

**CITY OF ALAMOGORDO, NEW MEXICO  
CITY COMMISSION REGULAR MEETING MINUTES  
MUNICIPAL BUILDING, 1376 E. NINTH STREET  
7:30 P.M., COMMISSION CHAMBERS  
MARCH 22, 2005**

**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 and Roll Call.

The Meeting was called to order at 7:30 p.m. The Invocation was given by Rev. Bill Heithold, the Posting of the Colors was by the Alamogordo High School Air Force Junior ROTC, and the Pledge of Allegiance was led by Mayor Pro-Tem Ron Griggs.

Mayor Carroll acknowledged the presence tonight of a special guest, Cabinet Secretary for Economic Development Rick Homans.

**PRESENTATIONS:**

1. Presentation of the Alamogordo Chamber of Commerce "Citizen of the Year" Award for 2004 to Mayor Don Carroll.

Mr. Jimmie Randall, the "Citizen of the Year" for 2003, presented Mayor Carroll with a certificate from Governor Bill Richardson, as well as a certificate from Representative Gloria Vaughn and the NM House of Representatives. Mr. McCourt presented Mayor Carroll with a card of congratulations signed by the City employees. Mayor Carroll said he was overwhelmed at the Chamber Banquet, and he was again overwhelmed tonight. He wished to thank the Chamber of Commerce, the citizens of Alamogordo, and the City employees. It was an honor he would always cherish.

2. Presentation by the Otero County Economic Development Council (OCEDC) regarding Project CRISP.

Mr. Ed Carr, Executive Director of OCEDC, gave a PowerPoint presentation on the project. Mr. Carr said OCEDC had received a prospective recruitment opportunity from the State of New Mexico in January 2005. This company had looked at three states and multiple communities. Eighteen communities in the State of New Mexico had responded to this prospective recruitment opportunity (PRO). Alamogordo was the only site visit. We had responded with the Presto plant and they seemed interested enough in that they wanted to see it. The owners of the company came down in February. A couple of things they were looking for in the PRO was a location with an existing industrial building with a minimum of 80,000 square feet that could be converted into a food processing facility, and that incentives would be looked for to help them make the move and recondition the facility. OCEDC had responded with the former Presto building which was now under their ownership. In February Presto had donated the building and all of the land around it to OCEDC. The owners had toured the facility, and despite the fact that it was used as an industrial property before, they felt they could convert it to a food processing facility. However, it would take extensive renovation to do so. This company was a

startup private family-owned company. The owners had been accumulating equipment for this plant for about five years. They currently owned about \$2.8 million in equipment already.

Mr. Carr said some key economic impact factors plugged into the model were as follows. The plan was to create 400 jobs over the first five years of production. All personnel would be local hires, except for the owners. Average wage would be approximately \$10 to \$11 per hour. Because this was a cookie manufacturer, the ovens they used were large electricity and natural gas users, which figured into the model significantly. Because of their distribution network, they would probably bring about 2,000 trucks per year through the facility to pickup and deliver. Little water was required in their manufacturing process because much of the formula used in these cookies would be preprocessed and would come pre-made with water. The only water needed would be for personal use and cleanup of equipment on a periodic basis.

Mr. Carr said although it was a startup company, the owners had over 40 years of experience in this industry and in the building of plants for cookies all over the world. They had done this setup in Valenzuela, Mexico, Portugal, etc., for other people, and now he was looking to do it for himself. The Presto building had been vacant for over two years with no real, solid offers on it. We were very fortunate to have taken ownership of it and to now have a very good prospect. It was a 30-year old plant and would continue to deteriorate if we didn't get a user in there. Their plan was to completely renovate the plant and do an attractive, functional and productive facility. One of the owners mentioned that he would desire to make it into a nice facility. He wanted to renovate and recondition it for not only his employees, but for the community as well. CRISP could hire many of the laid-off Presto work force, and that would fit nicely into their model. CRISP would provide a much-needed manufacturing component to diversify our economy. One of OCEDC's goals was not only to raise wage levels, but to also diversify our economy so we were not so dependent upon Holloman AFB.

Mr. Carr said as a side, CRISP planned to relocate a 30,000 to 40,000 full service machine shop from its current location out of this state to a location adjacent to their facility here should the move be successful. That was outside of the model and outside of any economic factors we had put into the model. CRISP began unloading approximately 75 semi-trailer truck loads of equipment on March 17<sup>th</sup> to temporarily be stored at the Presto building. The equipment should arrive around April 11<sup>th</sup>. Their lease had run out on their existing storage facility and they were looking for a temporary home for it. They decided their temporary home would be in Alamogordo in the anticipation and in the hopes that a deal could be struck here in Alamogordo. However, that part of it was not tied to the main deal. It was just a temporary storage until they either successfully came here or until they found another place.

Mr. Carr said if an incentive was approved, it was conditional upon receipt of financials and a business plan, and there could be plans to start renovating the building in the May or June timeframe. The plant would take approximately 12 months to renovate. They planned on essentially gutting the plant and taking out all the extraneous stuff they didn't need, and then starting from scratch. Near the completion of renovation, CRISP would start hiring plant personnel. They planned to install six production lines at eight-month intervals. Once the eight months were done and that production line was up and operational, they would start with the next one. They already owned all six production lines of equipment. Hopefully it would be fully operational within five years. The State of New Mexico created a job training incentive package. Given the jobs this plant would create, they estimated it to be worth about \$2.34 million, highway jobs tax credit of \$400,000, rural jobs tax credit of \$800,000, and manufacturing investment tax credit of \$125,000, for a total state incentive of \$3.67 million over the period of time they would qualify.

Mr. Carr said because of the condition of the building, CRISP was requesting \$500,000 at contract signing, \$1 million distributed during the first year, more or less like a construction loan. They would like that \$1 million available so that they could draw off of it as they refurbished the building. They didn't want that money right at the beginning, but would like to draw off of it. In year two, \$500,000, and then \$1 million distributed over the next ten years, for a total incentive of \$3 million. The payout of the incentive was designed to accommodate the cash flow in the economic development fund, and its future revenue. Obviously we didn't have \$3 million in the fund right now—there was more like \$1.8 million in there now. Therefore, we had structured the payout so that the fund would accommodate it. Because the company had requested a big cash infusion in order to renovate the building, which put the City at risk should they collapse, OCEDC would allow a lien to be placed by the City on the former Presto plant. The plant had an assessed value of \$2.2 million, which secured that \$2 million in up front money with an actual, physical piece of property that was valued at least as much as the up front money. The economic model showed a five-year payback. In the revised economic model information he'd just given the Commission, they would see a 4.17 year payback to the incentive, with a 26 percent average annual rate of return on the investment in this project. Because that was based on the factory actually being in production, we arbitrarily added another year to that because during that renovation period they will not have created those jobs and wouldn't be manufacturing. This was based solely on from the start of production when they started hiring people and were actually making their product.

Mr. Carr said OCEDC's recommendation was that the City approve a \$3.0 million incentive for Project CRISP conditional on OCEDC receiving adequate financial information on the company and its owners, and a business plan which addressed all the assumptions in the economic impact analysis. OCEDC was not asking the City to obligate any of this money until they were satisfied that the company had the wherewithal to do the project.

Mr. Carr introduced Mr. Rick Homans, Secretary of the New Mexico Economic Development Department. Mr. Homans said he was present to support OCEDC and the City of Alamogordo, and also to commend the City on the aggressive kind of posture they were taking as a community towards economic development. The proposal was very entrepreneurial. It was out front, but also had a good degree of caution with it that was conditioned upon a lot of due diligence that was yet to come. What this project showed was that the community was willing to invest in itself, and he felt it showed the wisdom in passing the one-eighth of a cent gross receipts tax for economic development. It gave the City the leverage and an unusual asset to use. The same wisdom used in passing that should also be used in analyzing projects like this very carefully. He was present to say that the State would support OCEDC as they moved forward. They would act as a backstop and as an advisor and counselor. They would help put OCEDC in touch with the right kind of analysts who would do the kind of due diligence that needed to be done in terms of the market, the competition, the individuals running the company, and the business plan put forward to help the City make the right decisions as it moved forward with the project. If it all worked out, this was a great project for the community. It would put to use a tremendous asset which the City had in the Presto building, and put to use the tremendous work force with manufacturing jobs. They were happy to support the City with the incentives Mr. Carr had outlined through the highway age credit, the job training incentive program, the manufacturing investment credit, and the rural jobs tax credit which was just extended permanently in the last session of the Legislature. He commended the City on the aggressive posture it was taking.

Mr. McCourt said if the direction was to move forward on this, the next step would be for OCEDC and the City, primarily he and Mr. Carr, to sit down and write a contract. That contract would embody all the items discussed tonight, and would be brought back for the Commission's approval.

Commissioner Cooper questioned the property tax exemption over the ten-year period. Mr. Carr said in this package there was no property tax exemption. The City had that option, but OCEDC had not included it in there because they did not feel it was necessary. Because of the cash incentive, the company was not seeking it. That way the City would receive the full benefit of the taxes that company would pay. They didn't want to exempt it because then it was just taking away from the cash return. They may do it in the future, but not on this deal. Mayor Carroll said for the Commission's information, this was a piece of property that had never been on the tax roles. Mr. Carr said that was correct. Because of the Industrial Revenue Bond that Presto had obtained from the City 30 years ago, it was exempted from property taxes. So we were actually putting it back on the roles, which would be excellent.

Commissioner Cole clarified that Mr. McCourt would sit down with the OCEDC staff and go over the financials. Mr. McCourt said yes. We would formulate it up and develop the contract, check the financials, and make sure everything was secure before it was brought back for the Commission's approval. Commissioner Cole asked if it would also include the validity and the reliability of the equations to develop these figures? Mr. McCourt said he was not sure he had the ability to analyze the model and determine. We may be able to do that in the future when we saw what actually occurred, but there were so many factors that he was not sure he had the ability to do it. Mr. Carr said the model took all of the budget information and all of the franchise fees, taxes, and licensing. What we could do was to validate the current percentages in the model by just looking at what the City's current tax collection percentages and franchise fees were, i.e., the 2 percent franchise on utility costs. That would certainly validate the models as best we could. It was a 4,000 line Excel spreadsheet and was very complex. He was not sure we would want to dissect it, but we could certainly validate the percentages in there. Commissioner Cole asked if it was the same one used for 1-800-FLOWERS? Mr. Carr said yes. Commissioner Cole said he'd called the School's Business Manager, as well as the Superintendent of Schools regarding the State school funding. They were somewhat unaware of that figure and how it came about. Mr. Carr said they wouldn't know, but he could certainly talk to them about it. One of the assumptions the model did was, we would plug in a percentage of the new students that would be in the school system, and that presented a burden on the school system. Those were educated guesses on the number of new students that would be created, and it was based on a percentage of the new employees that would move to the area. The model then extrapolated out induced jobs and induced people coming into the community. That was where some of that cost to the school system was generated. He would be glad to speak to school personnel about what went into the model and why it said what it did about the school system.

Commissioner Robertson said there was approximately \$1.5 million in the fund, and another \$1.5 million coming in over the next two to three years. Would the figure on this project take up most of the bonding coming in, or would there be some left over for some other type of companies? Mr. Carr said there would be. In fact, there was another project which the State was in partnership with us on and which we'd already had a site visit on, which was called Project RED and which was an aircraft manufacturer. One of the reasons we'd done Project CRISP the way we had, was to accommodate that other project should it come to Alamogordo. It was a much smaller project, but one which was much more high tech and higher wages. The short answer to his question was that it didn't leave us a whole lot more. We had flowed it out

and compared it with the income expected. The Economic Development Fund generated about \$620,000 per year at current levels, and we had straight-lined that out and not considered any increases in gross receipts taxes for the City. We had extended the sunset for the local option gross receipts tax after 2010, and the only money they were playing with was the money currently in the fund or which would come into the fund in 2010.

Mayor Pro-Tem Griggs said should this be agreed to tonight, when did we expect getting the data from this company so we could move forward? Mr. Carr said the owners of the company were currently engaged until about May and they couldn't focus on creating the business plan, which was the big nut to crack. The financials was just the gathering together of tax returns and that kind of stuff. He didn't expect them to focus on it until about May, and really the onus was on them. If the City approved this conditional incentive, we threw the monkey on their back, basically saying this money was available to them, but they had to produce. We had to have good, reasonable financials, and a business plan which met scrutiny. Mayor Carroll said at this point there was no risk involved to the City. If they could just show us that what they were proposing was realistic, then we were prepared to go ahead. If they couldn't, then the deal wouldn't happen. At this point every indication was that they would be able to substantiate with the business plan and the financials and those sorts of things.

**Commissioner Cooper moved to authorize the City Manager and OCEDC to proceed in negotiation with this company to bring Project CRISP here under the terms which had been presented by Mr. Carr tonight. Seconded by Commissioner Cole. All voted "aye". The motion carried by a vote of 7-0-0.**

Mayor Carroll thanked Secretary Homans for taking the time to come down and talk to us.

**CALL OF THE CONSENT CALENDAR:** Items on the Consent Calendar are considered routine and should not require further discussion. All items marked "CC" will be approved by a single motion 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 March 8, 2005.

*Recommendation:* Approve the minutes.

5. Consideration of a ten foot (10') front setback variance for Samuel Arney [Case V-05-0477(A), 630 S. White Sands Boulevard].

*Recommendation:* Approve the front setback variance for Case V-05-0477(A).

7. Consideration of the final plat of TRIPLE A SUBDIVISION, REPLAT D, for two (2) lots located within the City of Alamogordo for COPE, Inc. [Case S-05-0866(A), 909 S. Florida Avenue].

*Recommendation:* Approve the final plat of TRIPLE A SUBDIVISION, REPLAT D, Case S-05-0866(A), located within the City of Alamogordo, with a variance on the drainage report.

8. Consideration of the final plat of SAGEBRUSH SUBDIVISION for sixteen (16) lots located outside the City of Alamogordo, but within its extra-territorial planning and

platting jurisdiction, for Teresa V. Ham [Case S-05-0867(A), off Toms Lane, La Luz, NM].

*Recommendation:* Approve the final plat of SAGEBRUSH SUBDIVISION, Case S-05-0867(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 (sewer), on the construction of streets to City standards (24 foot width, curb, gutter, and sidewalk), on the length of time allowed for filing the final plat (requesting 90 days), on the dedication of public land, and from Section 22-01-140(b)(1) relating to drainage plans.

9. Consideration of the final plat of OLGA ACRES SUBDIVISION for thirteen (13) lots located outside the City of Alamogordo, but within its extra-territorial planning and platting jurisdiction, for John Secrest [Case S-05-0868(A), North of Danley Ranch Road].

*Recommendation:* Approve the final plat of OLGA ACRES SUBDIVISION, Case S-05-0868(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 (dedication, curb, gutter, sidewalk, and paving), on the length of time allowed for filing the final plat (requesting 90 days), on the dedication of public land, and from Section 22-01-140(b)(1) relating to drainage plans.

10. Consideration of the final plat of DANLEY RANCH ESTATES, UNIT 3, SUBDIVISION for thirty-two (32) lots located outside the City of Alamogordo, but within its extra-territorial planning and platting jurisdiction, for Danley Ranch Estates, Inc. [Case S-05-0869(A), North of Danley Ranch Road, West of US Highway 54/70].

*Recommendation:* Approve the final plat of DANLEY RANCH ESTATES, UNIT 3, SUBDIVISION, Case S-05-0869(A), located outside the City of Alamogordo, but within its extra-territorial planning and platting jurisdiction, with the requested variances (on alleys, on public land dedication, and on the construction of utilities and streets to City standards).

12. Lease Agreement with the Center of Protective Environment (COPE) for the domestic violence safe house.

*Recommendation:* Approve the Agreement.

13. Ordinance No. 1207 amending Section 14-01-110 of the Code of Ordinances regarding the rates for Solid Waste Collection based on the CPI-U.

*Recommendation:* Approve the Ordinance for final adoption.

14. Ordinance No. 1211 amending Chapter 24 of the Code of Ordinances increasing the fee for Resident and Handicapped Parking Only signs to \$100.

*Recommendation:* Approve the Ordinance for final adoption.

15. Ordinance No. 1234 amending Chapter 29 of the Code of Ordinances relating to zoning district classifications, terminology and uses [Case M-04-0321(A)].

*Recommendation:* Approve the Ordinance for final adoption.

16. Resolution No. 2005-11 requesting increases in the Leisure Service User Fees.

*Recommendation:* Approve the recommendation of the Parks & Recreation Board and approve the Resolution.

17. Resolution No. 2005-14 accepting a donation of property at 805 Fillmore from the heirs to the Dwight Smith Estate.

*Recommendation:* Approve the Resolution.

18. Application for participation in the 2005 Law Enforcement Protection Funds.

*Recommendation:* Approve the application.

19. Canvass of Returns for the March 15, 2005 General Obligation Library Bond Special Election.

*Recommendation:* Accept the canvass.

20. Statement regarding the Executive Session of March 8, 2005.

*Recommendation:* Approve the statement.

21. Award of Bid No. 2005-02, Utility Equipment Trailers for the Utility Maintenance Division.

*Recommendation:* Award to MCT Industries, Inc. of Albuquerque, NM for a total of \$18,350.00.

**Commissioner Cooper moved to approve items 3, 5, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21 on the Consent Calendar. Seconded by Commissioner Cole. All voted "aye". The motion carried by a roll call vote of 7-0-0.**

#### **PLANNING ITEMS:**

4. Consideration of front and rear yard setback variances for Tool Box, LLC [Case V-05-0476(A), 830 - 990 Sierra Verde].

*Recommendation:* **Approve** the five foot (5') front yard setback variance with the requirements that adequate off-street parking be provided and that potential conflicts between pedestrians and vehicles (parking and backing) be minimized, **deny** the requested ten foot (10') rear yard setback variance, and **approve** a five foot (5') variance for rear yard setbacks for Case V-05-0476(A).

Mr. Klad Zimmerle, Alamotero Land Surveys, was present on behalf of the petitioner. He stated that this was something they'd worked on for awhile now. They'd met with staff, and he believed they had come to what everyone would consider a good alternative. Mr. McCourt said they had resolved the issue of the front setback and there was a sufficient distance for vehicles without infringing on the sidewalk.

**Commissioner Cooper moved to approve the five foot (5') front and rear yard setback variances for Tool Box, LLC. Seconded by Commissioner Robertson. All voted "aye". The motion carried by a vote of 7-0-0.**

6. Consideration of a nine foot (9') rear yard variance for Michael Espiritu [Case V-05-0478(A), 3014 Birdie Loop].

*Recommendation:* Approve the rear yard variance for Case V-05-0478(A).

**Commissioner Cooper moved to approve the nine foot (9') rear yard variance for Michael Espiritu, Case V-05-0478(A). Seconded by Commissioner Robertson. All voted "aye". The motion carried by a vote of 7-0-0.**

11. Consideration of Ordinance No. 1235 for rezoning to District "D-2" (Neighborhood Business) requested by Makinson & Moore, LLC [Case Z-05-0638(A), 900 Mescalero Street].

*Recommendation:* Approve the Ordinance on Case Z-05-0638(A) to amend the official zoning map of the City of Alamogordo, to change the zoning of subject property to District "D-2", to amend the Comprehensive Master Plan, and to approve the Ordinance for final publication.

**Commissioner Cooper moved to approve Ordinance No. 1235 for rezoning to District "D-2" (Neighborhood Business) requested by Makinson & Moore, LLC [Case Z-05-0638(A), 900 Mescalero Street]. Seconded by Commissioner Robertson.**

Mayor Pro-Tem Griggs said one of the issues which came from a protestor on this item was regarding a fence. What happened was that the petitioner had agreed to fence it with chain link. He wasn't sure how that would look to the area, even though there were a lot of chain link fences around a lot of these properties. He didn't know if it was going to be attractive to the community. Commissioner Cole asked if we were beginning to mix residential areas with storage units? Mr. McCourt said there were existing apartment buildings at this location, so it would allow the storage units to also be put on this piece of property. So in that sense, yes we were.

Mayor Carroll said in our "D-2" zoning, did we not require a fence between "D-2" and residential? Code Administrator Pat Vandergriff said we required a fence between "D" and residential. He would have to ask the Attorney to do a real quick check on the Ordinances, but he did not believe that we did between "D-2" and residential. "D-2" was a neighborhood business district. Mayor Carroll said it seemed to him that for the two corners on Tenth and Scenic, where one was a water dispenser and the other was an ATM, that we had required them to build a wall. Mr. Vandergriff said that was actually done as part of the rezoning, and there were several protestors that listed that as a condition under which they would approve it. Otherwise, they were opposed to it. We had a percentage of protests to deal with on that one, and it was done as a special case.

Mayor Pro-Tem Griggs said tonight we already approved the changing in nomenclature for the Zoning Ordinance. "D-2" stated that we would require a fence between "D-2" and "R-1", which translated to "A" right now. The "G" districts out there were modular and mobile homes facing Walker Avenue. Mr. Vandergriff said the other thing staff took into account when making their recommendation, was that on the property immediately adjacent to it, it was "D-2" and could in fact be used for storage units at this time without any changes on it. Commissioner Cole asked

if it was in that area? Mr. Vandergriff said yes. If they looked at the map for that area, there was a real hodge-podge of zoning out there. There was some "G", "G-2", "D-2", and some "A" just a few blocks over. Mayor Pro-Tem Griggs said we had continuing issues about cleanups and things, so his only thought was that if we had an opportunity to do those things, we could make sure it looked as nice as it could. He personally didn't think that chain link looked very attractive, and he didn't know whether the Commission needed to be hard enough to say that it should be fence or block, but block certainly would be his preference.

Commissioner Cole asked if this would be the same type of storage units as the ones put up at American Way? Mayor Carroll thought storage units were pretty much all the same. Mr. Vandergriff said you could only suspect two out here as it was the same owners. But in the case of American Way, it was a boxed-out area that sat outside the City limits. That neighborhood was predominantly block fences and so forth, so it raised a lot of eyebrows, but left us with very little to do to control it. Commissioner Cole felt that tonight we were being asked to approve something which a few months ago the same idea came through on, but which we couldn't do anything about because it was County, even though we were hesitant on that one. Mayor Carroll said he believed the concern expressed by the people in this neighborhood was not whether or not they would have a block wall fence, but they were concerned about the storage units being there, period. Commissioner Cole said right, but tonight we could approve this. Mayor Carroll said in the past we had approved rezonings for storage units and had not required anything in the way of fencing, other than security fencing of some sort.

Commissioner Robertson noted on the map that the property next to this one was already at "D-2". So they could realistically put the storage next door if they wanted to, which meant we were kind of compelled to do this one also. Commissioner Ledford thought the difference between this case and the American Way one, was that at American Way it was surrounded by residential. The fence in the American Way case was only two feet from the next homeowner, but this one was not surrounded by single family. Mr. Vandergriff said that was correct, and Mayor Pro-Tem Griggs was correct that most of what we had out there was chain link. He couldn't speak on behalf of the petitioner, as they didn't show up tonight. However, they did indicate at one point in the Planning and Zoning meeting that they might consider putting slats in there. He didn't have a great deal of fondness for the slats because when they became damaged and began to deteriorate, they looked far worse than a plain chain link fence.

Mayor Pro-Tem Griggs said Commissioner Robertson was right that someone could come in and put storage units immediately to the west. It was probably unfair to say these guys had to put up a block or wooden fence out there where nothing else was. It was just that we had an area of town that needed to look better. Mr. Vandergriff said from staff's standpoint, every time someone scraped off a piece of ground out there and built something which covered up some weeds, he actually was impressed. Mayor Pro-Tem Griggs pointed out that the guy who had protested was right next to this property, and he had a genuine concern. Mr. Vandergriff said he was surprised neither the petitioner nor the protestor showed up this evening, because everyone was aware of it. The biggest concern the protestor had was that he felt the information he received on what the intended use of the property was, was not appropriate. He was looking for some form of a full operational business sitting right next to his house, instead of something in the neighborhood of storage units and apartments. Mayor Pro-Tem Griggs said he was not here, so he obviously felt the storage units would work for him.

Mayor Carroll called for the vote on the motion. **All voted "aye". The motion carried by a roll call vote of 7-0-0.**

## **OTHER BUSINESS:**

22. Close out of Community Development Project No. ENG-2003-026 per the NM Department of Finance and Administration/Local Government Division requirements.

*Recommendation:* Community Development Director will read a statement into the record regarding the close out of the project.

Community Development Director Brian McGuire read the following statement for the record: **The Department of Finance & Administration/Local Government Division has completed a review of the documentation regarding Community Development Block Grant project #C03-C-NR-I-6-G-70, Alamogordo Sewer Master Plan. This plan was developed by consulting firm Molzen-Corbin & Associates, and was accepted as complete by the City Commission on November 23, 2004. The final cost of the project was \$99,168.43 including New Mexico Gross Receipts Tax. \$25,000 was provided by Community Development Block Grant funding and the remaining costs were provided by the City of Alamogordo/Public Works Department. The Department of Finance & Administration/Local Government Division has determined that “the project is hereby closed pending receipt and approval of the audit report for the fiscal year ending June 30, 2005.” “A total of \$25,000 in CDBG funds were expended, leaving a balance of \$0” and “all project files are to be maintained for a period of not less than 6 years from the date of this letter.” The City was found to be in compliance on all reviewed aspects.**

Mayor Carroll said there was no further action needed.

## **UNSCHEDULED COMMUNICATIONS:**

- A. Update by Community Development Director regarding the status of various ongoing projects around the City.

Commissioner Cole asked what was happening on First Street and Florida Avenue? When he last drove on it, another section was coming loose. Mr. McCourt requested Mr. McGuire give an updated statement on all of the projects we had going at this time.

Mr. McGuire said at First and Florida, we were going back to the bonding company to get the contractor to perform. Since that time, the bonding company had been working with the supplier and Star Paving. They had until tomorrow to come up with a plan of action. We had requested the forms from the bonding company to get them to complete the action. This was a legalistic process, and we had to show them due process. We were requesting that the contractor mill off that last lift of asphalt and put down a proper pavement. He felt that would be done in the next month. Commissioner Cole said this paving was getting worse, and quite frankly, he wished Star Paving would never bid on another project of the community. Mr. McGuire said the bonding company had asked Star Paving to satisfy us, and we had not reached that level of satisfaction yet, and that was why we were going back to the bonding company. Commissioner Cole asked if Star was bidding on other projects, if we could deny their bid? Mr. McGuire said under our current purchasing regulations, we did not have a way of debarring someone. However, if they were the successful bidder on a project and we brought it before the Commission, the Commission could turn it down. Commissioner Cole asked if staff could turn it down? Mayor Carroll thought we would certainly take into account our past experience with any company. Mr. McGuire said we had no method of debarring someone at this point with our

current regulations, but were in the process of researching that through the State Purchasing Regulations. Mayor Carroll said he was not sure, even at the Federal level, that outside of fraud of some sort that there was anyway you could disbar anyone from bidding on a contract. Mr. McGuire said in his 30 years at the Federal system, he was able to do it just once when someone was fraudulent. Mr. McCourt reemphasized, though, that we were not forced to accept the low bidder. Commissioner Ledford didn't think we should be barring someone just because they made a mistake—that was why we required bonding. The issue was whether or not they made good on it. He understood that two to three months was a pretty normal time frame when you were dealing with a bonding company. Mr. McGuire said that was correct.

Mr. McGuire said on South Florida we had designed the widening on it from Panorama down to the end of the property where Tool Belt had just finished. We would take it down past the fire station and the school property. It was a full width road with curb, gutter, and sidewalks, and then there was a tapering area below that. The owners of the Atrium building had donated the right-of-way for that, and we were working with the school district to get the right-of-way on the other side. When we gave the school district that land over twenty years ago, we did not retain a right-of-way, so we needed to do that now. That was all that was preventing that one from going out to bid. Commissioner Robertson thought we had just redone that from Panorama out to the Armory just a year ago. Mr. McGuire said no; we had built the box culvert just south of Panorama. We did not widen the pavement to there because we didn't have enough money. The pavement would be the width of the box culvert, and it would be carried south.

Mr. McGuire said there were four processes going on at the Airport. We had just completed purchasing the land from Mr. Shamaley. We had given him his check and signed the Warranty Deed, and the property out there was now in our possession. The taxiway was in the paving process right now. The restroom was finished. We had not done the final on it, but the ADA upgrade of the taxiway had been completed. The environmental impact statement (EA) for the extension of the runway we had to complete was in the final phases of the EA. Commissioner Cole asked if Star Paving had bid on something out there? Mr. McGuire said we'd advertised three jobs at the same time—the taxiway, the ADA upgrade of the restrooms, and a project for signage and lighting. We declined to award that final signage phase, as we needed the money for the other two projects, and the FAA let us cancel it. That was the one which Star was the low bidder on. They had backed out on it, but we'd made the decision to withdraw it anyway.

Mr. McGuire said we also had the Airport Business Park out in that area. We had completed the Environmental Analysis of that and had now gone to Camp, Dresser & McKee as an engineering firm to give us a cost on what it would take to design that.

Mr. McGuire said the La Luz/Green pipeline had started again. We had ground to a halt last spring because of some archaeological issues. They had now started again last Monday with some clearing and grubbing, and he was happy to say they had an archaeologist on site who found nothing, and that was good. So that project was back on track.

Mr. McGuire said the College Street sewer line redo had been designed. We were waiting to go out to bid on it because we had applied for a \$300,000 CDBG Grant. The decision on that Grant should be made within the next one to two weeks. So that project was sitting on the shelf waiting to go.

Commissioner Cole asked what the job by Christ Community Church was? Mr. McGuire said that was not a City project that he was aware of. There were two waterlines which ran along

Scenic, and it may be that there was a water break in the area. Mr. McCourt clarified that he would check with the Public Works Director on it.

Mayor Pro-Tem Griggs said if we accepted the CDBG money on the College sewer line, would we also have to accept the archaeological stuff because it was over 50 years old? Mr. McGuire said yes. We would bid it as several options so that we could do it as "cured in place" or slip-lining the existing sewer line. Or, if someone chose to dig it up and remove and replace, then it would be up to that contractor to figure the archaeological clearances in their bid price. Mayor Pro-Tem Griggs asked if we had to do that if we didn't accept CDBG money? Mr. McGuire said yes, because it was State law.

Mr. McGuire said we'd started working on the trails. If Mesa Verde ran their hot mix plant tomorrow, they should complete up to Mountain View. Next week they should start putting the base course across through here. We'd also just signed a Grant application to build the Abbott Ditch Trail which would connect these trails down here all the way up to Desert Foothills Park. We were doing an environmental assessment on it now—we'd gotten the archaeological clearance already, but still needed a biologist clearance. Mayor Pro-Tem Griggs said it amazed him that we had to do an archaeological study on a ditch which had been there for 60 years.

Mr. McGuire said on the Abbott Ditch project, we'd done another design which Molzen-Corbin felt would get it within our budget and which would allow us to complete the portion between Bonnell and Scenic. That was the real deep section and it would remove one of the high hazards. Once approved, we expected it to go out to bid within sixty days.

Mr. McGuire said regarding the First Street extension, it was a design from several years ago, and we'd asked the design engineer to come back and give us a couple of smaller projects. The two phases as originally designed were at \$400,000 and \$1.5 million, and we'd asked them to come back with some smaller projects so we could use the Grant money we currently had to complete those. We were still in the negotiations with the Sheffield's for the land needed for realignment, so we couldn't do a whole lot. We thought we could do the sections involved in the railroad right-of-way and between White Sands and the railroad tracks. We would have a box culvert going nowhere until we got the land exchanged, but we would be able to spend the money and do that part of it.

Mr. McGuire said the demolition was almost completed on the Golf Course Clubhouse. That should be finished this week. We would be meeting with the Architect and Molzen-Corbin and should be going out to bid on it within the next two weeks.

Mr. McGuire said the Corps of Engineers' project was now off of Florida and Ocotillo and almost all of their trucks were now on a private haul road. We did have to work to keep the dust down, and they had shut down operations several times in the past two weeks simply because winds were so high that there was no way they could control the dust.

Commissioner Ledford asked what was going to bid on the Clubhouse project? Mr. McGuire said the Clubhouse itself. After we did the preliminary designs, we had tried to scale it back so that it would come within the budget. Our consulting firm, Molzen-Corbin, was working with the Architect to get those figures back within our budget, and then we would go out and advertise it to see what the bids came in at. That way, if we had money left over and we wanted to do some upgrades, we would be able to at that time. Commissioner Ledford clarified that it was estimated at \$2.2 million. Mr. McGuire said it was actually \$2.3 million, which was for everything, including demolition, engineering fees, etc. That was why we were working so hard

up front now, so that we could put out a bid package which would allow a structure to be built and furnished within that amount. We knew we had no way of going over that price.

Mr. McGuire said we had two well projects going on. One was the well at the Golf Course, which had been done by Public Works. The well was drilled, but had not been outfitted yet. The other was the test wells north of town. We had finished two of them, and they had both gone down to over 1,000 feet and did not reach bedrock. They were starting to do the pumping tests on the second well this week. They were in clay the last several hundred feet. When they were drilling, they had originally run into some fracturing in the ground up above, but the Geologist we had talked to the other day said it looked like it would be a good well. They should start on the third and final of our test wells next Monday. Those three wells were getting us a factual view of what the geology was in that area.

Mr. McGuire said we had purchased some land out on the Relief Route in order to put some water storage tanks out there. There was a storage tank and a half million gallon water tower, and we expected to go out to bid on those as soon as the approval came back from the New Mexico Environment Department who administered our Grants. He believed those bids would be out within the next 60 days.

Mr. McGuire said we had budgeted monies and a State Grant for water storage up at Griggs Field. The Engineer was supposed to be coming over on Monday to meet with staff to review the two alternatives we were looking at, including an in-ground storage and also a used 1 million gallon oil refinery tank which had never been used for oil.

Mr. McGuire said we were in the process of finishing up the environmental documents for the loan we received from DFA so that we could start building pipeline down along the Relief Route and up Highway 82 in order that we could connect with our La Luz plant and also to connect to these new water towers. We had a lot of water infrastructure projects, but because the money was Federal money which came through the State, we had to do all the environmental work for it.

Mr. McGuire said we opened up the bids last week for the infrastructure projects ahead of the street maintenance program. We found those to exceed what we had in our budget, so we'd gone back into the projects and were scaling them back to try and meet the budget. We also opened the bid for the ADA along First Street to build sidewalks from Public Housing down to White Sands Boulevard. We were waiting for a commitment from the school district for \$34,000, which was their portion of that Grant. We hoped to have that bid before the Commission for approval at the next meeting.

Commissioner Ledford asked if there was anyway we could find out what projects were being worked on and what streets would be closed off? He'd seen several close calls and accidents coming off of First onto Florida where people were turning, not even looking, and there was "Road Closed" right there at the intersection. It was dangerous and he was surprised that Chief Trujillo had approved it. He saw someone the other day that almost ran into that sign and had to swerve. He understood they weren't paying attention, but also there was absolutely no warning and when you were looking at it from the side, you really didn't see it. Mr. McGuire said that meant that the traffic management plan by the contractor wasn't adequate. Commissioner Ledford said there were some other projects on First Street that were "left lane closed", but it closed as soon as you got there with no warning whatsoever. He knew there were projects moving fast and we were doing a lot of repairs that required blocking off roads, but didn't we have some kind of a central web site or something which stated what we were doing? Mayor

Carroll said perhaps we should be putting that on the City's web site, and perhaps have contact with the media in asking for PSA's to alert the public. Mr. McGuire said we had not done well on that. Florida Avenue and 25<sup>th</sup> Street were two projects that should have been done two to three weeks ago, but because of the rain they had delayed the projects. On 25<sup>th</sup> Street we would do the final inspection tomorrow, and we believed that Florida would be finished sometime next week. Mr. McCourt said the paving for those projects was scheduled before the end of April. We were trying to get the Cutler people back in. Mr. McGuire said the projects on First Street were not our contractors, but happened to be City crews. He had the same thing happen to him where there was a car beside him and he did not see the sign. Staff had talked with the crews and they were going to do a better job of creating the transition lanes. Commissioner Ledford said there were no lights and it was at nighttime, and there was no warning before you got there. Regarding the deal like the paving coming before the end of April, just knowing that was coming about so that people could prepare their work schedules and prepare for traffic would help. We had been doing a lot of stuff, and he felt it would be good for the public to know what was going on. Mr. McGuire said the contractor on Florida did not do a good job. Also, the 25<sup>th</sup> Street traffic management became a problem, and actually DPS came out and helped because there were people going down Juniper ignoring the signs and going down the wrong way. We would work on that.

Mayor Pro-Tem Griggs said he understood that the Federal Railroad Administration (FRA) pushed the timeline for quiet zones to be effective back until June. Where did the City stand on all the work we were doing to facilitate the creation of quiet zones should that rule go into effect? Mr. McGuire said we had retained Molzen-Corbin to do those engineering studies and to give us cost estimates on what it would cost to make each one of those crossings compliant for a quiet zone. They had not done studies on two of the crossings—one at 8<sup>th</sup> Street because it was our desire at some point to close that crossing, and also the old City dump crossing which would also be closed. He had a draft from Molzen-Corbin on that which outlined the cost for each of those crossings. Their staff had reviewed the FRA work on the Internet site, and there it stated that the final rule had been extended to June 24<sup>th</sup>. Commissioner Moncada asked what the cost was? Mr. McGuire said he'd just received the draft today, and they were coming down tomorrow to talk to staff about it. We should have a cost on every one of those crossings to make them compliant. Once staff got those figures, then we would come back to the Commission for the money to do them. We would have enough information out of this to be able to file our request with the FRA to establish the quiet zones. Mayor Pro-Tem Griggs said down in District 7 this was a really big issue and concern to a lot of people. So if staff could help get the word out to them, it would be super. Mr. McGuire said Molzen-Corbin was supposed to have this project finished by the end of the first week in April.

Commissioner Robertson asked about the flooding area on North Florida? Mr. McCourt said that was a project where we were using the old Holloman waterline. Mr. McGuire said we'd gone out to bid on that and it came in at over 100 percent above. Commissioner Robertson asked what it had come in at? Mr. McGuire said he believed it was \$97,000, and we had allotted about \$60,000 for it, including the engineering for it. He had told the engineering firm who had done the design on it, to redo the project and to come back within our budget. Commissioner Robertson asked what they would do to bring it back into our budget? Mr. McGuire said he didn't know. We extended the project originally from 25<sup>th</sup> up to 26<sup>th</sup> Street. He didn't know exactly the number of drop inlets, but they could look at that sort of thing. Commissioner Robertson said the way it was designed was a workable project, so if they went cutting lines out from one side of the street to the other, it was not nearly the project we started out with. Mr. McGuire said that was correct, as it would change the scope. Commissioner Robertson said since the bond for the Library failed, we now had a half million dollars sitting

there that we could use. He would like to have staff look at this to possibly bring back to the Commission for some additional funding to get that full project on North Florida. Mayor Carroll said we also had some other demands on that half million dollars. Commissioner Robertson said he was sure we had. Mr. McCourt said staff would review it and see what we could work out on it. He wasn't aware that had happened. Mr. McGuire said the other thing he was also doing in anticipation of this, was that he had asked Molzen-Corbin to come and give him a cost of assessing the cost on a study to figure out how to stabilize the current Library.

B. Comments by Commissioner Robertson regarding the City's Police Department.

Commissioner Robertson said it had come back to him in a roundabout way that he didn't like our City Police Department. He wanted to assure Chief Trujillo that he loved our City Police Department, and he felt they were doing a tremendous job.

C. Comments by City Manager regarding the water report and projections on our available water supply; Special Meeting scheduled for April 5, 2005; structure problems at the existing Library building; and need for a Special Meeting to discuss ADA upgrades throughout the City.

Mr. McCourt said he had passed out the water report tonight, along with another document which projected forward through the summer on our available water supply, which included the information we had used to draw those conclusions. At this point based on our projections, it didn't look like any additional restrictions would be needed this year. That summarized the report in a sentence.

Mr. McCourt reminded the Commission of a Special Meeting we had scheduled for April 5<sup>th</sup> at 2:00 p.m. in the Commission Chambers. Staff would like to discuss with the Commission a plan to address our Code Enforcement options to increase our Code enforcement in the City.

Mr. McCourt said regarding the Library building and the \$500,000, staff intentionally did not discuss this issue in the midst of the election campaign, but we had a major problem in the existing Library building. It did look as though we would be there for some period of time. There was a major settlement that had been occurring up on the northeast edge, and there had been significant settlement and separation. We needed to get in there and do a study to see how we could stabilize the structure and what we could do to stop the settlement and then repair what had already occurred. Staff would be back with a proposal on that.

Mr. McCourt said he would like to ask the Commission to consider a Special Meeting to discuss the ADA work we were doing in conjunction with our street work. We were doing ADA upgrades as we were doing our street maintenance programs. We wanted the Commission to be aware of what we were doing and how we were doing it. Part of the Americans With Disabilities Act was a requirement that we do that as we renovated our City to make it more accessible for more persons. Staff would like to sit down with the Commission and explain to them clearly what we were doing and how we were proceeding with it so that the Commission could feel comfortable with the approaches we were taking. On the last round, we were building one sided corridors to make them handicapped accessible. Our thinking was that it may be another 30 years before we came around again and at that time we would then do the next step and complete the accessibility plan. But at this time our plan was to develop corridors so that we would have better accessibility throughout the community. He asked the Commission to consider this, as it was quite expensive to do these retrofits. We had asked for various Grant funding to also assist us in these projects. Staff felt we had money to do another section of corridor along Cuba from

First to Tenth, and that then started to tie into the next section of Cuba which went from Tenth over to Indian Wells. So we were starting to lock some of these pieces together and to create some more accessible corridors throughout the community. We were also working with the new major developments, such as the hospital and the college, to create some accessible corridors up in that area. He wanted the Commission to think about a convenient date to sit down and discuss this. We were not getting these areas into 100 percent compliance, but we were getting the corridors constructed. Mayor Carroll asked Mr. McCourt to recommend some proposed dates which would work for staff as well. Commissioner Cole suggested that perhaps we could combine this issue with the item that was scheduled for the Special Meeting of April 5<sup>th</sup>. Mr. McCourt said we had a very extensive program which we had developed on Code Enforcement, and staff wanted to go through the Ordinances and discuss and make sure the Commission understood what we were proposing, the plan to accomplish it, and the cost to accomplish it. Mayor Carroll said both of these issues would be of a lengthy discussion, so it would probably not be practical to try and do them both at the same meeting.

Mr. McGuire said regarding the ADA corridor on First Street, we had also applied for a State Grant to create a corridor along White Sands Boulevard which would take us all the way from Walker Road to the Mall. We were the top ranked project, but did not have the final word on it yet.

Commissioner Cooper said it had taken the City 25 years to get to where we were today. There had been more impact on the ADA programs in the last five or six years than there was in the previous 20 years. When he had come back to Alamogordo, there was not one curb cut in the City. Mr. Mark Hoffman, Chairman of the Alamogordo Disability Council, requested that some of their members be invited to this meeting. Mayor Carroll said they were open meetings, so anyone was welcome to attend. Mr. Hoffman requested that staff let him know of the date so they could attend. Mr. McCourt said he would let him know.

D. Comments by Mayor Carroll regarding dedication of the "Corner of Color", and the need to discuss the future of the old IGA property.

Mayor Carroll said on Monday he had participated with the Flowering Desert Garden Club in attending the "Corner of Color" dedication at Tenth and Oregon. They had applied through the Prudential Financial Group, and they were awarded some money to do the project. They had also put in some of their own money and a lot of sweat labor into it, along with some assistance from our Parks and Recreation people. They had created a very nice, attractive corner there. It was lit at night and was very attractive. The value of that project was probably in the neighborhood of \$3,000, so he wanted to recognize and thank the Flowering Desert Garden Club in their efforts on behalf of beautifying the City.

Mayor Carroll said everyone was aware that the Library bond did in fact fail. The proponents of the bond were still eager to see a new Library built. He'd had some conversation with them, and he did tell them that the Commission would need to make a decision at some point as to how we wanted to proceed with the old IGA property. He asked that an item be put on the agenda within the next month for the Commission to make a decision on how to proceed with the land which had been donated to us, and to give the proponents of the Library an opportunity to present a case to the City Commission as to why we should continue to hold onto the property and possibly try again at some point in time for either another bond or some other financing for the Library. Also, if we could have some idea what the City's financial requirements may be if we decided to hold onto the property, as obviously we had to continue to

pay the insurance and pay for some of the upkeep. Some of those expenses would be coming due, and hopefully we could make a decision one way or the other prior to that.

**EXECUTIVE SESSION:** Adjourn into Executive Session to discuss threatened and/or pending litigation and/or acquisition of water rights.

Mayor Carroll said there was no need to adjourn into Executive Session after all.

**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 9:04 p.m.**

*/s/Donald E. Carroll*

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Mayor Donald E. Carroll

ATTEST:

*/s/Angie Rahn-Broyles*

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City Clerk Angie J. Rahn-Broyles  
(SEAL)

(Prepared by Teresa Y. Gutierrez)

Approved at the City Commission Regular Meeting of April 12, 2005.