

# ALAMOSA CITY COUNCIL Regular Meeting Agenda

Council Chambers  
300 Hunt Avenue, Alamosa, CO  
February 1, 2017

*As a full service municipal government, our mission is to enhance the quality of life for our residents, visitors, and businesses. We strive to provide balanced business, employment, recreational, and residential opportunities.*

Any person needing reasonable accommodation to attend or participate in a public meeting, please contact the Alamosa City Clerk's office by telephone (719) 589-2593, by email [cityclerk@ci.alamosa.co.us](mailto:cityclerk@ci.alamosa.co.us), in person at 300 Hunt Avenue, or by mail at POB 419, Alamosa, CO 81101.

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City Council Calendar

**6:00 PM - Work Session: Ice Rink/Multi-Purpose Facility Review**

**7:00 PM - Regular Meeting**

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

**II. ROLL CALL**

**III. AGENDA APPROVAL**

**IV. CITIZEN COMMENT**

Alamosa City Council welcomes your comments. Citizens wishing to speak may obtain and complete a speaker card through the City Clerk at the start of the meeting.

A. Audience Comments

B. Follow-Up

**V. CEREMONIAL ITEMS**

A. Introduction of new employee, Account Clerk II, Sonia Archuleta

**VI. CONSENT CALENDAR A**

The Consent Calendar allows multiple actions with one motion. Consent Calendar A contains routine items which have been recommended for action by staff or advisory boards. Council may remove a consent calendar item for separate consideration.

C.7.a. Approve Minutes of Meeting January 18, 2017

**VII. REGULAR BUSINESS**

**A. Presentations from Outside Agencies**

1. Valley Branding Initiative

**B. Business Brought Forward by City Staff**

**1. Public Works**

- a. Discussion of Ice Rink/Multi-Purpose Facility for the purpose of providing direction to staff specific to bidding and potential construction.
- b. LED Streetlight Conversion Timeframe

**2. Police**

- a. First Reading, Ordinance 2-2017, an ordinance amending sections 1-5, 11-7 and 11-171, and adding new sections 11-11, and relocating section 10-23 (open containers of alcohol) of the Alamosa code of ordinances to bring Alamosa's marijuana possession and consumption laws in line with changed state constitutional and statutory provisions and to relocate the alcohol open container ordinance.
- b. First Reading, Ordinance No. 3-2017, an ordinance repealing section 11-53 of the Alamosa code of ordinances concerning the regulation of panhandling

**3. City Manager/Legal**

- a. Contract for Financial Services

**C. Committee Reports**

**D. Staff Announcements**

**COUNCIL COMMENT**

**EXECUTIVE SESSIONS**

- 1. Executive Session pursuant to C.R.S. 24-6-402(4)(a), (4)(b), and (4)(e) to discuss and to receive legal advice from the City Attorney concerning the acquisition of water rights, negotiations with East Alamosa Water and Sanitation District concerning shared acquisition, and the legal implications of the applications for approval for plans of augmentation filed by Monte Vista, Del Norte, and Saguache.

**ADJOURNMENT**

**ALAMOSA CITY COUNCIL  
COUNCIL COMMUNICATION**

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**Subject/Title:**

City Council Calendar

**ATTACHMENTS:**

Description	Type
📎 City Council Calendar	Cover Memo

# Alamosa City Council Meetings and Events

Updated 1/27/2017

All events are held in Alamosa Colorado unless otherwise noted

## CITY HALL IS LOCATED AT 300 HUNT

Date	Time	Event	Location	Additional Information
January 28, 2017	8:30 a.m.	Winter Mini-Retreat	Council Chambers	*
February 1, 2017	6:00 p.m.	Work Sesson: Ice Rink/Multi-Purpose Facility Review	Council Chambers	*
February 9, 2017	9:00 a.m.	CML Legislative Workshop	Denver, CO	**
March 6, 2017	6:30 p.m.	Board Appreciation Dinner	TBD	****

\* Work sessions are informal Council meetings for the purpose of discussion among Council members. No action is taken. The public is invited to attend, but public comment is generally not received unless otherwise noted.

\*\*Sponsored by outside entity. Council members have been invited to attend. Please check with originating entity for registration information

\*\*\* Citizens are encouraged to attend this community event

\*\*\*\* This is a purely social event and not open to the public

\*\*\*\*\*This is a closed session and not open to the public

**ALAMOSA CITY COUNCIL  
COUNCIL COMMUNICATION**

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**Subject/Title:**

Approve Minutes of Meeting January 18, 2017

**ATTACHMENTS:**

Description	Type
☐ Minutes of Meeting January 18, 2017	Cover Memo

# ALAMOSA CITY COUNCIL

## Regular Meeting Minutes

Council Chambers  
300 Hunt Avenue, Alamosa, CO  
January 18, 2017

*As a full service municipal government, our mission is to enhance the quality of life for our residents, visitors, and businesses. We strive to provide balanced business, employment, recreational, and residential opportunities.*

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### 7:00 PM - Regular Meeting

#### I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The Regular Meeting of the Alamosa City Council was called to order by Mayor Josef Lucero at 7:00 p.m. The Pledge of Allegiance was recited.

#### II. ROLL CALL

Present at roll call: Mayor Josef Lucero, Councilors Ty Coleman, Charles Griego, Liz Hensley and Jan Vigil. Councilor Daniel and Councilor Stefano previously requested to be excused.

#### III. AGENDA APPROVAL

Heather Brooks stated that the ceremonial item for the introduction of the new employee, Account Clerk II has been removed from the agenda and will be added to the next meeting and recommended the Discussion under Regular Business regarding the discussion on the TSJC Security Proposal be moved up behind Ceremonial Items. Councilor Griego moved, seconded by Councilor Vigil to approve the agenda as amended. The motion carried unanimously.

#### IV. CITIZEN COMMENT

Alamosa City Council welcomes your comments. Citizens wishing to speak may obtain and complete a speaker card through the City Clerk at the start of the meeting.

##### A. Audience Comments

Bob Irvine spoke in regards to snow plow removal in residential areas.

- B. Follow-Up

None.

## **V. CEREMONIAL ITEMS**

- A. Introduction of new Officer, Dominic Khoketham

Chief Duane Oakes introduced Dominic Khoketham, who was welcomed by Council.

- B. Introduction of new employee, Account Clerk II, Sonia Archuleta

Item removed from agenda.

- C. Discussion on TSJC Security Proposal

Heather Brooks reviewed information with Council. Dr. Simone, President of Trinidad State Junior College, approached staff about a potential partnership to provide security services to the TSJC Valley Campus similar to the partnership with the City of Trinidad for the Trinidad Campus. Based on initial conversations, staff feels that TSJC and the City would both benefit from a partnership. The contract would address the expectations of a dedicated FTE and funding considerations.

Chief Oakes and Dr. Simone gave Council an overview of what the duties and expectations of this position would be and why this partnership would be beneficial to both organizations.

Council agreed that this proposal is a great idea. Heather Brooks confirmed that the impression she got from Council is this proposal seems to be appropriate and they will continue to work on the details and bring something more official back to Council.

## **VI. CONSENT CALENDAR A**

The Consent Calendar allows multiple actions with one motion. Consent Calendar A contains routine items which have been recommended for action by staff or advisory boards. Council may remove a consent calendar item for separate consideration.

Councilor Vigil moved, seconded by Councilor Hensley to approve Consent Calendar A as presented. The motion carried unanimously.

C.7.a. Approve Minutes of Meeting January 4, 2017

C.2.a. Receive December 2016 Financial Reports

## VII. REGULAR BUSINESS

### D. Business Brought Forward by City Staff

#### 1. Public Works

##### a. Snow Removal Discussion

Heather Brooks stated that there has been a significant amount of snow received and the Public Works department has received quite a bit of phone calls so Pat's presentation will cover a lot of what Pat will cover will be an understanding of what the fleet looks like, the limitations the City has, and how the snow removal is handled.

Pat Steenburg explained the process of the snow removal process to Council. He explained to them that every storm is different and they try to determine the process in which they will follow based on the forecast. There are three classes of storms that they follow. If there is at least one inch of snow/sleet, they will sand intersections and curbs on certain streets but they will never drop a plow. They try not to drop a plow until at least two inches or more of snow has fallen. When the plows are dropped, they plow to the side until there is three inches or more; then that is when downtown is plowed to the center.

The City has an agreement with CDOT that they plow the travel lanes on Main Street and 6th and the City goes in the next night (as the City is obligated by contract to do so within 24 hours) and remove the snow. The snow is hauled from the streets between 4th and 6th that run north and south. The City hauls as much as they can to empty parking areas and those areas that are high usage. The City also identifies priority routes for the residential areas, determined by traffic count and landmarks nearby such as hospitals and schools. The trucks that the Public Works department has plow and sand at the same time.

Council thanked Pat for the update on the process for the snow removal and asked if there was still being contractor trucks used as well to help with the snow and where the snow gets hauled to. Mr. Steenburg confirmed that there was still being independent contractors being used as well and that the snow gets taken to what is called the "pulverizer", where the solid waste headquarters are. He also informed Council that the City is working with people in the downtown area that have vacant land to be able to cut down the haul time of the snow.

Council further discussed the snow removal, including the water that builds up from the melting of the snow. Mr. Steenburg explained what crews do to help with this issue.



Council thanked the Public Works crew for all that they have done, and again thanked Mr. Steenburg for providing the update.

- b. Public Hearing and Second Reading, Ordinance No. 1-2017, an ordinance rezoning Montana Azul Estates, Filing No. 5 in its entirety, lying generally north of Tremont Avenue and West of Craft Drive in the City of Alamosa, Colorado, from Commercial Business to Residential Medium.

Counselor Schwiesow reviewed this ordinance with Council.

Mayor Lucero opened the public hearing at 7:57 p.m. asked for those wishing to speak on this ordinance.

Dan McCann spoke in regards to weather.

There being no one else wishing to speak, the hearing closed at 7:59 p.m.

Councilor Griego moved, seconded by Councilor Vigil to finally adopt Ordinance No. 1-2017. The motion carried unanimously.

## **2. City Manager/Legal**

- a. Discussion on City/County Joint Ownership of Airport Property

Heather Brooks provided information to Council that the matter that is before them tonight for consideration is to sever the joint ownership of the Airport property and clean up any other property ownership issues for the best interest of the community.

Staff has held several meetings with County staff to discuss the untangling of the property. Discussions have focused on needed research to confirm ownership and FAA requirements. Much of that research is still needed, however, in order to move forward with discussions, City staff presented a draft map to County staff on splitting the jointly owned property. It was understood that the map had not been reviewed by either the City Council nor County Commissioners, but was provided as a tool to have more tangible discussions.

Staff feels that there is a clear City interest in approximately 94 acres of the total 1,500 acres. Ms. Brooks presented Council a map that provides preliminary identification of the different sections of the jointly owned property. The area of interest to the City is along State Avenue and Airport Road. Municipal ownership of this property is in line with the Comprehensive Plan and an orderly build out of the existing Industrial Park. Conversely, staff felt that the other sections of property remaining outside the safety area were too far removed from municipal utilities and services to justify a municipal use. The other jointly held property that

staff feels there is a municipal interest is jointly well held. The well could be used in the City's augmentation plan. The purpose of this discussion tonight is to allow Council the opportunity to review the information, ask questions, and provide direction to staff on future discussions.

Council further discussed this issue and asked about the Intergovernmental Agreements that are in place right now. Counselor Schwiesow stated that the most recent Intergovernmental Agreement states that right now it says the City handles the library, the County handles the Airport. If the City has no ownership in the Airport at all and the County has no ownership in the Library, it shouldn't change that Intergovernmental Agreement but there are still agreements that need to be handled as they discussed sales tax amounts. It was also confirmed that since the County is in charge of the Airport, they can do whatever they want with the Airport Board. Council also stated that they would like to have the well included as part of negotiations.

- b. Motion to Authorize the City Manager to sign the Purchase and Sale Agreement with Valley Land & Cattle, LLC in the amount of \$525,000.

Mayor Lucero made the statement that one of his duties and obligations as Mayor is to execute legal documents and he is more than happy to sign those documents.

Heather Brooks reviewed this purchase with Council. The Purchase and Sale Agreement is for 350 acre feet of annual pumping from the confined aquifer, which will be retired as part of the City's Augmentation Plan to offset confined aquifer groundwater withdrawals of the City's municipal wells. The well is owned by Valley Land & Cattle, LLC and located in Conejos County in the response area that also includes the City of Alamosa.

Ms. Brooks also stated that due to the fact that other parts of the Augmentation Plan require negotiations, further details shall remain confidential and will not be discussed at this meeting.

Council further discussed this issue.

Councilor Vigil moved, seconded by Councilor Coleman, to authorize the City Manager to sign the Purchase and Sale Agreement with Valley Land & Cattle, LLC in the amount of \$525,000 for the purchase of 350 acre feet per year of historical well pumping. The motion carried 4 to 1 with Mayor Lucero casting the no vote.

## **E. Committee Reports**

None

#### **F. Staff Announcements**

Heather Brooks stated that P&Z will be reviewing their portion of the comprehensive plan at their meeting on the 25th.

Ms. Brooks also stated that there is a need for it be on the record for the finance department to add appropriate people as signatories to the different financial accounts. The City will be adding Heather Brooks, as the City Manager, to all appropriate financial accounts.

Heinz Bergann informed Council of the activities of the upcoming Rio Frio events happening the weekend of January 28th.

Ms. Brooks also informed Council of the Alamosa Capital Leasing Company (ACLC) bylaws that state there should be at least two meetings a year and includes certain meetings. This is the board that the City wants to be the mechanism for the finance department. She informed Council of those that are supposed to sit on this board. She also informed Council of the recent upper Rio Grande Economic Development meeting she attended and the major topic that was discussed.

Ms. Brooks made the clarification that at the last meeting with the parking and the County Justice System and the financing question that was asked by Councilor Coleman. Per the annexation agreement, the county does their own inspection and issue their own Certificate of Occupancy but they will still need to comply with code requirements.

#### **COUNCIL COMMENT**

Councilor Vigil stated that the area of 3rd Street and West Avenue is getting dangerous and asked Public Works and the Police Department to look into what can be done about this. He also gave thoughts and prayers to Capulin for the recent events that happened there.

Mayor Lucero wanted to let Council know that he signed a contract for services for ACED. Councilor Griego asked if there was a way to have those people we are contracting with to come in and give a presentation of what and how they are doing.

#### **EXECUTIVE SESSIONS**

1. Executive Session pursuant to C.R.S. 24-6-402(4)(a) and (4)(b) to receive legal advice from the City Attorney concerning the pending exchange case, pending Rules case, and proposed augmentation case, and to discuss acquisition of water rights.

Councilor Vigil moved, seconded by Councilor Hensley to enter into Executive Session (9:10 p.m.) pursuant to C.R.S. §24-6-402(4)(a) and (4)(b) to receive legal advice from the City Attorney concerning the pending exchange case, pending Rules case, and proposed augmentation case, and to discuss acquisition of water rights. the motion carried unanimously.

After the executive session, Council will move back into regular session and no further business will be discussed.

**ADJOURNMENT**

The meeting adjourned immediately after the executive session.

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Holly C. Martinez, City Clerk

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Josef P. Lucero, Mayor

# ALAMOSA CITY COUNCIL COUNCIL COMMUNICATION

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**Subject/Title:**

Discussion of Ice Rink/Multi-Purpose Facility for the purpose of providing direction to staff specific to bidding and potential construction.

**Recommended Action:**

That Council instruct staff to advertise a request for bids for the construction of the Ice Rink/Multi-Purpose Facility for the purposes of bid evaluation specific to contractor qualifications and the proposed \$2.479 million budget.

**Background:**

After many versions of design and vision the architect, together with their professional team and City staff have created a design that they feel can be built for the proposed budget. This design includes a full sized rink, chiller suitable for a 5 month ice season, five individual locker rooms, two bathrooms, a rental and concession counter, and mechanical and Zamboni rooms. During the design process, the architect has identified several materials, options, and/or amenities that Council may find desirable but would almost certainly result in bid prices and construction costs higher than what has been discussed in the past. Council has the ability to use this design data to request that some or all of these be bid as an add item to see how they would affect the total cost of the project. Council may then choose whether or not to include them in the final construction. Approving this staff recommendation would not commit council to ultimate construction, rather it would provide the last piece of the puzzle for evaluation.

As a reminder, the proposal to build a new Ice Rink/Multi-Purpose Facility came from a lengthy public process. The currently failing ice rink facility prompted users and City Staff to evaluate the options of the existing recreational programming which included further enhancements to the existing rink, construction of a new rink, or elimination of ice rink programming entirely. Multiple public meetings were held with both the Recreation Board and City Council. While the scope of the project has seen significant change, the goal of the project has not changed; which is to create a facility that will enable users of an ice rink to have a reliable season. The Recreation Board and City Council also added the value of the multi-purpose facility to the project to further enhance the usability and return on investment.

The funding for the project is through a combination of grants and financing that would be covered by the Recreation Tax. This is a very important clarification for many to understand because the Recreation Tax cannot be used for General Fund operations such as streets, downtown beautification, public safety, etc. Both the Recreation Board and City Council evaluated the capital needs that can be funded from the Recreation Tax and voted to move the project forward. The City has been successful in securing \$590,000 in grants to support the construction of the Ice Rink/Multi-Purpose Facility. Additionally, over \$20,000 has been raised locally from 13 sponsors. The annual economic impact of hosting 2 regular hockey tournaments is estimated at \$381,115. This impact would be in the middle of winter when many local businesses struggle.

**Issue Before the Council:**

Does Council wish to advertise a request for proposals for the Ice Rink/Multi-Purpose Facility?

**Alternatives:**

Council may choose to request that staff advertise a Request for Proposals for the project as presented, Council may choose to advertise a Request for Proposals for the project with changes, or Council may choose to forgo advertisement at this time and provide staff with further direction.

**Fiscal Impact:**

No significant fiscal impact is anticipated from issuing a Request for Proposals.

**Legal Opinion:**

The City Attorney will be present for comment

**Conclusion:**

Advertising for bids will provide Council the last piece of information necessary for the final evaluation of the project as a whole.

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No significant fiscal impact is anticipated from issuing a Request for Proposals.

**Legal Opinion:**

The City Attorney will be present for comment

**Conclusion:**

Advertising for bids will provide Council the last piece of information necessary for the final evaluation of the project as a whole.



# ALAMOSA CITY COUNCIL COUNCIL COMMUNICATION

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**Subject/Title:**

First Reading, Ordinance 2-2017, an ordinance amending sections 1-5, 11-7 and 11-171, and adding new sections 11-11, and relocating section 10-23 (open containers of alcohol) of the Alamosa code of ordinances to bring Alamosa's marijuana possession and consumption laws in line with changed state constitutional and statutory provisions and to relocate the alcohol open container ordinance.

**Recommended Action:**

Approve Ordinance 2-2017 on first reading and set for public hearing on February 15, 2017.

**Background:**

As discussed in the work session held on January 18, 2017, the voters of the State of Colorado have authorized the possession and consumption of certain amounts of marijuana for medical usage, and for personal usage for persons over the age of 21. These actions were taken through constitutional amendment. See Colorado Constitution Article XVIII, Section 16 (Personal use and regulation of marijuana) and Article XVIII, Section 14 (Medical use of marijuana). The constitutional provision governing personal use of marijuana are both practically and explicitly matters of statewide concern, and as a political subdivision of the state of Colorado, we are bound by them, irrespective of home rule status.

Currently, the Code of Ordinances of the City of Alamosa does not make allowance for the legalized possession and use of certain amounts of marijuana. The Code also does not address the possession of marijuana in the context of motor vehicle use and does not adequately address the possession of marijuana paraphernalia by underage persons.

As a separate matter, but a necessary part of Code cleanup as made clear by examination of these marijuana provisions, Alamosa's ordinances governing the possession of alcoholic beverages in open containers is currently located in the liquor licensing chapter of the Code of Ordinances of the City of Alamosa and makes more structural sense near provisions governing open containers of marijuana, to be enacted in the miscellaneous offenses chapter.

**Issue Before the Council:**

Does Council wish to approve the Ordinance on first reading and set it for public hearing to be held on February 15, 2017?

**Alternatives:**

- 1) Approve the Ordinance
- 2) Decline to approve the Ordinance in whole or in part, and give staff further direction.

**Fiscal Impact:**

None.

**Legal Opinion:**

This is a change that is necessary to bring our Code of Ordinances in line with the State Constitution. We have not been enforcing our marijuana possession ordinances as written.

**Conclusion:**

Approval of this Ordinance governing possession of marijuana will bring Alamosa's ordinances concerning marijuana possession in line with the Colorado Constitution, and will rationalize the placement of the existing open container law.

**ATTACHMENTS:**

Description	Type
▣ Ordinance 2-2017, Marijuana Possession and open container relocation	Ordinance

ORDINANCE NO. \_\_-2017

**AN ORDINANCE AMENDING SECTIONS 1-5, 11-7 AND 11-171, AND ADDING NEW SECTIONS 11-11, AND RELOCATING SECTION 10-23 (OPEN CONTAINERS OF ALCOHOL) OF THE ALAMOSA CODE OF ORDINANCES TO BRING ALAMOSA'S MARIJUANA POSSESSION AND CONSUMPTION LAWS IN LINE WITH CHANGED STATE CONSTITUTIONAL AND STATUTORY PROVISIONS AND TO RELOCATE THE ALCOHOL OPEN CONTAINER ORDINANCE**

**WHEREAS**, the voters of the State of Colorado have authorized the possession and consumption of certain amounts of marijuana for medical usage, and for personal usage for persons over the age of 21; and

**WHEREAS**, C.R.S. § 31-15-401 and the *Charter of the City of Alamosa* grant to City Council the authority to regulate the police powers of the City; and

**WHEREAS**, the *Code of Ordinances of the City of Alamosa* does not make allowance for the legalized possession and use of certain amounts of marijuana; and

**WHEREAS**, the *Code of Ordinances of the City of Alamosa* does not address the possession of marijuana in the context of motor vehicle use and does not adequately address the possession of marijuana paraphernalia by underage persons; and

**WHEREAS**, Alamosa's ordinances governing the possession of alcoholic beverages in open containers is currently located in the liquor licensing chapter of the *Code of Ordinances of the City of Alamosa* and makes more structural sense near provisions governing open containers of marijuana, to be enacted in the miscellaneous offenses chapter; and

**WHEREAS**, City Council desires to align the provisions of the *Code of Ordinances of the City of Alamosa* with current state law and to more appropriately address the possession and consumption of marijuana within the City;

**NOW, THEREFORE, BE IT HEREBY ORDAINED** by the City Council of the City of Alamosa, Colorado:

**Section 1. Amendment of Section 11-5.** Section 11-5 of the *Code of Ordinances of the City of Alamosa* is hereby amended in its entirety to read as follows:

**Sec. 11-5. Drug and marijuana paraphernalia – Definitions.**

The following words and phrases as used in this article 11 shall have the following meanings:

(1) "Drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the laws of this state. "Drug paraphernalia" includes, but is not limited to:

(a) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances under circumstances in violation of the laws of this state;

(b) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

I Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;

(d) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

I Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(f) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; or

(g) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

(I) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(II) Water pipes;

(III) Carburetion tubes and devices;

(IV) Smoking and carburetion masks;

(V) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;

(VI) Miniature cocaine spoons and cocaine vials;

(VII) Chamber pipes;

(VIII) Carburetor pipes;

(IX) Electric pipes;

(X) Air-driven pipes;

(XI) Chillums;

(XII) Bongs; or

(XIII) Ice pipes or chillers.

(2) "Drug paraphernalia" does not include any marijuana paraphernalia.

(3) "Marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. "Marijuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

(4) "Marijuana paraphernalia" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

**Section 2. Amendment of Section 11-7.** Section 11-7 of the *Code of Ordinances of the City of Alamosa* is hereby amended in its entirety to read as follows:

**Sec. 11-7. – Possession of drug and marijuana paraphernalia.**

(a) It shall be unlawful for any person to possess drug paraphernalia when he knows or reasonably should have known that the drug paraphernalia could be used under circumstances in violation of the laws of this state.

(b) Except as described by section 14 of article XVIII of the Colorado constitution and section 18-18-406.3, of the Colorado Revised Statutes, a person under twenty-one years of age who possesses marijuana paraphernalia anywhere in the City of Alamosa, and knows or reasonably should know that the marijuana paraphernalia could be used in circumstances in violation of the laws of Colorado, commits illegal possession of marijuana paraphernalia by an underage person.

**Section 3. Addition of New Section 11-11.** A new Section 11-11 of the *Code of Ordinances of the City of Alamosa* is hereby adopted to read as follows:

**Sec. 11-11 Offenses relating to display or consumption of marijuana in certain circumstances.**

(a) Definition: As used in this section,

(1) "Motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways but does not include a vehicle operated exclusively on a rail or rails.

(2) "Open marijuana container" means a receptacle or marijuana accessory that contains any amount of marijuana and:

(I) That is open or has a broken seal; and

(II) The contents of which are partially removed;

(3) "Passenger area" means the area designed to seat the driver and passengers, including seating behind the driver, while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in his or her seating position, including but not limited to the glove compartment.

(b) Open display or Consumption prohibited. Any person who openly and publicly displays, consumes or uses marijuana commits a municipal code violation and, upon conviction thereof, shall be punished, at a minimum, by a fine of not less than one hundred dollars (\$100.00).

(c) Open marijuana container - motor vehicle – prohibited

(1) Except as otherwise permitted in paragraph (2) of this subsection (c), a person while in the passenger area of a motor vehicle that is on a public highway of this state or the right-of-way of a public highway of this state may not knowingly:

(I) Use or consume marijuana; or

(II) Have in his or her possession an open marijuana container.

(2) The provisions of this subsection (c) shall not apply to:

(I) Passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;

(II) The possession by a passenger, other than the driver or a front seat passenger, of an open marijuana container in the living quarters of a house coach, house trailer, motor home, as defined in [§ 42-1-102 \(57\)](#), Colorado Revised Statutes (or its successor provision), or trailer coach, as defined in [§ 42-1-102 \(106\) \(a\)](#), Colorado Revised Statutes (or its successor provision);

(III) The possession of an open marijuana container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or

(IV) The possession of an open marijuana container in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

(3) A person who violates the provisions of this subsection (c) commits a class A traffic infraction and shall be punished by a fine of not less than fifty dollars.

**Section 4. Amendment and Relocation of Section 10-23.** Section 10-23 of the *Code of Ordinances of the City of Alamosa* is hereby relocated to be Section 11-12, as follows:

**Sec. 11-12. - Consumption of, possession of open container of fermented malt beverage or malt, vinous, spirituous liquors in public places, vehicle.**

(a) Except at such times and in such places as permitted by a special events permit issued pursuant to the provisions of the special events permitting section of the Colorado Liquor Code or exempt from permitting requirements under C.R.S. § 12-48-108 as amended from time to time, it shall be unlawful for any person to drink or have in possession an opened container of fermented malt beverage or malt, vinous or spirituous liquors in or upon any street, alley, sidewalk, park or other public place in the city, or while within any vehicle in or upon any street, alley, sidewalk, park or other public place in the city.

(b) The provisions of this section shall not apply to a person in possession of one (1) opened but re-sealed container having a capacity not larger than seven hundred fifty (750) milliliters and containing vinous liquor (i.e., wine) lawfully purchased on the premises provided that

said opened container was lawfully removed from an establishment licensed for the consumption of vinous spirits on the premises, pursuant to Article 12, Chapter 47, Part 4 of the Colorado Revised Statutes.

**Section 5. Amendment of Section 11-171.** Section 11-171 of the *Code of Ordinances of the City of Alamosa* is hereby amended in its entirety to read as follows:

**Sec. 11-171. - Illegal possession or consumption of ethyl alcohol or marijuana by an underage person.**

(a) It shall be unlawful for any person under twenty-one (21) years of age to possess or consume any substance which is or contains ethyl alcohol. (1) Possession of an ethyl alcohol substance means that a person has or holds any amount of ethyl alcohol in any form anywhere on his person, or that a person owns or has custody of ethyl alcohol, or has ethyl alcohol within his immediate possession or control. Illegal possession or consumption of ethyl alcohol by an underage person is a strict liability offense.

(b) Except as described by section 14 of article XVIII of the Colorado constitution and C.R.S. § 18-18-406.3, a person under twenty-one years of age who possesses marijuana or consumes marijuana anywhere in the state of Colorado commits illegal possession or consumption of marijuana by an underage person. "Possession of marijuana" means that a person has or holds any amount of marijuana anywhere on his or her person or that a person owns or has custody of marijuana or has marijuana within his or her immediate presence and control. Illegal possession or consumption of marijuana by an underage person is a strict liability offense.

(c) Prima facie evidence of a violation of subsection (a) or (b) of this section shall consist of:

(1) Evidence that the defendant was under the age of twenty-one (21) years and possessed or consumed ethyl alcohol or marijuana anywhere in the city; or

(2) Evidence that the defendant was under the age of twenty-one (21) years and manifested any of the characteristics commonly associated with ethyl alcohol intoxication or impairment or marijuana impairment anywhere in the city.

(d) The evidentiary provisions and affirmative defenses set forth in C.R.S. §§ 18-13-122 shall apply in all proceedings regarding a violation of subsections (a) and (b), above, and are incorporated herein by reference.

(e) Possession or consumption of ethyl alcohol or marijuana shall not constitute a violation of this section if such possession or consumption takes place for religious purposes protected by the First Amendment to the United States Constitution.

(f) An underage person shall be immune from criminal prosecution under this section if he or she establishes the following:

- (a) The underage person called 911 and reported in good faith that another underage person was in need of medical assistance due to alcohol or marijuana consumption;
- (b) The underage person who called 911 provided his or her name to the 911 operator;
- (c) The underage person was the first person to make the 911 report; and
- (d) The underage person who made the 911 call remained on the scene with the underage person in need of medical assistance until assistance arrived and cooperated with medical assistance or law enforcement personnel on the scene.

(g) The court, upon sentencing a defendant pursuant to this section may, in addition to any fine, order the defendant to perform up to twenty-four (24) hours of useful public service, and may further order the defendant to submit to and complete an alcohol or evaluation or assessment, an alcohol or drug education program, or an alcohol or drug treatment program at the defendant's expense.

**Section 6: Deletion of Section 11-172** Section 11-172 of the *Code of Ordinances of the City of Alamosa* is hereby deleted in its entirety, as its provisions are either superseded by the provisions of the Colorado Constitution referenced above, or incorporated into the new Section 11-11.

**Section 7: Amendment of Section 11-173.** Section 11-173 of the *Code of Ordinances of the City of Alamosa* is hereby renumbered as Section 11-172, and amended in its entirety to read as follows:

**Sec. 11-172. - Unlawful for underage person to obtain or attempt to obtain alcoholic beverages or marijuana by misrepresentation of age or other method.**

It shall be unlawful for any person to obtain or attempt to obtain any alcohol beverage or marijuana or marijuana product by misrepresentation of age or by any other method in any place where alcohol beverages or marijuana produce are sold when such person is under twenty-one (21) years of age.

**Section 8. General Repealer**

All acts, orders, ordinances, resolutions, or portions thereof in conflict herewith, are hereby repealed to the extent of such conflict.

**Section 9. Recording and Authentication**

This ordinance, immediately upon its passage, shall be authenticated by the signatures of the Mayor and City Clerk, recorded in the City Book of Ordinances kept for that purposes, and published according to law.

**Section 10. Publication and Effective Date**

This ordinance shall take effect ten (10) days after publication following final passage. Publication both before and after final passage shall be by the title of this ordinance, which Council determines constitutes a sufficient summary of the ordinance, together with the statement that the full text of the ordinance is available for public inspection and acquisition on the City's website and in the office of the City Clerk.



**Section 11. Declaration of Public Interest**

This ordinance is necessary to preserve the peace, health, safety, welfare, and to serve the best interest of the citizens of the City of Alamosa, Colorado.

**INTRODUCED, READ AND ORDERED** published the \_\_\_ day of \_\_\_\_\_, 2017 and a public hearing hereon fixed for the \_\_\_ day of \_\_\_\_\_, 2017, at 7:00 p.m., or as soon thereafter as the matter may be heard.

**APPROVED, AND ADOPTED** after public hearing the \_\_\_ day of \_\_\_\_\_, 2017.

CITY OF ALAMOSA

By \_\_\_\_\_  
Josef P. Lucero, Mayor

ATTEST:

\_\_\_\_\_  
Holly C. Martinez, City Clerk

# ALAMOSA CITY COUNCIL COUNCIL COMMUNICATION

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**Subject/Title:**

First Reading, Ordinance No. 3-2017, an ordinance repealing section 11-53 of the Alamosa code of ordinances concerning the regulation of panhandling

**Recommended Action:**

Approve Ordinance No. 3-2017 on first reading and set for public hearing on February 15, 2017.

**Background:**

Council enacted Ordinance 4-2013 in June of 2013. It is codified at Section 11-53 of the Code of Ordinances. It was intended to regulate panhandling within the City of Alamosa, and intended to regulate behaviors that contribute to the loss of access to and enjoyment of public places and an enhanced sense of fear, intimidation and disorder.

Recently, panhandling ordinances similar to Alamosa's have been the subject of Court challenges on first amendment free speech grounds, notably the U.S. District Court for the District of Colorado's decision in *Browne v. City of Grand Junction*, 136 F.Supp.3d 1276 (D. Colo. 2015). Since the *Browne* decision, the City of Alamosa has not been enforcing its panhandling ordinance.

Many of the aggressive behaviors, and many of the acts interfering with peaceable use of public spaces and flow of traffic that were directly related to panhandling, and regulated under the panhandling ordinance, can still be and are being addressed under other ordinances such as trespass, harassment, attempted robbery, and the Model Traffic Code. Therefore, because constitutional issues with the existing panhandling ordinance make it unenforceable, staff recommends repealing the ordinance and relying on other sections of the code to address most of the problem behaviors addressed in the panhandling ordinance.

**Issue Before the Council:**

Does Council wish to approve the Ordinance on first reading and set it for public hearing to be held on February 15, 2017?

**Alternatives:**

- 1) Approve the Ordinance
- 2) Decline to approve the Ordinance in whole or in part, and give staff further direction.

**Fiscal Impact:**

None.

**Legal Opinion:**

The panhandling ordinance as currently written is largely unenforceable. As shown on the attached annotated ordinance, many of the issues addressed in the panhandling ordinance may also be addressed through other City ordinances.

**Conclusion:**

Approval of this Ordinance rescinding the panhandling ordinance will remove a largely

unenforceable law from Alamosa's *Code of Ordinances*.

**ATTACHMENTS:**

Description	Type
▣ Ordinance 3-2017 rescinding panhandling ordinance	Ordinance
▣ Annotated panhandling ordinance	Backup Material

**ORDINANCE NO. 3-2017**

**AN ORDINANCE REPEALING SECTION 11-53 OF THE ALAMOSA CODE OF ORDINANCES CONCERNING THE REGULATION OF PANHANDLING**

**WHEREAS**, the City Council of the City of Alamosa enacted Ordinance 4-2013, codified at Section 11-53 of the *Code of Ordinances of Alamosa, Colorado*, to regulate panhandling within the City of Alamosa, and intended to regulate behaviors that contribute to the loss of access to and enjoyment of public places and an enhanced sense of fear, intimidation and disorder; and

**WHEREAS**, recently, panhandling ordinances similar to Alamosa's have been the subject of Court challenges on first amendment free speech grounds, notably the U.S. District Court for the District of Colorado's decision in *Browne v. City of Grand Junction*, 136 F.Supp.3d 1276 (D. Colo. 2015); and

**WHEREAS**, since the *Browne* decision, the City of Alamosa has not been enforcing its panhandling ordinance; and

**WHEREAS**, many of the aggressive behaviors, and many of the acts interfering with peaceable use of public spaces and flow of traffic that were directly related to panhandling, and regulated under the panhandling ordinance, can still be addressed under other ordinances such as trespass, harassment, attempted robbery, and the Model Traffic Code; and

**WHEREAS**, the City Council of the City of Alamosa, Colorado, deems it to be in the best interest of its citizens that the City not have on its books ordinances that it does not intend to enforce;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of Alamosa as follows:

**Section 1.** Repeal of Section 11-53 of Article III of Chapter 11. Section 11-53 of the *Code of Ordinances of Alamosa, Colorado* is hereby repealed in its entirety.

**Section 2.** General Repealer. All other acts, orders, ordinances, resolutions, or portions thereof in conflict with the sections adopted in this Ordinance, are hereby repealed to the extent of such conflict.

**Section 3.** Recording and Authentication. This ordinance, immediately upon its passage, shall be authenticated by the signatures of the Mayor and City Clerk, recorded in the City book of Ordinances kept for that purposes, and published according to law.

**Section 4.** Publication and Effective Date. This ordinance shall take effect ten (10) days after publication following final passage. Publication both before and after final passage shall be by the title of this ordinance, which Council determines constitutes a sufficient summary

of the ordinance, together with the statement that the full text of the ordinance is available for public inspection and acquisition on the City's website and in the office of the City Clerk.

**Section 5.** Declaration of Public Interest. This ordinance is necessary to preserve the peace, health, safety, welfare, and to serve the best interest of the citizens of the City of Alamosa, Colorado.

**INTRODUCED, READ AND APPROVED** on first reading the 1st day of February, 2017, and ordered published by title and reference as provided by law with notice of a public hearing to be held for consideration of the adoption of said ordinance on the 15th day of February 2017, at 7:00 p.m., or as soon thereafter as the matter may be heard, or on such subsequent date to which the public hearing or Council consideration may be continued.

**APPROVED, AND ADOPTED** after public hearing the 15th day of February, 2017.

CITY OF ALAMOSA

By \_\_\_\_\_

Josef P. Lucero, Mayor

ATTEST:

\_\_\_\_\_  
Holly C. Martinez, City Clerk

**ORDINANCE NO. \_\_ - 2013**

**AN ORDINANCE AMENDING ARTICLE III OF CHAPTER 11 OF THE *CODE OF ORDINANCES OF ALAMOSA, COLORADO*, TO REGULATE PANHANDLING**

**WHEREAS**, it has come to the attention of the City Council of the City of Alamosa that residents have experienced problems with aggressive and inappropriate panhandling, and disturbances associated with such panhandling; and

**WHEREAS**, aggressive panhandling may create a public safety risk in and along public streets and sidewalks.; and

**WHEREAS**, aggressive panhandling is disturbing and disruptive to residents and businesses and impacts social harmony and economic viability of the City; and

**WHEREAS**, it is not the purpose of this Ordinance to prohibit lawful solicitation activity, but to regulate behaviors that contribute to the loss of access to and enjoyment of public places and an enhanced sense of fear, intimidation and disorder.

**WHEREAS**, the City Council of the City of Alamosa, Colorado, deems it to be in the best interest of its citizens that the City regulate behaviors that contribute to the loss of access to and enjoyment of public places and an enhanced sense of fear, intimidation and disorder.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of Alamosa as follows:

**Section 1.** Addition of Section 11-51 of Article III of Chapter 11. A new Section 11-51 of the *Code of Ordinances of Alamosa, Colorado* is hereby enacted as follows:

**Sec. 11-51. Regulation of Panhandling.** The purpose of this section is to protect the health, safety and welfare of all citizens of the City of Alamosa and those who travel through the City by eliminating aggressive panhandling. Aggressive panhandling is disturbing and disruptive to residents and businesses and impacts social harmony and economic viability of the City. It is not the purpose of this section to prohibit lawful solicitation activity, but to regulate behaviors that contribute to the loss of access to and enjoyment of public places and an enhanced sense of fear, intimidation and disorder.

(a) Panhandling defined: To panhandle shall mean to knowingly approach, accost or stop another person and solicit that person, whether by spoken words, bodily gestures, written signs or other means, for a gift of money, employment or other thing of value. Panhandling includes seeking a donation where the person being solicited receives an item of little or no monetary value in exchange for a donation, under circumstances where a reasonable person would understand that the purchase is in substance a donation, but does not include passively standing or sitting with a sign or other indication that one is seeking donations, without addressing any solicitation to any specific person, other than in response to an inquiry by that person.

(b) Aggressive Panhandling prohibited. No person shall engage in aggressive panhandling in any public place. Aggressive panhandling shall mean panhandling accompanied by or followed immediately by one or more of the following:

[Harassment \(3\)](#)(1) Intentionally continuing to solicit from a person after the person has given a negative response to such solicitation;

[Harassment \(1\)](#) (2) Intentionally making any physical contact with or touching another person in the course of the solicitation without that person's consent;

[Harassment \(4\), Vehicle code?](#) (3) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact in the course of soliciting;

[Harassment \(4\), \(8\)](#)(4) Intentionally using violent or threatening gestures toward a person solicited which would cause a reasonable person to be fearful for his or her safety;

[Harassment \(3\)](#) (5) Persisting in closely following behind or alongside, or walking immediately ahead of a person who has been solicited with the intent of asking that person for money or other things of value, after the person solicited has informed the panhandler by words or conduct that such person does not want to be solicited or does not want to give money or anything of value to the panhandler;

[Harassment \(8\)](#) (6) Intentionally using profane, threatening, or abusive language, either during the solicitation or following a refusal to make a donation, which tends to invite an immediate breach of the peace; or

[Harassment \(4\) – Do we need an intimidation ordinance?](#) (7) Approaching or following a person for solicitation as part of a group of two (2) or more persons, in a manner and with conduct, words, or gestures intended or likely to cause a reasonable person to fear imminent bodily harm or damage or loss of property or otherwise to be intimidated into giving money or other thing of value.

(c) Panhandling in certain locations and at certain times prohibited:

[Trespass, disorderly conduct](#) (1) No person shall panhandle on private property if the owner, tenant, or person in lawful control of the property has asked the person to leave or has asked the person to refrain from soliciting on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.

[could be disorderly conduct?](#)(2) No person shall panhandle when either the panhandler or the person being solicited is located within one hundred (100) feet of any automated teller machine. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the facility.

Intimidation?(3) No person shall panhandle when either the panhandler or the person being solicited is located in any public transportation vehicle or within twenty (20) feet of any bus station or stop.

Intimidation? (4) No person shall panhandle in any parking lot or parking structure to which the public or a substantial number of the public has access.

???(5) No person shall panhandle within six (6) feet of an entrance to a building to which the public has access.

Trespass(6) No person shall panhandle when the person being solicited is located within the patio or sidewalk area of a retail business establishment that serves food and/or beverages.

???(7) No person shall panhandle in a public place during the night. Night shall mean one-half hour after sunset until one-half hour before sunrise.

???(8) No person shall panhandle when either the panhandler or the person being solicited is located within twenty (20) feet of a public toilet.

Harassment if aggressive (9) No person shall panhandle when the person being solicited is waiting in line for tickets, for entry into a building, or for another purpose.

11-46(10) No person shall panhandle within one hundred (100) feet of any school grounds.

Intimidation?(11) No person shall panhandle any person entering or exiting a parked motor vehicle or in a motor vehicle stopped in the travelled portion of a public street.

Traffic? (12) No person shall panhandle directly from the occupant of any vehicle traveling upon any public street or highway when:

- a. Such panhandling involves the panhandler entering onto the traveled portion of a public street or highway to complete the transaction, including, without limitation, entering onto bike lanes, street gutters or vehicle parking areas;
- b. The panhandler is located upon any median area of the traveled portion of a public street or highway which separates traffic lanes for vehicular travel; or
- c. The panhandler is located such that vehicles cannot move into a legal parking area to safely complete the transaction.

Notwithstanding any of the foregoing, no person shall panhandle directly from the occupant of any vehicle on any highway included in the interstate or state highway system, including any entrance to or exit from such highway

(c) Further definitions. For the purposes of this Section, the words and phrases used herein, unless the context otherwise indicates, shall have the following meaning:

(1) Automated teller machine shall mean a device, linked to a financial institution's account record which is able to carry out transactions, including, but not limited to account transfers, deposits, cash withdrawals, balance inquires, and mortgage and loan payments.

(2) Automated teller machine facility shall mean the area comprised of one or more



automatic teller machines, and any adjacent space, which is made available to banking customers after regular banking hours.

(3) Financial institution shall mean any bank, industrial bank, credit union, or savings and loan as defined in Title 11 of the Colorado Revised Statutes.

(4) Public place shall mean a place to which the public or a substantial part of the public has access, including streets, highways, transportation facilities, schools, places of amusement, parks, playgrounds and the common areas of public and private buildings and facilities, including parking lots or any other area intended for use by the public. It shall include the front, entryway, doorway or vestibule or area of immediate access to any public place, store, shop, restaurant, tavern or other place of business.

**Section 2.** General Repealer. All other acts, orders, ordinances, resolutions, or portions thereof in conflict with the sections adopted in this Ordinance, are hereby repealed to the extent of such conflict.

**Section 3.** Recording and Authentication. This ordinance, immediately upon its passage, shall be authenticated by the signatures of the Mayor and City Clerk, recorded in the City book of Ordinances kept for that purposes, and published according to law.

**Section 4.** Publication and Effective Date. This ordinance shall take effect ten (10) days after publication following final passage. Publication both before and after final passage shall be by the title of this ordinance, which Council determines constitutes a sufficient summary of the ordinance, together with the statement that the full text of the ordinance is available for public inspection and acquisition on the City's website and in the office of the City Clerk.

**Section 5.** Declaration of Public Interest. This ordinance is necessary to preserve the peace, health, safety, welfare, and to serve the best interest of the citizens of the City of Alamosa, Colorado.

**INTRODUCED, READ AND APPROVED** on first reading the 1st day of May, 2013, and ordered published by title and reference as provided by law with notice of a public hearing to be held for consideration of the adoption of said ordinance on the 15th day of May, 2013, at 7:00 p.m., or as soon thereafter as the matter may be heard, or on such subsequent date to which the public hearing or Council consideration may be continued.

**APPROVED, AND ADOPTED** after public hearing the 1st day of May, 2013.

CITY OF ALAMOSA

By \_\_\_\_\_

Kathleen Rogers, Mayor

ATTEST:

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Judy A. Egbert, City Clerk

# ALAMOSA CITY COUNCIL COUNCIL COMMUNICATION

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**Subject/Title:**

Contract for Financial Services

**Recommended Action:**

Staff recommends that Council authorize the City Manager to sign the contract for financial services with Lisa A. Sandoval.

**Background:**

Based on Management's Corrective Action Plan stemming from the 2015 Audit findings and staffing changes in the Finance Department, staff is working on creating a more robust checks and balances in the Finance Department. While the Finance Director will always maintain the highest level of technical competency, the City feels that it is important to have outside, objective review of the monthly reports in order to bring additional transparency and assurance of accuracy for City Council and the public. Ms. Sandoval has been instrumental in the implementation of many of the other items identified in the Corrective Action Plan and has become very familiar with the City's accounting procedures and software.

**Issue Before the Council:**

Does Council wish to enter into the attached contract for financial services?

**Alternatives:**

Council can authorize the City Manager to sign the attached contract or provide further direction.

**Fiscal Impact:**

The fiscal impact is estimated at less than \$8,000 (\$110/hour estimated at 6 hours per month).

**Legal Opinion:**

The City Attorney will be present for questions.

**Conclusion:**

With a small Finance Department that handles public funds, it is important to have the most robust checks and balances possible. By contracting with an outside, objective accountant, the City will be able to add an additional layer of technical review that should enhance the soundness of the City's processes and accounts.

**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Contract	Backup Material

**Lisa A. Sandoval**

**Certified Public Accountant**

13486 CR 17, La Jara, CO 81140

(719) 580-8792

[rl.sandoval@yahoo.com](mailto:rl.sandoval@yahoo.com)

January 10, 2017

Heather Brooks  
City Manager  
City of Alamosa  
300 Hunt Ave.  
Alamosa, CO 81101

Dear Ms. Brooks,

This letter is to confirm and specify the terms and objectives of my engagement and to clarify the nature and extent of the services I will provide to City of Alamosa (the City) in 2017.

### **Objectives of the Engagement and Services to be Performed**

Upon your request, I will provide the accounting services as outlined in the attached schedule of services. This engagement is solely to assist you in implementing a monthly supervisory oversight and analysis processes over financial reporting and the accounting/finance functions of the City.

### **Management's Responsibilities**

The City Manager in conjunction with the Finance Director of the City of Alamosa agree to perform the following responsibilities in connection with my provision of the accounting services:

- Assume all responsibility for the sufficiency and scope of all services to be performed. Therefore, I take no responsibility for the adequacy or scope of all services that I will perform.
- Assume all management responsibilities, including approval of account codings and of all journal entries.
- Oversight of the accounting services provided and evaluation of the adequacy and results of the services.
- Accept responsibility for the results of the accounting services, including the journal entries, general ledger, trial balance, payroll reports, schedules and notes to financial statements and supplemental reports to the financial statements.

## **CPA's Responsibilities and Limitations of the Engagement are as Follows**

I will perform the services in accordance with applicable professional standards.

This engagement is limited to the accounting services previously outlined. I reserve the right to refuse to do any procedure or take any action that could be construed as making management decisions or assuming management responsibilities, including determining account codings and approving journal entries. I will advise the City with regard to accounting issues, but the City must make all decisions regarding those matters.

### **Other Matters**

This engagement does not constitute an audit or review of financial statements or any part thereof, the objective of which is the expression of an opinion or limited assurance on the financial statements or a part thereof. Accordingly, I will not express an opinion or limited assurance, or any other form of assurance relating to the financial statements or any elements, accounts or items related thereto.

If you decide to modify these services, either by deletion or addition of procedures, I must be notified in writing, and this letter must be modified to incorporate the revised procedures.

By your signature below, you acknowledge that you are responsible for management decisions and functions. That responsibility includes designating qualified individuals with the necessary expertise to be responsible and accountable for overseeing all the services I perform as part of this engagement, as well as evaluating the adequacy and results of the services performed. You are responsible for establishing and maintaining internal controls, including monitoring ongoing activities.

My engagement cannot be relied upon to disclose errors, irregularities, or illegal acts, including fraud or defalcations that may exist. However, I will inform you of any such matters that come to my attention.

I anticipate that this engagement will require an average of 6 hours per month depending on changes to the City's circumstances and needs. I will work closely with the City Manager and Finance Director to determine actual needs and adjust as necessary. My work schedule and corresponding fees include assistance and cooperation from City personnel. If I find that significant additional time is required to complete the engagement, I will discuss the situation with you prior to proceeding. My fees for this engagement are \$110 per hour. This fee includes all travel and expenses.

Invoices for fees will be rendered each month and are payable by the 10<sup>th</sup> of the subsequent month. In the event that I have to pursue collection of an undisputed invoice amount, you agree to reimburse me for all reasonable costs of collection, including, but not limited to, attorney fees, arbitration or court costs, service charges and other collection expenses.

I appreciated the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let me know.

If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to me.

Very truly yours,



Lisa A. Sandoval  
Certified Public Accountant

Agreed and accepted by:

---

Heather Brooks  
City Manager



CITY OF ALAMOSA  
ACCOUNTING SERVICES  
ATTACHMENT TO ENGAGEMENT LETTER

January 10, 2017

- Implement a monthly supervisory review process over financial reporting to include:
  - On a monthly basis, obtain Balance Sheet reports for each fund. Analyze such and agree selected balances to supporting documentation, such as investment statements, bank reconciliation, accounts receivable or payable support, property records, etc. Follow up on any unusual items.
  - Obtain monthly Budget/Actual Income Statements for each fund and analyze the accounts presented in comparison to prior periods and budget. Research any accounts with large variances or that otherwise are deemed necessary to require additional attention.
  - Run a report depicting all journal entries posted to the general ledger and analyze for reasonableness. Select several for tracing back to supporting documentation and proper approval.
  - Ensure that monthly bank reconciliations are completed by staff and approved by Finance Director.
- Provide support and assistance to Finance Director on an ongoing basis as needed.
- Make recommendations to improve and strengthen internal controls for the accounting department within the existing financial budget and staffing levels on an ongoing basis.