

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
7:30 P.M., COMMISSION CHAMBERS
FEBRUARY 13, 2007**

**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
CITY ATTORNEY WILLIAM BROGAN
CITY CLERK RENEE CANTIN**

CALL MEETING TO ORDER, ROLL CALL, INVOCATION, AND PLEDGE OF ALLEGIANCE

Mayor Don Carroll called the meeting to order at 7:30 p.m. A roll call was taken, and Commissioner Moncada was absent. The Invocation was given by Ms. Dotti West, and the Pledge of Allegiance was led by Commissioner Ledford.

PRESENTATIONS:

1. Presentation by Tina Godby-Ware for the Sexual Assault Response Team regarding their services and requesting a proclamation by the Mayor calling April the National Sexual Assault Awareness month.

Ms. Tina Godby-Ware explained that the Sexual Assault Response Team is making an attempt to get certain information out to the community to make them aware of sexual assault. She thanked Mayor Carroll for signing the proclamation calling April the National Sexual Assault Awareness month.

Ms. Godby-Ware went on to explain that the definition of sexual assault is unwanted sexual contact of any kind. However, it is not about lust or sex, but it is about power and control. One of the myths about sexual assault is that it is primarily strangers that rape. That obviously does happen, but the reality is that one in three girls and one in six boys by the time they are eighteen will have been sexually molested. The latest statistics in the State of New Mexico indicate that the number one sex offender is a father, number two is an uncle, number three a cousin and number four a brother. The assault is usually committed by someone the victim knows, and the oldest victim of sexual assault in Otero County was 80 years old. Ms. Godby-Ware said that this type of violence permeates the society particularly in the media but also in workplaces, schools and colleges. It is also linked with gang violence and domestic violence and routinely occurs in prisons and in war. There is a collective attitude that blames the victim and excuses the perpetrator, which is seen in the media all of the time, and as a result only 16% of those who are sexually assaulted report it. One of the long-term effects on the victim often is post-traumatic stress disorder, which includes alcoholism, substance abuse, homelessness, prostitution, poverty and suicide. Ms. Godby-Ware explained that they know the healing process must begin immediately, and because of that they have teams in place in both Otero and Lincoln County. The members of the team include the District Attorney's Office, the sexual assault nurse examiner, the Holloman sexual response coordinator, the Holloman office of special investigations, other health care facilities including Gerald Champion, which is where the exams take place, Otero County law enforcement agencies, Lincoln County law enforcement agencies, the Children Youth, and Families Department, KIDS, Inc. which is the child forensic interviewer, the counseling center where the rape crisis counselors are, and COPE. Team meetings take place once a month to discuss what is being done and how effective it has been.

The Team wants to coordinate a multi-disciplinary response by which they can intervene as soon as possible treating the victim with dignity and ensuring their confidentiality so the victim can begin to regain self-esteem. The services are free of charge, and adults do not have to report to law enforcement, which is a big concern for many. They can receive a SANE exam, which for victims thirteen and older should be conducted within five days and for victims twelve and under should be done within three days. A limited exam can also be conducted, which includes assessing for injuries,

giving medicines to prevent sexually transmitted diseases, testing urine for pregnancy and giving medicine to prevent pregnancy. If an adult patient allows it, a full exam is conducted, which includes the collection of forensic evidence. The Team then offers five free rape crisis counseling sessions to follow up, and the rape crisis counselor is usually present during the exam along with a victim advocate to let the victim know about their rights.

One of their goals is to increase the prosecution of sex offenders, and the Team also offers child forensic interviews for those victims age three to seventeen, which can be delayed reporting. The critical issues for the success of the Team include ensuring multi-disciplinary services to facilitate healing, changing the public perceptions of rape and sexual assault, overcoming barriers to prevention, increasing the intervention and treatment for underserved populations, ensuring responsive, effective criminal justice practices, promoting sexual assault prevention education and involving men and boys in the prevention of rape and sexual violence.

Mayor Carroll thanked Ms. Godby-Ware for her presentation and for the services that they provide to the community.

2. Presentation by the Mayor to Richard McCracken our outgoing Chairman of the Planning and Zoning Commission (member 2 full terms).

Mayor Carroll presented a plaque to Mr. McCracken and thanked him for his services on the Planning and Zoning Commission.

3. Presentation by Farley Vener, CPA, from the firm of Hinkle & Landers, P.C., regarding the fiscal year 2005-2006 Annual Financial Report.

Mr. Vener briefly went over the highlights of the audit. Comparing increases or decreases to last year showed that cash in investments increased by \$225,000, accounts receivables increased by \$62,000, tax and franchise receivables decreased by \$293,000, grant receivables increased by \$638,000, and capital assets increased by \$43 million. The reason the increase was so large in capital assets was that the City added infrastructure, which was a requirement of the GASB. In 2004, there was a net profit, which in accounting terms for a governmental entity is change in net assets of \$7.5 million. It was \$11 million in 2005, and \$8.2 million in 2006. Mr. Vener explained that when they put the audit financials together, they made 22 adjustments to them in order to prepare for the audit report. The most significant of those had to do with capital assets and associated depreciation.

Continuing with the presentation, Mr. Vener said that they normally disclose whether there were any disagreements with management, and there were not. They also did not have to consult with other accountants. In terms of difficulties in performing the audit, the most difficult areas are the capital assets and the fund balances though this year, but it was less difficult than prior years.

The auditor issues three reports, and on two of them they offer an opinion. The first one is the Independent Auditor's Report, which gives their opinion as professionals on the financials themselves and whether they are presented materially correct, which is the case for Alamogordo. As a result, the auditor issued an unqualified opinion. In the second report, which is the Report on Internal Controls, the auditor does not issue an opinion, but they do write up findings, which can include financial findings, state auditor rule compliance findings or federal award findings. There were nine findings cited in that report, none of which were federal findings. They were financial and state compliance findings. The third report is an OMB-A-133 Single Audit, which has to do with the City receiving federal grants and meeting the compliance requirements to receive them. No findings were issued in that report.

Moving on to the management findings, there was a weakness of controls on municipal court receipts, which is a repeat finding. Mr. Vener explained that extra action has been taken by the court to resolve that finding. The other repeat finding from last year had to do with capital assets, which again management has looked into, and action is being taken to resolve that as well. The next one

was signatory authorization on bank accounts, and the City is updating signatory cards so that past employees will no longer be on the cards. There was a minor amount of money in outstanding checks that had been around for over 12 months. They are stale-dated and should be removed from the bank reconciliations. There was also a finding of incomplete request for proposals. In one bid file that the auditors looked at, one tabulation worksheet was missing. Next, there is state statute that requires that any time the City or any state agency or municipality disposes of assets, they have to notify the State Auditor's Office prior to disposing of them. The seventh finding had to do with the New Mexico Administrative code requiring that an annual inventory be taken and certified by a responsible official of the agency. With regard to sole source procurement, the City notified the auditor that there was an issue with one sole source procurement transaction, and that was disclosed. The last finding was a calculation of refund or payment of a contract. Mr. Vener explained that at the end of the contract year the City and the Contractor need to settle and decide whether the City owes money to the Contractor or the Contractor owes money back to the City. The auditor advised that there should be a better segregation of duties in that area.

In terms of the findings that were resolved, the audit report was submitted to the State Auditor's Office on time this year, and the finding related to Department of Public Safety Citations was resolved. In addition, the issues with the landfill and the due to/due from between funds in the City were resolved.

Mr. Vener thanked the City and said that they are happy to conduct the audit for the staff. He commended the City staff as being very professional. They do several municipalities audits, and he believes that Alamogordo's staff is the best run staff that they encounter during their audits.

Mayor Carroll thanked Mr. Vener and his firm for conducting the audit and expressed his desire to continue their association in the future.

Mayor Carroll called attention to a couple of items on the revised agenda including Item #8 in which in addition to approving the resolution immediate commencement of the construction project would be authorized if approved. Item #13 pertains to the construction of Phase IV rather than Phase II. In addition, the award amount was corrected for Item #17, and Item #23 pertains to the Settlement Agreement and the Mutual General Release. Mayor Carroll asked that Item #14 be removed from the Consent Calendar. Commissioner Lujan asked that Item #18 be removed.

CALL OF THE CONSENT CALENDAR:

MINUTES:

4. Minutes of January 23, 2007 Regular Meeting, January 25, 2007 Special Town Hall Meeting, January 30, 2007 Joint City/County Special Meeting.

Recommendation: Approve the minutes.

CONTRACTS AND AGREEMENTS:

5. Approval of airport land lease for Ernest/Debbie Martinez – for area E2-C.

Recommendation: Approve the land leases.

6. Approval of agreement for assignment of lease for Gregory & Dawn Hock for area E6-A formerly know as area Q.

Recommendation: Approve the lease.

ORDINANCES AND RESOLUTIONS:

7. Consider Ordinance No. 1290 Amending Sections 14-01-010 and 14-01-110(a) of the Code relating to the definition of residential customers and the rates charged residential customers for waste collection.

Recommendation: Approve the ordinance for final publication.

8. Consider Resolution No. 2007-05 approving the Agreement for the acquisition of right-of-way for the extension of West First Street and the commencement of construction for the West Side Water Lines Project.

Recommendation: Approve the resolution and authorize immediate commencement of the construction project.

9. Consider Resolution No. 2007-06 approving the Laws of 2006 Chapter 111, Grant Agreement Amendment #1 for Special Appropriations Project STB #467 from the State of New Mexico to construct, equip and furnish a public library in Alamogordo for the amount of \$633,000.00, less 1% or \$6,330.00 for Arts in Public Places.

Recommendation: Approve the resolution.

10. Consider Resolution No. 2007-09 accepting NMDOT grant ST-4918(203), CN C6S63 for improvements to First Street in the amount of \$200,000.

Recommendation: Approve the resolution.

11. Consider Resolution No. 2007-10 authorizing the Mayor to sign contracts to accept FEMA-1659-DR-NM Public Assistance Grant Program Sub-Grant Agreement.

Recommendation: Approve the resolution.

13. Consider Resolution No. 2007-12 adopting the negotiations and the contracts entered into by the City staff and the City Manager for the acquisition of the parcels required for the construction of Phase II of the Alamogordo South Flood Control Project.

Recommendation: Approve the resolution.

OTHER BUSINESS:

15. Investment Report for the quarter ended December 31, 2006, in accordance with the City of Alamogordo Investment Ordinance.

Recommendation: Accept the report.

16. Award of RFP No. 2006-011, Content Management Solution.

Recommendation: Award the bid to The Active Network, Ltd., including NMGR.T.

17. Award of Public Works Bid No. 2006-015, Ocotillo Drive Road and Waterline Improvement Project.

Recommendation: Award the bid to Mesa Verde Enterprises, Inc. in the amount of \$473,221.30, including NMGR.T.

Recommendation: Award the bid to Moore & Cowart Contractors, Inc. in the amount of \$597,091.85, including NMGRT.

19. Award of Public Works Bid No. 2006-018, Chamber of Commerce Building Re-Roof.

Recommendation: Award the bid to All American Enterprises, Inc. in the amount of \$42,458.13, including NMGRT.

20. Award of IFB 2007-1 for PVC C900 Pipe.

Recommendation: Award the bid to Morrison Supply for the amount of \$50,895.00, including NMGRT.

21. Award of IFB 2007-2 for Resilient Wedge Gate Valves.

Recommendation: Award the bid to Baker Utility supply, of Albuquerque for the amount of \$22,585.34, including NMGRT.

Commissioner Ledford made a motion to approve Items 4, 5, 6, 7, 8, 9, 10, 11, 13, 15, 16, 17, 19, 20, & 21 of the Consent Calendar. Commissioner Brockett seconded the motion. A roll call was taken because of Items 7, 8, 9, 10, 11, & 13. All voted "aye," and the motion carried with a vote of 6-0-0.

ORDINANCES AND RESOLUTIONS:

12. Consider Resolution 2007-11 appointing a representative to the NM Spaceport Authority Community Advisory Committee.

Recommendation: Approve the resolution.

Mayor Carroll explained that this was an offshoot of a panel discussion that was set up last year as part of the X Prize Cup activities in Las Cruces. He had asked Ms. Cathy Harper, the marketing director of the New Mexico Museum of Space History, to represent Alamogordo, and as a result of that event, the recommendation went to the Spaceport Authority to formalize the committee as an advisory committee to the Spaceport Authority, which is what has happened. They have invited Alamogordo to participate, and if it is the Commission's desire to do so, a representative should be appointed by Resolution.

Commissioner Cole made a motion to approve Resolution 2007-11 appointing Cathy Harper as the City's representative to the New Mexico Spaceport Authority Community Advisory Committee. Commissioner Brockett seconded the motion. A roll call vote was taken, and all voted "aye." The motion carried with a vote of 6-0-0.

OTHER BUSINESS:

14. Position papers for submittal to the U.S. Congressional Delegation.

Recommendation: Approve forwarding the document to the U.S. Congressional Delegation.

Mayor Carroll explained that he asked to have this Item pulled from the Consent Calendar because there are a couple of minor changes to several of the individual papers. He asked City Manager McCourt to explain the changes.

City Manager McCourt explained that one of the changes is on the white paper on funding for Alamogordo Fairground Road. Currently, in the middle of the second paragraph it reads, "In the 2005 Congressional Session \$400,000 was secured for the project. It is anticipated that this

amount will be used to develop the necessarily NIPA clearance documents for the project." They would suggest changing it to more correctly reflect the plan, which would be, "It is anticipated that this amount will be used to install a bridge over an arroyo to connect two currently disjointed portions of Grigg's Fields. This will eventually be used as part of the roadway to connect all the way from the Charlie T. Lee Memorial Relief Route to the Gerald Champion Regional Medical Center."

Commissioner Brockett asked with regard to that same paragraph whether it was referring to White Sands going east, and City Manager McCourt said that was correct. It is the existing Fairgrounds Road. Commissioner Brockett went on to ask if any consideration has been given to providing access for the bypass. City Manager McCourt explained that there has been discussion regarding that, but they don't have that part of the road planned in terms of gaining the access. It is a fairly short distance from Fairgrounds Road to get over the railroad tracks, and so there is some question as to how it can be practically accomplished. The options would include going under the tracks, going over the tracks, or possibly utilizing an at-grade crossing though that doesn't seem likely given the railroad's past stance. The last change is on the Border Security and Comprehensive Immigration Reform effort. The third paragraph currently reads, "The City of Alamogordo supports the intent of the President and Congress to secure our borders, decrease crime rates along the border and institute a temporary worker program." The proposed change would be, "The City of Alamogordo supports the intent of the President and Congress to secure our borders and decrease crime rates along the border."

Mayor Pro-Tem Griggs made a motion to approve the position papers. Commissioner Lujan seconded the motion. A roll call vote was taken, and all voted "aye." The motion carried with a vote of 6-0-0.

18. Award of Public Works Bid No. 2006-017, Structure Replacement - Scenic Drive & Bellamah Avenue.

Commissioner Lujan explained that he asked to have this Item removed from the Consent Calendar because he was looking at the other bids and noted that the bid was considerably lower than the rest. He wanted to ensure that this is not a repeat of the problems encountered with the Housing Authority contract, and he asked if anyone knows the company or why their bid is so much less.

Arthur Alterson, Community Development Director, said that he asked the city engineer the same question and was told that the company is a contractor to the Army Corps on the ditch project. Mayor Carroll said that he believes they have offices both in Albuquerque and El Paso. He also had a conversation with one of the other bidders who indicated that it is a reputable contractor. There are many different factors that may go into a bid of this nature, such as a bidder's current workload and additional projects in the area. He went on to say that oftentimes the bids vary significantly, and one hopes that when the low bid is significantly lower the contractor does in fact understand what the project is and the City will get what it pays for. A performance bond is required, and the City would be protected should a situation arise in which a low bidder was not able to perform according to specifications.

Commissioner Lujan asked if anyone knew if the company had underbid projects in the past. Mayor Carroll said that he doesn't know that information, and he also doesn't know whether the City can or does factor past performance into an evaluation.

Commissioner Ledford pointed out that the contract with the Housing Authority did not require a bond, which is different from this case. He went on to explain the bond process and said that if the contractor had trouble in the past completing jobs it would be difficult for them to get a bond. In addition, the size of the job would make it that much more difficult.

Commissioner Brockett asked what the time frame is for the project, and Mayor Carroll said that the estimated completion time is around the 18th of July.

Commissioner Brockett made a motion to approve Public Works Bid No. 2006-017. Commissioner Lujan seconded the motion. A vote was taken, and the motion carried with a vote of 6-0-0.

OTHER BUSINESS:

22. Approval of the Stein & Brockman letter of engagement.

Recommendation: Approve the execution of the engagement letter.

City Manager McCourt explained that the City found out that they didn't have an engagement letter on file, and this is the firm that the City has engaged for a number of years in terms of the water application with the State Engineer for the desalinization project.

Commissioner Cole made a motion to approve the execution of the engagement letter. Commissioner Lujan seconded the motion. A vote was taken, and the motion carried with a vote of 6-0-0.

23. Approval of settlement agreement and mutual general release with Checkpoint.

Recommendation: Approve the settlement agreement and mutual general release.

Mayor Carroll explained that this Item had been discussed previously in Executive Session and staff had been authorized to negotiate a settlement. This would be the action to approve that settlement.

City Manager McCourt further explained that this is below the guidelines that the Commission authorized, and it does bring the City into a one-year payment of fees. There is no commitment beyond that point.

Commissioner Brockett moved to approve the settlement agreement and mutual general release with Checkpoint. Commissioner Lujan seconded the motion. A vote was taken, and the motion carried with a vote of 7-0-0.

24. Appointments to Boards and Committees.

Mayor Carroll appointed Mr. James Carey Crane to the Alamogordo Promotion Board. He will be taking the position formerly held by Mr. Mark Santiago, and Mayor Carroll asked the clerk to notify him. There are existing openings on the Community Development Advisory Committee, the Public Library Board, the Retired Senior Volunteer Program Advisory Council and the Disabilities Council. Mayor Carroll asked that the Clerk be notified if anyone is interested in serving on the Boards.

UNSCHEDULED COMMUNICATIONS:

A. Arthur Alterson

Mr. Alterson invited everyone to the land use Town Hall meeting that will be held on February 22, 2007, at 7 p.m. It will take place at the Willie Estrada Civic Center, and Mr. Alterson handed out the agenda. It is also scheduled as a work session for the Planning and Zoning Commission.

Commissioner Cole asked for an explanation regarding what a work session is with Planning and Zoning Commission. Mr. Alterson indicated that the overriding purpose of the meeting is for the Planning and Zoning Commission and staff to get information from the public. It is not an action session, and they are not reviewing actual items. They will be able to incorporate whatever happens at the meeting into their deliberations and considerations when they make a recommendation to the

City Commission later on with regard to amendments. In terms of the City Commission's participation, it will be as citizens. The meeting is scheduled as a potential quorum for the City Commission. Mayor Carroll said that if Mr. Alterson has any background material he provide it to the Commissioners prior to the meeting.

Commissioner Cole asked if there would be dialog between Planning and Zoning and the Commission, and Mr. Alterson said that he is hopeful that Planning and Zoning will get information from the Commissioners as citizens and from the general public.

B. Commissioner Lujan

Commissioner Lujan said that he went to the Southwest Transit board meeting. They made assignments and adopted by-laws. They are also looking into securing the services of a company to do a study with regard to the needs for Southwest Transit as well as the possible economic impact. He will report back regarding the next meeting.

C. Mayor Pro-Tem Griggs

Mayor Pro-Tem Griggs said that they have a couple of projects in District 7, one of which is the golf course clubhouse and the other the South Florida paving, and Mayor Pro-Tem asked for an update on the status. He also commented on the Walker wells and that he remembered discussions regarding the City agreeing to do its best not to pump them during the winter months. He wanted City Manager McCourt to comment on it.

Mr. Alterson said he does not have a projected completion date for the clubhouse though he knows they are moving along. With regard to South Florida, the city engineer is working with the contractual engineer to come up with some criteria for judging the paving on South Florida.

City Manager McCourt said that he doesn't know of any agreement to not pump the Walker wells in the winter. The City has been pumping them in relation to the water right. The hope is that when they are redrilled that can be accomplished in a shorter period, and then they won't have to be pumped in the winter.

D. City Manager McCourt

City Manager McCourt thanked LeeAnn Nichols for doing a wonderful job on the City's books and finances.

He also pointed out that February 20th is Municipal Day in Santa Fe. He does have the bulletins from the Municipal League, and they can be provided if requested. It tracks bills that are of particular interest to municipalities. Several letters are being sent out to the Representatives regarding some of those bills such as the planning frontier for water rights. The City has suggested that it be extended from 40 years to 100 years. There is also a bill to change the definition of a municipal prisoner. If that takes place, it will be an immediate \$750,000 to \$1 million expense for the City of Alamogordo, which the City thinks is pretty substantial. Mayor Carroll let the Commissioners know that they could go on the Municipal League web site, which is www.nmml.org, click on Advocacy and Legislation and download all of the municipal bill findings.

City Manager McCourt also provided the water report, and the City is doing very well. He also said that the City has been approached by KBVA regarding doing taped interviews with Commissioners, which they would do Monday through Thursday after 4:30 or Friday between 8:00 and 5:00. They are open to subjects to discuss though they may have some of their own also. He asked that the Commissioners contact his office if they are interested in doing the interviews.

The International City/County Management Association, ICMA, has an annual conference, and they have approached the City because of the accomplishments in water preservation. They would like to

feature Alamogordo at the next conference. Initially, City Manager McCourt was interested in this as he thought it was a good opportunity to showcase what has been done in the community as the meeting has about 6,000 participants a year. After more discussion with them, however, he found out that they wanted to use it as a five-minute spot that would continuously be broadcast on TV screens throughout the conference. That diminished his enthusiasm, and City Manager McCourt said that he became even less enthused when he found out that ICMA wanted the City to pay \$19,000 for this opportunity. He could not recommend that the City do it.

City Manager McCourt will be off on Friday, and Mr. McNeile will be Acting City Manager.

F. Mayor Carroll

Mayor Carroll also commended the Finance Department and said that he had received notification from the local government division once again congratulating Alamogordo on winning the 2006/2007 New Mexico Budget Award. Representatives were there to accept the award, and there are pictures on the New Mexico Finance Authority web site of the award presentation. Mayor Carroll congratulated Ms. Nichols and her staff on the continuation of a job well done.

Mayor Carroll also took the opportunity to recognize Public Safety Officer Michael Lawrence who was honored as the 12th Judicial District Officer of the Year.

Mayor Carroll attended the annual Ambulance Authority meeting last week, and a vote was taken to extend the contract for ambulance services with AMR for an additional year. The rate for the ambulance service would stay the same as it was this year, and documentation should be received in the next several weeks for approval of that action.

Mayor Carroll also mentioned that the White Sands Film Festival would be starting on Tuesday the 20th, and there are activities throughout the week. There are tickets available, and he would highly recommend it. He thinks it gets better every year in large part due to the efforts of Ms. Joan Griggs who spearheads it. Mayor Carroll asked Mayor Pro-Tem Griggs to pass on the City's appreciation for Mrs. Griggs' efforts.

EXECUTIVE SESSION: There was no need to recess into Executive Session.

ADJOURNMENT.

Commissioner Brockett made a motion to adjourn at 8:31 p.m. Commissioner Lujan seconded the motion. A vote was taken, and the motion carried with a vote of 6-0-0.

/s/Donald E. Carroll

Mayor Donald E. Carroll

(SEAL)

ATTEST:

/s/Renee L. Cantin

City Clerk Reneé L. Cantin

(Prepared by Ubiquis Reporting)
Approved at regular meeting held on February 27, 2007.