

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
MUNICIPAL BUILDING, 1376 E. NINTH STREET
7:30 P.M., COMMISSION CHAMBERS
MAY 27, 2003**

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

**COMMISSIONER JOHN ROBERTSON
COMMISSIONER MARION LEDFORD
CITY MANAGER PAT McCOURT
CITY ATTORNEY WILLIAM KIRSCHNER
CHIEF DEPUTY CLERK BETSY KIDWELL**

Call Meeting to Order, Roll Call, Invocation, and Pledge of Allegiance.

The Meeting was called to order at 7:30 p.m. The Invocation was given by City Attorney William Kirschner, and the Pledge of Allegiance was led by Mr. McCourt. Mayor Carroll noted the untimely death of Mike Aragon this last week. He stated that Mike was the owner of Mike's Country Kitchen and was a major contributor to our community. He praised Mike for all the support and generosity he has extended to the community. He extended the City's condolences to his family and many friends.

1. Presentation of Proclamation to Alamogordo Lady Tigers Golf Team.

Mayor Carroll and Mayor Pro-Tem Griggs asked Kelli Dalpes, Kristen O'Dell and Jodie Hitchcock, members of the Lady Tigers Golf Team, Tommy Standefer, their coach, and Grant Dalpes, the Golf Course Professional to come forward. Mayor Carroll read the proclamation and proclaimed Wednesday, May 28, 2003 as Lady Tiger Golf Day in Alamogordo, New Mexico in recognition of their winning three consecutive state championships. Mayor Pro-Tem Griggs presented each of them with a copy of the proclamation.

2. Public Hearing to consider a special permit for a temporary structure for Alamo Motorsport. [Case SP-03-0105(A); 801 S. White Sands Blvd.]

Recommendation: Approve the special permit to allow the placement of a temporary structure at 801 S. White Sands Boulevard from June 20 through July 6, 2003.

Commissioner Robertson explained that he would abstain from voting on this item as he is in a joint venture ownership of the property.

Commissioner Cole noted there was an objection received from a citizen, Ms. Dovie Luttrell, in writing regarding entering on to White Sands with an obstructed view due to a fence. He asked that the City Staff look at the safety issue of the obstructed view. Mayor Carroll asked that City Staff work with the individuals placing the tent so that it does not impair Ms. Luttrell's view.

Commissioner Cooper moved to approve the special permit for the temporary structure. Commissioner Cole seconded the motion. All voted "aye." The motion carried by 6-0-1.

Call of the Consent Calendar: [Roll call vote required - Item No. 4]

Items on the Consent Calendar are considered routine and should not require further discussion. A single motion will approve all items marked "CC" unless removed at the request of a Commissioner, City staff, or a member of the public. Items removed from the Consent Calendar will be heard in the numbered sequence.

3. Minutes of Regular Meeting of May 13, 2003.

Recommendation: Approve the minutes.

4. Consideration of Ordinance No. 1178 for rezoning to District "F" (Industrial) requested by Ronald and Ionne L. Lindgren. [Case Z-03-0620(A); 2830 Airport Road]

Recommendation: Approve the rezoning of subject property to District "F", and approve the Ordinance on such for final publication. [Roll Call Vote Required]

6. Consideration of the final plat of TIERRA DE SUENOS, UNIT 6 for twenty-five (25) lots located within the City of Alamogordo. [Case S-03-0775(A); Camino Real and Cielo Grande]

Recommendation: Approve the final plat with the requested variance on alleys and with an Avigation Easement and a Subdivider's Contract.

9. Consideration of an extension of fifteen days for filing the final plat with Otero County for FIRST STREET, REPLAT C, for Smith, et al. [Case S-03-0778(A)]

Recommendation: Approve the requested extension.

10. Consideration of award of contract to Clifford, Ross, Raudenbush, and Cooper, LLC for the annual audit for the fiscal year ending June 30, 2003.

Recommendation: Award the contract.

11. Consideration of professional services contract with the Alamogordo Public Schools.

Recommendation: Approve the contract.

13. Ordinance No. 1179 amending Section 24-01-050 dealing with Correction Fees and Judicial Education Fees.

Recommendation: Approve the ordinance for first publication.

15. Statement regarding the Executive Session of May 13, 2003.

Recommendation: Approve the statement.

16. Waiver of permit fee for the 4th of July fireworks display.

Recommendation: Approve the waiver as requested.

17. Award of Bid No. 2003-10, Lease/Purchase of Roll-off truck, Trailer, and Containers.

Recommendation: Award to Trucks West, Inc. for \$35,154.46.

18. Special Permit for White Sands District of the Boy Scouts of America to discharge BB guns and play archery at the New Mexico School for the Visually Handicapped.

Recommendation: Approve the Special Permit.

Item Numbers 5, 7, 8, and 12 were removed from the Consent Calendar.

Commissioner Cooper moved to accept the remainder of the Consent Calendar including Item Numbers 3, 4, 6, 9, 10, 11, 13, 15, 16, 17, and 18. Commissioner Cole seconded the motion. All voted "aye." The motion carried by a roll call vote of 7-0-0.

5. Consideration of a special permit for a temporary structure for Julio C. Martinez, Jr. [Case SP-03-0104(A); 2400 Eddy Drive]

Recommendation: Approve the special permit with the conditions.

This item was removed at the request of Commissioner Robertson. Commissioner Robertson said he went out this morning with Pat Vandergriff and looked at the property. He said there are already two mobile homes and an RV that is all set up and ready for living use on the property. He said the way it is zoned they cannot put a mobile home or trailer on this piece of property. He added that there was no permit for the trailers to be put on there so someone moved them in. He stated that he was not sure if our local movers would do that without a permit. He asked if there was anyone here to represent this item.

Ms. Aurora Martinez and her mother, Ms. Lupe Martinez came forward. Commissioner Robertson asked them who moved the trailers out there to the property. Ms. Aurora Martinez translated for her mother that someone moved the first one from Los Lunas to the property when her brother moved there. Commissioner Robertson asked if they had gotten a permit to put the trailer on the property. Ms. Aurora Martinez translated for her mother and stated that she said she came before it got moved there for the one they live in and the City told her they did not see a problem or why she would need a permit to put it there because the property was theirs. Commissioner Robertson said by state law you have to have a permit before you can move any trailer in the state.

Commissioner Robertson asked if there was a permit for the septic tank that was there. Ms. Aurora Martinez translated and replied affirmatively for her mother. Commissioner Robertson asked how far the well is from the septic tank. Ms. Aurora Martinez translated and replied for her mother that she is not quite sure, but that one is almost by the street and one is a little further away.

Commissioner Robertson asked if there are two mobile homes and one RV set up to live in. Ms. Aurora Martinez said the RV had someone living in it, but there is not anyone living in it anymore. She added that one trailer is not even livable and her mother has stuff stored in there. Commissioner Robertson stated that the property is zoned District "F", which does not allow trailers. He said he understands that they received a letter telling them to move those trailers. Ms. Aurora Martinez replied that they received the letter and mailed it out to her brother Julio C. Martinez. She noted he was suppose to be here, but he could not make it so she came with her mom. She added that he called and told the City that she and her mom were going to come tonight. She said she does not know what he has done, but he did fill out some paperwork.

Commissioner Robertson asked if her mother was planning on building a home there. Ms. Aurora Martinez replied affirmatively. She added that her mother was told they were better off building a home instead of keeping the mobile home there. Commissioner Robertson asked her why they did not move the mobile homes when they got the letter from the City telling them to. Ms. Aurora Martinez replied they had just moved there because they had lost their house and that is the only place they had to live. Commissioner Robertson replied he has no objection to them building a home out there because that is what it is for, but he has a major problem with issuing the permit when they are breaking the law and City codes right now, and have been for quite some time. He said he would be willing to relook at this permit at a later date when they

comply with all the City codes and regulations. Ms. Aurora Martinez translated and replied for her mother that she understands that. Commissioner Robertson confirmed that she understands she needs to do that. Ms. Aurora Martinez replied that she understands.

Commissioner Robertson moved to table the item until the residents could apply with City codes and be inspected by Pat Vandergriff to make sure it all has been done.

Commissioner Robertson said when they were out there this morning, Mr. Vandergriff found nothing that was in Code. Commissioner Robertson said he thinks it all needs to be brought up to Code before we consider the permit.

Mayor Carroll asked if there was a second to this motion. The motion died for a lack of a second.

Commissioner Cooper asked what would be required to allow the mobile homes to stay there. Mr. McCourt explained that they were asking to have one mobile home on the property for a one-year period during which time they would construct a permanent home on the property. He noted this does not address Commissioner Robertson's concerns regarding the other mobile home and the recreation vehicle out there. Mr. McCourt clarified that Commissioner Robertson recommended that one of the mobile homes and the RV be removed from the property and everything be brought into Code. Commissioner Robertson affirmed this and noted that the septic tank they showed him and Mr. Vandergriff this morning was closer to the well than allowed by Code. He said it is only 50 to 100 feet away from the well and state law requires it be at least 100 feet away. He added that is why he is saying that it all needs to be brought up to Code before we do this because if they build a house they are still out of Code with the well and septic tank.

Commissioner Cooper asked if we would have to rezone. Mr. McCourt replied we would not have to for a permanent residence on this zone. Commissioner Cooper asked what would happen if they decided to build elsewhere during the year. Mr. McCourt replied the permit would expire in one year and the mobile home would have to be moved.

Mayor Carroll asked if there were any prohibitions against storing a mobile home or RV if they were not hooked up to anything. Mr. Kirschner replied this was asked at the Planning and Zoning Commission and their minutes reflect that Ms. Few replied there are no prohibitions. Mayor Carroll said he believes they can have the additional homes as long as they are not inhabited. He said the parties need to make a decision on which home they want the one year permit to occupy. Commissioner Robertson said all three are hooked up currently, and they have other issues that are not in Code. He added that is why he wants to put this off until it could be addressed by Mr. Vandergriff and the parties. Mayor Carroll said that if there is no prohibition against them storing unoccupied units on the property the motion should not require them to move the units they are not living in as long as there is only one hooked up for occupancy and it meets Code. Commissioner Robertson replied he does not think he said remove them, but said they need to bring them up to our Code and regulations. Mayor Carroll clarified this only means the one they are proposing to occupy. Commissioner Robertson agreed. Commissioner Cooper noted there was a shed on the property. Mayor Carroll asked Ms. Aurora Martinez and Ms. Lupe Martinez if they understand the concerns that have been raised. Ms. Aurora Martinez replied affirmatively. She said the other unit was hooked up, but no one has lived there since they received that letter. Mayor Carroll said the Commission may be willing to grant the one year special permit, but that the unit they live in must be brought up to Code. He asked them if they are comfortable with that. Ms. Aurora Martinez replied

affirmatively. Commissioner Cooper questioned if they had a permit to build the shed. Mayor Carroll replied they did not need one to build a shed.

Commissioner Cole moved to approve the special permit. Commissioner Moncada seconded the motion.

Commissioner Cole clarified the motion was exactly as stated in the recommendation on the agenda report.

Commissioner Ledford asked why this was recommended for approval if it so far out of Code. He questioned the procedure for recommending an item for approval. Commissioner Robertson replied that Mr. Vandergriff did not even know anything about this until this morning. He said he knows our inspection department did not look at this until this morning. He added that Mr. Vandergriff told him there is nothing that is in Code out here. Commissioner Ledford said that sounds pretty substantial. He added that he does not want these people to not have a place to live and he guesses that is what that would mean. He said it sounds like a problem and asked why it had gotten here with a recommendation to approve if it is that substantially out of Code. Commissioner Cooper said it was recommended by Planning and Zoning Commission. Commissioner Ledford agreed and said it was recommended 4 to 0. He added that he cannot find anything in here that says this is great, let's do it. He said there are several cites about some problems. Commissioner Robertson replied that most likely no one ever went out and looked at the property before this morning. Mayor Carroll said apparently there has been a breakdown in communication within City Staff. He reviewed the issue and suggested a compromise to approve the request for the temporary permit contingent upon them bringing the trailer up to City Code within an established period of time. Commissioner Ledford asked how long of a period. Mayor Carroll noted they would need a blocking permit and if there is not sufficient space between the septic tank and the well, this would have to be taken care of. Commissioner Ledford questioned the safety of the issue. Mayor Carroll asked if there was anyone here from Code Enforcement. He received a negative response.

Commissioner Moncada asked whose property this was. Ms. Aurora Martinez replied it was her brother's, Julio C. Martinez. Commissioner Moncada asked if he was aware what the City is asking from him or if the property was just in his name and he has nothing else to do with it. Ms. Aurora Martinez replied that he lives in Colorado. She said he came here for a couple days to see if he could figure something out for them. Commissioner Moncada clarified that it is actually her parents property, but it is under her brother's name. Ms. Aurora Martinez replied it is her mom, dad, little brother, and little sister who live on the property. Commissioner Moncada clarified that her parents would be doing the building. Ms. Aurora Martinez replied her brother would be helping them build. She noted that her mom did not even know she was not allowed to have the trailer until she went for a permit to build the porch. She stated that they gave her a permit to build a porch, but not long after that she got the letter saying she could not live there anymore. Commissioner Moncada clarified in Spanish that Ms. Lupe Martinez was issued a permit by the City to build the porch. Ms. Lupe Martinez replied affirmatively in Spanish. Mayor Carroll stated he thinks we have a left hand not talking to the right hand. He suggested we vote the current motion down and table the item for two weeks until the property owners could be informed by Staff of what exactly they need to do within a given timeframe. Commissioner Moncada explained to the Martinez family the procedure of tabling the item for a two week period. Mayor Carroll added that nothing will change for the next two weeks, but they need to work with our City Staff to work out the problems..

Commissioner Cole said he thinks we are creating a hardship on this family. He said the motion could be approved and Staff could work with the parties for the corrections that are necessary. He said he would not withdraw his motion. Commissioner Moncada agreed with Commissioner Cole and said we are going to work with them in essence anyway. Mayor Carroll said there seems to be some confusion regarding how far they are from meeting Code. He stated he does not want to pose any additional hardship for them either, but the matter needs to be looked into further. Commissioner Moncada said we have allowed them to build porches and are looking at giving them a year to bring their property into Code anyway. Mayor Carroll said he does not have enough information and Staff is obviously not in a position to present it to find out why some of these things have happened and why the problem suddenly exists.

Mayor Pro-Tem Griggs noted that the biggest concern he hears is the closeness of the well and septic tank. He noted this could create a health issue for the Martinez family. He added that the only way to take care of this would be to move the septic tank. Commissioner Cole said if we approve this tonight and City Staff says they need to move the septic tank, they can go ahead and work that out. Mayor Carroll said the problem is the motion and second have no conditions on them. He said he would not have a problem approving it if it included that the property owner work with City Staff to address the concerns that have been raised. Commissioner Cole said anything they do they have to get a permit for even if this is approved tonight. Mayor Carroll said we are not talking about a permit to build the house, but concerns about the situation that currently exists which does not meet City Codes.

Commissioner Cole questioned the approval of this item for the agenda. Mr. McCourt noted that the item came out of the Engineering Department and he had approved the item for the agenda.

Mr. Kirschner noted after visiting with Mr. Heberle that it appears to him that we have two separate issues here. He said that we can issue the special permit and they will still have to comply with the Codes. He said as a legal matter they do not have to be tied together. He said we can approve the permit, but we could go in the property and they could be shut down because they do not meet our Code. He added that they need to work with Staff to meet Code so that as soon as they get the permit they do not get kicked out anyway. Mayor Carroll said in that case he is comfortable with the motion that has been made.

The vote was taken on the above motion. All voted "aye." The motion carried by a vote of 7-0-0.

Mayor Carroll explained to the Martinez family that all though they approved the permit they would still have to bring the mobile home into Code or they could be kicked off the property. He asked Ms. Aurora Martinez if she understood. She replied affirmatively.

The meeting was recessed at 8:15 p.m. and reconvened at 8:28 p.m.

7. Consideration of the final plat of **TIERRA DE SUEÑOS, UNIT 7** for thirty (30) lots located within the City of Alamogordo. [Case S-03-0776A]; Camino Real and Cielo Grande]

Recommendation: Approve the final plat with the requested variance on alleys, with the necessary plat corrections and with an Avigation Easement and a two-year Subdivider's Contract.

This item was removed from the Consent Calendar by Mayor Carroll. He noted that there was some concern over water and sewer stub outs. He noted that these concerns have been addressed.

Commissioner Cooper moved to approve the final plat. Commissioner Cole seconded the motion. All voted "aye." The motion carried by a vote of 7-0-0.

8. Consideration of the final plat of **CALLE DE SUENOS SUBDIVISION**, for twenty (20) lots located outside the City of Alamogordo, but within its extra-territorial planning and platting jurisdiction. [Case S-03-0781(A); South Hamilton Road]

Recommendation: Approve the final plat with variances on alleys, block lengths, dedication of public lands, installation of utilities, and construction of streets to City standards, and other conditions.

Mayor Carroll noted that he had removed this item due to concerns. He stated there are some concerns on some of the requested variances. He asked Mr. McCourt to explain. Mr. McCourt explained that there are three concerns on this particular plat. He noted that the street is very long. He noted that the developer has agreed to an extension of the street to the west and the north. He said that on the south side of the subdivision there is an alley that would allow access to those lots if something were to happen to those lots. He said there is not an alley on the north side of the subdivision which is a concern to DPS for access. He then noted that there was concern regarding Hamilton Road being a major arterial road serving this area. He said there was a concern regarding sufficient right of way on Hamilton Road. He stated the third concern was where it is noted Shriners Hospital on the plat, which would be land locked as currently laid out. He noted there has been discussions from the Engineering Department and the representative for the developer. Mr. Dean Hunt, Engineer, noted that he has discussed the issues with the developer. Mr. Klad Zimmerle came forward as well as Mr. Clint Hooser. Mr. McCourt asked Mr. Hunt where they were in their discussions regarding the width of Hamilton Road. Mr. Hunt replied they had not reached an agreement on this yet, but had been discussing it. Mr. Hooser said that an agreement could be reached. He said he thinks the City is asking for 80 feet. Mr. Hunt replied that is correct. Mr. Hooser said they will allow the 80 feet width.

Mr. McCourt said with those issues addressed it would remove all of our concerns. Commissioner Cooper asked if they could use the alley for public access. Mr. Hunt replied they could if it was dedicated to the public. Commissioner Cooper clarified this would keep the Shriners' Hospital from being landlocked. Mr. Hunt said there would be a public access. Mayor Pro-Tem Griggs asked Mr. Zimmerle if the Shriners' Hospital is landlocked now. Mr. Zimmerle replied that the Shriners' Hospital is about 14 acres that was given to them as a contribution. He said it is 1,320 feet long and 440 feet wide. He explained where it runs. He said they own property west of the highway and east of the railroad. He said they were deeded the property subject to the highway easement and the railroad easement. He said at that time a landlocked situation was created. Mayor Pro-Tem Griggs asked if there was any through way through Hobo Acres or anywhere like that. Mr. Zimmerle replied this is a triangle that was severed. Mr. Hooser said they are more than happy to make that a 20 foot public alley easement.

Commissioner Cooper moved to approve the final plat of Calle de Suenos subdivision for twenty lots with the discussed modifications. Commissioner Robertson seconded the motion. All voted "aye." The motion carried by a vote of 7-0-0.

12. Ordinance No. 1177 amending Section 11-05-350 to comply with State Law regarding carrying a concealed handgun.

Recommendation: Approve the ordinance for first publication.

Commissioner Robertson asked to have this item removed. He noted that he is now clear what we are doing and he does not have any problems.

Commissioner Cooper moved to approve Ordinance No. 1177 for first publication. Commissioner Robertson seconded the motion. All voted "aye." The motion carried by a vote of 7-0-0.

14. Ordinance No. 1180 amending Article 7 regarding animal control.

Recommendation: Approve the ordinance for first publication.

Mr. McCourt explained that this ordinance came about because of problems citizens were having regarding the number of animals people were keeping at their residences. He explained that we sent the ordinance to animal control to review and they returned it with their recommendations. He noted that some definitions such as "household" and "vicious animals" were added. He also pointed out that the recommended number of animals per household in the ordinance is five. He reviewed the provisions regarding animals in heat, the ability of animal control to take animals not being cared for into custody, the increased license fee from \$5 to \$6 per year, and other changes proposed.

Mayor Carroll noted that anything having to do with animal control becomes a very emotional issue. He added that the last time we made any meaningful changes to the animal control ordinance we involved the various stakeholders like the Humane Society, Animal Rescue Mission, and pet store owners. He suggested we work with all the concerned parties to include their concerns as well. He asked that Commissioners set up meetings with these stakeholders and address their issues before we turn this into a battle.

Commissioner Cole said he went through a log he keeps of people who contact him. He pulled out the names of people who contacted him regarding animals two times or more. He said the Commission all received copies of letters he has received from three concerned citizens. He said there are people here who want to speak about this issue. He asked that they be allowed to speak their concerns.

Commissioner Robertson said one of the main concerns is the numbers of animals there are at a residence. He said it says the number in the proposed ordinance is suggesting five. However, it defines kennel as any commercial establishment where five or more animals are kept. He said it does say commercial establishment. He said they would like to change it to three from what he understands. Mayor Carroll asked who they was. Commissioner Robertson replied some of the people who have contacted him, but he does not know if they are here tonight.

Commissioner Robertson said he feels for these people because anytime you get five dogs in the same yard you are going to have barking. He said in our animal nuisance prohibition it says any animal that habitually, continuously barks, howls, or otherwise or breaks our nuisance law, but it does not say anything about any penalties and there is no time limit to shut off these noises. He said there is more of this that needs to be addressed. He explained that if people have five or six dogs and are going to bed at 10 o'clock they should not let all five of them out at

one time. He said they will all be barking. He suggested they let them out one at a time because they do not bark quite as much. He said we need nuisance laws that give a time period to let dogs out or to quiet them down during. Mayor Carroll noted that one dog can be a nuisance, it does not take five. He said it becomes more an issue of enforcement.

Mayor Carroll said it would be a whole lot more productive to do this in a different setting other than a Commission meeting. He said the first thing he would ask is why five is the magic number. He explained his thinking. Commissioner Robertson said this was suppose to be investigated by Staff before it got here. Mayor Carroll said he does not want to put Staff on the spot, but he does not know if much dialogue has been done with the various stakeholders.

Ms. Jean Schaeffer, President of the Animal Rescue Mission, said they would like to shelf this at the moment. She said her organization and the Humane Society are in the process of putting together suggestions to address this. She said we already have noise ordinances and health regulations. She said passing an ordinance is one thing, but putting it into effect is something else. She said we have a horrible situation in this area. She said they are working out the cost and everything else involved. She added that we will be staggered when we find out what is going on.

Ms. Linda Rardin, Director for the Humane Society stated they concur with Jean Schaeffer and asked that this be tabled for the time being. She said they have a proposal in the works to present to the City.

Mr. Jim Peterson who moved here 3 ½ years ago said that Mrs. Patrick, a widow who lived near him, said she moved because of the 8 barking dogs that lived near them. He said he thinks this is a real serious problem. He talked to Las Cruces and they limited the number of dogs to two per family. He said it solved a lot of problems.

Mr. Clint Tuthill who moved here 4 years ago said they have been in a situation of barking dogs ever since they moved here. He said it is getting real confusing and it almost makes you want to go out and shoot them. He said you cannot open your windows, cannot sit on your patio, cannot open your doors, and cannot enjoy the life you should be able to enjoy. He said the worst thing is there seems to be no one in authority that can do anything about this. He said he called animal control three times and DPS twice. He said nothing has been done about the situation. He thinks we need somebody in authority to set the laws so that something can be done about it. He thanked the Commission.

Ms. Cheryl Conrad who has lived here for 7 years said her situation has been similar to the others who spoke with noisy dogs and uncooperative and inconsiderate neighbors. She said she does approve of the idea of more discussion before anything is done. She said she researched this on the internet and checked out what other communities are doing. She said she came up with some suggestions. She would like a better definition of the laws, perhaps separating daytime and nighttime barking noise laws. She said zero tolerance is not an issue here, but perhaps it is during the night. She said barking at night can become a health hazard. She said that has been the situation with them for nearly seven years. She passed out her recommendations to the Commission. Ms. Conrad reviewed some other problem issues like loss of home value, people moving, and lack of penalties and fines. She said she would like to be notified of upcoming meetings and would like to hear from Animal Rescue Mission and the Humane Society.

Ms. Teresa Schuster came forward and said she is a friend of animals. She agreed we need to respect the rights of others. She said that one of the gentleman who spoke was speaking about

her regarding the number of animals. She said her neighbor claimed she was moving because she was elderly and could not take care of her yard anymore. She said they were neighbors for almost seven years. She said most of her dogs are rescues from the shelter. She stated that her dogs do not bark after 10 o'clock. She said there are many facets to this discussion. She said today the little girl next door climbs on a high contraption and was barking and snarling at her dogs. She reviewed other concerns. She noted that Commissioner Cole has called her several times. She said animal control has been there a couple times. She reviewed numerous animal control concerns. She added that she wants to respect her neighbors and keep on being responsible.

Mayor Carroll stated that this is an issue that is ongoing. He said there is concerns for the individuals, property rights, enforcement, needs, and costs. He said there is always the difficulty between the aims of local government and the local citizens. We are charged with animal control. He said we would all like to see all of these animals given a good home and cared for the way they should be. He stated that there is an ongoing conflict between elements and the various concerns. He said when it comes up it becomes a very emotional issue on all sides. He stressed the need to get various stakeholders together and see where we need to address our current ordinance.

Mayor Carroll acknowledged Lewis Thompson and the difficult job of the animal control division. He recommended Mr. Thompson and DPS put together a working group of the various stakeholders.

Commissioner Cooper said he has attended a couple of meetings of these groups. He said they are doing a lot of work and they are doing it not only to enhance the responsibility of a good pet owner, but to clear up a lot of things going on regarding animals running the streets. He commended them for their work.

Commissioner Cooper moved to table the item and for Staff to establish a committee to address the problem. Commissioner Cole seconded the motion. All voted "aye." The motion carried by a vote of 7-0-0.

Mr. McCourt asked that the parties give their names to Captain Bird and Animal Control Manager Lewis Thompson so they could set up work session meetings.

19. Appointments to Boards and Committees.

Mayor Carroll reappointed Flori McElderry, Rohit Bhakta, and Bob Evans to the Alamogordo Promotions Board. He also reappointed Kris Styes, James Gallagher, and Floydean Gage to the Public Library Board.

Mayor Carroll appointed Margie Aguayo to the Mayor's Committee on Aging.

All remaining vacancies were rescheduled.

UNSCHEDULED COMMUNICATIONS:

A. Walt Boyle addressed the Commission regarding the City's water rights south of town.

Mr. Walt Boyle came forward stating that he is one of the water right owners south of town that are going to be impacted by the City pumping the two wells at 2 million gallons per day. He said the reason he is here tonight is that they have reviewed all the documents and they do not think

the city owns the water rights to the wells. He said what they want is a fair and impartial hearing with the state engineer and the parties involved as soon as possible. He said this is what he is asking for tonight. Mayor Carroll replied that we do not have any control over the state engineer and what they want to do in regard to any kind of meetings or hearings. He said we obviously have a different opinion about what our water rights are and those will be determined by the state engineer or the legal system as the process develops. Mr. Boyle said they want the documents examined at this public hearing that determines whether the City owns the water rights or not. He added that a lot of people are going to be impacted. Mayor Carroll replied that a public hearing is not the venue used to determine the validity of water rights. He said those are determinations that are made by a court or the state engineer. He added that any public records are available for his purview or anyone else's. Mayor Carroll stated this process is ongoing and we are approaching it as required by the law. Mr. Boyle stated that they feel they have been overrun on this deal. He said the City did not give them a chance to respond. He said he thinks in representative government the citizens have a chance to respond to what the government agencies are going to do. He said they have had no chance. Mayor Carroll replied that as the process moves forward if there is a legal opportunity for input from other water right holders they will be given that opportunity. Mr. Boyle said that is the opportunity he is asking for and he is asking this Commission to try and get that meeting. He said he thinks the Commission could request it. Mayor Carroll replied that at this point we are in a legal situation so he does not believe a public hearing would be in the best interest of the citizens of Alamogordo. Mr. Boyle thanked the Commission for their time.

B. Commissioner Cooper reminded everyone about the upcoming 4th of July parade.

Commissioner Cooper reminded everyone about the upcoming parade and the activities planned for the park. He encouraged everyone to come out for the event.

C. Mayor Pro-Tem Griggs reminded everyone that the first week in June is the Ms. New Mexico pageant.

Mayor Pro-Tem Griggs reminded everyone that the first week in June is the Ms. New Mexico pageant. He said it is always a lot of fun. He added that this year the best Ms. New Mexico we have ever had gives up her crown. He noted that she is Erin Griggs, Ms. Alamogordo and is his daughter.

D. Mr. McCourt gave the water report, noted an upcoming absence, and scheduled a special session for the Commission to discuss health insurance.

Mr. McCourt informed the Commission that he had passed out the water report to them. He said the reservoirs have dropped since the last report by a couple percent despite the fact that we have the Bonito line on and flowing at the heaviest level in probably ten to twenty years. He said our citizens have continued to conserve water. He stated that every month and through May 27th this year our citizens have used less water this year than last year. He said this is a very positive item where our citizens are being very conscientious of conservation. He said we are attempting to use our available resources in the best manner possible.

Mr. McCourt informed everyone that there is a meeting in Santa Fe next Saturday (June 7, 2003) for New Mexico Municipal League. It is an executive board meeting.

E. Mayor Carroll noted he will attend the Municipal League meeting, did attend a recent meeting regarding SW Defense Alliance and ARMS, thanked Mr. Kirschner for his service and noted this was his last meeting as City Attorney.

Mayor Carroll noted he will be attending that same meeting as Mr. McCourt just mentioned. He stated that he had mentioned at the last meeting and did attend the quarterly meeting of the Southwest Defense Alliance that was held in El Paso recently. He said he had a joint meeting the day before with the members from the Alliance for Regional Military Support committee. He said he thinks it was very beneficial. He believes the people from the ARMS committee are interested in partnering with the Southwest Defense Alliance in helping to promote the capabilities of the ranges and bases in the southwest part of the United States. He said we will continue to work with that group to promote and do all that we can to bring continued missions to Holloman, Ft. Bliss, and White Sands.

Mayor Carroll noted that tonight is Mr. Kirschner's last meeting with us as City Attorney. He thanked him and wished him well. Mayor Carroll welcomed Ken McDaniel, the new City Attorney.

Mr. McCourt asked the Commission to schedule a special meeting regarding health insurance for City employees. He said our current carrier proposed a 25% increase in premiums. The special meeting was scheduled for Thursday of this week at 9 a.m. solely for this purpose at City Hall.

EXECUTIVE SESSION: Adjourn into Executive Session to discuss acquisition of water rights and limited personnel matters.

Commissioner Cooper moved to adjourn into Executive Session. Commissioner Robertson seconded the motion.

Commissioner Cole expressed his concerns regarding the number of executive sessions the Commission has had.

All voted "aye." The motion carried by a roll call vote of 7-0-0.

The Governing Body of the City of Alamogordo, New Mexico, hereby states that its regularly scheduled meeting of May 27, 2003 was adjourned into executive session and items discussed in the closed meeting were limited only to those specified in the motion for closure.

The meeting was adjourned at 9:18 p.m.

Mayor Donald E. Carroll

ATTEST:

Chief Deputy Clerk Betsy C. Kidwell
(SEAL)

(Prepared by Chief Deputy Clerk Betsy C. Kidwell)
Approved at the City Commission Regular Meeting of June 10, 2003