

CITY OF ALAMOGORDO, NEW MEXICO

CITY COMMISSION REGULAR MEETING MINUTES

7:30 P.M., COMMISSION CHAMBERS

DECEMBER 20, 2005

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

COMMISSIONER JOHN ROBERTSON
COMMISSIONER MARION LEDFORD
CITY MANAGER PAT McCOURT
CITY ATTORNEY KEN MCDANIEL
CHIEF 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 Reverend Richard Hicks, and the Pledge of Allegiance was led by Commissioner Ed Cole.

PRESENTATIONS:

1. Presentation by Mr. Ed Carr, Executive Director of the Otero County Economic Development Council, regarding the "Incentives for Jobs" 2006 Legislative Agenda, and adoption of Resolution No. 2005-39 supporting the legislative agenda.

Recommendation: Approve the Resolution.

Mr. Ed Carr said that the Economic Development Council can only do its job if it has the right tools. The State of New Mexico has provided some great tools, and this resolution is for the enhancement of existing programs. The job training incentive program is an existing program that 1-800-FLOWERS.com took advantage of and Sunbaked Biscuits plans to take advantage of. The New Mexico Economic Development partnership was the organization that brought Sunbaked Biscuits to Otero County so the Otero County Economic Development Council fully supports them in getting additional funding to

support their efforts. The cooperative advertising program has been used in the past, and the Council intends to use it in the future. Item 3 on the legislative agenda would add money to that program, and it is a dollar for dollar match with local communities taking part, which would be a good use of State funds. As far as Item #4, the Business Incubator Development Program, the Council thinks that the Economic Development Strategic Plan certainly outlines the possibility of a business incubator in Alamogordo. This would provide seed money for possibly doing that in the future not only in Alamogordo but also across the State. The federal contract R & D tax deduction is something that the Council is certainly interested in. The Test Group and White Sands Missile Range both do research and development on military items, and this is targeted directly at them to enhance their capability to recruit more R & D into New Mexico. This year it has been enhanced more, and the Council certainly supports that. The others items are not germane to Alamogordo, but certainly the Council would support them. Mr. Carr encouraged the Commission to support this package of incentives for the State Legislature to look at.

Commissioner Ed Cole stated that last week he received an e-mail on number 7 (of the legislative agenda), the Main Street Program. He knew something about it because of Artesia and what they did with it. He doesn't know what it should be in Alamogordo, but wondered if there was any effort with the Main Street Program in this geographical area.

Mr. Carr said that the Main Street Program is a great program, but it requires business participation with a matching amount of money. It is not a hand-out or grant from the State to a community for things such as repaving the streets, lighting the downtown area and putting now awnings up or anything like that. It is a great program for communities that have a business community that is willing to support it. Alamogordo has tried it two times in the last six years that he is aware of and perhaps another time before that, and the property owners have not bought into it. The problem in many cases, particularly on New York Avenue, which would be a primary candidate for the Main Street Program, is that they are tenants and not owners of the buildings. The owners generally are not in town and are not willing to participate. At least heretofore the Council has been unable to generate the necessary interest. Consequently, that program has not been taken advantage of.

Commissioner Cooper moved to adopt Resolution 2005-39. Seconded by Mayor Pro-Tem Ron Griggs. Mayor Don Carroll, Mayor Pro-Tem Ron Griggs, Commissioner Inez Moncada, Commissioner Don Cooper, Commissioner Ed Cole, Commissioner John Robertson, and Commissioner Marion Ledford voted "aye". The motion carried by a roll call vote of 7-0-0.

Mayor Don Carroll thanked Mr. Carr for his presentation and for the work that OCEDC does for the community.

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.

Items 2 and 8 were on the Consent Calendar. No items were removed.

MINUTES:

2. **Minutes of December 6, 2005 Regular Meeting.**

Recommendation: Approve the minutes.

8. **Purchase of 0.246 acres of land in Lot 458, Sunrise Heights Subdivision, Unit 9, Replat A (3302 Abbott Avenue), to be used for the Flood Control Project.**

Recommendation: Authorize the purchase in the amount of \$13,931 plus closing costs up to \$1,000.

Commissioner Cooper moved to accept items 2 and 8 on the Consent Calendar. Seconded by Commissioner Robertson. All voted "aye". The motion carried by a vote of 7-0-0.

PLANNING ITEMS:

3. **Consideration of Ordinance No. 1255 for rezoning to District "C-1" (Neighborhood Business) requested by Jim Lynch [Case Z-05-0649(A), 1702-1714 Loma Vista Drive].**

Recommendation: Approve the ordinance to change the zoning of subject property to District "C-1" and to amend the official zoning map of the City of Alamogordo for Case Z050649(A) for final publication.[Roll Call Vote Required]

City Manager Pat McCourt had a couple of questions for the planner. He asked if the rezoning was in accord with the comp plan. Usually a note is made to indicate that one way or another. City Planner Sharon Few said that it is not. City Manager McCourt then asked if this would be spot zoning. City Planner Few said that it is not spot zoning but would continue the zoning from the west, and it would also unify one proposed project under single zoning classification.

City Manager McCourt apologized for not thinking of these questions earlier, but he asked if City Planner Few recalled what the comp plan shows for this area. She replied that it was medium to high-density residential. Mayor Carroll said that he assumed that would be in keeping because of the apartments that are in the area on First Street. City Planner Few said that the apartments on First Street are actually in a commercial zoning district, and this would be medium to high density for single-family urban development.

Mr. Doug Nelson from Tool Box LLC was present. He has a contract to buy the property pending the zoning. Mayor Carroll asked Mr. Nelson if the plan was for this to be a continuation of the storage units. Mr. Nelson said it is right next to the storage units now. It is one street over.

Commissioner Cooper moved to accept Ordinance No. 1255 for rezoning and amending the official zoning map of the City as well as the City's comprehensive plan for Case Z-05-0649(A) for final publication. Seconded by Commissioner Ed Cole. Mayor Don Carroll, Mayor Pro-Tem Ron Griggs, Commissioner Inez Moncada, Commissioner Don Cooper, Commissioner Ed Cole, Commissioner John Robertson, and Commissioner Marion Ledford voted "aye". The motion carried by a roll call vote of 7-0-0.

4. Consideration of Ordinance No. 1256 for rezoning to District "C-3" (Business) requested by Ronald D. Pieper [Case Z-05-0650(A), 1211 Cuba Avenue].

Recommendation: Approve the ordinance to change the zoning of subject property to District "C-3" with the conditions that (1) there be no outside kennels, pens, enclosures, etc. used for the temporary or long-term holding of animals; (2) the facility not be used for livestock [animals classified as livestock include the following: horse, donkey, cow, sheep, goat (except for Vietnamese miniature potbelly pigs or pigmy goats weighing fifty pounds or less) or any other similar animal]; and (3) the facility not be used for venomous reptiles or carnivores weighing over fifteen pounds, other than a domestic dog or domestic cat, to amend the adopted comprehensive plan, and to amend the official zoning map of the City of Alamogordo for Case Z050650(A) for final publication. [Roll Call Vote Required]

Commissioner John Robertson asked if this would be spot zoning. City Manager McCourt explained that this is a C-3, which is a form of business. District C is commercial as it has been re-designated; it is a specific type of commercial zone that is within this total commercial zone. C-1 is the largest or most liberal type of commercial zone. He was then corrected that it was the other way. It is all C down Cuba Avenue, and there is a piece of commercial zoning within it. City Planner Few said that no comments had been received. There is C-3 zoning within 80 feet, and the only reason that rezoning is needed is the proposed use is a veterinary clinic. The C-1 district specifically excludes veterinary clinics. City Manager McCourt said that this had been in commercial use. City Planner Few said that until about a month ago it has been in commercial use for over 20 years. The entire block in both directions is C-1, and at 12th and Cuba on the east side of Cuba both sides of the street are C-3. There is also light industrial at the corner of Oregon and 13th, which is Lane Plumbing. There is C-3 on Oregon. The recommendation was done by Mr. Hunt, and the proposal is to protect the neighbors from outside uses that are currently restricted from the C-1 district.

Commissioner Don Cooper asked if the building was previously the office of Westsource Real Estate. City Planner said that she believed it was.

Commissioner Cooper moved to accept Ordinance No. 1256 for rezoning and amend the comprehensive plan and official zoning map to district C-3 business as requested by Ronald D. Pieper, Case Z-05-0650(A) at 1211 Cuba Avenue. Seconded by Commissioner Robertson. Mayor Don Carroll, Mayor Pro-Tem Ron Griggs, Commissioner Inez Moncada, Commissioner Don Cooper, Commissioner Ed Cole, Commissioner John Robertson, and Commissioner Marion Ledford voted "aye". The motion carried by a roll call vote of 7-0-0.

5. Consideration of Ordinance No. 1257 for rezoning to District "R-4" (Multi-family Dwelling) requested by Jaime J. Garcia [Case Z-05-0651(A), 1309 N. Florida Avenue].

Recommendation: Approve the ordinance to change the zoning of subject property to District "R-4", with the condition that the density be limited to three (3) units; and that prior to the ordinance being filed that the property be replatted into one (1) lot, to amend the adopted comprehensive plan, and to amend the official zoning map of the City of Alamogordo for Case Z050651(A) for final publication. [Roll Call Vote Required]

City Manager McCourt pointed out that in the body of the staff report, specifically the third sentence of the second paragraph it reads, "The proposed zoning to R-4 will conform to the Master Plan but will be spot zoning." If that is the case, City Manager McCourt was not sure why the comprehensive plan would have to be amended. The conclusion was that was not needed. This is in accordance with the comprehensive plan. It is similar to some of the other cases that have been looked at that were further north on Florida. The significant differences are those were single family, and this is dense plan and is developed into a denser residential zoning. Further north, Florida chokes down to two

lanes, and there are traffic flow problems, but in this particular area it is four lanes. Immediately across the street are the school buildings, so this is an example of where apparently there was property developed sometime back in the sixties. There is no record of it, and he was unsure if there are building codes.

City Planner Few said that there were zoning codes at the time, and apparently there were building codes also but there is no record of any permits with government. This was done over 50 years ago, and the two blocks between 12th and 14th facing Florida are heavily developed with more duplex usage. Staff has been contemplating continuing the R-4 south of 12th Street and going ahead and initiating rezoning on at least those two and possibly three blocks to legitimize all of the uses that are in there now.

Mayor Carroll said that it was his understanding that this property is listed as a single water service and a single sewer service. City Planner Few said that is correct, and Mr. Garcia just purchased the property.

Mr. Jaime Garcia said that the property does have three separate water meters, and to the best of his knowledge it has two separate gas meters. The three tenants were paying individual gas bills, but he has yet to find the third gas meter.

City Manager McCourt said that he was surprised to hear that as when they looked at the building records they could only locate one meter. He stated that the City would work with Mr. Garcia to see that those are properly recorded.

Commissioner Robertson said that he was confused as to it being spot zoning. The Commission has turned down spot zoning on the same street not because the street was narrower but because the staff recommended not approving it because it was spot zoning. Here the staff is approving to do this even though it is spot zoning.

City Manager McCourt explained that another significant difference is the comprehensive plan. The other areas were clearly designated for single-family housing whereas this area is clearly planned for dense multi-family housing.

City Planner Few explained that there was a building permit on the other property that clearly stated that it was for cabinets and electrical work. Instead, it converted a garage area into a dwelling unit, and the work was done by a licensed contractor. Back to the issue at hand, because it is spot zoning it is recommended that the density be limited. She pointed out that it does conform to the master plan, and the conversion was done over 50 years ago.

Commissioner Robertson asked if staff thought that in the future the rest of it possibly would be developing into this type of property. City Planner Few said the rest of it is currently developed into higher density uses, which is why they are looking at initiating rezoning of additional area in these three blocks facing Florida Avenue between 12th and 15th.

Commissioner Marion Ledford reiterated that the unit behind the house was built without a building permit and questioned if it was built in conformance with the proper zoning at the time. City Planner Few stated that she could not find a hard-copy record, which does not necessarily mean it did not have a building permit. Records from that far back may or may not have been maintained. A lot of them had been lost. Commissioner Ledford asked then if this was an effort to legitimize a property that's not in conformance after the fact. City Planner Few said yes.

City Manager McCourt reiterated that they were unsure whether there was a permit because there was a big flood in the basement of City Hall in which a significant number of records were lost.

Commissioner Robertson asked, going back to Mr. Wade's issue, if the Commission was going to have to have the second building that was not permitted inspected to see if it meets code to put residents in it.

City Planner Few said Mr. Garcia is already looking at getting a building permit because there is work planned on the unit because there are some problems at least with the roof. He is also working on getting the property replatted to eliminate the problem. The property is a lot and a half, and it is recommended that the zoning not be filed if it is approved until it is replatted.

Commissioner Robertson said he is not concerned with the lot sizes or the road. His concern is whether this should be inspected prior to approval like was done with the other ones to see if it would comply.

City Planner Few said the other one was not inspected, and this one will be inspected with the building permit.

Commissioner Robertson asked what would happen if he did not get the building permit and just went ahead and rented it without the permit to redo it.

City Planner Few said if Commissioner Robertson saw the condition of the roof he would know that work has to be done on the building before it is habitable.

Commissioner Robertson said again what if he decided not to do the work, doesn't get the building permit and just rents it.

City Manager McCourt said that it certainly is possible that he could do that. The City's response would be to condemn the structure and declare it uninhabitable.

Mayor Pro-Tem Ron Griggs said that he and the City Manager had spoken about this case today because it looked similar to the one with Mr. Wade's property. He appreciates some of the things that are different. Florida is kind of a street in transition--single-family residences are there; commercial buildings are there; daycares are there; a variety of things are there. It appears to him that the Commission may need to look at Florida as a whole and how areas on Florida should be addressed such as Mr. Wade's and what zoning changes it may need if any. Mayor Pro-Tem Ron Griggs said it does not appear that Florida is going to develop with single-family residences. The City needs to look at what the zoning for Florida ought to be and then proceed with making it that type of zoning.

Commissioner Cole stated that he had visited with Mr. Wade a couple of times since the previous meeting, and though he is not arguing the decision of the Commission on Mr. Wade's request two weeks ago, he did want to ask some questions. Commissioner Cole said that in his meeting with City Manager McCourt and City Planner Few a comment was made with regard to the buildings that existed on the properties more than 50 years ago. In talking to Mr. Wade, he has property that was built in 1945. Commissioner Cole had questions regarding buildings constructed more than 50 years ago and how that affects the decisions being made.

City Manager McCourt said that what he thought he heard Ms. Few say tonight was that both of these had been residential properties for approximately 50 years. That was not the case in looking at Mr. Wade's property. That had been inappropriately converted approximately 15 years ago.

Commissioner Cole went on to ask for further clarification about properties built more than 50 years ago and if there is some relation to that on whether these are approved.

City Manager McCourt said that 50 years is not a magic number. It was only a statement that property had been there at least that long. City Planner Few said the third unit on Mr. Garcia's property was on there for over 50 years. The original duplex in the front is even older than that.

City Manager McCourt said that Mr. Wade's property was R-1, and the conversion happened while it was R-1 property and was done illegally by a licensed contractor. In contrast, the property under consideration was not zoned R-1 and was not zoned R-1 fifty years ago. It's multi-family property and is designated for high-density residential use.

City Planner Few said this was zoned for multi-family use with the original 1950 zoning ordinance.

Commissioner Cole asked then what the statement on the last page and last paragraph means, "limited to three units prior to the ordinance being filed that the property be replatted to one lot." City Planner Few explained that it means there is a lot and a half with a lot line going through the middle of the single-family unit and the duplex that needs to be removed. When rezonings or actions have been brought before the City Commission in the last year, staff was asked to look at some way to make sure that recommendations for replatting or other special circumstances were addressed prior to the zoning going into effect. That is why the recommendation is that the ordinance not be filed until after the replatting is done and to limit the number of units to three. It could not be expanded because with the 11,000 square feet of lot area, potentially under the R-4 zoning, it could be increased to five units.

Commissioner Cole said as has been said that it seems the Commission is not being consistent.

Commissioner Cooper said that the property being considered at this meeting was site built. It was not a conversion. The lot line will be eliminated, and the single-family house will be upgraded and redone.

Mayor Carroll pointed out that what the Commission did or did not do with Mr. Wade's property should not affect whether or not this is approved or denied because of the significant differences between the two.

Commissioner Cooper moved to accept Ordinance No. 1257 for rezoning to R-4 multi-family dwelling as requested by Mr. Jaime Garcia, Case Z-05-0651A, 1309 North Florida Avenue and to amend the official zoning map. Seconded by Commissioner Ledford.

Mayor Don Carroll, Mayor Pro-Tem Ron Griggs, Commissioner Inez Moncada, Commissioner Don Cooper, Commissioner Ed Cole, Commissioner John Robertson, and Commissioner Marion Ledford voted “aye”. The motion carried by a roll call vote of 7-0-0.

6. Consideration of Ordinance No. 1258 for rezoning to District "R-1" (Single Family Dwelling) requested by Suleiman Hawash [Case Z-05-0652(A), Airport Road].

Recommendation: Approve the ordinance to change the zoning of subject property to District "R1", to amend the adopted comprehensive plan, and to amend the official zoning map of the City of Alamogordo for Case Z050652(A) for final publication. [Roll Call Vote Required]

City Manager McCourt said that a protest has been filed on this particular item, which is listed in the agenda package. It came from the Homeowner's Association located on the east side of Airport Road. Their complaint did not have to do with the proposed zoning change. Their concern has to do with drainage and the condition of Airport Road. It was mentioned in the minutes from the last Planning and Zoning meeting that as the area is developed a drainage plan will have to be developed showing how this is going to be handled to move the drainage through the area, which is a normal part of the platting of a subdivision, which would be required in this particular case. As to Airport Road, it is on the list of roads to work on next year under the City's street maintenance program.

Commissioner John Robertson asked if it is in the flood zone.

Mr. Dean Hunt, Acting Community Development Director, said it was in the flood zone.

Commissioner Robertson said that he has been out there after some hard rains, and the flooding out there is horrible.

Mayor Carroll said that the concerns for the flooding would all have to be addressed at the time a proposal or subdivision plan was submitted. It is zoned commercial right now, and R-1 is single-family residential. It is much more restrictive zoning than what exists out there now.

City Planner Few said the property currently has business C-3 and M-2 industrial zoning on it. Those districts do not allow single-family use. The largest portion of the entire

parcel is R-1, and this would bring the entire development under one zoning classification to allow single-family development.

Commissioner Robertson said he could see how they could handle the flooding better with a housing subdivision than the commercial property. There is better drainage.

City Planner Few said there is a preliminary plat already before the City. The owner's engineer and developer are working with the City's engineering staff to address concerns on utilities and drainage.

Commissioner Robertson asked if the sewer and water are already down there.

City Planner Few said they are in Airport, but they do not continue to the west on Industrial Road, Beacon or any of the other streets there. There would need to be utility extensions into the re-platting of the subdivision.

Mayor Pro-Tem Ron Griggs said that the concern some of the folks have is when you travel down Airport the drainage on the east side of Airport Road where the streets all intersect tends to be blocked with growth of either weeds, grass or a variety of things, which impedes its flow. Once it comes out of the subdivision and hits Airport Road, it doesn't move out very well. Not knowing what the plan is on this particular tract, whether it will go into Airport Road or go points west, he thinks if it drains to the west or to the south away from the subdivision on the east side, that will take care of most of their concerns. Airport Road itself is one of those roads that the City needs to address because there are issues on that street every time there is a heavy rain.

Mayor Pro-Tem Ron Griggs moved to approve the ordinance (1258) to change the zoning of subject property to District "R1", to amend the adopted comprehensive plan, and to amend the official zoning map of the City of Alamogordo for Case Z050652(A) for final publication. Seconded by Commissioner John Robertson. Mayor Don Carroll, Mayor Pro-Tem Ron Griggs, Commissioner Inez Moncada, Commissioner Don Cooper, Commissioner Ed Cole, Commissioner John Robertson, and Commissioner Marion Ledford voted "aye". The motion carried by a roll call vote of 7-0-0.

7. Consideration of the final plat of Vista de Las Estrellas Subdivision, Replat A, for three (3) lots located outside the City of Alamogordo, but within its extra-territorial planning and platting jurisdiction, for William Glidden [Case S-05-0908(A), Old El Paso Highway at Simon Lane].

Recommendation: Approve the final plat of Vistade Las Estrellas Subdivision, Replat A, Case S050908(A), with variances on alleys, on public land dedication, and on the construction of utilities and streets to City standards.

Commissioner Ed Cole moved to approve the final plat of Vista de Las Estrellas Subdivision, Replat A. Seconded by Commissioner Don Cooper. Mayor Don Carroll, Mayor Pro-Tem Ron Griggs, Commissioner Inez Moncada, Commissioner Don Cooper, Commissioner Ed Cole, Commissioner John Robertson, and Commissioner Marion Ledford voted “aye”. The motion carried by a vote of 7-0-0.

OTHER BUSINESS:

9. **Alamogordo Desert Lakes Golf Course Clubhouse:**

A) Reassign funds to cover the cost of the temporary building, electrical transformers, and furnishings for the clubhouse.

Recommendation: Reassign \$280,000 from Fund 108/111.

Mayor Carroll explained that this is on the agenda prior to consideration of award of the bid for the construction of the clubhouse because without the reassigning of the funds there is not sufficient money budgeted to do the clubhouse.

AssistantCityManager Matt McNeile said that he had passed out the additional information and offered to answer questions.

Commissioner Inez Moncada asked if the additional money was coming out of the library fund. She asked if everything had been completed at the library.

Assistant City Manager McNeile said that all of the repairs at the library had been completed.

City Manager McCourt reminded the Commission that the repairs to the Library were at the northeast corner of the building. The drainage was changed and taken over to the ditch that parallels Washington Avenue. Work was also done on the retaining wall to move the drainage, and drainage work was done on the north side of the building so that the water would drain. All of the problems were corrected, and there has been no indication despite some good storms since then of any further problems.

Commission Cooper asked if those funds were also used to install a storm drain on North Florida.

City Manager McCourt said that was correct, and as he recalled the original action of the Commission was to set this aside to supplement the bond issue if it passed. When that didn't pass, the commission took some of the money to fix the roof of the gym at the Family Recreation Center, which had an old roof with severe leaking problems. The insurance will take care of the floor, but they won't take care of the roof. In addition, they won't do the floor until the roof is taken care of. Funds were allocated for fixing that, and the Commission also allowed some funds to be used for drainage on North Florida. Catch basins were built and tied into the old Bonito line which was abandoned so that some of the water could be taken off of North Florida north of Indian Wells and taken down to the ditch.

Commissioner Moncada asked how much money was left in that fund. Assistant City Manager McNeile said there is \$266,113.34 left in the fund.

City Manager McCourt said that he has a breakdown of Fund 108 and 111 with all of the projects, and he thought he had placed it in the mailboxes of all of the Commissioners. He will run copies, and it does show all of the projects that the Commission has authorized from Fund 108 and 111, which ones have been completed, and how much money has been allocated to each of those particular projects. The staff will not change any of those without Commission authorization.

Mayor Carroll asked if he was correct in stating that the majority of the money remaining in the fund was set aside for possible recreation facilities at the old landfill.

City Manager McCourt said that the majority of the money in the fund is for the clubhouse, but the remainder after that, the largest single lump sum would be the Brownsfield project money.

Assistant City Manager McNeile said there are several projects that are currently out to bid or soon will be out to bid including the Family Recreation Center roof and the water tower.

Commissioner Cooper made a motion to authorize the reassigning of the funds from 108/111 in the amount of \$280,000 to the golf course clubhouse project. Seconded by Commissioner John Robertson. All voted "aye". The motion carried by a vote of 7-0-0.

B) Award of Public Works Bid No. 2005-011, Rebid II.

Recommendation: Award to WilliamSon Construction, Inc. in the amount of \$2,086,413.62, inclusive of NMGRT.

Commissioner Ledford asked if this bid is approved what the estimated completion date is of the clubhouse. Assistant City Manager McNeile said that it would be 9 to 12 months after the Notice to Proceed is issued. That should be issued January 1, 2006.

Commissioner Cooper asked if the bid specified 210 working days and how that would work out.

Assistant City Manager McNeile pointed out that there also have to be weather days incorporated into the expected completion date.

Mr. Grant Dalpes said that January 11th would be the Notice to Proceed with substantial completion by August 8 and final completion by September 8.

Commissioner Cooper made a motion to award Public Works Bid No. 2005-011, Rebid II to WilliamSon Construction, Inc. in the amount of \$2,086,413.62 inclusive of NMGRT. All voted "aye". The motion carried by a vote of 7-0-0.

10. **Notification of vacancies on Boards and Committees.**

Mayor Carroll said that there is still a vacancy on the Community Development Advisory Committee as well as the Mayor's Committee on Aging.

SCHEDULED COMMUNICATIONS FROM THE CITY COMMISSION:

11. **Request of Commissioner John Robertson to implement a railroad "Quiet Zone" throughout the City.**

Recommendation: No recommendation.

City Manager McCourt said that the City has been looking at this project for a couple of years. In the budgeting process the City had done preliminary studies to create quiet zones throughout the entire community at all of the rail crossings. Quiet zones are zones where extra protection devices are put in place so that the trains do not have to blow their whistles as they approach those crossings. A general study was done on all of the areas, and then there was a big hang up on getting the regulations finalized, which delayed the implementation. As the City moved toward the implementation phase there were numerous comments from the public on the blowing of the horns within the community, some in favor and a considerable amount indicating that was something that they enjoyed or felt was part of our heritage. The City proceeded with one crossing, the one on Martin Luther King to 54. Some of the rationale there was that was a new crossing that had been put in recently whereas all of the other crossings have been in existence as long as the City. The bid for the construction of that particular crossing has been awarded. The City is proceeding to get the physical improvements done at the Martin Luther King crossing. After that is done, the City will send out another notification that the improvements have been completed and that the train will stop blowing its whistle within 30 days. The train can stop before then, but they have up to that amount of time. So there is an action plan on one crossing that has been implemented, and there is a general plan on all crossings. One of the surprises has been that when the engineers worked up the estimates on creating the quiet zones at the different crossings, they used different techniques at different crossings. What they did not include in any of their cost estimates was the permit that the City was going to have to get from the railroad. That was mentioned when the Martin Luther King crossing was put out on bid and was about a third of the cost of doing the work at the crossing. The City is over budget on that particular crossing because of that permit but within budget because only one of multiple crossing has been done within the community.

Commissioner Robertson stated that at the last Commission meeting the people were told that this would not be pursued any further for the main reason that the City had to get approval from someone to put those in. It is now known that there is no requirement to get approval. It is strictly up to the Commission whether they are put in or not. The railroad simply has to be notified with appropriate letters to put them in. Before that, Commissioner Robertson received a lot of phone calls, letters and visits from the citizens in town addressing pros and cons both ways. However, it was mainly people that wanted

the quiet zones. Many of the business owners from White Sands have visited with him, and after the last meeting when the Commission stated it would not be pursued any further, there have been many citizens addressing this over the last two weeks. Commissioner Robertson would like for the Commission to put this item on the upcoming ballot and let the people vote on it. Most of the people in Alamogordo now know about the quiet zones, and there are too many people involved for the Commission to make a decision at this time. There is a petition that is supposed to be coming up regarding a special election next September. It might be possible to put this item on that ballot, and if not, perhaps the March ballot after that. People like to hear the train whistle blow, but right now Alamogordo is straining from progress. There is a lot of building going on, and there are a lot of new companies coming to the town. People have to step aside for progress, and this is one of those issues where too many people with hotels and motels are getting too many complaints from people staying there. They will not come back as long as it continues, and there are people from restaurants complaining because people sitting there eating have to listen to the train whistles. Commissioner Robertson suggested getting it off the Commission's head and let the people vote on it.

Commissioner Moncada said she believes that some of the motels that have chosen to build where they have were quite aware that the train would run right through there. She thinks that the reason for the trains to blow their whistles in the downtown area is for safety not only for a car that is going to go through but for individuals who cross those train tracks walking. They need to have that. Commissioner Moncada said she is not in agreement that the City needs a quiet zone. She pointed out that people may hear the clacking of the train rather than the whistle. The main concern should be the safety of the citizens.

Commissioner Robertson said that in his opinion the quiet zone would be more of a safety zone than not having them. He asked Commissioner Moncada if she was going to build a motel in Alamogordo where she would build it. She replied that of course it would be where the other motels are. Commissioner Robertson said that this then is progress to which Commissioner Moncada replied that the train whistle would simply be taken into consideration when deciding where to build.

Commissioner Robertson point out again that he is not at this meeting trying to push a decision on whether to put the quiet zones in or not, but he is asking the Commission to take it to the general public for a vote.

Commissioner Cooper said he was made aware that there was an "unofficial" survey done by the Chamber of Commerce, and more than three to one or over 75% of the people want the horn to continue not only for safety's sake but for nostalgia. He has even had a woman say that she moved in a house on Ohio just so that she could be close to hear that whistle because it brought back a lot of memories for her of when she was a little girl in Alamogordo. He feels that the train whistle is part of Alamogordo's history and has not impeded progress because the motels built knowing that the train would go through on a daily basis ten to fifteen times. Everybody knows what they were getting into. Up until a

few weeks ago, Commissioner Cooper said he had not received a single call about complaints about the horn blowing.

Commissioner Robertson asked if he was afraid to take it to a vote.

Mayor Carroll said that there are provisions to put advisory type questions on ballots, and there will certainly be another election in 2008. There may or may not be one between the date of this meeting and then. As the time approaches for the next election, the item can be brought up to decide if the Commission wants to put it on as an advisory item on a ballot rather than something that would direct or force that to be done.

Commissioner Robertson said that the City Clerk is fairly sure that this would be brought up in September on the smoking agenda. Petitions are being drawn up right now.

Mayor Carroll pointed out that there are several things that could happen in regards to a proposed petition on non-smoking. One, the State Legislature may act in the interim and take care of the problem. The second is the petition as was brought to the Commission the last time was not a request to put an item on a ballot. The request from the citizens was a petition for the Commission to pass an ordinance. If that petition came, he suspects that's what the petition again would be for the Commission to approve an ordinance at which point in time the Commission either agrees with the petition or doesn't. It does not automatically go to a ballot unless the petition states that the citizens want an item. Mayor Carroll was not sure if there is a provision for requesting an item on the ballot. The request would be for the Commission to take action on an ordinance. If the Commission fails to act on it, then the State law requires that it go to an election. Mayor Carroll said it is not a certain thing that there will be or will even need to be an election. There very well could be assuming that the petition shows up and the Commission fails to act on it.

Mayor Pro-Tem Ron Griggs pointed out that the individuals who have been opposed to quiet zones have been willing to voice their opinion publicly either in the newspaper, on the radio, or by calling the Commission. It would probably be a wise thing for people out there who genuinely support the establishment of quiet zones to do the same thing. If they truly believe that quiet zones need to be established throughout the community, then they need to call members of the Commission or write letters to the editor. Then the Commission will have a better feel for them as it has for those that are opposed to the establishment of quiet zones.

Mayor Carroll pointed out that when this item first came up he did receive some letters, the majority of which were in favor of keeping the horn, but he did get some from some of the local motel owners requesting that the horn be silenced throughout the town.

Mrs. Ruth Coughlin was wondering what made Commissioner Robertson change his mind about deciding tonight and deciding to put it on the ballot. Commissioner Robertson said he has had many people contact him in the last several months. In fact, he spoke to an individual about it at the grocery store before coming to this meeting. Everywhere he goes he has people say things about it, and he has had probably an equal balance of individuals with pros and cons. There are so many people in the City right now concerned about it that it needs to be taken to a vote.

Ruth Coughlin said apparently what Commissioner Robertson asked the Clerk to do was for the Commission to decide tonight.

Commissioner Robertson said he did not ask the Commission to decide anything. He wanted a positive thought about putting it on the next ballot, and he thinks he got it from the Mayor. He just doesn't want it killed because at the last meeting the Commission had it was killed. It was stated that the City was not going to pursue it any further. He has had too many people contact him since then that heard what was said, and they don't want it killed. They would like to take it to a vote.

Ruth Coughlin wanted clarification that it wouldn't be a special election that would require extra money because every election takes money.

Commissioner Robertson said that he was not asking the City to spend \$18,000 to have a special election.

SCHEDULED COMMUNICATIONS FROM THE PUBLIC:

12. Request of Mr. Mike Renzetti, 1605 9th Street, regarding a water bill discrepancy.

Recommendation: Deny the request.

City Manager McCourt said that the City does not have the ability to do this. This has been discussed and is unexplained. The staff would have been happy to handle this under the policy, but the cut-off line was \$1,000. This one is \$1,055.69 so the staff could not address this particular issue. The staff does not find any misuse or a leak. It is extremely likely that it was a mechanical problem, and there is no problem if the Commission wishes to

grant this. The staff can make an adjustment up to \$1,000 under the new leak policy, which is in effect now.

Commissioner Ledford asked if all that is being asked is to take this and put it into the new policy. City Manager McCourt said that what is being asked is to forgive the amount of \$1,055.69.

Mayor Carroll pointed out that the difference between the old policy and the new had to do with an adjustment as to which tiers this situation would be billed at. This request is not to bill it all at tier one. This request is to forgive the entire amount, which is not covered under either the old or the new policy.

City Manager McCourt said they do not feel that the water went through the meter.

Commissioner Ledford said he thought these kinds of adjustments had been denied before because nobody knew what happened then. The remedy was to check the meter and see if it was faulty, which was not done here. Otherwise, it had been denied in the past. He questioned what the difference was here. City Manager McCourt said the difference is the very large amount with no explanation. Commissioner Ledford asked then if it is a large amount the City forgives it all but if it's a small amount the City denies it.

Mayor Pro-Tem Griggs said there was a situation similar to this in the past where as the Commission was looking at the meter reading it appeared that the meter rolled over, the numbers stuck and rolled over. In looking at this particular history and these readings, it appears as though numbers rolled over as well. Mr. Renzetti's history in the past had been \$200 to \$300, and then it jumped up. So, it just appears that there is a mechanical glitch in this particular meter that allowed it to roll over and charge the gentleman for a substantial amount of water that he probably didn't use.

Commission Cooper made a motion to address the concern raised by the large water bill and forgive what appears to be the overage (\$1,055.69). Seconded by Commissioner Robertson. All voted "aye". The motion carried by a vote of 7-0-0.

UNSCHEDULED COMMUNICATIONS:

A. Mrs. Ruth Coughlin

Mrs. Coughlin said she was curious and wanted to know if the public got to know what the Commission discussed at 6:00 p.m. Mayor Carroll said it was essentially a work session for the Commission to get a briefing on the animal control operation. It was certainly something that was open to anyone who cared to go. It is not normally published when the Commission gets briefed on something or the Commission has a training session. It is to give the Commission a better understanding of how some of the various departments in the City function.

Mrs. Coughlin asked if there was some sort of legal problem that was discussed tonight. Mayor Carroll said it was not. It was merely a training session for the Commission to gain a better understanding of the animal control facility. The public is invited any time that the Commission is meeting other than in Executive Session. Every item is not always published such as for the training sessions. That can certainly be done if it might be a cause for concern on the part of some of the public.

City Clerk Angie Rahn-Broyles said that she does actually post that notice just as if it was a public meeting, and it is e-mailed to every member of the media. City Manager McCourt added that the media was able to cover that session and will be writing it up for the newspaper.

B. Commissioner Don Cooper

Commissioner Cooper said that the awards dinner Saturday night had gone very well and gave kudos to Mr. Raul Ruiz at the Civic Center, his staff, and those that put it together. It was a great time for everybody.

C. Commissioner John Robertson

Commissioner Robertson wished everyone a joyful, safe and merry Christmas.

D. Mayor Pro-Tem Ron Griggs

Mayor Pro-Tem Ron Griggs said he was hoping to be the first one and said Merry Christmas and Happy New Year to everyone.

E. Commissioner Inez Moncada

Commissioner Moncada added her wishes to those of the other commissioners.

F. City Manager Pat McCourt

City Manager McCourt said that the water supply report was passed out this evening. While the status is okay right now, the City has gone to two-day-a-week watering. He advised the Commission that the situation does not look good. There is a noticeable lack of snow in the mountains that will have an impact on the water supply. The City continues to monitor it and pray for snow, but it is getting late in the season and the snow hasn't appeared yet. He asked the Commission to pray for snow also. The lake is down significantly and is still falling. This is Holloman's time of year to take water. The flows have been reduced to about 1,200,000. Two weeks ago it was 1,500,000 gallons a day. It is now down to 1,180,000 at this time, and the level of Bonito Lake is still dropping. The snow the other day made no significant impact. The past summer was good, and Alamogordo was fortunate to get some good snow last year. Next year is not looking good at this point.

In addition, at the last meeting a representative from Valley Air gave an update to the Commission, and as part of that he indicated that perhaps a call from Capital Hill to the FAA would have some impact. After waiting to see if Valley Air would actually ask that that be done, City Manager McCourt did call Mr. Dan Alpert out of Senator Bingaman's office. Mr. Alpert did call the FAA, and the response was that it appears there is some communication breakdown because it seems that Valley hasn't provided the information that's been asked for and hasn't provided it in the form that it's been asked for from the FAA. There is an e-mail in the Commissioner's mailboxes concerning that. City Manager McCourt will call Valley and tell them that.

Thirdly, the Commission had asked City Manager McCourt to look at the noise ordinance. He did pull that out since that time regarding a name change from Special Noise Permit. That can be done, but it will require a change to the Ordinance. That permit refers to a specific section in the Ordinance that states specifically that citizens have to get a Special Noise Permit. If the name of the permit is changed, the Ordinance will have to be changed. City Manager McCourt said he did not think it is worth it. Mayor Carroll asked if "notification" could just be added. City Manager McCourt said it could be added, but that terminology has to be used. That specific section is actually geared toward businesses doing special events. The City tends to use it so the DPS knows when things are going on

and keeps a closer watch on the particular area. Slash "Notification" can be added, but the title cannot be changed. Mayor Carroll said as he stated at the last meeting he feels that would satisfy both. The Ordinance is fairly subjective as far as defining undue noise. City Manager McCourt will change the wording on the title.

There was a breakdown on the reclaimed water system today. It was a breakdown at the plant, which caused the City to lose the availability of reclaimed water both in the parks and what the contractors use for dust control and settlement. The system was coming back up today and should be operational tomorrow. The request came in to use portable water by the contractors. The City was not receptive to that and told them no. They could wait a day especially given the projected water situation. That has created some dust problems especially where the sewer project is being worked on. It should be taken care of by tomorrow, but there may be some feedback on that.

City Manager McCourt said he is leaving for vacation Thursday evening, and Mr. McNeile will be in charge until January 3rd. He wished everyone a Merry Christmas and Happy New Year.

G. Mayor Don Carroll

The City once again won an award for the budget from the State. Mayor Carroll congratulated LeeAnn and her staff on again coming up with an award-winning budget. It has happened ten years in a row. He asked LeeAnn Nichols to pass those congratulations on to those who make that happen.

He congratulated the employees who received service awards at last week's service award dinner. There were over 650 years of service to the City that was recognized, and there was special recognition to Officer David Hunter who was selected as the DPS Officer of the Year. Mayor Carroll congratulated him and joined in wishing the City employees, fellow Commissioners and citizens of Alamogordo a very Merry Christmas and Happy New Year.

Commissioner Cooper moved to adjourn into Executive Session to discuss threatened and/or pending litigation. Seconded by Commissioner Robertson. Mayor Don Carroll, Mayor Pro-Tem Ron Griggs, Commissioner Inez Moncada, Commissioner Don Cooper, Commissioner Ed Cole, Commissioner John Robertson, and Commissioner Marion Ledford voted "aye". The motion carried by a roll call vote of 7-0-0.

The Meeting was adjourned at 9:04 p.m.

“The Governing Body of the City of Alamogordo, New Mexico, hereby states that its regular meeting of December 20, 2005 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 Rahn-Broyles

City Clerk Angie J. Rahn-Broyles

(SEAL)

(Prepared by Trisha Ruckart, Ubiquis Reporting)

Approved at the City Commission Regular Meeting of January 10, 2006



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