

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION SPECIAL (BUDGET) MEETING MINUTES
FIRE STATION NO. 5, CONFERENCE ROOM
1492 SOUTH FLORIDA AVENUE
THURSDAY, MAY 18, 2006, 2:00 P.M.**

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

**COMMISSIONER CHRIS LUJAN
COMMISSIONER STEVE BROCKETT
CITY MANAGER PAT McCOURT
FINANCE DIRECTOR LEEANN NICHOLS
CITY CLERK RENÉE CANTIN**

Call Meeting to Order and Roll Call.

The Meeting was reconvened at 2:02 p.m.

(Note: The following transcript was prepared from notes taken by City Clerk Reneé Cantin and Deputy Clerk Marsha D. Brady.)

1. Policy Discussion Decisions

Mr. McCourt began with some of the policy areas that need to be addressed.

Mr. McCourt presented some issues that need to be taken care of in Animal Control. We have not taken a position on the restriction of the number of animals that can be maintained by individuals and about dangerous breeds of animals, specifically dogs.

Holloman has restricted certain breeds. Mayor Carroll said that the last time the number was brought up, it was discussed that it didn't matter how many if they were being taken care of and we would be picking an arbitrary number. About the different breeds, there are breeds that are as dangerous as Pit Bulls. I don't know how we can come up with an agreeable list. What about the other breeds like Rottweiler's and even German Shepard's. Director Trujillo said that Holloman identified six breeds and the people were required to have insurance to keep that certain breed of dogs. Mr. Trujillo said that we would have some enforcement issues because we have a rough time identifying certain breeds. Mr. Trujillo gave some statistics regarding dog bites and whether we want to pursue this avenue or not. In 2005 we had about 60 animal bites in Alamogordo and 8 of those were Pit Bulls, but 6 of those bites drew media attention. So that was the hot item through the media. So he has some concerns if we develop that kind of ordinance, but we need some kind of direction from the Commission.

Mayor Pro-tem Griggs said that a citizen indicated that only felons have pit bulls and she was looking at it like dangerous people have dangerous dogs. Director Trujillo said that right now we hold the owner responsible and not just because they have a particular breed. Ms. Ehler said that through magistrate court you can declare a dog a dangerous animal. In this case you could have a criminal case. They have requirements that you would have to comply with.

With no further questions, Mr. McCourt notified the Commissioner's that we would not be moving forward with this, or take the staff's time to work on it.

Mr. McCourt presented the Public Safety Answering Point (PSAP). We are continuing our work with the county on this project. It originates out of cell phone answering and being able to

find the geographic location of someone's call from a cell phone in the county or state. We are hopeful that we will secure the best possible system for our area. The Mayor and Public Safety Department have been very active with this. There is a meeting on May 30th in Santa Fe to discuss this issue. I will be attending this along with Director Trujillo.

Mr. McCourt presented an issue with smoking in public facility buildings. Currently we have a policy that only restricts City Hall and DPS from smoking in these buildings. Mr. McCourt would propose that it would be reasonable to not allow smoking at public facilities. He would like to proceed to change that policy for public facilities not including the golf course club house. Mayor Carroll was in favor of moving forward with this. Commissioner Brockett asked if this was inside and not on the grounds? Mr. McCourt confirmed that this was correct. Mayor Pro-tem Griggs feels that we should be consistent throughout the City in the policy. Mayor Carroll said that we can move forward with this issue. Director Trujillo asked for clarification as to whether this would be a policy for the entire city or an ordinance. It was discussed that it would be an ordinance restricted to city owned buildings. Director Trujillo stated that with a City ordinance we can impose a fine. Mr. McCourt said that they will work on the policy.

Mr. McCourt presented the problems guns/weapons in a public building. By state law people can carry concealed weapon if they are permitted. We think this is an area we should explore. Mayor Carroll asked what the state regulations are for carrying weapons and whether local government has the authority to override or set limits and conditions on that. Director Trujillo said the state constitution states no municipality or county shall regulate in any way the incident of the right to bear arms. With the city, the only policy we have now is city employees bringing a firearm into a city building, the general public is not restricted. Mayor Carroll suggested that we contact the municipal league. Mr. McCourt said it will take a lot of work and he is asking if the commission would like them to work on it. Director Trujillo said that it could become a problem. He said that we have had situations where certain clubs have had incidents, but we have not found malicious intent. Mayor Carroll said that he thinks it would be worth getting some information from the Municipal League on whether this is something we can pursue or not pursue. Mr. McCourt agreed that they can do preliminary research on the issue. Commissioner Ed Cole mentioned that we may be creating a problem that we don't want to create. Mayor Carroll mentioned that Mr. Trujillo said that it's not a problem right now but we just want to find out if it becomes a problem, what the steps are that we can take. Commissioner Ledford didn't feel that we should pursue this if it's something that is not an issue. Commissioner Cole agreed with Commissioner Ledford's comments. He feels that we may be creating a problem that we don't want to create. Mayor Pro-tem Griggs agrees that it wouldn't hurt to research it. Mr. Trujillo said that we can provide preliminary research.

Mr. McCourt presented the water issue. Our general policy is the First priority is the development of local sources of water, minimize loss of water and maximize what we've got. This includes the conservation steps that we may take. Second priority is longtime future development of water resources for this community. The third step is what we can do in the short term to offer sources of water.

We know we have long term future needs and we know we want to supply water to our community. Water is our number one issue for this community. We obviously work on all of the priorities but water seems to be our most important.

Mayor Carroll said it makes the best sense to solve the long and short term. Mr. McCourt wants to make sure that we have adequate plans for our water supply. Mr. McCourt said then we will

continue with that and the commission has continued to give the direction that water is our goal and we need to focus on our goal.

Mayor Pro-tem Griggs said that someone commented that they would like to see a Town Hall meeting just on Water. He thinks that could be a good idea to outline where we were and where we are with the water. We are way ahead of everybody except for having more of a supply.

Commissioner Ledford said that people understand drought. What they don't understand is when we are in a drought how do we continue to let houses being built vs. conservation.

Mr. McCourt said that through the City newsletter we are receiving input regarding this issue. He confirmed that we probably have not successfully conveyed some things but we should show how we have worked on the short and long term as to how we are affecting people's rights.

Commissioner Moncada said that having a town hall meeting would be a good idea. She said that people don't realize how many people are employed because of growth and if we stop the growth they don't realize how much it will affect them.

Mayor Carroll said that we just had a groundbreaking for PreCheck today and they understand that water is a problem and they also understand that we are a growing community.

Mayor Carroll said that it would be a good idea but we need to be aware that it's also more work. He would like to make it clear to the Commission that the City Manager cannot complete the preparation for a meeting by next week, for example.

Commissioner Ledford said that we need to continue to communicate what is going on with the water. Commissioner Brockett would like to see the State Engineer's Office invited. Commissioner Cole said that we can make it too complex for the community to understand and we need to be careful.

ADA Compliance. Mr. McCourt wanted to publicly acknowledge Mayor Pro-tem Griggs for his very creative method of addressing a very major concern on the ADA Compliance. He made a suggestion on creating a pathway along the road that really opens the door for us. His example will assist with these problems. He said that they are taking care of all of the alleys, all of the corners and all of the sidewalks on these projects. The driveways would be on one side so that one side will be ADA compliant. We are of the understanding that when we bring this into compliance that cost will be spent by the city. If we don't want to do that, our city code will actually permit us to put that cost on the property owner. Mr. Miramontes said that last year we did this very major paving project, we started doing these corridors and we had the lady complaining from the state. Ms. Reed suggested that we could not make the public facility accessible whether the public wanted us to or not. Mr. McCourt said if we file that policy, and the DOJ comes in, they will put us under an order and direct us to put our resources into any areas that we are not coming into compliance with for the ADA standards. Mayor Carroll said it's not for people who live in the neighborhood it's more for the people who travel through that neighborhood.

Mayor Pro-tem Griggs said that when you get them on the sidewalk by completing the corners, then the problem is the driveways. It seems that it's an issue across the country but it's jumping up and biting us right now. On 24th & 25th the sidewalks are back from the street, what's the reasoning to pave an alley entrance from the street to the sidewalks? Mr. Miramontes said garbage trucks. Mr. McCourt said we have considered the alleyway instead of the driveway.

Mr. McCourt said that the ADA requirement is not the driveway per say, it is the sidewalk. When the sidewalk is sloped that is what is out of compliance. In this case we will have to fix the slope of the sidewalk to be compliant and still leave access to the driveways.

Curb fill is another policy issue. Individual property owners can chose to have direct access to their property, but we do not provide that.

Recessed at 3:24 p.m. reconvened at 3:34 p.m.

Mr. McCourt said that he understands that we removed \$10,000 for the Hall of Honor. He wants to know what the Commission would like for us to do with the OPEDC. He would like to see if they would like for us to see if we can grant their request for next year or wait and see where we end up this year. They confirmed to wait for this year.

Another issue is the Streets Capital and he gave a brief overview. Because when we look at the budget it doesn't always contain great detail. He said that we had some confusion of how much was included in the budget.

Ms. Nichols gave a description. She said we used it for the S. Florida project. Today's handout will show you what amount was for what. For Le Velle Road, we just received the engineering fees. So we want to take those out until we actually get the grant. \$75,931 was the difference. We would have to cut the project by the \$196,343. A transfer was supposed to come from the general fund but we would have to adjust this also.

Mr. McCourt said that we would still like to dedicate the \$300,000 to fix the streets. Commissioner Ledford said that we still have "x" amount of grants. Mr. McCourt confirmed this.

The commission agreed that it's fine for this money to go into the streets.

Mr. McCourt said that it's important to note that it is illegal to have aerial fireworks. The city also promotes the fireworks display. It's a very large display and we pay for that out of the promotional money, the budget request is to increase from \$15,000 to \$20,000. He would like to make sure that the Commission is comfortable with that. It causes us to have more firefighters available. Commissioner Moncada asked if it is for the display itself. Mr. McNeile confirmed that it is for the display. Mr. McCourt said that we have additional costs with the DPS availability. Commissioner Brockett said that we get many people from out of town and he thinks it's worth it. Mayor Carroll said the more attraction that we can bring with our display will be better for the city. Director Trujillo said that the 4th of July is the busiest day of the year for DPS. Mayor Carroll stated that the state has given the regulation to the municipality and we should check to see if we should take that action.

Mayor Carroll asked if there were other changes in the budget.

Page 49: \$15,719 to \$117,247 – Mayor Pro-tem Griggs would like more detail on this increase. Was it for some consulting or what? Mr. McCourt said we have \$14,000 for temporary services to assist with planning research, \$97,000 for annexations at airport, \$85,000 to update expand and revise the zoning ordinance and for the comprehensive plan review, \$100 for copy maintenance, \$6,147 for memberships and dues, \$2,000 for printing, but the big ones I've already mentioned. Mayor Pro-tem Griggs would like to see this to be included in the narrative so they can tell what the money is dedicated to. He would also like to create someone for zoning. Ms. Nichols said that's on page 61.

Page 61: Other services, includes the other person in zoning.

Commissioner Ledford agreed that he would like a narrative that addresses what the increases are.

General fund Page 18: Commissioner Ledford said that it was 13.5 million but the next year we are budgeting 15.4 million. He was asking if we are projecting to exceed this year's income. Ms. Nichols said that it was because of Gross Receipts Tax. He said that the result of this year is that we've had a good year and so we are showing and increase next year. Mr. McCourt said that we show a growth in all areas, not just in construction. Commissioner Ledford brought up the GRT hold harmless issue. Mr. McCourt said it has actually been a positive impact even though we were concerned about it being a negative impact. Ms. Nichols also thinks that it is due to the taxation and revenue having to get a new system and reporting.

Page 45: DPS Code Enforcement. Commissioner Ledford commented that they have 3 code Enforcement Officers. Director Trujillo said that they currently have 2 officers and one secretary, the third would be dedicated to alleys.

Page 271 & 272: Is base salary only, Ms. Keller said that there are no benefit's included. And it does not include overtime, but it includes volunteer fire pay.

Page 245 – Airport: Does this include 139 certification to be budgeted. Mr. McCourt said it would have to come back as a budget change at a later date. Commissioner Ledford asked about the Fire Station out there. Mr. McCourt said we can look into FAA grants. He mentioned that Director Trujillo had a good idea on how we can look into a new combined station that would serve the airport and that part of town efficiently and reduce the overall cost. So we're working on moving forward to provide those services. Commissioner Ed Cole mentioned airport engineering fees and asked to be updated on the runways or taxiway. Mr. McCourt said that this is an area that we generally contract out. Commissioner Moncada asked for clarification on having a firefighter available. Mr. McCourt explained that this will be part of the 139 certification, we would also take part of the station that is on Walker Road to offer fire service in this area.

Page 104: Revision of leisure services. Mayor Carroll has a revision. Resources are exceeding the expenditures and there is a negative cash balance.

Page 99: Ms. Nichols said that is the entire fund of community services. And that is part of page 104.

Page 90 - Court automation. Mayor Carroll asked about the revisions. Ms. Nichols passed out the request for budget adjustment from the court for the court automation. They are requesting a transfer of \$10,771 to cover the internal service funding. The current year is already taken care of. Mayor Carroll said that this would seem like the thing to do for this coming year and pursue with the state as to what the municipality would be required to cover in the future. Ms. Ehler said that we couldn't call it a court automation fee but we could enact another fee with a different name to cover these costs. So the request is that for FY 07 the city would transfer \$10,771 to cover the internal service funding from general fund. Mayor Carroll said that they appreciate the Judge adjusting it and the Commission would agree to transfer for the 07 FY but was concerned about a recurring expense. Commissioner Ed Cole asked if we could ask the Judge to go back and make cuts again because he's concerned about this being a recurring event. Commissioner Ledford said that this is just like anything else and when we do the

budget next year we need to make sure that we do not include this next year. Mayor Carroll said at this point, he feels that we should approve this and move on.

Page 96 - Fund 27: Municipal court. The transfer in for \$393,149 is how we subsidize the court through automation. We still subsidize the court in the general fund. And they also generate money through the court. The reality is that it's a city function in the general fund and is paid for by the general taxation. The reason we set it up in this manner is because of the separation between Judicial and Legislative in the City. But the court automation is separate from this fund.

Page 128 – Fund 44: Commissioner Ledford requested an explanation for the 0 balance for transportation. Mr. McCourt said the way we do that is from their projections we actually do a transfer to the fund.

Mayor called for any other questions or changes. Commissioner Lujan asked about the improvements on the bridge over the ditch at Washington Park and whether it was included. Mr. McCourt said that Mr. McNeile and the Parks Department have addressed that issue and it has been completed.

Mayor Pro-tem Griggs mentioned the internal audit and changing the position to operations manager, and have we outsourced that task. Is it better to have an in-house person or would it be better to set aside a budgetary amount to contract out for certain parts of this position.. Mr. McCourt stated that it would be better to have an in-house person because we have and need long-term in-house issues that need to be handled. It should be a permanent part of our operation and will be ongoing.

Mayor asked if we wanted to continue with the Cedar Street, or would we like to continue with adopting the resolution. Mr. McCourt said that if we do not have the discussion on the curb fills today, then we should set the time to discuss this. It was agreed upon to complete this discussion at this meeting.

2. Approve Resolution No. 2006-32 adopting an Infrastructure Capital Improvement Plan (ICIP) for FY 2007 – FY 2011. [Roll call vote required.]

Commissioner Brocket made a motion to approve Resolution 2006-32 adopting an Infrastructure Capital Improvement Plan (ICIP) for FY 2007 – FY 2011. Seconded by Commissioner Cole. A roll call vote was taken. All voted “aye”. Motion carried by a vote of 7-0-0.

3. Approve Budget Resolution No. 2006-33 adopting the Fiscal Year 2006-2007 Preliminary Budget. [Roll call vote required.]

Commissioner Brockett made a motion to approve Resolution No. 2006-33 adopting the Fiscal Year 2006-2007 Preliminary Budget. Seconded by Commissioner Moncada. Roll call vote was taken. All voted “aye”. Motion carried by a vote of 7-0-0.

Recessed at 5:11 p.m and reconvened at 5:20 p.m.

Mr. McCourt continued with the curb-fill issues and Cedar Street for the policy discussion decisions.

Some statements were made by the residents attending the regular commission meetings regarding Mesa Verde and their position.

When a street is designed there is a standard criteria that is used. That is when we talked with NMSIF and they did feel that the fill could bring legal action against the city. They would rather that we don't allow them but they will provide coverage. The City has NEVER given permission or allowed residents to do this. Some of them have done this on their own, not by the cities directions. This was to gain better accessibility to their property. We have found that we need to remove their curb fills when we improve the property. At two Commission meetings back, there was a belief that we have approved two driveways to be improved. We have researched that and have found nowhere that this had been authorized.

Mr. McCourt said that if this had been done, we would get the money back from the contractor. In the audit, we found that we had underpaid the contract \$20.50. We did not pay the contractor to do these improvements, so who paid them, we don't know. The only thing that could have happened is Mesa Verde must have absorbed those costs. We even allowed them to solicit the homeowners to re-pour their driveways. They did not do that. Mr. McCourt is not suggesting that we go back and remove those driveways, how they got it done is between them and the contractor.

They also did the demolition to take out the curb for the curb fill and the city did not pay for it. Commissioner Cole asked if they could have done it by mistake. Commissioner Moncada said when they got the bid wouldn't they have gotten the supplies for that. Mr. McCourt said that we did not pay for any extra supplies than what the grant called for.

He understands that in the meeting the question of notification had come up, and some people acknowledged receiving the letter for the notification of this project. Mr. McCourt said that during our busy lives we overlook some things.

We are very interested in increasing our abilities and one of the ways is in the Community Development Department. The NMSIF has no recollection of any city that has curb fills being covered, but they have offered to pay for these. We have taken action to remove curb fills, but we have informed the resident that they would have to re-cut their curb.

In this neighborhood, there could be relatively inexpensive improvements that may be acceptable. We would have to make sure that we have a three foot wide distance in the sidewalk for ADA compliance if we want to make this option available. Or we could say that the city could put driveways in that are ADA accessible, but if the Commission wants to go this way, you would be committing a policy change that people will expect us to follow. We will be reducing the access to people's lots and will be running into the same situation again.

Commissioner Ledford said that he doesn't want to get into the issue of paying for everyone's driveway access, but the reason we would pay for it is a particular misunderstanding because of the notification issue. Mr. McCourt replied to Commissioner Ledford by saying that if that's what the commission wants us to do, we will take the steps to fix their curbs. But we need to be aware that it would be an equal treatment issue. The staff will certainly implement the commission's policy decision.

Commissioner Ledford asked Commissioner Brockett about how he would feel about this because it's his district. Commissioner Brockett requested some clarification about the project. If you're doing one side of these residents, the budgeting that we have allows us to put in the

step up driveways at the city's expense, twenty years from now you will do the other side. Eventually it would eliminate the curb fills? Mr. McCourt said actually it would not. Once we did the step up driveways, they were not the previous curb fills.

How much would it be to put in new driveways? Mr. Miramontes said the cost is minimal and it would be long term.

Commissioner Brockett said that if they come to his street he doesn't mind paying for it. His recommendation would be to take care of the Cedar Street problem given the idea of how much it costs because it's not that much.

Commissioner Ledford wanted to clarify what the NMSIF said. Mr. McCourt is saying that there is a risk, and they have never had an action because of someone trips or something because of the curb. They said that it's up to us even though we are doing something out of the normal design.

Mayor Carroll there is more potential liability by leaving the cars on the street. We would be better off getting them up to their driveways.

Mayor Pro-tem Griggs said that if we told them it would be \$25-\$30 to fix this problem. He thinks that we can differentiate between Cedar and the rest of the town. But other places may ask us to fix them. The question is can we set a policy for this. He thinks that if we were to do the curb fills, you could make it to where the water flowing down the street runs into something and is diverted. If we are willing to forego this curb filling, then that becomes our policy as well all across town. Once we allow this we are setting policy.

Mayor Carroll if we do this, there needs to be something addressing roll curbs or ramps or something to provide access to their property. It will be between the builder and the property owner and we need to have a divider of when it happened years and years ago to be able to fix it. Not new owners. Mr. Miramontes stated that when we have a contract and a schedule we have to follow we do not have much time to include the residents.

Mayor Pro-tem Griggs said the curb fill is the easiest fix but we are setting a policy. Mr. McCourt said that some people want more than one curb fill, some want doublewide fills, and individual wishes. Ms. Keller notified them that we did have a tort claim on some of the milling because it's not at the exact grade level and for altering their property in order to make it ADA compliant.

Mayor Pro-tem Griggs said that it is not an issue about ADA Compliance on all of Cedar Street.

Mr. McCourt said that in this city it is a policy to bring the corners up to ADA standards. This is not true for most other cities. And to nobody's recollection has there been a claim on this issue or a similar one.

Commissioner Lujan said that if we approve this, we should try to find some long term solution to fix this. This problem will come up again.

They were talking about an indemnity grant form. Interim Attorney Rebecca Ehler said we should do a form that says, if you want us to replace it, you are going to release us from any liability.

Commissioner Ledford said that we could just eliminate those streets that don't want the curbs and it would be easier to pick which streets we are going to work on.

Commissioner Brockett stated that it would be nice to pay for this, if we can. But if they don't get their street paved because they paid to fill their curbs, they will not be happy.

Mayor Pro-tem Griggs said to Interim Attorney Rebecca Ehler that he knows that we could put a lien on the property, but if we did an assessment against them it wouldn't affect their property.

Commissioner Brockett mentioned that Mr. McCourt, last year, had suggested that we set up a revolving account for these property owners. Mr. Miramontes said that he would discourage the Commission from having our employees do the work, we would have to contract it out. Commissioner Brockett said if they want a driveway they can pay for it, but if they want to just do a curb fill, the city can pay for it. Commissioner Brockett thinks Cedar St. can be viewed as different.

Mr. Miramontes wants to maintain the flexibility of his department.

Mayor Pro-tem Griggs if we decide to do them, we need to decide whether we are going to pay for them or what?

Mayor Carroll said that if we go ahead and do this that's fine, but at that time we have established a policy. But if it looks like we were going with the curb fills then we should set a cut off date for the ones that are already existing we could say that we would do it for them. This would be a long term policy, or do we want to argue with the next group that comes along.

Commissioner Moncada said that the people that have lived there for a long time are due for a new street and we don't want them to be left out.

Mayor Carroll suggested to put back the ones that we took out on Cedar, and develop a policy for the future because we are just taking a corrective action on a mistake that we made on six or eight houses on Cedar street. This is more straight forward because they have a sidewalk. We solve their problem and formulate a policy in case this happens with someone else.

Ms. Ehler asked if someone did not want to would we allow them to put their curb fill back in.

Mayor Carroll says we are just putting something back the way it was.

Brian said we have probably done an additional 18-20 that were done at the same time with the same type of curb in most of the cases.

Mr. McCourt asked for a motion that on the 900 block of Cedar staff is authorized to go back and replace the curb fills upon returning a release.

Motion was made by Commissioner Brockett to authorize the staff to go back and replace the curb fills at the 900 block of Cedar upon returning a release form. Seconded by Commissioner Moncada. Motion carried by a vote of 7-0-0.

Mayor Carroll asked Mr. McCourt to layout the various options that he could see to formulate the policy.

Commissioner Cole made a motion to adjourn at 6:28 p.m. Seconded by Mayor Pro-tem Griggs. Motion carried by a vote of 7-0-0.

/s/Donald E. Carroll

Mayor Donald E. Carroll

ATTEST:

/s/Renee L. Cantin

City Clerk Reneé L. Cantin

(SEAL)

(Prepared by Reneé Cantin, City Clerk)

Approved at the City Commission Regular Meeting of June 13, 2006.