ALAMOSA CITY COUNCIL Regular Meeting Agenda

Council Chambers 300 Hunt Avenue, Alamosa, CO April 5, 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, in person at 300 Hunt Avenue, or by mail at POB 419, Alamosa, CO 81101.

Council Calendar

6:00 PM - Work Session: Marijuana Personal Grow Regulations

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. Child Abuse Prevention Month Proclamation

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 March 15, 2017

VII. REGULAR BUSINESS

- A. Presentations from Outside Agencies
 - **1.** 2017 Round-Up
- B. Business Brought Forward by City Staff

1. City Manager/Legal

- a. First Reading, Ordinance No. 8-2017, an ordinance amending sec. 2-17 of the Code of Ordinances of the City of Alamosa to confirm the ability of Council to cancel meetings at which there will not be a quorum present and increasing the notice required for special meetings.
- b. First Reading, Ordinance No. 9-2017, An ordinance extending the existing temporary moratorium on the placement of certain manufactured homes within the city of Alamosa other than in mobile home parks through September 30, 2017
- c. First Reading, Ordinance No. 10-2017, An ordinance amending Sec. 20-83 of the Code of Ordinances of the City of Alamosa to recognize the ability of non-city haulers to haul commercial solid waste.
- d. Second reading and public hearing, Ordinance No. 7-2017, An ordinance amending Ordinance No. 4-2017 to include additional capital improvement projects related to water and sewer infrastructure and the Alamosa levee.
- e. Resolution No. 10- 2017, A resolution identifying the portion of the Alamosa ranch as the Leased Property to be leased to and subleased from the Alamosa Capital Leasing Corporation by the City under a Site Lease and Lease Purchase Agreement

C. Committee Reports

D. Staff Announcements

VIII. LOCAL LIQUOR LICENSING AUTHORITY ACTIONS

- A. Decision, New Application, Hotel/Restaurant License, Thai Hut LLC d/b/a Thai Hut
- B. Needs and Desires Hearing on the application of Wize Apples/Linda Cade, d/b/a Wize Apples, for a Hotel/Restaurant License at 408 4th Street
- C. Approval of Colorado Liquor Sales Room for Square Peg Brewerks LLC

A. CONSENT CALENDAR B

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

1. San Luis Valley Early Iron, Inc. Special Events Permit September 1 and 2, 2017

COUNCIL COMMENT

EXECUTIVE SESSIONS

1. Executive Session pursuant to C.R.S. §24-6-402(4)(f) for Personnel Matters - Evaluation of City Clerk

ADJOURNMENT

ALAMOSA CITY COUNCIL COUNCIL COMMUNICATION

Subject/Tit	le	:
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Council Calendar

ATTACHMENTS:

Description Type

□ City Council Calendar Cover Memo

Alamosa City Council Meetings and Events Updated 3/31/2017

All events are held in Alamosa Colorado unless otherwise noted

CITY HALL IS LOCATED AT 300 HUNT					
Date	Time	Event	Location	Additional Information	
April 5, 2017	6:00 p.m.	Work Session: Marijuana Discussion	Council Chambers	*	
April 12, 2017	6:30 p.m.	2nd Dog Park Forum Discussion	Rec Center	***	
April 19, 2017	6:00 p.m.	Work Session: Marijuana Discussion	Council Chambers	*	
May 3, 2017	6:00 p.m.	Work Session: Joint with Golf Board	Council Chambers	*	
May 16, 2017	Noon	CML Spring Outreach Meeting	Del Norte, CO	**	
May 17, 2017	6:00 p.m.	Work Session: Soltura Purchase	Council Chambers	*	
June 20 - 23, 2017	All Day	CML Annual Conference	Breckenridge, CO	**	
July 26, 2017	4:30 p.m.	City Services Fair	Cole Park	***	
August 4 - 5, 2017	All Day	Annual Retreat	Trinchera	*	
* Work sessions are info				·	

^{**}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

Subject/Title:

6:00 PM - Work Session: Marijuana Personal Grow Regulations

ATTACHMENTS:

Description Type

Ordinance regulating personal marijuana grows
 Backup Material

ORDINANCE NO. -2017

AN ORDINANCE REGULATING THE PERSONAL GROWING, CULTIVATING, AND PROCESSING OF MARIJUANA

- **WHEREAS**, Article XVIII, Sections 14 and 16 of the Colorado Constitution (Amendment 20 and 64, respectively), authorize persons to grow limited amounts of marijuana for personal use, or assist others in growing marijuana for their personal use; and
- **WHEREAS,** Amendment 20 cedes general authority to local government to prohibit the operation of commercial marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores ("Commercial Marijuana Operations"); and
- **WHEREAS**, neither Amendment 20 nor Amendment 64 permit local government to prohibit non-commercial unlicensed individual grow operations; and
- **WHEREAS**, State regulations pertaining to Commercial Marijuana Operations are generally not directed toward non-commercial unlicensed individual grow operations; and
- **WHEREAS**, this circumstance can result in a proliferation of non-licensed and unregulated marijuana grow operations that present significant health and public safety concerns with multiple and persistent violations of City building, electrical, mechanical, plumbing, and fire codes; and
- **WHEREAS**, the City Council is authorized pursuant to Article I, Section 2 of the City Charter, and C.R.S. § 31-15-401(1)(b) and (c) "to make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease [and] to declare what is a nuisance and abate the same;" and
- **WHEREAS**, Council is further authorized pursuant to Article XIV, Section 4 of the Charter of the City of Alamosa to zone the City and to make appropriate regulations and restrictions concerning land uses within the City of Alamosa; and
- **WHEREAS,** Council is further authorized pursuant to C.R.S. § 9-7-113 to ban the use of compressed flammable gas in the extraction of THC or other cannabinoids in a residential setting; and
- **WHEREAS**, Council has determined that the adoption of regulations governing the growing, cultivating, and processing of marijuana is necessary and desirable for the health, safety, and welfare of the citizens of Alamosa; and

WHEREAS, this Ordinance does not unreasonably impair or impede the exercise of rights afforded citizens under Amendments 20 and 64;

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

Section 1. Addition of new Code ARTICLE VI. The Code of Ordinances of Alamosa, Colorado is hereby amended to add a new Article VI to Chapter 4, to read as follows:

ARTICLE VI GROWING OF MARIJUANA FOR PERSONAL USE

- **Sec. 4-170. Scope.** This Ordinance applies to the growing, cultivating, and processing of marijuana on any lot, parcel, or tract of land by any person, including but not limited to patients, primary caregivers, or persons for personal use.
- **Sec. 4-171. Definitions:** The definitions contained in Article XVIII, Sections 14 and 16 of the Colorado Constitution, the Colorado Medical Marijuana Code (C.R.S. § 12-43.3-101 *et seq.*) and the Colorado Retail Marijuana Code (C.R.S. § 12-43.4-101 *et seq.*), as amended from time to time, are incorporated into this Ordinance by reference, including but not limited to, definitions of Marijuana, Medical Marijuana, Patient, and Primary Caregiver. All other applicable definitions are as stated herein.
 - (a) "Accessory Structure" means: A subordinate structure detached from but located on the same lot as the primary residence, the use of which is incidental and accessory to that of the primary residence.
 - (b) "Accessory Use" means: A use incidental to and subordinate to a primary residence.
 - (c) "Primary Residence" means: A residence where a person, by custom and practice, makes his or her principle domicile and address and to which the person intends to return following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence and use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation and partaking of meals, regular mail delivery, vehicle registration, or credit, water and utility billing. A person shall have only one primary residence.
 - (d) "Primary Use" means: The main use of a structure or land, as distinguished from an accessory use.

Sec. 4-172. Growing, Cultivating, and Processing of Marijuana:

(a) Accessory Use to Primary Residence

Marijuana may only be grown, cultivated, or processed as an accessory use at the primary residence of the person conducting such activity, and only for such person's own use, or by a primary caregiver on behalf of a patient.

(b) Location of Growing, Cultivating, and Processing of Marijuana

- 1. Marijuana may only be grown, cultivated, or processed in a primary residence where residential use is the primary use of the structure or in an accessory structure to the primary residence on the same property. Any garage or accessory structure used for the cultivation of marijuana, including all walls, doors and the roof, shall be constructed with a firewall assembly of Type X drywall meeting the minimum building code requirements for residential structures. Other provisions of this Article notwithstanding, a permit is required for an accessory structure used for growing marijuana, and it must meet setback requirements of structures greater than fifty (50) square feet.
- 2. The space used for the growing, cultivating, or processing of marijuana shall be limited to a total area of 100 square feet and a total volume of 1000 cubic feet.
- 3. It is unlawful to cultivate marijuana in a detached accessory structure that is greater than fifty (50) square feet or more than ten (10) feet in height.
- 4. Marijuana shall not be grown, cultivated, or processed within any multi-family dwelling.
- 5. Any area used for the growing, cultivating, and processing of marijuana shall be fully enclosed and locked ensuring accessibility only by the person growing, cultivating or processing the marijuana for medical or personal use and to prevent access by children, visitors, casual passersby, or anyone not authorized to possess marijuana.
- 6. Any area used for the growing, cultivating, or processing of marijuana shall comply with all applicable building and fire codes, as amended and adopted, including plumbing, electrical and mechanical.
- 7. Nonresidential buildings or structures that are not accessory to a primary residence shall not be used for the growing, cultivating, or processing of marijuana.
- 8. It is unlawful to use a kitchen, bathroom or primary bedrooms for the indoor cultivation of marijuana.
- 9. Marijuana shall not be grown, cultivated, or processed outdoors.

(c) Compliance with Building Codes:

It is unlawful to cultivate marijuana in any structure without complying with applicable building and fire codes, including plumbing and electrical, and all applicable zoning codes, including but not limited to lot coverage, setback and height requirements.

Sec. 4-173. Marijuana Plant Limits

At any given time, no more than 12 marijuana plants, in any stage of maturity, may be grown, cultivated or processed at a primary residence.

Sec. 4-174. Lighting Restrictions and Prohibition on Use of Compressed Flammable Gas Products or Flammable Liquids

It is unlawful to use any grow lighting system for the indoor cultivation of marijuana other

than light-emitting diodes (LEDs), compact fluorescent lamps (CFLs) or fluorescent lighting. All high-intensity discharge (HID) lighting, including but not limited to mercury-vapor lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high-pressure sodium (HPS) lamps and xenon short-arc lamps, are prohibited.

No compressed flammable gas (e.g. butane) or flammable liquid may be used in the growing, cultivating, or processing of marijuana. For purposes of this paragraph, "flammable liquid" means a liquid that has a flash point below one hundred degrees (100°) Fahrenheit, and includes all forms of alcohol and ethanol.

Sec. 4-175. Cannot be Perceptible

The growing, cultivating, or processing of marijuana shall not be perceptible from the exterior of the structure in which such activities occur, including, but not limited to:

- (a) Common visual observation.
- (b) Light pollution, glare, or brightness that disturbs the peace of another.
- (c) Undue vehicular or foot traffic, including unusually heavy parking in front of the primary residence.
- (d) The smell or odor of marijuana growing, cultivating, or processing at a primary residence shall not be detectable by a person with a normal sense of smell from any adjoining lot, parcel, tract, public right-of-way, or building unit.

Sec. 4-176. Ventilation Requirements

Any indoor marijuana cultivation area shall include a ventilation and filtration system designed to ensure that odors from the cultivation are not detectable beyond the property line for detached single-family residential dwelling, and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence. This shall include, at a minimum, a system meeting the requirements of the current, adopted edition of the International Residential Code.

- **Sec. 4-177. Penalty for Violations Declaration of Nuisance:** It shall be unlawful for any person to violate any provision of this ordinance. Each day during which such violations exist shall be deemed a separate offense. In addition, violation of this ordinance shall constitute a nuisance, and may be abated by the City in the same manner dangerous buildings are abated.
- **Sec. 4-178. Additional Remedies** The remedies provided in this ordinance shall be cumulative and in addition to any other federal, state or local remedy, criminal or civil, which may be available. Nothing contained herein shall be construed to preclude prosecution under any other applicable statute, ordinance, rule, order or regulation.
- **Section 2.** <u>Severability:</u> Should any section, clause, sentence, or part of this Ordinance be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect, impair or invalidate the ordinance as a whole or any part thereof other than the part so declared to be invalid.

Section 3. <u>General Repealer</u> . 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 4. 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 5. <u>Publication and Effective Date</u> . 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 6. <u>Declaration of Public Interest</u> . 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 day of
APPROVED, AND ADOPTED after public hearing the day of February,
CITY OF ALAMOSA
The state of the s
By
Josef P. Lucero, Mayor
ATTEST:

Holly C. Martinez, City Clerk

ALAMOSA CITY COUNCIL COUNCIL COMMUNICATION

Subject/Title:

Child Abuse Prevention Month Proclamation

ATTACHMENTS:

Description Type

□ Child Abuse Prevention Month Proclamation Backup Material

A PROCLAMATION: APRIL 2017 NATIONAL CHILD ABUSE PREVENTION MONTH

As a Nation and as a community, it is our responsibility to build a safe and nurturing society so that our young people can realize their full potential. During **National Child Abuse Prevention Month**, we renew our commitment to preventing child abuse and rededicate ourselves to working together to ensure that all children can have a bright and hopeful future.

Whereas, preventing child abuse and neglect is a community problem that depends on involvement of all people throughout the community;

Whereas, child abuse and neglect not only directly harms children, but also increases the likelihood of long term physical and mental health problems, alcohol and substance abuse, continued family violence and criminal behavior;

Whereas, child maltreatment occurs when people find themselves in stressful situations, without community resources and don't know how to cope;

Whereas, the majority of child abuse cases stem from situations and conditions that are preventable in an involved and supportive community;

Whereas, child abuse and neglect can be reduced by making sure that each family has the support they need in raising their children in a safe and nurturing environment;

Whereas, effective child abuse prevention programs succeed because of partnerships created among social service agencies, schools, faith-based communities, civic organizations, law enforcement agencies and the business community;

Therefore, we do hereby proclaim

April 2017 as Child Abuse Prevention Month in the City of Alamosa and call upon all citizens, community agencies, faith-based groups, and businesses to increase their participation and commitment in our efforts to support families and protect our children from abuse and neglect, helping to ensure that each child can grow up in a secure and loving environment.

Don	e this 5th day of April, 2017,
	Josef Lucero, Mayor

ALAMOSA CITY COUNCIL COUNCIL COMMUNICATION

Subject/Title:	S	ul	bi	e	C	t/	Т	itl	е	:
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Approve Minutes of Meeting March 15, 2017

ATTACHMENTS:

Description Type

□ Minutes of Meeting March 15, 2017 Cover Memo

ALAMOSA CITY COUNCIL Regular Meeting Minutes

Council Chambers 300 Hunt Avenue, Alamosa, CO March 15, 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, in person at 300 Hunt Avenue, or by mail at POB 419, Alamosa, CO 81101.

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 on the above date 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 Kristina Daniel, Jan Vigil, Ty Coleman, Michael Stefano, Charles Griego, and Liz Hensley. A quorom was declared. Also present: City Manager Heather Brooks, City Attorney Erich Schwiesow, and City Clerk Holly Martinez.

III. AGENDA APPROVAL

Heather Brooks informed Council there needs to be a Ceremonial Item added under Citizen Comment and before Consent Calendar A for a proclamation for the Library's 115th Birthday Anniversary.

Councilor Vigil moved, seconded by Councilor Daniel 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

Ralph Symbleme spoke in regards to the Bains and KRZA buildings.

Brock Miller and Cheryl Smith spoke in regards to Tu Casa's upcoming events.

B. Follow-Up

Council thanked those citizens who commented for coming and speaking at the meeting.

V. CEREMONIAL ITEMS

A. Proclamation for the 115th Anniversary of the Library

Patty Campbell and Salai Taylor, representatives of the Alamosa Public Library, spoke regarding the celebration of the City of Alamosa Public Library 115th Birthday.

Mayor Lucero read the proclamation, proclaiming 2017 as the Alamosa Public Library 115th Celebration, and Council presented it to Ms. Campbell and Ms. Taylor, representatives of the library.

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 Griego to approve Consent Calendar A as presented. Councilor Vigil made the comment that the reason why the June 21st meeting is because canceled is because Council will be at the CML Annual Conference. The motion carried unanimously.

- C.7.a. Approve Minutes of Meeting March 1, 2017
- C.2.a. Receive February 2017 Financial Reports
- C.8.a. Receive February 2017 Monthly Reports
- C.1.a Resolution No. 7-2017; Addition of the KRZA Building to the City of Alamosa Register of Historic Places
- C.1.b. Resolution No. 8-2017; Addition of the Bain's Building to the City of Alamosa Register of Historic Places
- C.7.b. Resolution No. 9-2017; A Resolution Canceling the June 21, 2017 Regular Meeting of the Alamosa City Council.

VII. REGULAR BUSINESS

A. Presentations from Outside Agencies

1. SLV Harm Reduction Program

Charlotte Ledoni, a nurse coordinator with the Area Health Education Center and Della Vieta, Public Health Director for Alamosa County, spoke and gave a presentation about the SLV Harm Reduction Program.

B. Business Brought Forward by City Staff

1. Police

Public Hearing and Second Reading, Ordinance 5-2017, an ordinance repealing and replacing chapter 3 of the Alamosa Code of Ordinances, governing animals, to introduce a spay, neuter, return program for feral cats, allow for burial of pets in yards, revise terms under which animal impoundments take place, and make other clarifying changes to the chapter

Heather Brooks reviewed this ordinance with Council and restated the changes that are being proposed in this ordinance, including adding a section for feral cats, and allowing impoundment of stray cats, allowing pet burial on owners property, clearing up questions about dealing with nuisance animals that the City does not have shelter space for, better aligning the ordinance on rabbit and poultry with the general animal ordinance, removing the ability to allow the keeping of juvenile wild animals as pets, and making other housekeeping changes to clarify and streamline the ordinance.

Ms. Brooks also provided background information on discussions on procedures that have been utilized thus far to try to address the feral cat population. She also informed Council of discussions regarding grants that have been discussed to help with this issue as well and went over the changes in the proposed ordinance.

Councilor Vigil asked for clarification on the new language that was put into the ordinance and if it was due to the concerns that were heard from concerned citizens over the last week. Ms. Brooks confirmed that it was.

Mayor Lucero opened the public hearing at 7:56 p.m. and asked for those wishing to speak on this ordinance.

Ron Loser spoke in appreciation and in favor of this ordinance.

Kris Steinburg spoke in regards to statistics related to the feral cat issue and provided information on Trap, Neuter and Release.

Jennifer Stoughten thanked those that have been involved with this ordinance and for caring about the cats. She also stated her concerns with the ordinance as written and provided different ideas that could be addressed in the ordinance.

Margaret Doelle also thanked Council for the efforts to address the feral cat issue. She provided suggestions that she thought would make this ordinance better and will provide to anyone interested afterwards.

Aileen Peek spoke addressing her concerns and would like to see Alamosa be a no-kill animal city.

Marge Howard spoke in regards to Cats Alive and services they provide for the City.

Donna Ditmore spoke her concerns and thanked Council for taking action to take care of the cats and would like all the organizations to continue working together.

Margaret Geist spoke in regards to the non-feral cat problem.

Marina Husmann spoke to advocate for humane ordinances and believes that if everyone works together, a common goal can be reached.

Diana Hamilton reiterated what everyone else commented and hopes Council could give an extension so that way everyone can get together to possibly revise the ordinance and get it to what everyone is in agreement to.

There being no one else wishing to speak, the hearing closed at 8:29 p.m.

Councilor Vigil thanked everyone for showing up and speaking their opinions. He also shared his concerns of what others have stated and feels that education is an important piece. He also stated that if Council is going to partner with Cats Alive, it may be in Council's best interest to provide funding to them once a year, as they do for many other non-profits.

Councilor Daniel asked Counselor Schwiesow and Heather Brooks in regards to what needs to happen in order to have those 30 days that are being requested. Counselor Schwiesow stated that there are a number of different approaches Council can address. They can make changes tonight, they can reset the ordinance for consideration again at a subsequent meeting and in the interim, direct staff to reach out to these organizations and get their input and bring back to Council for consideration at a later meeting.

Mayor Lucero asked if this would entail another public hearing and third reading. Counselor Schwiesow stated that the public hearing is not needed again since one has been held.

Councilor Hensley stated that she feels there are some points that were brought up and feels that it does need to be looked at.

Councilor Coleman thanked the audience for the education they provided tonight and understands their concerns. He also stated he doesn't feel it would be a good idea to word anything tonight. He asked how Council could take enough time to make sure as much comments received tonight are included in the ordinance. Ms. Brooks suggested that staff could set up a meeting, made open to everyone who has an opinion, and get that information.

Councilor Stefano also feels this ordinance should be given more discussion.

Councilor Griego stated that everyone is concerned with the destruction of cats. He asked for clarification of this statement.

Councilor Daniel thanked staff for all the work that has gotten to this point of the ordinance.

Councilor Vigil moved, seconded by Councilor Hensley to table this issue to have the opportunities for meetings and discuss this item at the April 19th meeting. The motion carried unanimously.

2. City Manager/Legal

 Public Hearing and Second Reading, Ordinance No. 6-2017, An ordinance establishing a temporary moratorium on the establishment of marijuana consumption clubs through September 30, 2017

Erich Schwiesow reviewed this ordinance with Council, which was presented on first reading at the last meeting on March 1st. Staff has since met with the applicants that spoke at that meeting and learned that they intend to make application for a special use permit for a club location in time for consideration at the next planning commission meeting. If that application occurs prior to the effective date of this ordinance, it will not be affected by the ordinance. At first reading, Council directed staff to propose a provision addressing the receipt of applications during the effective period of the ordinance. Accordingly, the draft ordinance before Council for second reading includes a provision addressing accepting applications during the moratorium, and processing them in the order received after the moratorium expires.

Mayor Lucero opened the public hearing at 8:51 p.m. and asked for those wishing to speak on this ordinance.

Martin Sowards spoke in regards to his opposition of this type of club being in Alamosa.

There being no one else wishing to speak, the hearing closed at 8:53 p.m.

Councilor Griego moved, seconded by Councilor Daniel to finally adopt Ordinance No. 6-2017. The motion carried unanimously.

b. First Reading, Ordinance No. 7-2017, An ordinance amending Ordinance no. 4-2017 to include additional capital improvement projects related to water and sewer infrastructure and the Alamosa levee.

Heather Brooks presented information to Council. This ordinance is an amendment to Ordinance No. 4-2017, which would allow the City to direct any amount of the \$4.3 Million authorized by Ordinance No. 4-2017 not used for the Water Projects for the Infrastructure Projects. The Amendment does not change the fiscal impact of the lease purchase arrangement for \$4.3 Million as set forth in Ordinance No. 4. This ordinance amends the parameters ordinance to allow greater flexibility in addressing some of the City's other capital improvement needs if because of circumstances beyond the City's control use of the entire amount authorized in the parameters ordinance is not feasible for the Water Projects as specified therein.

Councilor Vigil moved, seconded by Councilor Hensley to approve Ordinance No. 7-2017 on first reading and set for a public hearing on Wednesday, April 5, 2017 or as soon thereafter as the matter may be heard. The motion carried unanimously.

C. Committee Reports

Councilor Vigil reported on the Rio Grande Healthy Living Park retreat that he attended this past weekend. He also reported on the school board meeting that he attended.

Councilor Hensley reported on the Marketing Board meeting that she attended.

D. Staff Announcements

Heather Brooks informed Council in regards to the upcoming executive sessions that will be coming up and reminded them of the procedure in how those happen, which is the first meeting is Council meeting with the employee, the second one Council reviewing and meeting by themselves, and the final one when Council and the employee all meet together again.

Councilor Daniel asked for clarification on if the executive session can be held a different time other than after the City Council meeting. Ms. Brooks confirmed that that is an option and if Council is available and wants to have an executive session on an off-Wednesday, they can.

Councilor Hensley asked if there could be a continuation of the work session that was held today. Ms. Brooks stated that polls could be sent out to see what dates would work best for Council.

Ms. Brooks also informed Council of the July 5th Council meeting date and to have them be thinking on if they want to reschedule that meeting or not since it is close to a holiday.

Heinz Bergann updated Council on different park activities that are starting to go on now as the season are changing. He also informed them that there will be an Arbor Week Proclamation in April as well as a second dog park forum scheduled for April.

Councilor Vigil asked for an update on the disc golf course. Mr. Bergann stated that they are waiting for the final drawings and recommendations for the disc golf club to be taken to the rec board.

Councilor Griego asked when the ranch grazing is being put out. Mr. Bergann stated it is an annual automatic renewal with two payments. Councilor Griego asked how it can be brought back to Council if other people wanted the opportunity for this. Ms. Brooks stated that they can look at what the contract says and see what the time-frame is for notice and most likely do a competitive process.

VIII. LOCAL LIQUOR LICENSING AUTHORITY ACTIONS

A. Needs and Desires Hearing on the application of Thai Hut LLC, d/b/a Thai Hut, for a Hotel/Restaurant License at 525 Main Street

Counselor Schwiesow gave an overview of the hearing procedure, and the licensee's obligation to affirmatively prove the needs of the neighborhood and the desires of the adult inhabitants of the neighborhood. The City's presumptive neighborhood is the city limits plus a one-mile radius. No request has been made to consider different boundaries, so this neighborhood will apply to this hearing.

The applicant is Soranai Srasom, representing Thai Hut LLC d/b/a Thai Hut.

Mr. Srasom presented the poster giving notice of the application and hearing that was posted at the establishment, which is identified as Exhibit A. The hearing notice was posted on February 14, 2017 and taken down today, March 15, 2017 to present at hearing. The legal notice of this hearing was published in the Valley Courier on March 3, 2017.

Mr. Srasom also presented signed petitions in support of the hotel/restaurant license at this establishment, identified as Exhibit B. Mr. Srasom stated that a total of 151 signatures were obtained, all of which were in support of this license at this address.

Mr. Srasom presented the following information regarding the application.

- Mr. Srasom is the owner and manager of the Thai Hut restaurant. He moved here from Florida to serve Thai food and sushi and many customers have been asking for wine, beer, and liquor to be served so they are trying to meet their requests.
- He stated that he posted the notice for one month for everyone to know about the hearing and that they were applying for a liquor license.

Counselor Schwiesow asked Mr. Srasom to clarify how the petitions were circulated. Mr. Srasom stated that the signatures were collected at the Thai Hut establishment from customers at the register, which is located at 525 Main Street. Counselor Schwiesow presented the petitions to Council to take a look at.

Counselor Schwiewsow stated that if there is nothing further to be presented, he would open up the hearing (9:33 p.m.) and asked for anyone in the audience wishing to speak to the needs and desires for the application of the liquor license for the Thai Hut. There being no one wishing to speak, Counselor Schwiesow moved the hearing back to Council and asked if they had any questions.

Councilor Daniel asked Mr. Srasom about the type of training that will be offered to the staff of the Thai Hut to be sure that underage patrons aren't served. Mr. Srasom stated that ID's are checked and that they are able to purchase alcohol.

Councilor Coleman asked how many employees are staffed at the Thai Hut. Mr. Srasom stated that there are about 4-5 employees there. Councilor Coleman also asked how long Mr. Srasom has been in business so far. Mr Srasom stated that he used to work in Florida in the restaurant business for over 20 years and has been in business in Alamosa for about two months. Councilor Coleman also asked if in prior opportunities in the restaurant business if he had the opportunity to serve alcohol before and if he was familiar with laws and regulations regarding such. Mr. Srasom confirmed that he had and is familiar with this.

Councilor Griego asked Mr. Srasom to tell them about his business and the times that the restaurant is open. Mr. Srasom stated that the Thai Hut is open every day, opening at 11:00 a.m. and closing at 9:00 p.m. Councilor Griego asked for clarification on if alcohol would be served every day. Mr. Srasom confirmed this as well.

Councilor Hensley asked if there were any issues or problems that occurred with him while serving alcohol in Florida. Mr. Srasom confirmed that there was never any problems. Counselor Hensley also asked if he felt comfortable with serving alcohol and if he understood the importance of not serving alcohol to anyone underage. Mr. Srasom confirmed he was comfortable and does understand the importance.

Mayor Lucero asked Mr. Srasom if the process for the liquor license application was easy or difficult for him. Mr. Srasom stated it was difficult for him to understand the question and hard for him to speak.

Councilor Vigil asked for clarification on who made the petitions. Holly Martinez stated that the petitions were made by the applicant. Councilor Vigil stated his appreciation for how professional the applicant was with the petitions and being prepared for the hearing tonight.

Counselor Schwiewsow stated if there were no other questions by the Council, the hearing would be closed. The hearing closed at 9:38 p.m.

Counselor Schwiesow informed Council that the typical practice is to direct the City Attorney to prepare proposed findings of fact with respect to this license, which will be presented at the next meeting, which is Wednesday, April 5, 2017.

Council directed Counselor Schwiesow to prepare the proposed findings to be presented at the next meeting.

Councilor Griego asked if the applicant was aware of the procedure and the next steps. City Clerk Holly Martinez confirmed that he was made aware and does know that the final decision will be made on April 5, 2017.

A. CONSENT CALENDAR B

The Consent Calendar allows multiple actions with one motion. Consent Calendar B 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 Greigo moved, seconded by Councilor Stefano to approve Consent Calendar B as presented. The motion carried unanimously.

1. San Luis Valley Arts & Entertainment Committee, Summerfest on the Rio, Special Events Permit June 2, 3 and 4, 2017.

COUNCIL COMMENT

Councilor Vigil apologized to Council and staff for his absence at the meeting on Monday. He also stated his concerns for the discussions of the marijuana topics.

Councilor Griego stated that he would still like to listen to the people about their thoughts towards this issue.

Mayor Lucero stated that this is an opportunity to get involved with their constituents and educate themselves on both the pros and cons of this issue and topic and believes in the end, Council will do what the people want them to do, as that is what they are here for.

Councilor Coleman commended Councilor Vigil for playing the devil's advocate.

Councilor Hensley commented and wished everyone to have an enjoyable and nice spring break.

The meeting adjourned at 9:46 p.m.	
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Holly C. Martinez, City Clerk	Josef P. Lucero, Mayor

ADJOURNMENT

ALAMOSA CITY COUNCIL COUNCIL COMMUNICATION

Subject/Title:

First Reading, Ordinance No. 8-2017, an ordinance amending sec. 2-17 of the Code of Ordinances of the City of Alamosa to confirm the ability of Council to cancel meetings at which there will not be a quorum present and increasing the notice required for special meetings.

Recommended Action:

Approve Ordinance No. 8-2017 on first reading and set for public hearing on April 19, 2017, at 7:00 p.m., or as soon thereafter as the matter may be heard.

Background:

Section 2-17 of the Code of Ordinances of the City of Alamosa directs the Council to meet on the first and third Wednesdays of every month, with allowance for changing the time and place of the meeting by resolution. There are times when Council knows that for varying reasons sufficient Councilors to defeat a quorum either will be excused from or otherwise unable to attend a regularly scheduled meeting, such as when the meeting date falls during the annual Colorado Municipal League conference, as has regularly occurred.

Council has in the past addressed such scheduling conflicts by rescheduling the meeting to be held concurrently with the next regular meeting, but such a practice is less than straightforward. Additionally, the ordinance currently provides for calling a special meeting upon one-hour's written notice, which is not a practice that comports with reasonable management of schedules, the Colorado Open Meetings Act, nor with Council's practice, and Council desires to make the process for calling special meetings provide for more adequate notice of such meetings. This Ordinance brings Section 2-17 into compliance with Council practice and the Open Meetings Act.

Issue Before the Council:

Does Council wish to approve the Ordinance amending Section 2-17 governing meeting schedules on first reading and set it for public hearing to be held on April 19, 2017?

Alternatives:

- 1) Approve the Ordinance on first reading and set for public hearing
- 2) Approve the Ordinance with changes such as to the length of notice required for calling special meetings
- 3) Decline to approve the Ordinance in whole or in part, and give staff further direction.

Fiscal Impact:

None.

Legal Opinion:

Approval of this Ordinance would make the ordinance governing Council meeting scheduling consistent with Council practice and with state law.

ATTACHMENTS:

Description Type

Ordinance No. 8-2017 Amending Meeting Scheduling

process Ordinance

ORDINANCE NO. 8-2017

AN ORDINANCE AMENDING SEC. 2-17 OF THE CODE OF ORDINANCES OF THE CITY OF ALAMOSA TO CONFIRM THE ABILITY OF COUNCIL TO CANCEL MEETINGS AT WHICH THERE WILL NOT BE A QUORUM PRESENT AND INCREASING THE NOTICE REQUIRED FOR SPECIAL MEETINGS

- **WHEREAS**, Section 2-17 of the Code of Ordinances of the City of Alamosa directs the Council to meet on the first and third Wednesdays of every month, with allowance for changing the time and place of the meeting by resolution; and
- **WHEREAS**, there are times when Council knows that for varying reasons sufficient Councilors to defeat a quorum either will be excused from or otherwise unable to attend a regularly scheduled meeting, such as when the meeting date falls during the annual Colorado Municipal League conference, as has regularly occurred; and
- **WHEREAS**, Council has in the past addressed such scheduling conflicts by rescheduling the meeting to be held concurrently with the next regular meeting, but such a practice is less than straightforward; and
- **WHEREAS**, Council desires make clear that Council may cancel meetings where it knows ahead of time that a quorum will not be available; and
- **WHEREAS**, the ordinance currently provides for calling a special meeting upon one-hour's written notice, which is not a practice that comports with reasonable management of schedules, the Colorado Open Meetings Act, nor with Council's practice, and Council desires to make the process for calling special meetings provide for more adequate notice of such meetings;
- **NOW THEREFORE BE IT ORDAINED** by the City Council of Alamosa as follows:
- **Section 1.** Repeal and Replacement of Chapter 2, ARTICLE II, Section 2-17(1). Section 2-17(1) of The *Code of Ordinances of Alamosa*, *Colorado* is hereby amended to read in its entirety as follows:
- (1) Rule 1: Meetings. Two regular meetings of the city council shall be held during each month, such meetings to be held on the first and third Wednesdays of each month at the city hall at the hour of 7:00 p.m., provided that the city council may by resolution at any time change the time and place of any such meeting. The city council may by resolution cancel any regular meeting at which it knows beforehand that a quorum will not be present. The city council may set special meetings by motion at any meeting, and the mayor or any three members of the city council may call special meetings by written notice to each of the members of the city council, such notice to be e-mailed, with read receipt requested, served in person, or left at the usual place of business of each

member, if served during business hours, or at the residence of each member if not served during business hours, at least twenty-four hours in advance of the time set for such meeting. Before calling such special meeting, the person(s) calling the meeting shall attempt to coordinate scheduling with all council members. Any regular or special meeting may be adjourned by majority vote of those present to any other time or place.

- **Section 2.** <u>Severability:</u> Should any section, clause, sentence, or part of this Ordinance be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect, impair or invalidate the ordinance as a whole or any part thereof other than the part so declared to be invalid.
- **Section 3.** <u>General Repealer</u>. 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 4.** 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 5. <u>Publication and Effective Date</u>. 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 6.** <u>Declaration of Public Interest</u>. 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 5th day of April, 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 19th day of April, 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 19th day of April, 2017.

CITY OF ALAMOSA

By			
J			

Josef P. Lucero, Mayor

ATTEST:		
Holly C. Martinez, City Clerk		

ALAMOSA CITY COUNCIL COUNCIL COMMUNICATION

Subject/Title:

First Reading, Ordinance No. 9-2017, An ordinance extending the existing temporary moratorium on the placement of certain manufactured homes within the city of Alamosa other than in mobile home parks through September 30, 2017

Recommended Action:

Approve Ordinance No. 9-2017 extending existing temporary moratorium on the placement of certain manufactured homes within the city of Alamosa other than in mobile home parks through September 30, 2017 on first reading, and set for a public hearing on April 19th, 2017, at 7:00 p.m. or as soon thereafter as the matter may be heard.

Background:

On December 21, 2016 through enactment of Ordinance 21-2016, the City Council of the City of Alamosa established a temporary moratorium on the placement of certain manufactured homes within the City through May 30, 2017, noting that the City was in the process of reviewing and revising its zoning code, part of which process is considering the appropriateness of manufactured housing within the City.

The process of reviewing the zoning code is ongoing, and it does not appear that the committee working on the code will have a recommendation for Council to consider and enact in advance of the expiration of the existing moratorium.

An extension of the moratorium on the placement of certain manufactured homes in other than mobile home parks will allow City staff, the City Planning Commission, and City Council an opportunity to consider and develop regulations concerning the placement of such homes. Extending the moratorium through September 30, 2017, is a reasonable length of time to allow for the consideration and, if appropriate, development of such regulations. As a reminder, the moratorium does not affect placement of manufactured homes certified to meet the standards established by the municipal building code, nor in mobile home parks.

Issue Before the Council:

Does Council wish to extend the moratorium, which otherwise expires May 30, 2017, and additional four months, to September 30, 2017? At that time, the total length of the moratorium will have been nine months.

Alternatives:

- 1) Approve the ordinance on first reading and set for public hearing on April 19, 2017 as written.
- 2) Modify the ordinance before approval, for instance adjusting the length of the extension.
- 3) Decline to approve the ordinance on first reading, and give staff further direction, such as to develop a permanent moratorium for presentation to council.

Fiscal Impact:

None.

Legal Opinion:

The City Attorney will be available at the meeting if necessary.

Conclusion:

This ordinance extends the temporary moratorium on the placement of certain manufactured housing an additional four months to allow time for the ongoing process of amending the zoning code to take its course.

ATTACHMENTS:

	Description	Type
ם	Ordinance No. 9-2017 extending manufactured housing moratorium	Ordinance
D	Ordinance 21-2016 establishing moratorium	Backup Material

ORDINANCE NO. 9-2017

AN ORDINANCE EXTENDING THE EXISTING TEMPORARY MORATORIUM ON THE PLACEMENT OF CERTAIN MANUFACTURED HOMES WITHIN THE CITY OF ALAMOSA OTHER THAN IN MOBILE HOME PARKS THROUGH SEPTEMBER 30, 2017

WHEREAS, On December 21, 2016 through enactment of Ordinance 21-2016, the City Council of the City of Alamosa established a temporary moratorium on the placement of certain manufactured homes within the City through May 30, 2017, noting that the City was in the process of reviewing and revising its zoning code, part of which process is considering the appropriateness of manufactured housing within the City of Alamosa; and

WHEREAS, the process of reviewing the zoning code is ongoing, and it does not appear that the committee working on the code will have a recommendation for Council to consider and enact in advance of the expiration of the existing moratorium; and

WHEREAS, an extension of the moratorium on the placement of certain manufactured homes in other than mobile home parks will allow City staff, the City Planning Commission, and City Council an opportunity to consider and develop regulations concerning the placement of such homes, and

WHEREAS, an extension of the moratorium on the placement of certain manufactured homes in other than mobile home parks until September 30, 2017, is a reasonable length of time to allow for the consideration and, if appropriate, development of such regulations; and

WHEREAS, the moratorium will not affect placement of manufactured homes certified to meet the standards established by the municipal building code;

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

Section 1. Extension of Moratorium. The moratorium on the placement of manufactured homes within the City of Alamosa established by Ordinance 21-2016 is hereby extended through September 30, unless sooner lifted by action of Council or made moot by the adoption of regulations governing standards for such homes

Section 2. Staff Direction. City staff and the City Planning Commission shall investigate issues surrounding the placement of manufactured housing within the City of Alamosa and prepare a proposed ordinance concerning the standards applicable to manufactured homes for further consideration by the City Council during the moratorium period.

Section 3. 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 4. 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 5. 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 6. 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 5th day of April, 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 19th day of April, 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 19th day of April, 2017.

	CITY OF ALAMOSA
	Ву
	Josef P. Lucero, Mayor
ATTEST:	
Holly C. Martinez, City Clerk	

ORDINANCE NO. 21-2016

AN ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM ON THE PLACEMENT OF CERTAIN MANUFACTURED HOMES WITHIN THE CITY OF ALAMOSA OTHER THAN IN MOBILE HOME PARKS THROUGH MAY 30, 2017

- **WHEREAS**, Article XIV, Section 4 of the *Charter* of the City of Alamosa empowers the City Council to zone the City and to make appropriate regulations and restrictions concerning land uses within the City of Alamosa; and
- WHEREAS, the City of Alamosa has received a small number of applications for the placement of manufactured homes that appear to be equivalent to some homes already existing in the City of Alamosa, but that do not have certifications from the manufacturer certifying compliance with the City's building code, in particular the International Residential Code, 2009 Edition, and the International Energy Conservation Code, 2009 Edition; and
- **WHEREAS**, the Alamosa *Code of Ordinances* addresses "mobile homes" in Chapter 12, and prohibits them anywhere in the City other than in mobile home parks in Section 12-16, but nowhere defines a "mobile home;" and
- **WHEREAS**, the term "mobile home" is often used interchangeably with the term "modular home" or "manufactured home" in common parlance; and
- WHEREAS, Colorado Statute prohibits municipalities from having or enacting zoning regulations which exclude or have the effect of excluding manufactured homes from the municipality if such homes meet or exceed, on an equivalent performance engineering basis, standards established by the municipal building code. C.R.S. § 31-23-301(5)(b); and
- **WHEREAS**, the *Code of Ordinances* does not provide guidelines or regulations for the standards to be applied for the placement of manufactured homes within the City of Alamosa other than in mobile home parks; and
- **WHEREAS**, such guidelines or regulations would be helpful for governing the orderly processing of applications for placement of manufactured housing within the City of Alamosa in locations other than mobile home parks; and
- WHEREAS, the City Council of the City of Alamosa, Colorado, deems it to be in the best interest of its citizens that guidelines or regulations governing the placement of manufactured housing in locations other than mobile home parks be explored and developed; and
- WHEREAS, the City is in the process of reviewing and revising its zoning code, and intends to consider the appropriateness of manufactured housing as part of that process; and

- WHEREAS, a moratorium on the placement of certain manufactured homes in other than mobile home parks will allow City staff, the City Planning Commission, and City Council an opportunity to consider and develop regulations concerning the placement of such homes, and
- **WHEREAS**, a moratorium on the placement of certain manufactured homes in other than mobile home parks until May 30, 2017, is a reasonable length of time to allow for the consideration and, if appropriate, development of such regulations; and
- WHEREAS, the moratorium will not affect placement of manufactured homes certified to meet the standards established by the municipal building code;
- **NOW, THEREFORE, BE IT HEREBY ORDAINED** by the City Council of the City of Alamosa, Colorado, as follows:
- **Section 1.** Moratorium on the placement of manufactured homes within the City of Alamosa. A moratorium is hereby established through May 30, 2017, unless sooner lifted by action of Council or made moot by the adoption of regulations governing standards for such homes, on the placement of manufactured homes within the City of Alamosa unless the home meets one of the following criteria:
- 1) The Home is placed in a mobile home park in accordance with the City's regulations governing mobile homes, found in Chapter 12 of the Alamosa *Code of Ordinances*; OR
- 2) The home is certified by the manufacturer to meet or exceed, on an equivalent performance engineering basis, the standards set forth in the City's building code, in particular the International Residential Code, 2009 Edition, and the International Energy Conservation Code, 2009 Edition.
- **Section 2.** Definitions: For purposes of this moratorium the following terms shall have the following definitions:
- 1) "Manufactured home" means any pre-constructed building unit or combination of pre-constructed building units that:
 - (a) Include electrical, mechanical, or plumbing services that are fabricated, formed, or assembled at a location other than the site of the completed home;
 - (b) Is designed for residential occupancy in either temporary or permanent locations;
 - (c) Is constructed in compliance with the federal act, factory-built residential requirements, or mobile home standards;
 - (d) Does not have motor power; and
 - (e) Is not licensed as a recreational vehicle.

- 2) "Equivalent performance engineering basis" means that by using engineering calculations or testing, following commonly accepted engineering practices, all components and subsystems will perform to meet health, safety, and functional requirements to the same extent as required for other single family housing units.
- **Section 3.** Staff Direction. City staff and the City Planning Commission shall investigate issues surrounding the placement of manufactured housing within the City of Alamosa and prepare a proposed ordinance concerning the standards applicable to manufactured homes for further consideration by the City Council during the moratorium period.
- **Section 4**. 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 5**. 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 6**. 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 7**. 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 7th day of December, 2016, 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 21st day of December, 2016, 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 21st day of December, 2016.

ATTEST:

CITY OF ALAMOSA

By Josef P. Lucero, Mayor

4

Subject/Title:

First Reading, Ordinance No. 10-2017, An ordinance amending Sec. 20-83 of the *Code of Ordinances of the City of Alamosa* to recognize the ability of non-city haulers to haul commercial solid waste.

Recommended Action:

Approve Ordinance No. 9-2017 on first reading and set for public hearing on April 19, 2017, at 7:00 p.m., or as soon thereafter as the matter may be heard.

Background:

Section 20-83 of the *Code of Ordinances of the City of Alamosa* prohibits anyone who is not an agent or employee of the City of Alamosa from collecting and disposing of solid waste within the City of Alamosa. However, the City has not enforced this ordinance with respect to commercial properties or residences of eight or more units, because C.R.S. § 30-15-401 prohibits municipalities from compelling industrial or commercial establishments, or multi-family residences of eight or more units, to use or pay user charges for waste services provided by the municipality rather than by a private person.

This conflict recently caused confusion when notices of the new trash rates were sent out. The Ordinance should be aligned with State law and with the current practice of the City. A redline of how the ordinance will change is included with the backup materials.

Issue Before the Council:

Does Council wish to approve the Ordinance amending Section 20-83 governing trash collection on first reading and set it for public hearing to be held on April 19, 2017?

Alternatives:

- 1) Approve the Ordinance on first reading and set for public hearing.
- 2) Approve the Ordinance with changes such as to the types of properties exempt from the requirement to use City trash collection services.
- 3) Decline to approve the Ordinance in whole or in part, and give staff further direction.

Fiscal Impact:

None.

Legal Opinion:

As currently written, Sec. 20-83 conflicts with state law. The state law is most likely a matter of statewide concern, and would control over inconsistent local home rule ordinances.

Conclusion:

Approval of this Ordinance would align the trash collection ordinance with current practice and with state law.

ATTACHMENTS:

	Description	Type
ם	Ordinance 10-2017 amending trash hauler ordinance	Ordinance
D	Trash hauler redline	Backup Material

ORDINANCE NO. 10-2017

AN ORDINANCE AMENDING SEC. 20-83 OF THE CODE OF ORDINANCES OF THE CITY OF ALAMOSA TO RECOGNIZE THE ABILITY OF NON-CITY HAULERS TO HAUL COMMERCIAL SOLID WASTE

- **WHEREAS**, Section 20-83 of the *Code of Ordinances of the City of Alamosa* prohibits anyone who is not an agent or employee of the City of Alamosa from collecting and disposing of solid waste within the City of Alamosa; and
- **WHEREAS,** C.R.S. § 30-15-401 prohibits municipalities from compelling industrial or commercial establishments, or multi-family residences of eight or more units, to use or pay user charges for waste services provided by the municipality rather than by a private person; and
- WHEREAS, Council recognizes that Section 20-83 of the Code of Ordinances of the City of Alamosa conflicts with C.R.S. § 30-15-401 and that the City, because of such conflict, has not enforced Section 20-83 with respect to commercial and industrial establishments or multi-family residences of eight or more units; and
- **WHEREAS**, Council desires to align the City ordinance with State law and with the current practice of the City;

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

Section 1. Repeal and Replacement of Chapter 20, ARTICLE IV, Section 20-83. Section 20-83 of The *Code of Ordinances of Alamosa*, *Colorado* is hereby amended to read in its entirety as follows:

Sec. 20-83. - Collection and disposal by city agents and employees; exceptions.

The city, by and through its duly authorized agents and employees, shall be the sole agency for the collection and disposal of garbage for single-family residences and multifamily residences of seven or fewer units. No person except duly authorized agents and employees of the city shall collect or dispose of any garbage or rubbish from such entities, whether his own or that of others within the limits of the city. This prohibition shall not apply to the collection or disposal of garbage or rubbish from any commercial or industrial establishment, nor of any multi-family residence of eight or more units where such units share a common collection point that is contracted for by the owner of the multi-family residence. This prohibition also shall not apply to any entity, whether residential or commercial, which reasonably requires a manner of collection and/or disposal for which the city manager reasonably has determined and designated in writing to the entity that the city is not equipped to provide such service. Nothing in this article shall be construed to relieve any contractor of the obligation of cleaning up premises after completion of his contract. Nothing in this article shall be construed to prevent any residential user from hauling his or her own garbage and rubbish if it is properly disposed of in conformity with all applicable

regulations, provided that such hauling shall not affect the obligation of such individual to pay the charges hereafter set forth.

- **Section 2.** <u>Severability:</u> Should any section, clause, sentence, or part of this Ordinance be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect, impair or invalidate the ordinance as a whole or any part thereof other than the part so declared to be invalid.
- **Section 3.** <u>General Repealer</u>. 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 4.** 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 5. <u>Publication and Effective Date</u>. 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 6.** <u>Declaration of Public Interest</u>. 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 5th day of April, 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 19th day of April, 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 19th day of April, 2017.

By			
			-

Josef P. Lucero, Mayor

CITY OF ALAMOSA

ATTEST:

Holly C. Martinez, City Clerk

The city, by and through its duly authorized agents and employees, shall be the sole agency for the collection and disposal of garbage and as herein defined, for single-family residences, and multifamily residences and businesses. of seven or fewer units. No person, except-such duly authorized agents and employees of the city, shall collect or dispose of any garbage or rubbish from such entities, whether his own or that of others within the limits of the city; provided, however, that this. This prohibition shall not apply to the collection or disposal of garbage or rubbish from any business commercial or industrial establishment, nor of any multi-family residence of eight or more units where such units share a common collection point that is contracted for by the owner of the multi-family residence. This prohibition also shall not apply to any entity, whether residential or commercial, which reasonably requires a manner of collection and/or disposal for which the city manager reasonably has determined and designated in writing to the business userentity that the city is not equipped to provide such service. Nothing in this article shall be construed to relieve any contractor of the obligation of cleaning up premises after completion of his contract. Nothing in this article shall be construed to prevent any individual residential user from hauling his or her own garbage and rubbish if it is properly disposed of in conformity with all applicable regulations, provided that such hauling shall not affect the obligation of such individual to pay the charges hereafter set forth.

Subject/Title:

Second reading and public hearing, Ordinance No. 7-2017, An ordinance amending Ordinance No. 4-2017 to include additional capital improvement projects related to water and sewer infrastructure and the Alamosa levee.

Recommended Action:

Conduct a public hearing and, unless information to the contrary is adduced, approve Ordinance No. 7-2017.

Background:

City Council has enacted Ordinance No. 4-2017, authorizing the City and the Alamosa Capital Leasing Corporation to enter into a Site Lease to lease a portion of the Alamosa Ranch to the Corporation, and to enter into a Lease Purchase Agreement for subleasing by the City from the Corporation of the leased property, and approving Certificates of Participation representing proportionate undivided interests in rights to receive base rentals paid by the City under the sublease, to be distributed to certain accredited investors to be identified by UMB Bank, n.a., as Placement Agent.

In Ordinance No. 4-2017 the City Council determined that the City needs to (i) acquire certain water rights and water storage rights in connection with (a) an augmentation plan and sustainability plan, with or without the participation of the East Alamosa Water and Sanitation District, or (b) as an asset to be used in contracting for coverage with a subdistrict of the Rio Grande Water Conservation District, in order that the City's municipal wells will comply with new groundwater pumping rules, (ii) relocate and construct a new discharge point for its wastewater treatment plant, and (iii) pay the legal and engineering costs of implementing such plans and construction (collectively, the "Water Projects").

In addition to those Water Projects, the City has other water, sewer, and levee infrastructure needs that include (i) water and sewer mains; (ii) sanitary lift stations; and (iii) levee rehabilitation to meet FEMA and CWCB requirements (collectively, the "Infrastructure Projects").

The Rules Governing Withdrawal of Groundwater in Water Division 3, which Rules in large part give rise to the need for the Water Projects, have not yet been approved by the Court. If the Rules are modified as they progress through the Court system, the City's estimates of the amount and location of water it must acquire may also have to change, but at the same time the City cannot postpone acquisition of the necessary assets for the plan. The City needs flexibility to be able to prioritize asset acquisition for the Water Projects, but the City has capital improvement needs for the Infrastructure Projects in addition to the Water Projects that it needs to address over the next three years, and would be well-served to direct any funds not needed for the Water Projects toward the Infrastructure Projects.

The capital projects that were selected were based on their importance. For example, several of the City's lift stations are beyond their life expectancy and could fail at any time. The stations are not energy efficient and maintenance requires significant staff time. The city also has a lot of deteriorating water and waste water lines. These lines need to be identified before they cause system failure or street damage. Finally, the recertification of the levee will require significant investment.

Issue Before the Council:

Does Council wish to approve the Ordinance?

Alternatives:

- 1) Approve the Ordinance.
- 2) Approve the Ordinance with changes to the designation of Infrastructure Projects.
- 3) Decline to approve the Ordinance in whole or in part, and give staff further direction.

Fiscal Impact:

This Amendment allows the City to direct any amount of the \$4.3 Million authorized by Ordinance No. 4-2017 not used for the Water Projects for the Infrastructure Projects. The Amendment does not change the fiscal impact of the lease purchase arrangement for \$4.3 Million as set forth in Ordinance No. 4.

Legal Opinion:

The City Attorney will be available at the meeting if needed.

Conclusion:

This ordinance amends the parameters ordinance to allow greater flexibility in addressing some of the City's other capital improvement needs if because of circumstances beyond the City's control use of the entire amount authorized in the parameters ordinance is not feasible for the Water Projects as specified therein.

ATTACHMENTS:

	Description	Туре
D	Ordinance 7-2017 Amending Parameters Ordinance	Ordinance
D	Parameters Ordinance 4-2017	Backup Material

ORDINANCE NO. 7-2017

AN ORDINANCE AMENDING ORDINANCE NO. 4-2017 TO INCLUDE ADDITIONAL CAPITAL IMPROVEMENT PROJECTS RELATED TO WATER AND SEWER INFRASTRUCTURE AND THE ALAMOSA LEVEE.

WHEREAS, in Ordinance No. 4-2017 the City Council determined that the City needs to (i) acquire certain water rights and water storage rights in connection with (a) an augmentation plan and sustainability plan, with or without the participation of the East Alamosa Water and Sanitation District, or (b) as an asset to be used in contracting for coverage with a subdistrict of the Rio Grande Water Conservation District, in order that the City's municipal wells will comply with new groundwater pumping rules, (ii) relocate and construct a new discharge point for its wastewater treatment plant, and (iii) pay the legal and engineering costs of implementing such plans and construction (collectively, the "Water Projects"), and authorized the financing of the Water Projects; and

WHEREAS, in addition to those Water Projects, the City Council has determined and hereby does determine that the City has other water, sewer, and levee infrastructure needs that include (i) water and sewer mains; (ii) sanitary lift stations; and (iii) levee rehabilitation to meet FEMA and CWCB requirements (collectively, the "Infrastructure Projects"); and

WHEREAS, the Rules Governing Withdrawal of Groundwater in Water Division 3, which Rules in large part give rise to the need for the Water Projects, have not yet been approved by the Court, and if the Rules are modified as they progress through the Court system, the City's estimates of the amount and location of water it must acquire may also have to change, but at the same time the City cannot postpone acquisition of the necessary assets for the plan; and

WHEREAS, the City needs flexibility to be able to prioritize asset acquisition for the Water Projects, but the City has a need for the Infrastructure Projects in addition to the Water Projects that it needs to address over the next three years, and intends to direct any funds not needed for the Water Projects toward the Infrastructure Projects;

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

- **Section 1.** All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the City Council or the officers, employees and agents of the City Council or the City, directed toward financing, implementing and completing the Water Projects, are hereby ratified, approved and confirmed.
- **Section 2.** The City Council hereby finds and determines that the financing for the capital projects authorized by Ordinance No. 4-2017 shall be amended to include, in addition to the Water Projects, the following Infrastructure Projects: (i) water and sewer mains; (ii) sanitary lift stations; and (iii) levee rehabilitation to meet FEMA and CWCB requirements.
- **Section 3.** If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 4. All bylaws, orders, ordinances and resolutions, or parts thereof, inconsistent with this Ordinance are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, ordinance or resolution, or part thereof.

Section 5. 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 6. 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 7. <u>Declaration of Public Interest</u>. 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 15th day of March, 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 5th day of April, 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 5th day of April, 2017.

CITY OF ALAMOSA

	By
ATTEST:	Josef P. Lucero, Mayor
1111251.	
Holly C. Martinez, City Clerk	

ORDINANCE NO. 4-2017

AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A LEASE PURCHASE AGREEMENT AND OTHER DOCUMENTS AND ACTIONS IN CONNECTION WITH FINANCING THE CITY'S ACQUISITION OF CERTAIN WATER RIGHTS AND WATER STORAGE RIGHTS AND CONSTRUCTION OF ASSOCIATED INFRASTRUCTURE PROJECTS.

WHEREAS, the City Council (the "City Council") of the City of Alamosa, Colorado (the "City") has the power, pursuant to the Charter of the City (the "Charter") and Sections 31-15-101(1)(d) and 31-15-801, Colorado Revised Statutes, to acquire, hold and lease real property, and to enter into rental or leasehold agreements to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes, and such agreements may include an option to purchase and acquire title to such leased or rented property within a period not exceeding the useful life of such property and not exceeding thirty years; and

WHEREAS, the City Council has the power, pursuant to the Charter and Sections 31-15-101(1)(d) and 31-15-713(1)(c), Colorado Revised Statutes, to lease real property, and to lease any real estate, together with any facilities thereon, owned by the City when deemed by the City Council to be in the best interest of the City; and

WHEREAS, the City Council has determined, and hereby determines, that the City needs to (i) acquire certain water rights and water storage rights in connection with (a) an augmentation plan and sustainability plan, with or without the participation of the East Alamosa Water and Sanitation District, or (b) as an asset to be used in contracting for coverage with a subdistrict of the Rio Grande Water Conservation District, in order that the City's municipal wells will comply with new groundwater pumping rules, (ii) relocate and construct a new discharge point for its wastewater treatment plant, and (iii) pay the legal and engineering costs of implementing such plans and construction (collectively, the "Water Projects"); and

WHEREAS, the City owns certain real property known as the Alamosa Ranch and associated farm buildings and structures located thereon and water rights that are currently only authorized to be used on the Alamosa Ranch (collectively, the "Alamosa Ranch Property"); and

WHEREAS, the City is authorized by the Charter and by Sections 31-15-101(l)(d) and 31-15-713(l)(c), Colorado Revised Statutes, to lease all or any portion of the Alamosa Ranch Property to the Alamosa Capital Leasing Corporation (the "Corporation") when deemed by the City Council to be in the best interest of the City; and

WHEREAS, the City Council has determined, and hereby determines, that it is necessary and in the best interests of the City that the Water Projects be carried out and implemented; and

WHEREAS, for purposes of financing the Water Projects, the City Council has determined, and hereby determines, that it is in the best interests of the City and its residents that the City lease a portion of the Alamosa Ranch Property (the "Leased Property") to the Corporation pursuant to a Site Lease (the "Site Lease"), between the City, as lessor, and the

Corporation, as lessee, and that the City and the Corporation enter into a Lease Purchase Agreement (the "Lease") for the subleasing by the City from the Corporation of the Leased Property; and

WHEREAS, the obligation of the City to pay Base Rentals and Additional Rentals (both as defined in the Lease) shall be from year to year only, shall constitute currently budgeted expenditures of the City, shall not constitute a mandatory charge or requirement in any ensuing budget year, and shall not constitute a general obligation or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the City within the meaning of any constitutional or statutory limitation or requirement concerning the creation of indebtedness, nor a mandatory payment obligation of the City in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect; and

WHEREAS, there have been presented to the City Council at this meeting copies of the proposed forms of the Lease and the Site Lease; and

WHEREAS, pursuant to a Mortgage and Indenture of Trust (the "Indenture"), between the Corporation and UMB Bank, n.a., as Trustee (the "Trustee"), Certificates of Participation (the "Certificates"), which represent proportionate undivided interests in rights to receive Base Rentals paid by the City under the Lease, will be distributed to certain accredited investors to be identified by UMB Bank, n.a., as Placement Agent (the "Placement Agent); and

WHEREAS, neither the Lease nor the execution and delivery of the Certificates shall directly or indirectly obligate the City to make any payments beyond those appropriated for any fiscal year during which the Lease shall be in effect; and

WHEREAS, the City Council is desirous of authorizing, approving and directing (i) the execution of the agreements and instruments described above to be executed by the City and (ii) the transactions outlined above;

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

Section 1. All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the City Council or the officers, employees and agents of the City Council or the City, directed toward (i) the leasing of a portion of the Alamosa Ranch Property (the "Leased Property") to the Corporation, (ii) the subleasing of the Leased Property from the Corporation to the City, and (iii) implementing and completing the Water Projects, are hereby ratified, approved and confirmed.

Section 2. The City Council hereby finds and determines that the Leased Property shall be a portion of the Alamosa Ranch Property that has a value approximately equal to the Principal Component of the Base Rentals (as defined in the Lease), with the exact location of the Leased Property on the Alamosa Ranch to be identified by the City Manager and the City Attorney and approved by resolution of the City Council.

Section 3. The City Council hereby finds and determines, pursuant to the constitution, the Charter and laws of the State of Colorado, that the leasing of the Leased Property to the Corporation under the terms and provisions of the Site Lease, and subleasing of the Leased

Property from the Corporation under the terms and provisions of the Lease, are necessary, convenient and in furtherance of the governmental purposes of the City and are in the best interests of the City and its residents; and the City Council hereby authorizes, approves and directs the accomplishment of the foregoing under the terms and provisions of the Lease and the Site Lease.

Section 4. The Lease, in substantially the form and with substantially the content presented to this meeting of the City Council, is in all respects approved, authorized and confirmed, and the Mayor or, in the absence thereof, the Mayor pro-tempore is authorized and directed to execute the Lease in substantially the form and with substantially the same content as the form thereof presented to this meeting of the City Council, for and on behalf of the City, but with such changes therein as shall be consistent with this Ordinance and as the City Attorney shall approve, the execution thereof being deemed conclusive of the approval of any such changes. The City Council hereby approves the amount of \$7,250,000 as the maximum total amount of Base Rentals and the amount of \$425,000 as the maximum annual amount of Base Rentals to be paid for the subleasing of the Leased Property by the City from the Corporation under the terms and conditions of the Lease. The number of Renewal Terms (as defined in the Lease) of the Lease shall not exceed twenty-one.

Section 5. The Site Lease, in substantially the form and with substantially the content presented to this meeting of the City Council, is in all respects approved, authorized and confirmed, and the Mayor or, in the absence thereof, the Mayor pro-tempore is authorized and directed to execute the Site Lease in substantially the form and with substantially the same content as the form thereof presented to this meeting of the City Council, for and on behalf of the City, but with such changes therein as shall be consistent with this Ordinance and as the City Attorney shall approve, the execution thereof being deemed conclusive of the approval of any such changes.

Section 6. The City Council hereby approves the execution and delivery by the Corporation and the Trustee of the Indenture in connection with the transactions authorized herein, and approves the amount of \$4,300,000 as the maximum principal amount of the Certificates that may be executed and delivered thereunder.

Section 7. The City Council hereby acknowledges and consents to the assignment by the Corporation to the Trustee, pursuant to the Indenture, of all right, title and interest of the Corporation in, to and under the Site Lease and the Lease (with certain exceptions as provided in the Site Lease, the Lease and the Indenture), and the delegation by the Corporation to the Trustee, pursuant to the Indenture, of all duties of the Corporation under the Site Lease and the Lease.

Section 8. The City Clerk or, in the absence thereof, the Deputy City Clerk is hereby authorized and directed to attest all signatures and acts of any official of the City Council or the City in connection with the matters authorized by this Ordinance, and to place the seal of the City on the Lease and the Site Lease authorized and approved by this Ordinance and all other additional certificates, agreements, documents and other papers, associated with the transactions and other matters authorized by this Ordinance. The Mayor or, in the absence thereof, the Mayor pro-tempore and other officials, employees and agents of the City Council or the City are hereby

authorized to execute and deliver for and on behalf of the City any and all additional certificates, agreements, documents and other papers, and to perform all other acts that they may deem necessary or appropriate in order to implement and carry out the transactions and other matters authorized or contemplated by this Ordinance. The appropriate members or officers of the City Council or the City are authorized to execute on behalf of the City agreements concerning the deposit and investment of funds in connection with the transactions contemplated by this Ordinance.

Section 9. No provision of this Ordinance, the Lease, the Site Lease, the Indenture or the Certificates or other additional certificates, agreements, documents and other papers associated with the transactions authorized by this Ordinance shall be construed as creating or constituting a general obligation or multiple fiscal year direct or indirect indebtedness or other financial obligation whatsoever of the City nor a mandatory payment obligation of the City in any fiscal year beyond a fiscal year for which the Lease is in effect. The City shall have no obligation to make any payment under the Indenture or with respect to the Certificates except in connection with the payment of the Base Rentals (as defined in the Lease) and certain other payments under the Lease, which payments may be terminated by the City in accordance with the provisions of the Lease.

Section 10. The City Council hereby determines and declares that the Base Rentals represent the fair rental value of the use of the Leased Property, and that the Purchase Option Price (as defined in the Lease) represents the fair purchase price of the Leased Property. The City Council hereby determines and declares that the Base Rentals do not exceed a reasonable amount so as to place the City under an economic or practical compulsion to renew the Lease or to exercise its option to purchase the Leased Property pursuant to the Lease. In making such determinations, the City Council has given consideration to the current value of the Leased Property, the cost of acquiring property similar to the Leased Property, the uses and purposes for which the Leased Property is being and will be employed by the City, the benefit to the citizens and residents of the City by reason of the use of the Leased Property by the City pursuant to the terms and provisions of the Lease, the option of the City to purchase the Leased Property, and the expected eventual vesting of full title to the Leased Property in the City. The City Council hereby determines and declares that the duration of the Lease, including all optional renewal terms, authorized under this Ordinance, does not exceed the weighted average useful life of the Leased Property.

Section 11. The City Council hereby determines and declares that, in the event the Site Lease shall remain in effect after the termination of the Lease related thereto and authorized under this Ordinance, the rentals received by the City under the Site Lease represent the fair rental value of the property leased by the City to the Corporation under the Site Lease, and that such rentals do not place the City under an economic or practical compulsion to renew the Lease related thereto or to exercise its option to purchase the Leased Property.

Section 12. The City Council hereby elects to apply all of the provisions of the Supplemental Public Securities Act, part 2 of article 57 of title 11, Colorado Revised Statutes, as amended, to the transactions authorized by this Ordinance and delegates to the City Manager or the City Finance Director the authority to determine the terms and details of the leasing and subleasing of the Leased Property, including, but not limited to, the final schedule and amounts

of Base Rentals due under the Lease and other terms and details thereof, not otherwise determined herein and within the parameters set forth in this Ordinance.

Section 13. If any section, paragraph, clause or provision of this Ordinance (other than provisions as to the payment of Base Rentals by the City during the Lease Term and provisions for the conveyance of the Leased Property to the City under the conditions provided in the Lease) shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 14. All bylaws, orders, ordinances and resolutions, or parts thereof, inconsistent with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, ordinance or resolution, or part thereof.

Section 15. 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 purpose, and published according to law.

Section 16. 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 the City 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 17. 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 15th 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 1st day of March, 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 City Council consideration may be continued.

APPROVED, AND ROPTED after public hearing the 1st day of March, 2017

CITY OF ALAMOSA

By Josef P. Lucero, Mayor

ATTEST:

By Holly C. Martinez, City Clerk

Subject/Title:

Resolution No. 10- 2017, A resolution identifying the portion of the Alamosa ranch as the Leased Property to be leased to and subleased from the Alamosa Capital Leasing Corporation by the City under a Site Lease and Lease Purchase Agreement

Recommended Action:

Adopt Resolution No. 10-2017.

Background:

Background:

Through Ordinance No. 4-2017, as amended by Ordinance No. 2-2017, the City approved entering into a Lease Purchase Agreement for financing acquisition of assets necessary for its augmentation plan, and, depending upon availability and need, financing of infrastructure improvements relating to sanitary lift stations, water and sewer lines; and levee rehabilitation to meet FEMA and CWCB requirements. The financing requires that the City identify the property to be leased to the ACLC and subleased back from ACLC. Council has always intended to use the Alamosa Ranch as the Leased Property for this transaction.

The Alamosa Ranch is valued at \$5.77 Million according to a recent appraisal commissioned by the City. That valuation was made on the basis of \$4,500 per acre for both land and water rights associated with the Ranch. The value of the Leased Property needs to be roughly equivalent to the \$4.3 Million expected to be generated from the Lease Purchase Agreement, meaning approximately 955 of the 1,282 acre Ranch needs to be used.

Staff recommends using the acres shown on Exhibits B and C to the Resolution as the Leased Property for the transaction. The Exhibits are currently being finalized and will be available for review for the Council Meeting. This includes primarily land in the 15 grazing allotments on the ranch. It does not include the dairy, the disc golf course, the levees, or an approximately 60 acre parcel adjoining Highway 17 which parcel might be the most suitable for future economic development.

Issue Before the Council:

Does Council wish to adopt Resolution 10-2017?

Alternatives:

Council must designate approximately 955 acres of the Ranch as the Leased Property for the lease purchase financing. Council may:

- 1) Adopt Resolution 10-2017;
- 2) Direct Staff to include a different designation of acreages and bring the resolution back for further consideration. This will require preparation of a new legal description and scheduling of a special meeting so the resolution may be adopted in advance of the contemplated April 18 closing date.
- 3) Decline to adopt Resolution 10-2017 and give staff further direction.

Fiscal Impact:

None. The fiscal impact of the project itself was considered during the process of adopting Ordinance No. 4-2017.

Legal Opinion:

The City Attorney will be present at the meeting for comment if necessary.

Conclusion:

This resolution identifies that portion of the Ranch (and associated water rights) to be used as the Leased Property in the lease purchase financing for the augmentation plan and associated projects.

ATTACHMENTS:

	Description	Туре
ם	Resolution 10-2017 Designating Ranch portions for lease purchase	Resolution Letter
D	Ranch Exhibit	Exhibit

RESOLUTION NO. 10, 2017

A RESOLUTION IDENTIFYING THE PORTION OF THE ALAMOSA RANCH AS THE LEASED PROPERTY TO BE LEASED TO AND SUBLEASED FROM THE ALAMOSA CAPITAL LEASING CORPORATION BY THE CITY UNDER A SITE LEASE AND LEASE PURCHASE AGREEMENT

WHEREAS, the City of Alamosa is the owner of that property known as the Alamosa Ranch, described on the attached Exhibit A; and

WHEREAS, the City Council adopted Ordinance No. 4-2017, as amended by Ordinance No. 7-2017, for the purpose of financing the City's acquisition of certain water rights and water storage rights and the construction of certain infrastructure projects by authorizing the City to lease a portion of the Alamosa Ranch (the "Leased Property") to the Alamosa Capital Leasing Corporation (the "Corporation") pursuant to a Site Lease (the "Site Lease"), between the City, as lessor, and the Corporation, as lessee, and to sublease the Leased Property back from the Corporation pursuant to a Lease Purchase Agreement (the "Lease"), between the Corporation, as sublessor, and the City, as sublessee; and

WHEREAS, the forms of the Site Lease and the Lease were submitted to, and approved, authorized and confirmed by, the City Council in connection with Ordinance No. 4-2017; and

WHEREAS, Ordinance No. 4-2017 directed the City Manager and the City Attorney to identify the exact location of the Leased Property for approval by the City Council; and

WHEREAS, the City Manager and the City Attorney have identified approximately 955 acres of the Alamosa Ranch plus associated water rights as the Leased Property as described on the attached Exhibit B and as further depicted on the Mortgage Plat attached as Exhibit C; and

WHEREAS, the City has the power and authority, pursuant to its Charter and ordinances, to hold, convey, and manage its real property, and to subject the same to such terms, limitations, and conditions as the City deems just and appropriate.

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

- 1. The approximately 955 acres of the Alamosa Ranch described on the attached Exhibit B and as further depicted on the Mortgage Plat attached as Exhibit C, plus associated water rights, are hereby approved as the Leased Property for purposes of the Site Lease and the Lease.
- 2. The City Council hereby finds and determines, pursuant to the constitution, the Charter and the laws of the State of Colorado, that the leasing of the Leased Property to the Corporation under the terms and provisions of the Site Lease, and subleasing of the Leased Property from the Corporation under the terms and provisions of the Lease, are necessary,

convenient and in furtherance of the governmental purposes of the City and are in the best interests of the City and its residents; and the City Council hereby authorizes, approves and directs the accomplishment of the foregoing under the terms and provisions of the Lease and the Site Lease.

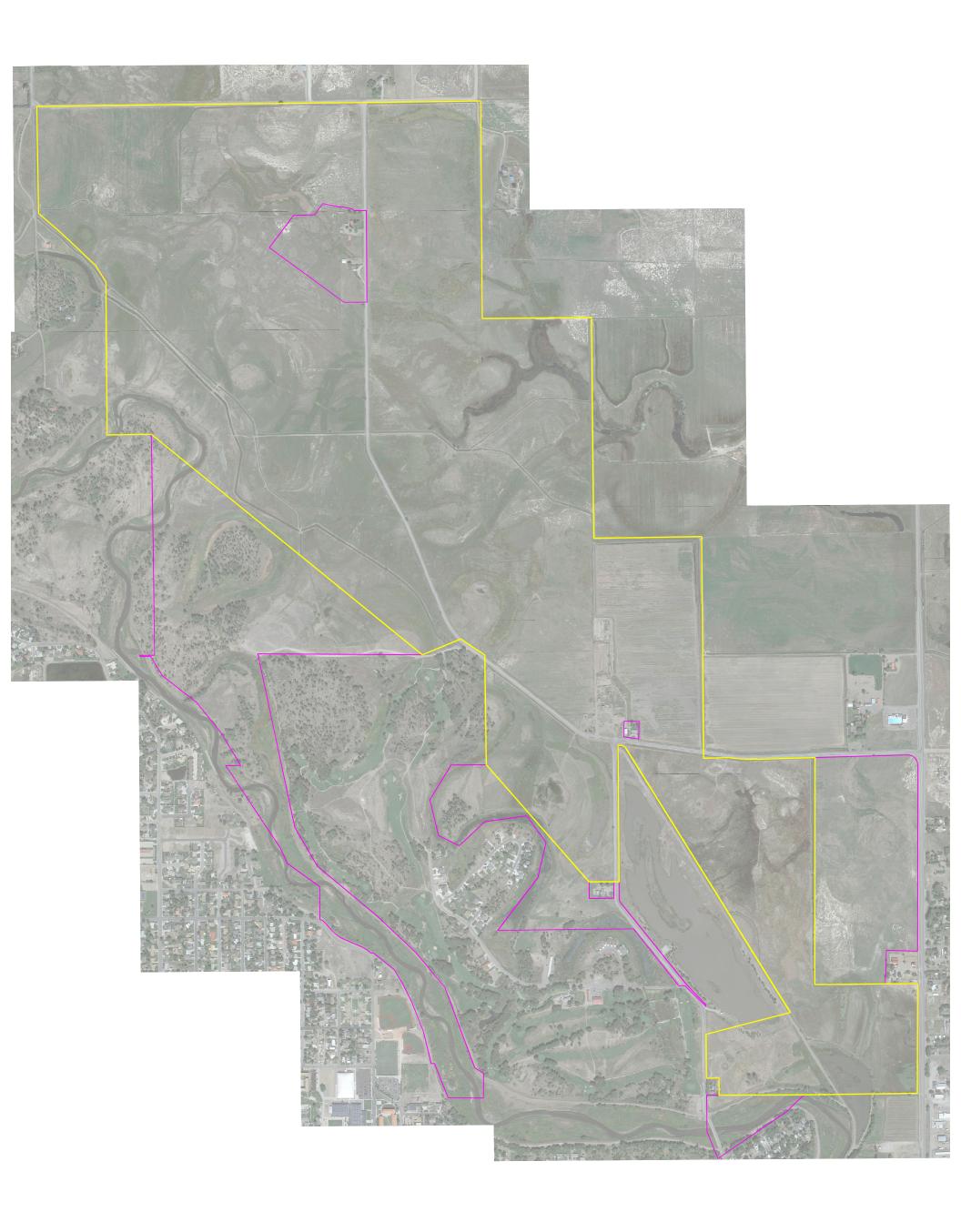
- 3. The City Council hereby determines and declares that the Base Rentals (as defined in the Lease) represent the fair rental value of the use of the Leased Property, and that the Purchase Option Price (as defined in the Lease) represents the fair purchase price of the Leased Property. The City Council hereby determines and declares that the Base Rentals do not exceed a reasonable amount so as to place the City under an economic or practical compulsion to renew the Lease or to exercise its option to purchase the Leased Property pursuant to the Lease. In making such determinations, the City Council has given consideration to the current value of the Leased Property, the cost of acquiring property similar to the Leased Property, the uses and purposes for which the Leased Property is being and will be employed by the City, the benefits to the citizens and residents of the City by reason of the use of the Leased Property by the City pursuant to the terms and provision s of the Lease, the option of the City to purchase the Leased Property, and the expected eventual vesting of full title to the Leased Property in the City. The City Council hereby determines and declares that the duration of the Lease, including all optional renewal terms, does not exceed the weighted average useful life of the Leased Property.
- 4. The City Council hereby determines and declares that, in the event the Site Lease shall remain in effect after the termination of the Lease related thereto, the rentals received by the City under the Site Lease represent the fair rental value of the property leased by the City to the Corporation under the Site Lease, and that such rentals do not place the City under an economic or practical compulsion to renew the Lease related thereto or to exercise its option to purchase the Leased Property.
 - 5. This Resolution shall take effect immediately upon its passage and adoption.

CITY OF ALAMOSA

APPROVED, PASSED AND ADOPTED this 5th day of April, 2017

By		
Josef F. Lucero, Mayor	By	
, ,	-	Josef F. Lucero, Mayor

ATTEST:		
Holly C. Martinez, City Clerk		



Subject/Title:

Decision, New Application, Hotel/Restaurant License, Thai Hut LLC d/b/a Thai Hut

Recommended Action:

Consider the evidence presented at the needs and desires hearing on the application of Thai Hut and the proposed findings and conclusions prepared by the City Attorney, and either grant or deny the license.

Background:

Council must adopt written findings and conclusions when it takes action on a liquor license application. Thai Hut LLC d/b/a Thai Hut presented its application for a Hotel/Restaurant License at 525 Main Street at the meeting on March 15, 2017. Based on matters presented at the hearing, the City Attorney has prepared drafts of findings and conclusions for Council's consideration, one granting and one denying the license.

Issue Before the Council:

Does Council determine that the reasonable requirements of the neighborhood and the desires of the adult inhabitants of the neighborhood support issuance of the requested license, and that the applicant is of sound character?

Alternatives:

- 1) Adopt the proposed findings granting the license, with or without modification.
- 2) Adopt the proposed findings denying the license, with or without modification.
- 3) Reopen the hearing for further evidence

Fiscal Impact:

None

Legal Opinion:

The City Attorney will be available for comment.

Conclusion:

After the hearing is concluded, Council generally adopts its findings granting or denying the license at the following meeting. It must act within 30 days of the hearing.

ATTACHMENTS:

	Description	Type
D	Thai Hut findings grant	Exhibit
D	Thai Hut deny	Exhibit

FINDINGS OF FACT AND CONCLUSIONS; GRANT OF LIQUOR LICENSE APPLICATION

In Re the Matter of the Public Hearing Concerning: Thai Hut, LLC for a Hotel/Restaurant License at 525 Main Street

I. THE HEARING

This matter came on for public hearing at a regularly scheduled meeting of the Alamosa City Council sitting as the Local Licensing Authority (the Authority) on March 15, 2017. Notice of the hearing was given pursuant to §12-47-311, C.R.S. All members of Council were present.

A. Preliminary Issues.

The Authority considered the contents of the application and the results of its own investigation as part of the hearing record.

By virtue of a resolution that has been in effect for approximately twenty years, the Authority has established a presumptive neighborhood applicable to any liquor license application to be the entire City of Alamosa, plus a one-mile radius surrounding the City's perimeter. An applicant or any opponent to an application may rebut the presumption as to the definition of the applicable neighborhood by providing evidence that another definition of neighborhood applies to the particular application. No party proposed a different definition of the neighborhood for this application.

The poster giving notice of the application was introduced as Exhibit A and the Clerk confirmed it was posted on February 14, 2017, and remained posted through the date and time of the hearing. Exhibit B, consisting of petitions containing approximately 150 signatures in support of the application filed with the Clerk and presented at the hearing.

The Authority takes administrative notice of the existence and location of the 16 hotel/restaurant licenses granted by the Authority for premises within the City, and of the total of 41 liquor licenses of all types granted by the Authority for premises within the City. The Authority takes administrative notice that the central commercially zoned corridor in Alamosa generally runs from east to west, one block north and south of Main Street; that additionally there is an intermittent (i.e. mixed zoning) corridor north and south along U.S. Highway 285, and along State Avenue.

- **B.** Applicant. Applicant, Thai Hut, LLC, appeared through its manager, Sorani Srasum.
- **C. Documentary Evidence**. Mr. Srasum presented a petition containing approximately 150 signatures in support of the application. Each page of the petition contained a statement that the signer owned property, lived, or was engaged in a job or business within the neighborhood, and an indication that the signers were at least twenty-one years of age. The petitions were obtained at the restaurant. No verification was done with respect to the addresses, as to whether or not the signatories were inhabitants within the definition in the *Colorado Liquor Code*, Section 12-47-103(12) C.R.S., or parties in interest, as defined in

Section 12-47-311(5) C.R.S. No Petitions opposed to the Application were presented. The Authority takes into account the infeasibility of it verifying the signatures, and the lack of verification tendered as part of the Exhibit, when it considers the weight to be given the petitions.

D. Witnesses. The applicant provided Council with a brief background. He has been managing the Thai Hut for about two months, having more than 15 years previous restaurant management experience in Florida. Customers have asked them to provide liquor with meals, and many signed the petition.

Prior to opening the public hearing, Council questioned the applicant concerning the nature of his business, and his understanding of the liquor code, particularly as it relates to underage consumption. The applicant presented the petitions, and further indicated that his customers desired alcoholic beverages to be available with the meals served at the restaurant.

There was no one wishing to speak at the public hearing.

II. APPLICABLE LAW

A hotel restaurant liquor license, under the *Colorado Liquor Code*, may be issued to persons selling only malt, vinous and spirituous liquors in the place where such liquors are to be consumed. In addition, a Hotel/Restaurant shall sell such liquors only if meals are actually and regularly served, and provide not less than 25% of the gross income from sales of food and drink of the business of the licensed premises. C.R.S. § 12-47-411.

Before entering any decision approving or denying the application for a liquor license, the Local Licensing Authority shall consider the reasonable requirements of the neighborhood for the type of license for which the application has been made and the desires of the adult inhabitants of the neighborhood (as evidenced by petitions, testimony, or otherwise), and all reasonable restrictions that are or may be placed upon the new district. §12-47- 301(2), C.R.S.

Whether a license should be granted or denied is a matter resting within the discretion of the licensing authority. *Harvey v. Schooley*, 383 P2d 189 (Colo. 1963). The burden is on the applicant to establish a *prima facie* showing of facts which satisfy the requirements of the liquor code. *Geer v. Hall*, 333 P.2d 1040 (Colo. 1959). The local licensing authority has no authority to regulate the sale of alcohol, but only to grant, deny, suspend, or revoke licenses as provided in the liquor code. *Gettman v. Board of County Commissioners*, 221 P.2d 363 (Colo., 1950). A city council may not prejudge any application by trying to legislate a limitation of the number of licenses based on population. Each application must be considered on its own merits. *City of Colorado Springs v. Graham*, 352 P.2d 363 (Colo. 1950). Unless a second or additional license is applied for by the same licensee, no consideration of the effect on competition of the granting or disapproving of the license shall be made. *See* C.R.S. § 12-47-301(2).

Pursuant to Colorado liquor regulation 47-310(E), when considering whether or not an applicant is of good moral character, the licensing authority may consider, among other factors, whether the applicant or licensee has a criminal history of crimes of moral turpitude. By way of example, crimes of moral turpitude shall include but not be limited to, murder, burglary, robbery, arson, kidnapping, sexual assault, illegal drugs or narcotics convictions. Furthermore, if criminal history is considered, then pursuant to C.R.S. § 24-5-101, the licensing authority shall also consider

evidence of rehabilitation. Such evidence may include, but not be limited to, evidence of no criminal history record information, educational achievements, financial solvency, community standing, lack of additional arrests or convictions, or the lack of parole or probation violations since the date of last conviction. The intent of this section is to expand employment opportunities for persons who, notwithstanding that fact of conviction of an offense, have been rehabilitated and are ready to accept the responsibilities of a law-abiding and productive member of society.

III. FINDINGS

The location of the premises for which the license is sought is 525 Main Street in Alamosa, Colorado. This location is within the Alamosa City Limits and falls under the jurisdiction of the Alamosa City Council sitting as the Local Licensing Authority.

In the two years preceding the date of application acceptance, there has not been a denial of a Hotel/Restaurant License application for the reason that the reasonable requirements of the neighborhood were satisfied by the existing outlets.

It appears from the application documents that Applicant is entitled to possession of the premises where it proposes to exercise the license applied for, and that the possession will continue throughout the initial term of the license, if granted.

The sale of liquor on the proposed premises is not a violation of City of Alamosa zoning, building, and fire laws or regulations.

The premises, 525 Main Street, is not within 500 feet of a school.

The Applicant is a limited liability company authorized to do business in the State of Colorado and is in good standing.

The evidence presented at the public hearing supports the proposition that there is a need and desire for the issuance of this liquor license. The applicant operates a well known and respected established restaurant in the community, and that business would be enhanced by the ability to provide alcohol with the meals it offers.

IV. CONCLUSIONS

Applicant has satisfied Council that there is a need and desire in the neighborhood for the issuance of the hotel/restaurant liquor license applied for. Therefore, the Alamosa City Council acting as the Local Licensing Authority hereby GRANTS the Application submitted by Thai Hut, LLC, for a new hotel/restaurant liquor license at 525 Main Street, Alamosa, Colorado.

Dated this 5th day of April, 2017.

Mayor Josef P. Lucero City of Alamosa

Local	ı	icensing	Δı	ıth	ority
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FINDINGS OF FACT AND CONCLUSIONS; DENIAL OF LIQUOR LICENSE APPLICATION

In Re the Matter of the Public Hearing Concerning: Thai Hut, LLC for a Hotel/Restaurant License at 525 Main Street

I. THE HEARING

This matter came on for public hearing at a regularly scheduled meeting of the Alamosa City Council sitting as the Local Licensing Authority (the Authority) on March 15, 2017. Notice of the hearing was given pursuant to §12-47-311, C.R.S. All members of Council were present.

A. Preliminary Issues.

The Authority considered the contents of the application and the results of its own investigation as part of the hearing record.

By virtue of a resolution that has been in effect for approximately twenty years, the Authority has established a presumptive neighborhood applicable to any liquor license application to be the entire City of Alamosa, plus a one-mile radius surrounding the City's perimeter. An applicant or any opponent to an application may rebut the presumption as to the definition of the applicable neighborhood by providing evidence that another definition of neighborhood applies to the particular application. No party proposed a different definition of the neighborhood for this application.

The poster giving notice of the application was introduced as Exhibit A and the Clerk confirmed it was posted on February 14, 2017, and remained posted through the date and time of the hearing. Exhibit B, consisting of petitions containing approximately 150 signatures in support of the application filed with the Clerk and presented at the hearing.

The Authority takes administrative notice of the existence and location of the 16 hotel/restaurant licenses granted by the Authority for premises within the City, and of the total of 41 liquor licenses of all types granted by the Authority for premises within the City. The Authority takes administrative notice that the central commercially zoned corridor in Alamosa generally runs from east to west, one block north and south of Main Street; that additionally there is an intermittent (i.e. mixed zoning) corridor north and south along U.S. Highway 285, and along State Avenue.

- **B.** Applicant. Applicant, Thai Hut, LLC, appeared through its manager, Sorani Srasum.
- **C. Documentary Evidence**. Mr. Srasum presented a petition containing approximately 150 signatures in support of the application. Each page of the petition contained a statement that the signer owned property, lived, or was engaged in a job or business within the neighborhood, and an indication that the signers were at least twenty-one years of age. The petitions were obtained at the restaurant. No verification was done with respect to the addresses, as to whether or not the signatories were inhabitants within the definition in the *Colorado Liquor Code*, Section 12-47-103(12) C.R.S., or parties in interest, as defined in

Section 12-47-311(5) C.R.S. No Petitions opposed to the Application were presented. The Authority takes into account the infeasibility of it verifying the signatures, and the lack of verification tendered as part of the Exhibit, when it considers the weight to be given the petitions.

D. Witnesses. The applicant provided Council with a brief background. He has been managing the Thai Hut for about two months, having more than 15 years previous restaurant management experience in Florida. Customers have asked them to provide liquor with meals, and many signed the petition.

Prior to opening the public hearing, Council questioned the applicant concerning the nature of his business, and his understanding of the liquor code, particularly as it relates to underage consumption. The applicant presented the petitions, and further indicated that his customers desired alcoholic beverages to be available with the meals served at the restaurant.

There was no one wishing to speak at the public hearing.

II. APPLICABLE LAW

A hotel restaurant liquor license, under the *Colorado Liquor Code*, may be issued to persons selling only malt, vinous and spirituous liquors in the place where such liquors are to be consumed. In addition, a Hotel/Restaurant shall sell such liquors only if meals are actually and regularly served, and provide not less than 25% of the gross income from sales of food and drink of the business of the licensed premises. C.R.S. § 12-47-411.

Before entering any decision approving or denying the application for a liquor license, the Local Licensing Authority shall consider the reasonable requirements of the neighborhood for the type of license for which the application has been made and the desires of the adult inhabitants of the neighborhood (as evidenced by petitions, testimony, or otherwise), and all reasonable restrictions that are or may be placed upon the new district. §12-47- 301(2), C.R.S.

Whether a license should be granted or denied is a matter resting within the discretion of the licensing authority. *Harvey v. Schooley*, 383 P2d 189 (Colo. 1963). The burden is on the applicant to establish a *prima facie* showing of facts which satisfy the requirements of the liquor code. *Geer v. Hall*, 333 P.2d 1040 (Colo. 1959). The local licensing authority has no authority to regulate the sale of alcohol, but only to grant, deny, suspend, or revoke licenses as provided in the liquor code. *Gettman v. Board of County Commissioners*, 221 P.2d 363 (Colo., 1950). A city council may not prejudge any application by trying to legislate a limitation of the number of licenses based on population. Each application must be considered on its own merits. *City of Colorado Springs v. Graham*, 352 P.2d 363 (Colo. 1950). Unless a second or additional license is applied for by the same licensee, no consideration of the effect on competition of the granting or disapproving of the license shall be made. *See* C.R.S. § 12-47-301(2).

Pursuant to Colorado liquor regulation 47-310(E), when considering whether or not an applicant is of good moral character, the licensing authority may consider, among other factors, whether the applicant or licensee has a criminal history of crimes of moral turpitude. By way of example, crimes of moral turpitude shall include but not be limited to, murder, burglary, robbery, arson, kidnapping, sexual assault, illegal drugs or narcotics convictions. Furthermore, if criminal history is considered, then pursuant to C.R.S. § 24-5-101, the licensing authority shall also consider

evidence of rehabilitation. Such evidence may include, but not be limited to, evidence of no criminal history record information, educational achievements, financial solvency, community standing, lack of additional arrests or convictions, or the lack of parole or probation violations since the date of last conviction. The intent of this section is to expand employment opportunities for persons who, notwithstanding that fact of conviction of an offense, have been rehabilitated and are ready to accept the responsibilities of a law-abiding and productive member of society.

III. FINDINGS

The location of the premises for which the license is sought is 525 Main Street in Alamosa, Colorado. This location is within the Alamosa City Limits and falls under the jurisdiction of the Alamosa City Council sitting as the Local Licensing Authority.

In the two years preceding the date of application acceptance, there has not been a denial of a Hotel/Restaurant License application for the reason that the reasonable requirements of the neighborhood were satisfied by the existing outlets.

It appears from the application documents that Applicant is entitled to possession of the premises where it proposes to exercise the license applied for, and that the possession will continue throughout the initial term of the license, if granted.

The sale of liquor on the proposed premises is not a violation of City of Alamosa zoning, building, and fire laws or regulations.

The premises, 525 Main Street, is not within 500 feet of a school.

The Applicant is a limited liability company authorized to do business in the State of Colorado and is in good standing.

The evidence presented at the public hearing is insufficient to support the proposition that there is a need and desire for the issuance of this liquor license. There are many restaurants that do offer liquor with meals if that is a desire for patrons. Additionally, the evidence shows that there is a market for a restaurant without the availability of alcoholic beverages.

IV. CONCLUSIONS

Applicant has not satisfied Council that there is a need and desire in the neighborhood for the issuance of the hotel/restaurant liquor license applied for. Therefore, the Alamosa City Council acting as the Local Licensing Authority hereby DENIES the Application submitted by Thai Hut, LLC, for a new hotel/restaurant liquor license at 525 Main Street, Alamosa, Colorado.

Dated	thic	5th	day	of.	Δnril	2017	'
Dateu	เมเอ	่วแเ	uav	UI	AUI II.	ZU 1 /	

City of Alamosa	
Local Licensing	Authority

Attest: (SEAL)	Local Licensing Authority
Holly C. Martinez, City Clerk	

Subject/Title:

Needs and Desires Hearing on the application of Wize Apples/Linda Cade, d/b/a Wize Apples, for a Hotel/Restaurant License at 408 4th Street

Recommended Action:

Conduct hearing to receive evidence regarding whether this application will meet the reasonable requirements of the neighborhood and the desires of the adult inhabitants of the neighborhood.

Background:

Wize Apples/Linda Cade d/b/a Wize Apples has applied for a Hotel/Restaurant License at 408 4th Street. The application was administratively accepted on February 10, 2017.

Application Details:

- Business address is 408 4th Street.
- The licensed premise is proposed to be the entirety of the interior of the structure including the roof top.
- Applicant has current sales tax license.
- Applicant is eligible for a liquor license.
- The location is eligible to be licensed.
- Manager is Linda Sue Cade.
- Applicant does not hold any other liquor licenses in Colorado.
- · Applicant is an Individual.
- Possession of the property is documented through a lease.
- Preliminary factual findings are attached, and have been mailed to the applicant as required.
- The property was posted on February 23, 2017. The legal notice was published in the Valley Courier on March 28, 2017.

Issue Before the Council:

This hearing is for the purpose of receiving evidence and testimony regarding this license application. This is a quasi-judicial issue where Council's action may only be based on evidence presented at the hearing.

Alternatives:

Council is limited to the option of conducting the needs and desires hearing as required by law.

Fiscal Impact:

N/A

Legal Opinion:

Counselor Schwiesow will be available at the meeting to conduct the hearing.

Conclusion:

Council should conduct the hearing as required. Standard procedure is to make a decision at the following meeting, which is Wednesday, April 19, 2017.

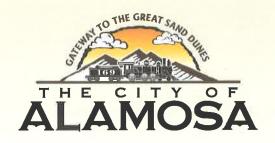
ATTACHMENTS:

Description

- □ Preliminary Factual Findings
- Drawing of Premises

Туре

Backup Material Backup Material



March 31, 2017

Linda Cade/Wize Apples d/b/a Wize Apples Attn: Linda Cade 408 4th Street Alamosa, CO 81101

Greetings:

You are hereby advised that an investigation has been made with regard to the application made by Wize Apples/Linda Cade d/b/a Wize Apples for a new Hotel/Restaurant License at 408 4th Street. Based on the results thereof, the following has been determined:

- 1. The location of the premises for which the license is sought is 408 4th Street in Alamosa, Colorado.
- 2. In the two years proceeding the date of application acceptance, there has not been a denial of a Hotel/Restaurant license application for the reason that the reasonable requirements of the neighborhood were satisfied by the existing outlets.
- 3. It appears from the application documents that you are entitled to possession of the premises where you propose to exercise the license applied for, and that the possession will continue throughout the initial term of the license, if granted.
- 4. The sale of liquor on the proposed premises is not a violation of City of Alamosa zoning, building, and fire laws or regulations.
- 5. The proposed location is not within 500 feet from a school.
- 6. The Alamosa City Council has designated the Neighborhood to be the city limits plus a one-mile radius. You, as the applicant, may accept that designation or present alternative evidence.

7. Preliminary background investigation results have been received for the sole member of the applicant entity and has not given rise to anything that would cause the Local Licensing Authority to question the good moral character of this individual. Fingerprint results are not yet received.

The public hearing on your application has been set for Wednesday, April 5, 2017 beginning at 7:00 p.m. or shortly thereafter (generally, the hearings are scheduled near the end of the Regular Council Agenda but there is not a guaranteed time in which the hearing will begin). The hearing will take place in Alamosa Council Chambers, 300 Hunt Avenue in Alamosa. At said hearing, you shall have an opportunity to be heard regarding all matters of consideration of your application. Be advised that you, as the applicant, are burdened with persuading City Council, who is the Local Liquor Licensing Authority, that the granting of this license will meet the needs of the neighborhood and the desires of the adult inhabitants of the neighborhood. If you fail to present convincing evidence, the application will be denied.

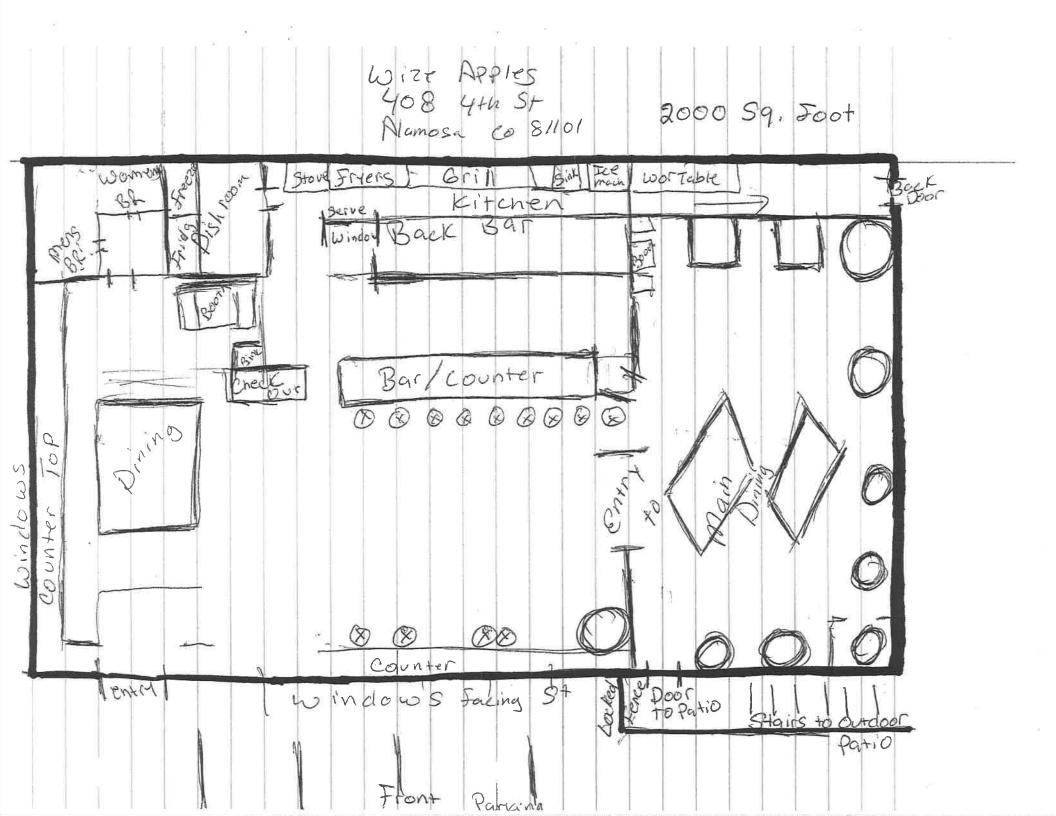
City Council's procedure is to consider a final decision at the meeting following the hearing, in this case April 19, 2017.

Should you have any questions or concerns regarding the procedure involved in this public hearing, please feel free to contact me.

Sincerely,

Holly C. Martinez

City Clerk



Wize Agples Out Door Patio Stair well

Subject/Title:

Approval of Colorado Liquor Sales Room for Square Peg Brewerks LLC

Recommended Action:

Determine if any of the conditions listed on the application apply, and if not, approve the Colorado Liquor Sales Room application.

Background:

Square Peg Brewerks LLC has applied for a wholesaler's and manufacturer's license through the State of Colorado Department of Revenue. This is an application that does not require any Local Liquor License Authority action except for the option of the Liquor Sales Room.

The LLA must determine that the none of the below conditions apply:

- Issuance of this permit would impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances.
- If granted this permit would result in violations of the Colorado liquor code or the laws of the local government. (Must be specified)
- If granted this permit would violate local zoning laws.

The applicant has spoken with Public Works and the only need they are aware of is a need for a downtown design variance, which is supposedly going to be held at the next Planning Commission meeting.

Issue Before the Council:

Does Council wish to approve the application for the Colorado Liquor Sales Room for Square Peg Brewerks LLC?

Alternatives:

- 1. Approve the application as submitted.
- 2. Object to the approval and determine the reasons why.

Fiscal Impact:

N/A

Legal Opinion:

Counselor Schwiesow will be available at the meeting.

Conclusion:

If none of the conditions listed on the application apply, approve the application for Square Peg Brewerks Inc.

ATTACHMENTS:

Description Type

Application for Colorado Liquor Sales Room Backup Material

DR 8057 (02/11/16) COLORADO DEPARTMENT OF REVENUE

Liquor Enforcement Division - 108 PO Box 173350 Denver, CO 80217-3350 Fax (303) 205-2341 Phone (303) 205-2300

Application for Colorado Liquor Sales Room Regulation 47-428, 1 C.C.R. 203-2

X Malt Liquor	Limited Winery	Winery		☐ Dist	illery	Temporary (3 days or	_
-000M10000M000	Name of Applicant exactly as it appears on your current Colorado Liquor License.						
Square Peg Brewer							
2. Trade Name of Applica							
3. State Sales Tax No. 31575597	ANTHERITATION CONTINUES V						
4. Business Address of Applicant (Number and Street) City State ZIP						ZIP	
625 Main Street	10	2)		Alamo	osa	СО	81101
5. Mailing Address (Num	ber and Street)			City		State	ZIP
625 Main Street				Alamo	osa	СО	81101
6. Phone Number			7. Email A		epegbrewerks.c	om	
719-580-3880	/Full Address)					Time:	ПАМ ПРМ
8. Sales Room Location 625 Main Street Ala			9. Dates 0	n Event	s: From Date: To Date:	Time:	
	Granted by: (attach a copy of	the Premises Us	l e Authoriza	ation lett	er or lease if not pro	eviously submitte	ed)
July 1 and 1							
11. Renting/Leasing % B			arty. Use A	dditional	Sheet if Necessary	<i>i</i> .	
X Yes □ No	Ken Swinehar	t, cash rent					
13. Alcohol will be sold (For on-premises co		For off-premis	ses consun	nption			
14. Additional Required							
Attach an outlined	diagram of proposed premise	es		o o ntrolla	d to appure complia	noo with liquor co	ode and rules. It must include
Attach a copy of the restricting sales to m	premises control plan describ	ing now the premi ersons and insurir	ises will be ng that cust	omers c	annot leave the prer	nises with an ope	en container of alcohol.
restricting sales to minors and visibly intoxicated persons and insuring that customers cannot leave the premises with an open container of alcohol. Attach a copy of any contracts and/or operating agreements pertaining to the sales room.							
ocal Licensing Authority Name City of Alamosa - City Council 3/27/17							
Applicant Signature			Title co-owner			Date 3/24/17	
Notice to Local Licensing Authority							
This application for a Sales Room will be granted to the above name applicant unless any of the below listed conditions apply							
If any of these conditions apply please contact the State Licensing Authority immediately.							
Issuance of this permit would impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances.							
If granted this permit would result in violations of the Colorado liquor code or the laws of the local government. (specify)							
☐ Issuance of this permit would violate local zoning laws.							
For events lasting three consecutive days or less, the Local Licensing Authority has ten (10) business days to submit its determination to the State Licensing Authority.							
For events lasting four or more consecutive days, the Local Licensing Authority has forty-five (45) days to submit its determination to the State Licensing Authority.							
	uthorities can send the ap	proval via mail	or email t	o dor I	ed@state.co.us		
	sing Authority does not su					specified the	State Licensing Authority
shall deem that th	e Local Licensing Authori	ty has determin	ed that th	e propo	osed sales room v	will not impact	traffic, noise, or other
neighborhood con	cerns in a manner that is	inconsistent wi	th local re	gulatio	ns or ordinances	or that the app	plicant will sufficiently
mitigate any impa	cts identified by the Local	Licensing Auth	ority.				
Licensing Authority Signat	ure			Local Lie	censing Authority Cont	act Name/Phone N	lumber
Object							
Do Not Object							

Subject/Title:

San Luis Valley Early Iron, Inc. Special Events Permit September 1 and 2, 2017

Recommended Action:

Approve Special Event Permit for the San Luis Valley Early Iron, Inc. events as described below.

Background:

Applicant: San Luis Valley Early Iron, Inc.

Event Description:

- 1. San Luis Valley Early Iron, Inc. is holding its annual events as follows:
 - September 1, 2017 from 12:00 p.m. to 10:00 p.m.
 - September 2, 2017 from 6:00 a.m. to 10:00 p.m.
- 2. Application is for Malt, Vinous, and Spirituous Liquor
- 3. The event will be held at Cole Park, within the confines of the paved track. (See attached)

Factual Findings:

- Applicant has possession of the premise through a permit.
- Applicant qualifies as a non-profit corporation.
- The application was submitted in a timely manner.
- No objections were received.
- All applicable fees have been paid.

Issue Before the Council:

Does Council wish to approve this Special Events Permit?

Alternatives:

- 1. Approve the Special Events Permit.
- 2. Do not act on approval. Determine potential reasons for denial and set a hearing date.

Fiscal Impact:

N/A

Legal Opinion:

No legal issues have been raised regarding this application. Counselor Schwiesow will be available at the meeting if needed.

Conclusion:

Approve Special Events Permit application for San Luis Valley Early Iron, Inc. for the dates of September 1 and 2, 2017

ATTACHMENTS:

	Description	Type
D	San Luis Valley Early Iron, Inc. SEP Application	Backup Material
D	Drawing of Premises	Backup Material

Rev. 9/24/12

City Clerk's Office City of Alamosa POB 419 Alamosa, CO 81101 719/589-2593 ext. 8

Faxed to Colorado Liquor Enforcement Division by:

MAR 1.5 2017

City of Alamosa

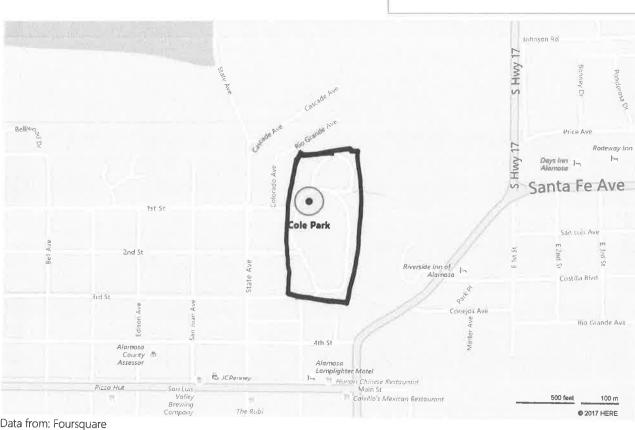
Special Events Permit Application

Fees payable to the City of
Alamosa:
\$100 per day
\$50 for rush processing

713/363-2333 ext. 6				
Name of Applicant Non-Profit Organization or Political Candidate: San Luis Valley Early Iron				
Entity Address: PO Box 442, Alamosa, CO Address of Event: Cole Park Off-site storage address (if applicable):				
Authorized representative name: Phone no. where you can be reached prior to and during event; email address: Roni Wisdom, 719-580-0842 earlyironclub@gmail.com				
Event Manager name: Phone no. where you can be reached prior to and during event: email address:				
Jeff Woodward, 719-580-0026, papa_j33@yahoo.com				
State Sales Tax No. 110815 Would you like to receive your permit by email? Yes X No 3.2 Beer 3.2 Beer				
Is this location within 500 feet of a school? Yes No_X_ If yes, are classes in session during event: Yes No				
Date(s) of event				
Date: 9-1-17 Start time: 12 noon End time: 10 pm Date: 9-2-17 Start time: 6 am End time: 10 pm Date: 9-2-17 Start time: 6 am End time: 10 pm Date: Start time: End time: E				
Oath of Applicant: I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein in true, correct, and complete to the best of my knowledge Signature: Date: 3/13/17				
The City of Alamosa hereby finds that this application has been examined and the premises, business, and character of the appli- cant is satisfactory and this Permit is hereby approved Signature: Date:				

on:

Cole Park



Data from: Foursquare