

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
MUNICIPAL BUILDING, 1376 E. NINTH STREET
7:30 P.M., COMMISSION CHAMBERS
JULY 13, 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. City Manager Pat McCourt was absent, Assistant City Manager Matt McNeile was present. The Invocation was given by Deacon Marion Wilson, the Posting of the Colors was provided by the Alamogordo High School Air Force Junior ROTC, and the Pledge of Allegiance was led by Commissioner Robertson.

PRESENTATIONS

1. Presentation by Mrs. Janet Keyser regarding the Airport Blocks area.

Mrs. Keyser thanked the Commissioners, staff, media, and friends for being at the meeting this evening. Her purpose for being there was to try to find a way to improve the area known as Airport Blocks. How do we get service in the area from the City? We have stray animals, litter, weeds, abandoned lots and homes. She walks every morning and has to walk with a stick because she has dogs chasing her through the neighborhood. It seems like we could have a little better coverage by Animal Control. We have litter everywhere; we have weeds in and around lots in our area; abandoned homes and lived in homes; and along the streets and in the ditches. It is really sad because we have a nice neighborhood and good people that live in our area. She called about an abandoned home down the street from her in February of this year and to this day, that place is still there. Her concern is the doors and windows are out of the house so it is a haven for kids or it could be a fire hazard to the neighbors and most of the residents live in mobile homes out there and it would be a disaster. How do we get things done. She knows it has to go to the court but can't we speed up the system or work with them to get a better move on that. It is a real fire danger. She inquired also about the gas easement in the area. It is in front of her house and beside her house. She inquired about it three years ago and they said they would check back with me. We checked with the gas company and with the city. The city said it wasn't their responsibility and the gas company said it wasn't their responsibility. They said they would have the engineers check into it and this was three years ago and I have heard nothing. My husband maintains the area in front of us and beside us otherwise it would look like abandoned lots also. Something needs to be addressed on this to see if we can do something. If we clean those areas up, it will make our whole area look better.

She would also like to know if it is legal to park cars and trailers along the streets and leave them there and it's right along the highway. If you run off the edge of the road, you would hit this car or this trailer that is there on a permanent basis. If you go down Walker Road, you can't miss it. She doesn't know if that's legal or illegal. She does not know where to go to get the answers but we need to address these things because someone is going to get hurt. We have children in our area plus there are a lot of older people that live out there too. It is a concern of

hers because she likes her neighborhood and she likes where she lives. What can we do? This question is asked by the residents of the elected officials who represent us. How can we address these issues? If we have codes, why can't we enforce them, set an example? Can't someone organize a cleanup or a clean sweep of our areas? She is sure hers is not the only area that needs this kind of help either. What about Boy Scouts, 4H, or other organizations who get involved in community activities. Could they sponsor a cleanup starting in the housing area. She knows we go out and clean up along the highways but maybe if we started in a housing area somewhere and got people to clean up. When they come outside and see that their area is clean, it might be a lesson not to pitch it out along the highway if we could motivate people somehow. She doesn't know what we need to do but we surely need to do something. In the schools, maybe we could have assemblies on cleaning up. Get kids involved in cleaning up the area where they live and she believes that if we get kids involved when they're young, they'll be non-littering adults. If you get kids to clean up when they're little, they won't be litterbugs when they grow up. They live by example, but if we set the example now, maybe down the road we will be able to have a clean city.

This is a great city and we need to show it, not by our laws but how we live. Clean, decent homes of people proud of where they live. I know we can do it. I solicit any help you can give. Please don't let this be an old and forgotten issue. Get us all involved and do yourselves proud and we will be very grateful.

Commissioner Cooper made the suggestion that Ms. Keyser contact Susan Flores with the City of Alamogordo who manages the department called Keeping Alamogordo Beautiful and provided Susan's phone number of 439-4250. Commissioner Cooper encouraged Ms. Keyser to call Ms. Flores who will be happy to work with her. Commissioner Cooper continued regarding the automobiles, contact Chief of Police Sam Trujillo, and if she has any legal questions, contact the City Attorney.

Ms. Keyser stated okay, if she has some direction on who to contact, she will pursue that route, but you can only move people as far as they want to go. Commissioner Cooper responded that she might be surprised what these individuals can and do accomplish.

Mayor Carroll stated that the Commission will ask staff to look into the issues Ms. Keyser has raised that can be addressed. As Commissioner Cooper said, we have a group that is addressing some of the things that you have talked about and maybe they can concentrate a little more on your area. Commissioner Cooper indicated that if Ms. Keyser joins forces with Susan Flores and has some of the residents out there work with her and the volunteers, you can get a lot done.

CALL OF THE CONSENT CALENDAR:

Mayor Carroll stated that items 4A and 4B have been withdrawn from the Agenda.

2. Minutes of the Regular Meeting of June 22, 2004, and Special Meetings of June 9 and 24, 2004.

Recommendation: Approve the minutes.

3. Consideration of the final plat of SLEEPY MOUNTAIN SUBDIVISION for twelve (12) lots located outside the City of Alamogordo, but within its extra-territorial planning and platting jurisdiction, for Jim Turner [Case S-04-0820(A), Fire Street at S. Scenic Drive].

Recommendation: Approve the final plat of SLEEPY MOUNTAIN SUBDIVISION, Case S-04-0820(A), located outside the City of Alamogordo, but within its extra-territorial planning and platting jurisdiction, with variances on the construction and installation of alleys, on the installation of utilities (water and sewer), on the construction of streets to City standards (curb, gutter, and sidewalk), and on the dedication of public land, and with a Waiver of Protest Agreement and required plat corrections.

4. C) Car Rental Services Lease Agreement with The Hertz Corporation for terminal space and ten (10) parking spaces at the Airport.

Recommendation: Approve the Agreement.

5. Lease Agreement with David and Vicki Winberg for use of an alley located between and parallel to Madison Avenue and Monroe Avenue, and extending south from Eleventh Street to a second alley parallel to and between Tenth and Eleventh Streets.

Recommendation: Approve the Agreement.

6. Franchise Agreement with Choice Waste Collection for non-residential solid waste disposal services.

Recommendation: Approve the Franchise Agreement.

7. Ordinance No. 1205 amending Chapter 2-03 of the Code of Ordinances relating to the Personnel Manual.

Recommendation: Approve the Ordinance for final adoption.

10. Resolution No. 2004-35 declaring the City's intent to reimburse itself for capital expenditures incurred on the Emergency Sewer Line Replacement Project.

Recommendation: Approve the Resolution.

11. Report on residential garbage charges on Mrs. Millicent Shyne's commercial property.

Recommendation: Refund Mrs. Shyne a total of \$1,911.85.

12. RFP No. 2004-007, Independent Contractor Services/Alamogordo Department of Public Safety.

Recommendation: Award to Michael R. Mirabal for an annual amount of \$38,568.00, and approve the Contractor Services Agreement.

Commissioner Cooper moved to accept items 2, 3, 4C, 5, 6, 7, 10, 11, and 12. Seconded by Commissioner Robertson. All voted "aye". The motion carried by a roll call vote of 7-0-0.

ORDINANCES AND RESOLUTIONS:

8. Ordinance No. 1212 authorizing the issuance and sale of the Gross Receipts Tax Refunding and Improvement Revenue Bonds, Series 2004, in an aggregate principal amount of \$5,355,000 for the purposes of defraying the cost of (1) flood control projects, public buildings, open space, public parks and recreational facilities and (2) refinancing the outstanding Gross Receipts Tax Revenue Bonds, Series 1996.

Recommendation: Approve the Ordinance for final adoption.

Mayor Carroll asked Mr. Kevin Powers from Dain Rauscher, our bond underwriters, to provide some information about the final numbers from the sale of the bonds.

Mr. Powers stated also in the audience is Lisa Fenner from Dain Rauscher and Duane Brown with the Modrall Law Firm. Duane will walk you through the legal proceeding after we talk about the financial results. Mr. Powers continued that he had previously spoken to most of the commissioners at the Fire Station meeting about the proposed refinancing and new money transaction. At the time, we were looking at something in the neighborhood of \$3.5 to \$3.6M of new money. After that meeting, we went back and did some fine tuning and were able to get that new money amount up to \$3.75M, given the market conditions at the time and the constraints of not increasing the total debt service in any given year over the debt service that was being paid currently on the 1996 and the 2002 bonds. Since June 9, we have had some very good news in that the bond market has actually improved and interest rates have dropped. In fact yesterday, when we put the bonds in the marketplace, we were able to attract interest rates that were roughly $\frac{1}{4}$ of a percent lower than what we thought we would be looking at back on June 9. That resulted in some additional proceeds being delivered given those constraints and now we are actually up to new money of \$3.8M, so another \$52,000 over that \$3.75M. That is all done within the constraints of the current debt service levels. I have a handout that we have prepared for you and p. 3 is a history of interest rates as depicted in the graph. The highlighted area on the end is the last 12 months and we've had some roller coaster interest rates. When you look at this in the big picture over the last 10 years, we are still at the very bottom of the interest rate cycle and were actually fortunate that we were selling into a rally. A rally of the bond market means that interest rates are actually dropping. Not only were rates favorable yesterday but people were in a buying mood because they saw rates dropping and were afraid that if they didn't get in now, they might miss the opportunity. As it turns out today, the rates turned back up a little bit on some trade deficit intervention.

Commissioner Ledford asked what the interest rates are right now. Mr. Powers directs the Commission to p. 5, and stated that the benchmark number that everybody zeroes in on today in the bond markets is the 10 year treasury yield. Yesterday when we priced, it was a 4.45. Today, he believe it was up to about a 4.48, so it slipped a little bit. Again, he believes that rates were higher. Actually, we cut the trade deficit, so I'm not sure why that drove rates up. The good news is that we were in the market yesterday when rates were very good and the tone was positive and people were in a buying mood and the bonds were well received. On p. 6 of the handout, we have a summary of the 2004 bond issue. The size of the bond issue was actually \$5.4M. We were able to transfer the money from that prior issue debt service reserve fund. We can issue these bonds without a reserve fund, unlike 1996. We can then provide the money needed to refund and restructure the 1996 bonds and have \$3,803,824 in proceeds to spend on new projects. The interest cost to zero in on is the 4.39, that is like an APR rate. That includes all your cost of issuance, that's what your true cost of borrowing this money is: 4.39%. Compared to June 9, that APR rate was 4.63% so we've had a drop in that rate and that's what allowed us to generate more proceeds. The refunding is also a piece of good news. The savings from refinancing is \$61, 287 on a present value number and on a percentage basis, that

is 3.38%. Back in June, that number was down at \$55,500 and 3%. The benchmark for these kinds of transactions is 3% so we beat the benchmark so certainly this is a good piece of news.

Mr. Powers continued with p. 7 by informing the Commission that it outlines the pricing process they went through. They had a tremendous amount of interest with nearly half of this bond issue being sold in the State of New Mexico to individual and institutional investors. It was sold to some institutional individual investors here in the City of Alamogordo and Otero County, so the bond issue for the most part stayed home and I think that's a good sign. It was well received in the state and well received in the market and we were able to place the bonds in good order and commit to an underwriting yesterday afternoon. Pages 8 and 9 are simple spreadsheets that show the interest rates at which the bonds were sold, the prices for which they were sold. Page 9 is actually the refinancing cash flow savings report. Page 10 is a comparable list of bonds that were sold yesterday in the marketplace. They compare to the City of Alamogordo's bond issue. There were no New Mexico bonds sold which may account for some of the strong demand for the bonds in the state. A couple of school district bonds and a revenue bond from Calhoun County, Texas, were the bond issues we used to compare with the City of Alamogordo's bond issue. The City of Alamogordo's bonds were at or below the comparable bond issues.

These bonds will be callable in 2014, so the city can restructure and refinance again if you should so desire. In order to sell the bonds, it was necessary to obtain a rating from Moody's Investor Service (Tab A of handout). A recap of the rating from Moody's is shown in this section. Moody's rated the bonds A3 which is the same rating the city had on the 2002 bonds. In addition to the Moody's rating, we obtained a municipal bond insurance commitment from Ambac Assurance Corp. and that increased the rating to AAA making the bonds that much more attractive in the marketplace and lowering the interest cost. Under Tab B we have a detail of the numbers.

Commissioner Cooper commended Kevin Powers and his people on the job they did on the bond issue. He further stated his reluctance is with the fact that this bond issue is primarily for open spaces, public parks, and recreational facilities. Commissioner Cooper went on to say he knows this is related to quality of life issues; however, there is everything else that is built into quality of life such as the streets and the upkeep of the city by maintaining the personnel necessary to provide the services to the public. Commissioner Cooper continued that this bond issue is top heavy on recreational rather than addressing some of the other issues. Mayor Carroll responded that some of the other issues that Commissioner Cooper mentioned have alternative funding sources to address those issues. Mayor Carroll continued that he thought the Commission agreed to the use of the bond issue for quality of life issues in the last two meetings. The reason for the open-ended language in the bond ordinance was to give us the maximum amount of flexibility within those types of projects to allow us to address what our other needs might be in the community. At this point, the bonds have been sold. The Commission, by their action at the previous meeting and at the meeting where Mr. Powers made the presentation about the bond market. Everyone understood that we were committed to issue these bonds for the general purposes that were outlined. Part of it is flood control, but even under the areas that were mentioned, there is a wide latitude available to us. Mayor Carroll explained that Commissioner Cooper is correct that most of those items would fall under what would typically be referred to as quality of life type items but that was a decision the Commission made with the last bond issue and with this one, that this is probably our only mechanism to address some of those needs within the community while the other needs have other funding mechanisms to address them.

Commissioner Cooper stated he fully understands this, but he still has deep reservations about all these open-ended bond ordinances, because as he stated before, when the other bonds were rolled over, he equated that to a boy walking down a dirt road kicking a can. Sooner or later he's going to kick that can so far out of sight, he will never catch up to it. Commissioner Cooper stated he is afraid that might happen if we keep extending the bonds and rolling them over. Commissioner Cooper asked if this bond issue will take us into 2019. Mr. Powers responded these bonds go out to 2019 but keep in mind, there are two parts to this financing. The bonds that were done in 2002 and these, and keep in mind, there were bonds done in 1994 and 1996 so the 2002 bonds mature in 2017 and are refinaneable in 2012. Mr. Powers continued that there is still some flexibility built into this program so that you are not tied up clear out to 2019 to the extent that you have growth and the tax base, and the Gross Receipts Tax revenue grows, there will be additional bonding capacity that could be utilized in this program. Commissioner Cooper stated the Gross Receipts Tax are related to vulnerability because if our Gross Receipts Tax drops off, it is quite possible that we could not refinance some of these bonds. Mr. Powers responded that the program has flexibility. There is flexibility to deal with increases in Gross Receipts Tax collections or decreases.

Mayor Carroll explained that while we are pledging Gross Receipts Tax to the payment of these bonds and we are anticipating over time that the Gross Receipts Tax revenues will increase. The debt service will stay essentially the same and we have not committed 100% of our Gross Receipts Tax to the payment of these bonds so even in the event that Gross Receipts Taxes would decline, which is not the history over time of economic growth within a community, we are still protected and still have additional Gross Receipts Tax income to allow us to address other issues besides paying off these bonds.

Commissioner Cooper stated he has never been a great proponent of rolling bonds over, he would prefer to see them retired and spend some of the interest that we pay on the bonds. However, he will not stand in the way.

Mayor Carroll stated that since this is a bond issue, we will ask Duane Brown to give some expert guidance because there are some legal formalities that we need to address and certain statements that need to be made in reference to the adoption of the ordinance.

Duane Brown thanks Mayor Carroll and indicates that what has been handed out is a copy of the final ordinance that has very minor completions in it from the version that was handed out in the Agenda packet. What this handout does is fill in the interest rate and maturity schedule and the other details relating to the actual pricing of the bonds that Kevin Powers described. Other than that the ordinance is the same as what you have been looking at over the last few weeks with respect to this transaction. We do have two things with regard to formalities adopting the ordinances as the Mayor described. The first one is a motion to temporarily suspend rules and regulations that might prohibit the adoption of the ordinance at this time by the City Commission and that is the first item that we need a motion and a vote on and then the second item would be a motion and a vote to formally adopt the bond ordinance itself, so this is a two-part action.

Commissioner Cole introduces Ordinance No. 1212 in its final form and moves to temporarily suspend any and all rules and regulations of the Commission which might prohibit the immediate adoption to passage of said ordinance. Seconded by Mayor Pro Tem Griggs. All voted "aye". The motion carried by a roll call vote of 7-0-0.

Mayor Carroll stated that a motion to adopt Ordinance No. 1212 was in order.

Mayor Pro Tem Griggs moves for the adoption of Ordinance No. 1212. Seconded by Commissioner Moncada. All voted "aye". The motion carried by a roll call vote of 7-0-0.

Mayor Carroll confirms that Ordinance No. 1212 has been adopted and thanks Kevin Powers, Lisa Fenner, and Duane Brown for all their efforts.

9. Ordinance No. 1214 amending Section 4-02-020 of the Code of Ordinances permitting a maximum of two members on the Airport Advisory Board to reside outside the City Limits.

Recommendation: Approve the Ordinance for first publication.

Mayor Carroll explained that this item came up because one of the members of the Airport Board moved out of the City of Alamogordo and did not realize that he could no longer serve on the Board. This requirement is not unique to this particular committee. There are other committees where we have changed the ordinance to allow people that may not reside within the city limits but reside nearby and have expertise they can lend to the group. Mayor Carroll recommends approval of the change in the ordinance. Commissioner Robertson inquired if we did this last year for the Airport Board. Mayor Carroll responded no, it was another board that the Commission made a similar change to the ordinance because of the difficulty of attracting enough qualified interested people from within the city. Commissioner Cole stated he had no problem with the request, but asked if the Mayor will still appoint the two members that will be residing outside the city limits. Mayor Carroll responded that the appointment process will remain the same and he will appoint them with the concurrence of the majority of the City Commission.

Commissioner Cole moved to approve for first publication, Ordinance No. 1214 amending Section 4-02-020 permitting a maximum of two members on the Airport Advisory Board to reside outside the City limits. Seconded by Commissioner Robertson. All voted "aye". The motion carried by a vote of 7-0-0.

13. Notification of vacancies on Boards and Committees.

Mayor Carroll indicated that we have a vacancy on the Disabilities Council, the RSVP Advisory Council, and the Mayor's Committee on Aging. If anyone knows of anyone who would be interested in serving on any of those committees, please notify the City Clerk.

UNSCHEDULED COMMUNICATIONS:

Mayor Carroll asked if anyone in the audience had anything they would care to bring before the Commission at this time.

Doug Nelson, President of the Building Contractor Association, requested discussion of Ordinance 1208 or 1210 that was amended on the water meter connection fees. Mr. Nelson stated he was told by City staff that this had been tabled and no direction has been provided by the City Commission. From a building contractor association standpoint, he wanted to know where we are at with this. Mayor Carroll stated he thought there was direction given and staff was in the process of making recommendations. Matt McNeile responded that he could not find any notes on this item but will recheck the record. Mr. Nelson indicated it was a poorly written ordinance. Mayor Carroll stated we understand that so that is why it is being revisited. Mr. Nelson requested a timeframe for a response and Mr. McNeile stated he would give him a call

tomorrow with the status. Mr. Nelson indicated that association members have been calling him regarding the status, so he is following up with the Commissioners. Mayor Carroll indicated they had gotten the message that some changes needed to be made and based on the discussion at the last meeting between the construction industry and staff, he thinks they have an idea on how to address everyone's concerns.

Mayor Pro-Tem Griggs explained that Commissioner Cooper and he attended a presentation by Westward Airlines to potentially provide the Essential Air Service (EAS) to the City of Alamogordo. Westward has a very nice turbo prop airplane and from what Mayor Pro-Tem Griggs understands, has much more capability than the airplane that is currently serving the City of Alamogordo. Commissioner Cooper and Mayor Pro-Tem Griggs had a chance to ride in the plane and it rose in the air quickly. It was a nice flight although, of course, it was very short. On July 14 or 15, the RFP for EAS is to be responded to and at that point, it will come before the Commission to see if the City agrees with the selection by the Feds. There are some other issues that Westward has to resolve on the northern end of their New Mexico flight route to be able to consider even coming to Alamogordo. As most of you know, Rio Grande Air is not currently providing service to the City of Alamogordo, so we have no air service at this time. Approximately 60 to 90 days after the RFP is awarded, the City could expect air service to start up again. However, Westward provided a lot of enlightening information and if this plane served us, it would be good service to the City. Mayor Pro-Tem Griggs continued that Westward will have to look at their schedule somewhat, because we are not getting in and out very often but Westward may be able to address this issue.

Mayor Pro Tem Griggs continued, on another matter, that we approved a subdivision located just outside the city limits. We have approved several subdivisions recently or at least in the past year, just outside the city limits. On each of those subdivisions, the recommendation comes to the Commission that it is inappropriate to proceed with public land dedication or cash in lieu because the subdivision is outside the city. Mayor Pro-Tem Griggs feels it is somewhat of an inequity and believes it also creates a problem down the road because if this continues, we are going to have a ring around the city of subdivisions and we will have lost the ability to provide for parks or other public use on that property. Mayor Pro-Tem Griggs suggested having the City Attorney review the requirements to assure that, should a subdivision come to us, we can require public land dedication even though the subdivision is located in the County but within the extraterritorial jurisdiction of the city. Mayor Pro-Tem Griggs continued that before another subdivision like this comes to the Commission, he would like to have that information.

Assistant City Manager Matt McNeile mentioned that Monday, July 19, 2004, we are hosting the South Central RC&D Committee which will be looking into regional water planning. All commissioners and the public is invited. The meeting will be held at 9:00 a.m. at the Civic Center. Mr. McNeile continued that the water report was handed out and currently the reservoirs are at 61% of capacity which is about 10% less than we were one year ago. We are currently running five wells which include the Prather wells and are praying for the monsoon season to start materializing rain.

Mayor Carroll mentioned that Tony Elias, Executive Director of the Southeast New Mexico Economic Development District (SNMEDD) passed away last week. Mayor Carroll indicated that Mr. Elias had been ill for quite some time. The Mayor did attend his funeral service yesterday and as he serves on the executive committee of that organization, they will be meeting tomorrow to start the process of finding a replacement for Tony. Tony was an outstanding advocate for SNMEDD, was a good friend to me, and a good friend of many in the

community and in the City of Alamogordo and Otero County, and he will be sorely missed. On behalf of the City of Alamogordo, the Mayor did extend our condolences to his family yesterday.

Commissioner Cooper moved to adjourn. Seconded by Commissioner Robertson. All voted "aye". The motion carried by a vote of 7-0-0. The meeting was adjourned at 8:15 p.m.

/s/Donald E. Carroll

Mayor Donald E. Carroll

ATTEST:

/s/Angie Rahn-Broyles

City Clerk Angie J. Rahn-Broyles

(SEAL)

(Prepared by Laura Sanchez, Deputy Clerk)

Approved at the City Commission Regular Meeting of July 27, 2004