Land Use Permits; Board of Appeals; & Parking.

Mr. Arthur Alterson, Community Development Director, explained that this was the third presentation regarding the re-draft. He explained that it has been a long process that he could not have done it without the Planning and Zoning Commission and the working panel. They have put in many hours. The problem with nonconformances is that unlike most forms of legislation, for better or for worse, a change in zoning regulations generally produces a grandfathering situation. The City is not trying to

eliminate all legal nonconformances. The City is trying to respect the property owner's rights and to institutionalize legitimate investment-related expectations in property while maintaining a healthy balance between existing non-conforming uses and existing conforming uses. With regard to development activity that at the time of the Ordinance change was in progress but not completed, more or less if the City had issued permits under the old rules, the permits are still good if construction is begun within six months of the issuance. They gave a definition for the start of construction to guide the regulation. With regard to development activity that at the time of the Zoning Ordinance change was past the occupancy certificate stage and fully operational, under the draft rules it will be handled as if the use had already gone through the zoning approval. With regard to continuing uses, generally no considerations are being added. There are rules and guidelines for demonstrating whether a situation is or is not legally non-conforming. Today, in theory under the current regulations for a land user to demonstrate the legal existence of a use the land user has to demonstrate that it was legal when it started or in 1950 and has been legal since.

Commissioner Cole asked whether the nonconformance measures applied to the situation discussed at the last City Council meeting regarding the individual who owns the taxidermy business. City Manager McCourt said that the business that was discussed only became unlawful when the owner changed the way the business was being done such that it no longer complied with being a home occupation.

The working panel and the P&Z Commission have recommended regulatory changes as far as the absolute prohibition on the land user changing from one nonconforming use to a land use that is also nonconforming but of lower impact. Some rules were given for determining what is less of an impact on the area. With regard to the common zoning principle, it is currently in the Zoning Ordinance, and they are only talking about single-family detached uses in districts that allow single-family detached uses, which are all the residential use districts along with some other. There is probably no reason to be concerned about the minimum size for industrial or commercial uses because the considerations of parking needs, and what the lot user is going to want is probably going to be more severe than what they included. There is the assumption that most things that have been around in an open fashion since January 1st, 1984 were in conformance with the zoning requirements at that date.

There is a new section to highlight what a land user may or may not do with structures that are legally non-conforming as to bulk regulations—setback, height and lot coverage. Zoning ordinances typically address restoration of non-conforming structures that are damaged by events beyond the landowner's control. The current non-controlling uses section is unclear, and the draft establishes a 70% threshold as to the degree of destruction before the legal non-conforming status cannot automatically be resumed. If one discontinues a use for two years running, they lose their legal nonconforming status, and some communities have that threshold as low as six months. Mr. Alterson said that they had taken the current 29.05.040 and 29.08.060 sections out of the Board of Appeals section of the current zoning regulations and created a new section. Variances are dealt with elsewhere so they were removed from that section. From the working panel's discussion, Mr. Alterson said they had eliminated certain situations from the section and excluded them from the special land use permits most of which are allowed in a district under one title or another. What had been eliminated was any public building erected and used by any department of the City, County, State or Federal government, hospitals, clinics and institutions, commercial amusement or recreation development, extraction of gravel, sand or other raw materials, and industrial uses otherwise excluded from the industrial district being permitted to locate in the industrial district. Otherwise, it is much the same as it had been.

With regard to the Board of Appeals section, there are other New Mexico examples of where the corporate authorities act as the Board of Appeals instead of a separate Board of Appeals. The City is continuing with having the City Commission acting as the Board of Appeals. It allows the City Commission to later establish procedures by resolution that would provide for administrative hearing officers or the hearings of some types of appeals by the Planning and Zoning Commission or the Airport Zoning Commission. Without the adoption of that resolution, there would be no administrative hearing officers, but if the City Commission should decide to delegate some of that, it could be done

without amending the Zoning Ordinance. It could be done by resolution. They are trying to create a situation where staff can get an appeal to the City Commission if it is acting as the Board of Appeals as quickly as possible with as little delay to the private sector as possible.

An appeal implies that either City administration has made a mistake or that the law for some reason in a peculiar instance just does not work. Basic rules are set for an appeal, and when an appeal concerns a specific decision on a specific property there should be a time limit on as to when a person can appeal. Current regulations do not have one, and an appeal can come from not only a person that wants to build but also the neighbor of a person that wants to build. Forty-five days is a relatively long time limit to most jurisdictions, but Mr. Alterson thinks that a reasonable amount of time should be given for someone to appeal if they want to appeal without making the time frame unlimited. It is Mr. Alterson's understanding that if someone appeals the City can no longer do anything. If someone appeals when the City is about to issue a building permit but hasn't issued it, the City can't issue the building permit. If a building permit has been issued, then the City can't issue a stop work order if the neighbor appeals because as far as the City is concerned they are still operating under a valid permit. Mr. Alterson provided a list of the different types of appeals along with an explanation of the circumstances that may be involved in bringing about the appeal. According to current zoning regulations it takes a two-thirds vote of City Commission to overturn a staff ruling. They have changed that to a simple majority. The Board of Appeals acts with the same authority as the staff person that made the decision under appeal. References to variances were eliminated from the section.

Relative to construction codes, whether or not the City Commission ought to act as a Board of Appeals for building codes, there can be arguments on both sides, but it's not part of the Zoning Ordinance one way or the other. Right now the City Commission does have that authority. Mr. Alterson provided a list of the sections that have to be worked on.

Commissioner Brockett asked if the Blue Ribbon Committee from private industry is still involved in the procedure of re-drafting, and Mr. Alterson said that they still have regular meetings scheduled once a week. Mr. Alterson said they would like to have the re-draft down before March, but he could not honestly say they would make that deadline. What will come before the Commission hopefully in the first part of the year will be a draft ordinance with the new zoning regulations.

Mayor Carroll said that it looks like basically they are changing paragraphs into pages. Mayor Carroll wanted to know if when it is done there would be simplified bullet sheets or something that the average citizen could use as a guide or a reference without having to wade through the entire ordinance to figure out what they could and could not do. Mr. Alterson said that his intention was that the format they are using would lend itself more readily to those types of bullet sheets so they could have a one-sheet flier for what most anyone would be interested in.

CALL OF THE CONSENT CALENDAR:

MINUTES:

3. Minutes of November 20, 2007 Regular Meeting.

Recommendation: Approve the minutes.

ORDINANCES AND RESOLUTIONS:

4. Consider Resolution No. 2007-58 approving the Memorandum of Understanding between the New Mexico Economic Development Department and the City of Alamogordo.

Recommendation: Approve the resolution.

5. Consider Resolution No. 2007-60 declaring the eligibility and intent of the City of Alamogordo to submit an application to the New Mexico Department of Transportation for us of Safe Routes to School funds.

Recommendation: Approve the resolution

OTHER BUSINESS:

6. Review of water rates.

Recommendation: None.

7. Public Works Bid No. 2007-009, CDBG No. 07-C-NR-I-1-G-1, Plaza Hacienda Sidewalk improvements.

Recommendation: Award bid to Star Paving Co. in the amount of \$289,376.59, including NMGR (Base Bid plus Alternates 1 and 2).

Commissioner Ledford made a motion to approve items 3, 4, 5, 6 and 7 of the Consent Calendar. Commissioner Moncada seconded the motion. A roll call vote was taken because of items 4 and 5. The motion carried with a vote of 6-0-0.

OTHER BUSINESS:

8. City Commission Regular Meeting Schedule for 2008.

Recommendation: Approve the schedule.

This item was removed from the Consent Calendar at the request of Mayor Carroll. He called attention to the fact that there was an amended version of the proposed Commission agenda for next year. The reason for that was that the Municipal League Conference, which has historically been the last week in August, because of the location had been moved up. The Commission meeting has been shifted one day in the past to accommodate the commissioners who would attend that meeting. The change is to move what would normally be the meeting August the 12th to August the 11th.

Commissioner Brockett asked if the Commission had ever considered moving meetings from the first Tuesday of November to perhaps the first Monday in November because of elections. November 4th is the proposed meeting date, which was moved so that it wouldn't conflict with Thanksgiving. Commissioner Brockett moved to amend the meeting on November 4th to November 3rd.

Commissioner Brockett made a motion to approve the schedule for 2008 as amended. Commissioner Lujan seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 6-0-0.

9. Appointments to Boards and Committees

Mayor Carroll appointed John Marquardt and Richard McCracken to the Planning and Zoning Commission.

UNSCHEDULED COMMUNICATIONS:

A. Bernard Sternthal

Mr. Sternthal thanked the City Manager for the letter that he had sent to him dealing with paperwork that Mr. Sternthal had left at the previous meeting. At the corner of Indian Wells and Cornell a

vegetable garden was growing, and after six weeks they harvested their crops such that now when you get to that corner, you can see what is going on traffic wise. Mr. Sternthal referenced a letter in the local newspaper dealing with Indian Wells and asked why there isn't another light. He feels it is an accident waiting to happen, and he doesn't understand why an accident has to happen before something is done. He believes that there is a need for more lights in the City, and he also believes that they should use more paint on the curbs such as the curb on Washington Street. He referenced what he thought to be \$750,000 that went down the tubes in water surveys and research, but Mayor Carroll said that he would try to explain that to him. The \$750,000 had to do with the environmental impact study statement that is required for the City to do the desalinization plant to drill the wells. The correct statement is that it had been four years, and the study had not been completed and gone through the entire process. The money has not been wasted. It is a government requirement that the City perform the study, and the four years that it has taken is out of the City's control.

Mr. Sternthal explained that the last thing he thought he would be doing would be talking in front of a group of people in a public forum, and he provided some history on his background. He expressed that he didn't think that announcements appear in the newspaper about shows that are going on in the City. Mr. Sternthal said there is culture to be found in the City, and in addition he would like to see the senior center become more important to the City because it will attract people to come. He said that the acoustics are horrible, and they should be fixed, which could be done with relatively little expense, perhaps less than \$2,000.

Mr. Sternthal went on to say that he would like to see more people in the City coming to the Commission meetings and getting involved. Mayor Carroll agreed that they would like to see that as well. He said that the issues regarding Bella Vista are a nightmare, and it seems to him that there should be some sort of law where the real estate agents have to sign waivers as to what is on the property. People are constantly buying houses that are lemons because the real estate agents get away with it.

B. Arthur Alterson, Community Development Director

Mr. Alterson congratulated the contractors and building inspectors for getting the new theaters open on schedule. Ann French has recently retired, and he wanted to voice his appreciation for the community relations work that she had been doing.

C. Commissioner Cole

Commissioner Cole asked for an explanation regarding the work by Abbott and Sun Streets and whether the City has any authority regarding that area.

City Manager McCourt explained that it does fall into the utility right-of-ways, and permits are required. The cable TV company is substantially rebuilding their system throughout the City, some above ground and some below. They are using subcontractors, but they are getting permits. Public Works inspectors are inspecting the jobs, and they do have a time period during which they are allowed to get the work done. Mayor Carroll had taken him by an area that day to look at a particular location, and when he called, the Public Works inspectors had already visited the site and talked with the subcontractor and were addressing the concerns. Complaints should be brought up, and then they can be followed up on.

Commissioner Cole said that he wanted to make sure that there was some oversight. If his information is correct, the way they are leaving the alleys at the moment makes it difficult for individuals particularly who are older in age to get to their trash containers to empty their trash. It also concerns him, and he has gone out and spoken to the subcontractors, but they are not going to tap any of the dirt back into the ditch until they get completely finished with the project. It bothers him because of the length of time that it will take though everyone he speaks to has been very courteous. To the best of his observations, there is no type of safety supervision as they finish the project. He did complement them on going back and fixing telephone lines that were cut the day before. He

suggested that there might need to be more oversight. Commissioner Lujan also spoke with someone who did not feel that the ditch problem had been taken care of.

D. Commissioner Brockett

Commissioner Brockett asked if they could look into making the City's ordinances regarding stray animals that cause problems more stringent such that they would hold the owner more accountable. He asked for a review of the ordinance in terms of how much stronger they could make it.

Sam Trujillo, DPS Director, explained that there are currently two laws that deal with vicious animals. One is a City ordinance whereby once the Court decides there is a vicious animal, the animal can be impounded. The second law is the Dangerous Dog Act that was approved by the State legislature last year. It allows felony charges to be filed against owners that have been involved in attacks.

Commissioner Brockett asked if they could make the City laws any stronger, and Mr. Trujillo said that the City's Vicious Animal Act is stronger as far as seizing the animal than the Dangerous Dog Act at the State level. If the Municipal Court will rule that the animal is a vicious animal, the animal can be seized and euthanized. The Dangerous Dog Act requires more through the District Court to get that accomplished. They do allow some provisions if the owner can ensure that the owner won't attack anymore such as by building fences. Then the owner could get the dog back.

Commissioner Brockett asked what degree the felony would be, and Chief Trujillo explained that it depends on what occurs in terms of whether there is death or injury. It would be a 43 felony for a bite.

Commissioner Brockett explained that he has contacted DPS in the past on two occasions when there were Put bulls that were not properly restrained, and they have done a great job. Chief Trujillo reiterated that right now they are holding the owners responsible regardless of the breed.

Commissioner Brockett welcomed Mayor Carroll back.

E. City Manager McCourt

City Manager McCourt thanked the Commission for allowing him to attend the city management meeting the previous week. The training was very good, and there was a lot of background and discussion on building codes. They were very knowledgeable in that particular area as to what is going on, and they were able to contribute greatly to that conversation. They also discussed the Minimum Wage Law both with counterparts and Municipal League staff, which relieved quite a bit of their anxiety since they assured them that this was definitely an unintended consequence rather than somebody's sly move.

Lieutenant Kelly Wallis has been appointed to serve on the Animal Shelter Services Board, which is a State board, and they are proud of the opportunity to be involved.

In terms of the water supply report, the City is in very good shape. They are still looking for good snow pack in the mountains, which is a little behind, but the reservoirs are in good shape and no wells are operating at this time. Water is being supplied to Holloman, and last year Holloman received an equal allocation from Bonita Lake as Alamogordo did. Commissioner Cole asked for a hard copy of the water report.

F. Mayor Carroll

Mayor Carroll recognized the fact that City Clerk Renee Cantin and Deputy City Clerk Cameron Stern recently attended the clerk certification institute. Cameron is a second-year participant, and Renee is in the master municipal clerk academy. They are working toward improving their skills and attaining higher certification in their career fields.

He also recognized Ron Borunda and the staff at Desert Lakes for hosting the 2007 Pro-Pro Team Championship. He had received a letter that was very complementary and said the City is fortunate to have such dedicated employees.

Mayor Carroll provided the reminder that there will be an election in March, and with the holidays coming up sometimes people get distracted. For those interested in running for City Commission, there is one day to file, which is January the 8th. There will be at least one open seat on the Commission as Mayor Carroll does not intend to seek another term. There will also be the 0.25% gross receipts tax for streets on the ballot, which will be in all seven districts even though only four will be electing commissioners.

Mayor Carroll also reminded those in attendance about the upcoming Christmas parade on Saturday at 5:00 p.m. sponsored by the Chamber of Commerce.

EXECUTIVE SESSION: Recess into Executive Session to discuss threatened and pending litigation (Castro) and acquisition of real property (S. Florida project phase 2).

Commissioner Brockett made a motion to go into Executive Session to discuss threatened and pending litigation (Castro), acquisition of real property (S. Florida project phase 2) at 9:00 p.m. Commissioner Lujan seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 6-0-0.

OPEN SESSION: Motion to go into open session.

Mayor Carroll called the meeting back into Open Session at 9:15 p.m.

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 (Castro), acquisition of real property (S. Florida project phase 2) as specified in the posting of the closed meeting.

Commissioner Cole made a motion to take all steps necessary to bring the Castro situation to a close. Commissioner Brockett seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 6-0-0.

Commissioner Brockett made a motion to authorize City staff to authorize condemnation for the S. Florida project. Commissioner Cole seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 6-0-0.

ADJOURNMENT.

Commissioner Moncada made a motion to adjourn at 9:18 p.m. Commissioner Ledford seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 6-0-0.

/s/Donald E. Carroll

Mayor Donald E. Carroll

(SEAL)

ATTEST:

/s/Reneé L. Cantin

City Clerk Reneé L. Cantin

(Prepared by Ubiquis Reporting)

Approved at the Regular meeting held on December 18, 2007.