

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
MUNICIPAL BUILDING, 1376 E. NINTH STREET
7:30 P.M., COMMISSION CHAMBERS
MAY 11, 2004**

**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 KEN McDANIEL
CITY CLERK ANGIE RAHN-BROYLES**

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

The Meeting was called to order at 7:30 p.m. The Reverend Fred MacDonald gave the Invocation, the Junior Air Force ROTC from the Alamogordo High School posted the Colors, and Mayor Pro-Tem Griggs led the Pledge of Allegiance.

Call of the Consent Calendar:

Items Nos. 1, 3, 5, 6, and 7 were on the Consent Calendar. None was removed from the Consent Calendar.

1. Minutes of Regular Meetings of April 27, 2004.

Recommendation: Approve the minutes.

3. Professional services contract with New Mexico School for the Visually Handicapped for security and safety services at the school relating to the School Resource Program.

Recommendation: Approve the contract.

5. Investment Report for the quarter ended March 31, 2004.

No recommendation:

6. Consideration of a "Resident Parking Only" Sign for 403 Utah Avenue requested by Norma L. Miller.

Recommendation: Approve the installation of the sign because it is within 500 feet of the Alamogordo High School.

7. Award of RFP/CPM No. 2004-002 Consulting services to conduct an Environmental Study for the extension of Runway 3-21 for the Alamogordo-White Sands Regional Airport.

Recommendation: Award to Labat-Anderson.

Commissioner Cooper moved to approve the Consent Calendar including Item Numbers 1, 3, 5, 6, and 7. Commissioner Robertson seconded the motion. All voted "aye." Motion carried by a vote of 7-0-0.

PLANNING ITEMS:

2. Consideration of Ordinance No. 1193 for rezoning to District "D" (Business) requested by Lisa K. Durrett [Case Z-03-0626(A), 2402-2412 Cornell Avenue].

Recommendation: Approve to change the zoning of subject property to the more restrictive classification of District "C", and approve the Ordinance for final publication. [Roll call vote required] [Tabled from Meeting of 12/18/03]

Ms. Lisa Durrett stated that she was requesting a "D" zoning to build a single-story business and it would be rented out for special events. Ms. Durrett passed out a map showing the protest area, and pointed out that several property owners were not protesting the rezoning. They were: Dorothy Dunn and Evenette Prewitt, Realtors; Norm Arnold, Chairman from Gerald Champion Regional Medical Hospital; David Gottula from Texas/New Mexico Power; and Roger and Barbara Simmons, Realtors.

Ms. Durrett stated that many did not understand that the City planned on opening 25th Street and connecting it to Scenic. She explained that the entire hospital area would be developed into a "D" zone and Cornell was to be widened and improved between 24th and 25th Street. She added that there would be an increase in traffic whether or not they built.

Ms. Durrett said their purpose in mind was justified by requesting a "D" zoning; however, she would be willing to discuss a compromise. She said they would not be planning to build until 25th Street opened through and the streets were improved.

Commissioner Robertson asked if they had considered everything before recommending a "C" zoning. Ms. Few replied that they had considered everything, and they recommended "C" zoning because the land around the Durrett's property was zoned for "C". Also, the property was physically divided from an adjacent "D" zoning by a major drainage channel.

Commissioner Moncada asked for clarification on "C" and "D" zoning. Ms. Few replied that "C" zoning was a multi-family zoning, which allowed any use in a single family district, including churches, schools, golf courses, fire station, duplexes, medical services, and home occupation. The "D" zoning was general retail business, which included everything listed in "C", in addition to barbers, hair salon, florists, showrooms, undertakers, theaters, and car lots.

Commissioner Ledford questioned if the traffic congestion would be the same if they had access to the "D" property to the east. Ms. Few replied there was no access to the east at the present time. Commissioner Ledford asked if that would be the case when 25th Street was completed. Ms. Few replied that it would.

Commissioner Ledford asked if the petitioner could zone for "C" and later file paperwork for "D" zoning. Ms. Few replied that the property owner could file an application for rezoning at any time.

Commissioner Cole said he thought after the meeting they attended at the Library that "C" zoning was agreed upon. Commissioner Ledford replied that not everyone agreed to a "C" zoning.

Mayor Carroll asked Ms. Durrett if she would agree to a conditional "D" zoning restricted to the uses allowed in "C" zoning, allowing a meeting center, and in addition, a further restriction that if the meeting center were to be constructed, that off-street parking would be provided for the facility. Ms. Durrett replied she was not familiar with the term "off-street" parking. Mayor Carroll explained that it meant that there would be no parking in the street. Ms. Durrett said she agreed.

Ms. Rocina Jarzomkowske commented that she represented the property at 2400 Tulane Avenue and she would try to answer some questions as to why the residents were against the zoning change. She said when residents first received their notification of the rezoning, she had contacted the City Planner

to find out what type of business would occupy that location. Based on what she was told, a decision was made to protest the change and to secure the residential area.

Ms. Jarzomkowske said she conducted the basic research concerning the notifications sent to the residents within a 200 square foot area and found that two residents were not included on the City's protest area list; they were from Block 409, Lots 5 and 6. She contacted those residents to verify that they had not received their certified letters and they were not aware of the zoning change. She contacted the City Planner to find out what the procedures were. Ms. Jarzomkowske stated that the City Planner had told her she was mistaken, that all the letters were sent out, a public notice was published and the City was not required to send additional letters. After a brief discussion with the City Planner, Ms. Jarzomkowske said she was told that she would be contacted concerning the two residents; however, she was never called back. She then contacted the City Manager and was told that they would send out the two letters certified; however, the residents had not yet received those letters.

Ms. Jarzomkowske pointed out that on December 30, 2003, they had thirteen additional residents sign the protest petition. The two residents who did not receive a letter had also signed the protest petition. They had 24 residents total on the protest petition. She explained that there had been a non-action meeting on March 25, 2004 and at that time there was no positive outcome. There was another meeting on April 22, 2004 and those in attendance were: 13 residents, two Commissioners, two City employees, the petitioner and her spouse, and a representative of Gerald Champion Regional Memorial Hospital and his spouse. She said the petitioner said it would be a meeting center; however, there were no business plans or blueprints prepared for the meeting center.

Ms. Jarzomkowske said the concerns of the residents had to do with sewer problems. They felt if the meeting center hosted a large gathering it would contribute to an additional sewer problem of an existing unsolved issue. She said a resident had asked Ms. Durrett what size the building would be and what parking ratio would be established, and Ms. Durrett did not know. She mentioned safety was an issue for the residents and the neighborhood because Cornell Avenue was not developed for commercial use and was extremely narrow and an increase of traffic would create potential hazards. She also mentioned that alcohol was another major concern. Ms. Jarzomkowske said they were not agreeing to "C" or "D" zoning because the building could be sold and another business would take its place.

Mayor Carroll pointed out that alcohol had nothing to do with the zoning and anyone could apply for a liquor license.

Mr. McGuire commented on the sewer issue. He pointed out that a new sewer line had been added that carried the sewer away from the hospital.

An unidentified citizen said they had rights and they respected Ms. Durrett's rights; however, their property values would go down.

Mr. Enrique Telles stated that his property had flooded twice and the only improvement the City had made was to the corner sidewalk, making it accessible for the handicapped. He said they already had heavy traffic and did not want the zoning change.

Mr. Tom Armstrong from 2500 Tulane said the sewer problem was not straightened out and the alcohol issue was a problem; they did not want to endanger the safety of their children.

Ms. I. Webb said the sewer problem had not been corrected and the City was back every week pumping out the sewer line. She said they understood Ms. Durrett's request; however, they had a nice safe neighborhood and wanted to keep it that way.

An unidentified citizen living at 2207 Nevada stated that her house would be directly behind the building that would be built and did not need any additional noise or intoxicated people in her yard.

Mayor Carroll commented on the conflict of sewer issues between the residents and the Community Development Department. Mr. McGuire said the hospital sewer line was not the issue, they had recognized there were sewer issues in that area; however, the residents were implying that it was the hospital sewage that was the problem.

Commissioner Ledford asked what the sewer demand would be if the land were developed as residential rather than as a meeting center. He wondered whether there would be more sewer demands if residential units were built. Mr. McCourt said he wanted to clarify that the hospital was not using the sewer lines. He explained that the sewer lines in that area were flat so they would flow slowly. In addition, they were old concrete lines and the build-up of acid in the lines caused them to collapse. He stated that the sewer lines were relatively a bad design and he was aware of the problem.

Commissioner Ledford questioned why they were allowing construction of the sewer lines were bad. Mr. McGuire replied that they could not deny people permits to build buildings.

Commissioner Robertson asked Captain Jim Bird if people could bring their own liquor to the meeting center. Capt Bird replied they could, but they would need a permit.

Commissioner Ledford commented that when he left the meeting, the residents were concerned with liquor being served. Ms. Jarzomkowske replied that liquor was a concern.

Ms. Nicole McKinley from 2504 Tulane commented that if she had alcohol at her house it would be controlled, but with a business, there would be no alcohol control.

Mr. Ron Reyes commented that he wanted to keep his neighborhood in its present condition.

Mayor Pro-Tem Griggs stated that once 25th Street tied into the hospital, traffic would be more of an issue. He said it was a difficult call when balancing the rights of landowners and property developers. He supported the Mayor's suggestion with the restriction.

Commissioner Ledford stated that he did not know if he could support "D" with restrictions and asked what percentage of protests was needed. Ms. Few replied that if 20% of the residents protested, four votes would be needed to approve or override the recommendations of the Planning and Zoning Committee. Mayor Carroll pointed out that the Commission was aware of the other residents who had protested, in addition to the 19.5% legal protestors.

Mayor Carroll suggested to Ms. Durrett a conditional "D" zoning limited to the uses allowed in "C", in addition to the ability to build a meeting center. He stated that he would support a straight "C" zoning and explained why.

Ms. Dorothy Haberkorn asked what would happen if the property were sold. Mayor Carroll replied that it would not change the restriction, the restriction would stay with the land.

Mr. Richard McKinley commented that if they gave Ms. Durrett "C" zoning, next week she would ask for "D" zoning. Mayor Carroll stated that any property owner, at any time, could request a zoning

ordinance change. Mr. McKinley stated that he had a young daughter and asked the Commission to take into consideration that there would be a lot of drinking going on and there would be safety issues involved.

Ms. Lois Schmidt commented that they had no intention of selling their home, and she invited the Commission to stay in her home for a couple of weeks to see what kind of neighborhood it was before making a decision on the zoning change.

Commissioner Robertson moved to approve a conditional "D" zoning, limited to those uses allowed in "C" zoning, plus a meeting center, and if the meeting center were to be constructed, sufficient off-street parking would be provided for the facility. Mayor Pro-Tem Griggs seconded the motion. Motion failed by a vote of 2-5-0. Mayor Carroll, Commissioner Moncada, Commissioner Cooper, Commissioner Cole, and Commissioner Ledford voted "nay".

Mayor Carroll asked Ms. Durrett if she would accept "C" zoning. Ms. Durrett replied that she would. Mayor Carroll asked for a motion. No motion was made. Mayor Carroll stated that the zoning would remain as "A" zoning.

The Commission recessed at 9:00 p.m. and reconvened at 9:14 p.m.

Mayor Carroll stated that after consulting with the City Attorney, the Commission needed to revisit Item No. 2 concerning the motion.

Commissioner Cole made a motion to deny the zoning request in its totality. Commissioner Cooper seconded the motion. Motion carried by a vote of 5-2-0. Mayor Pro-Tem Griggs and Commissioner Robertson voted "nay".

ORDINANCES AND RESOLUTIONS:

4. Ordinance No. 1209 amending the delayed repeal of a Municipal Infrastructure Gross Receipts Tax.

Recommendation: Approve the Ordinance for first publication.

Commissioner Cole moved to approve Ordinance No. 1209 for first publication. Commissioner Cooper seconded the motion. All voted "aye." Motion carried by a vote of 7-0-0.

OTHER BUSINESS:

8. Appointments to Boards and Committees.

Mayor Carroll reappointed Mr. Mark Santiago and Ms. Molly Bugaj to the Promotion Board.

UNSCHEDULED COMMUNICATIONS:

A. Mr. Klad Zimmerle commented on a resolution recently passed that charged individual homebuyers a \$125.00 fee for an elevation certificate. He said this fee was hurting the first-time homebuyers and requested that the City lower the fee.

Mayor Carroll asked if the elevation certificates carried over to new owners. Mr. Zimmerle replied that most insurance companies would not accept the old certificates and required new ones.

Mr. McCourt stated that the fees developed were on a cost basis and the individual homebuyer should be paying that fee, not the community. Mr. McGuire explained that \$90.00 an hour was based on the engineer's time, also added was the one hour of clerical time, along with filing and certifying the paperwork.

Ms. Kathy Holloway, a loan officer, commented that the flood area was located in the downtown area and first-time homeowners could not afford the \$125.00 fee along with other fees that they had to pay.

Ms. Cindy Boylan from Exit Realty said the cost for elevation certificates went from being free to \$125.00. She questioned why the fee of \$125.00 had to be paid every time a house was sold if the paperwork was already completed and on file at City Hall. She pointed out that an incident had taken place where she sent a client to City Hall to pick up paperwork already completed and an employee told her she could not even see the paperwork without paying the fee first. Mayor Carroll replied that it must have been a misunderstanding and they would look into reducing the fee.

B. Mayor Pro-Tem Ron Griggs requested that the agenda have its own page on the web site, as did the minutes. Also, he requested that the agenda reports be added to the web site.

C. Commissioner Moncada questioned why the decorative lights on New York Avenue were on all the time because she thought those lights were to be used only for special events. She questioned whether the merchants or the City paid for the electricity. Mr. McCourt replied that the City paid for the electricity and he would look into it.

D. Comments by Mr. Pat McCourt:

1. He commented on the water situation and said the water situation was doing well. The reservoirs were at 92% and the Bonito Lake flows were up. Commissioner Cole asked if there was water going over the spillway. Mr. McCourt replied that it was and they were working on it.

2. He mentioned that he would be out of the office Thursday afternoon and Friday to attend his daughter's college graduation ceremony and Mr. Matt McNeile would be in charge on those days.

3. He mentioned that Gus Macker would be in the City this weekend.

E. Comments by Mayor Don Carroll:

1. He thanked the City employees who worked on the dedication at Founder's Park on Mother's Day.

2. He requested that the flags be flown all day at half-staff on Memorial Day.

Commissioner Cooper made a motion to adjourn into executive session to discuss threatened or pending litigation, and purchase, acquisition or disposal of real property or water rights. Commissioner Robertson seconded the motion. All voted "aye." The motion carried by a vote of 7-0-0.

Meeting adjourned at 9:47 p.m.

"The Governing Body of the City of Alamogordo, New Mexico, hereby states that its regularly scheduled meeting of May 11, 2004 was called into executive session and the matters discussed in the closed meeting were limited only to those specified in the motion for closure."

/s/Donald E. Carroll

Mayor Donald E. Carroll

ATTEST:

/s/Angie J. Rahn-Broyles

City Clerk Angie J. Rahn-Broyles
(SEAL)

(Prepared by Deputy City Clerk Karen H. Groves)

Approved at the City Commission Regular Meeting of May 25, 2004