

ALAMOSA CITY COUNCIL

Regular Meeting Agenda

Alamosa City Council Chambers
300 Hunt Avenue, Alamosa, CO
August 6, 2014

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.

LINK TO COUNCIL CALENDAR

7:00 p.m. – 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. National Health Center Week Proclamation 2014 presented to Valley Wide's Chief Medical Officer, Dr. Phillip Mendoza

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 Regular Meeting, July 16, 2014**
- C. 7. b. **Approve Minutes of Special Meeting, July 30, 2014**

VII. REGULAR BUSINESS

C. Business Brought Forward by City Staff

1. Public Works

- a. **Viaero Wireless Request for Permitted Use by Special Review, Lots 18-20, Lakeview Subdivision, Railroad Avenue.**

- b. **Resolution No. 10, 2014 Annexation Petition, Stacey Foote**

7. City Clerk/Municipal Court

- a. **First Reading, Ordinance No. 10, 2014, An Ordinance approving an intergovernmental agreement with Alamosa County for conduct of the November 4, 2014, coordinated election for a special improvement district.**

8. City Manager/Legal

- a. Public Hearing, Ordinance No. 9, 2014,** An Ordinance establishing a temporary moratorium to the submission, acceptance, processing and approval of any new special use applications for the operation of telecommunications facilities within the City of Alamosa until after November 30, 2014, and declaring the City's intention to consider the development of appropriate regulations for the issuance of such permits.

D. Committee Reports

E. Staff Announcements

COUNCIL COMMENT

EXECUTIVE SESSION

Pursuant to CRS 24-6-402 (4)(f) to discuss personnel matters relating to the City Manager's Evaluation.

ADJOURNMENT

Alamosa City Council Meetings and Events

Updated 7/31/2014

All events are held in Alamosa Colorado unless otherwise noted

CITY HALL IS LOCATED AT 300 HUNT

Date	Time	Event	Location	Additional Information
August 15, 2014	4:30 p.m.	Employee Picnic	Golf Course	****
September 3, 2014	6:00 p.m.	Work Session - Budget	Council Chambers	*
September 10, 2014	6:00 p.m.	Work Session - Budget	Council Chambers	*
September 16, 2014	4:00 p.m. - 8:00 p.m.	CML District Meeting	Creede, CO	***
September 17, 2014	6:00 p.m.	Work Session - Budget	Council Chambers	*
September 23, 2014	6:30 a.m. - 8:00 a.m.	City/County Breakfast	TBD	*
September 24, 2014	6:00 p.m.	Work Session - Budget	Council Chambers	*

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

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

*** Citizens are encouraged to attend this community event

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

ALAMOSA CITY COUNCIL
Wednesday, July 16, 2014
Minutes of the Meeting

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. Present at roll call: Mayor Lucero, Councilors Greg Gillaspie, Jan Vigil, Charles Griego, and Ty Coleman. Councilor Rusty Johnson and Michael Stefano previously requested to be excused. A quorum was declared. Also present: City Manager Heather Brooks, City Attorney Erich Schwiesow, and City Clerk Kristi Duarte.

AGENDA APPROVAL. Heather Brooks requested to add to the Executive Session, Pursuant to CRS 24-6-402 (4)(a) to Discuss Potential Real Estate Acquisition - Motorway Building.

It was moved by Councilor Griego and seconded by Councilor Gillaspie to approve the agenda as amended and to excuse Councilors Johnson and Stefano. The motion carried unanimously.

CITIZEN COMMENT

A. Audience Comments. Judy Allen spoke in support of the tennis courts resurfacing project.

CONSENT CALENDAR A. It was moved by Councilor Vigil and seconded by Councilor Coleman to approve Consent Calendar A as presented. The motion carried unanimously. Items:

- C. 2. a. Receive June 2014 Expenditure Report
- C. 7. a. Approve Minutes of Regular Meeting July 2, 2014
- C. 8. a. Receive June 2014 Monthly Reports

REGULAR BUSINESS

C. Business Brought Forward by City Staff

1. Public Works

a. Alamosa County – Request for Fee Relief

Pat Steenburg presented Council the agreement for services with Alamosa County in the amount of \$7597.50. This amount reflects the cost of the building permit and water tap on the new terminal project at the San Luis Valley Regional Airport.

It was moved by Councilor Griego and seconded by Councilor Coleman to approve the Request for Fee Relief as presented. The motion carried unanimously.

2. City Clerk/Municipal Court

a. Resolution No. 8, 2014, A Resolution Adopting Title I in order to participate in the Coordinated Election on November 4, 2014.

It was moved by Councilor Gillaspie and seconded by Councilor Vigil to adopt Resolution No. 8, 2014. The motion carried unanimously.

4. Parks and Recreation

a. Award of Bid, Tennis Court Resurfacing

Heinz Bergann presented Council with the information and details for the Tennis Court Resurfacing project both at Carroll and Boyd parks. It was recommended to award the bid to All Seasons Tennis Courts for \$43,090.00.

It was moved by Councilor Griego and seconded by Councilor Coleman to approve the bid for the Tennis Court Resurfacing project as presented. The motion carried unanimously.

8. City Manager/Legal

a. Public Hearing, Ordinance No. 7, 2014, An Ordinance Approving Two Intergovernmental Agreements with the Colorado Department of Public Safety (Colorado State Patrol) to provide radio dispatch service to the Alamosa Police Department and the Alamosa Fire Department based on the dispatch fee schedules set by the Colorado legislature.

Mayor Lucero opened the Public Hearing at 7:29 p.m. and asked for those wishing to speak on this matter.

Dan McCann spoke in favor of the ordinance.

There being no one further wishing to speak, the hearing closed at 7:31 p.m.

Councilor Griego moved, seconded by Councilor Vigil that Ordinance No. 7, 2014 be finally adopted. The motion carried unanimously.

b. Public Hearing, Ordinance No. 8, 2014, An Ordinance Approving Intergovernmental agreement with the Alamosa School District to provide a School Resource Officer from the Alamosa Police Department to the Alamosa School District.

Mayor Lucero opened the Public Hearing at 7:34 p.m. and asked for those wishing to speak on this matter.

There being no one wishing to speak, the hearing closed at 7:34 p.m.

Councilor Gillaspie moved, seconded by Councilor Coleman that Ordinance No. 8, 2014 be finally adopted. The motion carried unanimously.

c. First Reading, Ordinance No. 9, 2014, An Ordinance establishing a temporary moratorium to the submission, acceptance, processing and approval of any new special use applications for the operation of telecommunications facilities within the City of Alamosa until after November 30, 2014, and declaring the City's intention to consider the development of appropriate regulations for the issuance of such permits.

It was moved by Councilor Griego, seconded by Councilor Vigil, to approve Ordinance No. 9, 2014, on first reading and set it for public hearing thereon on Wednesday, August 6,

2014 at 7:00 p.m. or as soon thereafter as the matter may be heard. The motion carried unanimously.

E. Committee Reports

Councilor Gillaspie gave an update on the golf board.

Councilor Griego gave an update on the airport board.

F. Staff Announcements

Heather Brooks:

- Advised Council that she will be writing a letter to the County regarding a discussion that transpired with a County Commissioner. She advised the letter will apologize for any misleading information.
- Reminded Council of the City Services Fair on Wednesday, July 23rd at 4:30 p.m. at Cole Park.
- Thanked the County, SLV Federal Bank and the city staff for their involvement in the 4th of July events.
- Advised that the letter to Alamosa Schools will be sent out regarding W. 8th Street.

Heinz Bergann:

- Updated Council on the upcoming events.
- Advised Council that they would be applying for a GOCO Grant for dasher boards for the Hockey Program.

Pat Steenburg:

- Updated the Council on the water situation.
- Informed Council on the current construction projects.
- Commended his staff, specifically Farron Hall and Roy Sanchez for their hard work with the water situation.

VIII. LOCAL LIQUOR LICENSING AUTHORITY ACTIONS

A. CONSENT CALENDAR B

It was moved by Councilor Vigil and seconded by Councilor Gillaspie to approve Consent Calendar B as presented. The motion carried unanimously.

B. 1. SLV Brewing Company Temporary Modification of Premises for Search & Rescue event August 16, 2014.

COUNCIL COMMENT

Councilor Griego:

- Advised that he attended the Veterans Coalition meeting.
- He watched the video on the Gary Brice Project and advised Heather to send it to other Council members.
- Commented on the negative comment that was posted on Facebook.

Councilor Gillaspie:

- Thanked Fire Chief Don Chapman for the safety talk he recently presented.

- Thanked the Parks and Recreation crew for mowing the grass and weeds near the golf course.

Councilor Coleman sent his well wishes to Jim Belknap and family and also wished Charlie Griego a Happy Birthday.

Mayor Lucero also sent his well wishes to Jim and that he is our thoughts. He thanked Heather for taking the lead and getting concrete under the park benches.

EXECUTIVE SESSIONS

Pursuant to CRS 24-6-402(4)(a) to Discuss Potential Real Estate Acquisition; and CRS 24-6-402(4)(e) To Discuss Matters Subject to Negotiations, Develop Strategies For Negotiations, and Instruct Negotiators. Specific topic to be discussed in the executive session is the Monroe Street Project.

Pursuant to CRS 24-6-402(4)(a) to Discuss Potential Real Estate Acquisition of the Sicc & Twisted property.

Pursuant to CRS 24-6-402 (4)(f) for Personnel Matters – Evaluation of City Manager.

Pursuant to CRS 24-6-402 (4)(a) to Discuss Potential Real Estate Acquisition - Motorway Building

It was moved by Councilor Griego and seconded by Councilor Vigil to enter into Executive Sessions at 8:31 p.m. pursuant to CRS 24-6-402(4)(a) to Discuss Potential Real Estate Acquisition; and CRS 24-6-402(4)(e) To Discuss Matters Subject to Negotiations, Develop Strategies For Negotiations, and Instruct Negotiators. Specific topics to be discussed in the executive session are the Monroe Street Project, the Sicc and Twisted property and the Motorway Building.

Pursuant to CRS 24-6-402 (4)(f) for Personnel Matters – Evaluation of City Manager.

When back in regular session, Mayor Lucero confirmed that the Executive Sessions were held solely for the stated purpose.

ADJOURNMENT. The meeting adjourned immediately following the Executive Sessions.

ALAMOSA CITY COUNCIL

Wednesday, July 30, 2014

Minutes of the Meeting

A Special Meeting of the Alamosa City Council was called to order on the above date by Mayor Josef Lucero at 6:00 p.m. The Pledge of Allegiance was recited. Present at roll call: Mayor Lucero, Councilors Greg Gillaspie, Charles Griego, Rusty Johnson, Ty Coleman, Jan Vigil and Michael Stefano. A quorum was declared. Also present: City Manager, Heather Brooks.

BUSINESS

A. Executive Session subject to CRS §24-6-402(4)(f) for Personnel Matters – Evaluation of City Manager

It was moved by Councilor Gillaspie and seconded by Councilor Vigil to enter into Executive Session pursuant to CRS §24-6-402(4)(f) for Personnel Matters to evaluate the City Manager. The motion carried unanimously.

When back in Regular Session, Mayor Lucero confirmed that the Executive Session was held solely for the stated purpose.

ADJOURNMENT. The meeting adjourned immediately following the Executive Session.

Kristi Duarte, City Clerk

Josef P. Lucero, Mayor

COUNCIL COMMUNICATION

DATE: August 6, 2014	AGENDA NO. VII, C, 1, a	SUBJECT: Viaero Wireless Request for Permitted Use by Special Review, Lots 18-20, Lakeview Subdivision, Railroad Avenue
Department Head: Public Works Pat Steenburg		
City Manager: Heather Brooks		
PRESENTED BY: Pat Steenburg		

Recommendation: That Council deny the request for permitted use by special review for the installation of a 120' tall open lattice style telecommunications tower and associated facilities per Planning Commission recommendation.

Background: The original staff recommendation to the planning commission regarding this matter was a recommendation for denial based on five different criteria related to the proposed installation. Those five criteria were:

- Applicant claims that they have analytical and quantifiable data that requires the facility be located on this property to optimize their cellular coverage yet no outside studies or information to this effect have been provided to substantiate this claim, nor has applicant provided the data they claim to have to the City.
- Numerous vacant properties exist in the immediate vicinity of the proposed tower location that would effectively move the proposed facility from the middle of an identified city gateway, no evidence has been submitted that would indicate any effort by the applicant has been made to contact these owners, nor have they provided any reasons why such nearby property would not be acceptable.
- The “improvement of gateway corridors into our community” was specifically identified as an action item by City council in our most recent mission statement. The approval of this facility would be in direct opposition to this statement and be contrary to Council’s vision of the future development and appearance of our City.
- Although the property is zoned commercial business and this use is allowed by special review, the area to the north of the proposed facility is predominantly residential. Section 21-118 (a) states that “No special review use application shall be approved unless the approving agency finds that the application (3) “is designed to be compatible with surrounding land uses and the area of its location”. Staff does not feel that the proposed facility is compatible with existing area land uses.
- An existing CDOT tower is in use only 600’ southwest of the proposed location, no evidence has been submitted by the applicant to indicate that any efforts at colocation have been attempted.

A permitted use by special review allows a city to consider, through a public hearing process, special uses which may be essential or desirable to a particular neighborhood, but are not allowed as a matter of right within a certain zoning district. It is designed to permit flexibility within a zoning ordinance and also enables a municipality to control certain uses which it feels could have detrimental effects on the community. In making the recommendation, it was never staffs intent to limit cellular or data service available to the residents of Alamosa and the surrounding area, nor was it staffs intent to limit competition in this business sector. It was simply felt that there existed enough vacant land in the immediate area of the proposed installation that if used would alleviate the negative aesthetic impacts on our southern gateway that would be unavoidable at the proposed location.

In 2011, council created a mission statement that includes action items specific to the areas of economic development, aesthetics, environmental responsibility, and community. The first two action items as related to the

area of aesthetics are one, to “improve gateway corridors into our community”, and two, to “work with local groups to beautify corridors, improve cleanliness, enhance public areas, and provide open space and parks for resident and visitor enjoyment.” Subsequent to much debate, the Planning Commission ultimately felt that the proposed project would be in direct opposition to Council’s vision as communicated in the Mission Statement and recommended denial of the proposed permitted use by special review.

Issue Before the Council: Does Council wish to accept the recommendation of the Planning Commission and deny the requested permitted use by special review.

Alternatives: Council can approve the permitted use as presented; approve with conditions; or deny the permitted use with or without further referral to the Planning Commission.

Fiscal Impact: No significant fiscal impact is anticipated

Legal Opinion: City Attorney will be present for comment.

Conclusion: Viaero Wireless is seeking approval to construct a 120’ tall open lattice style telecommunication tower and associated facilities in the vacant area north of the intersection of US HWY 285, Railroad Avenue and County Road 8 South. This location is in the area between the highway and Railroad Avenue and will create a strong visual impact in our southern gateway.

City of Alamosa
Planning Commission
July 23, 2014
6:00 p.m.
Minutes of the Meeting

The regular meeting of the Planning Commission was called to order on the above date at 6:00 p.m. by Chairperson Shirley White. Present were the following members: Farris Bervig, Debbie Clark, Mark Manzanares and Robert McWhirter. Excused: Barbara Kruse and Don Martinez. A quorum was declared. Staff present: Pat Steenburg, Harry Reynolds and Julie Scott.

Agenda Approval: M/S/C. McWhirter, Clark. Motion was made to approve the agenda as presented. (Unanimous)

Approval of the Minutes: M/S/C. Manzanares, Clark. Motion made to approve the minutes of the June 25, 2014 meeting as presented. (Unanimous)

Regular Business- Conduct Public Hearings

1A. The request of Mark McLauchlan and Claire Van des Plas for a variance from the City Code of Ordinances. The applicants seek relief from the allowed side yard setback of 7ft. to three ft. to allow the addition of an attached garage. The property affected is Lot 21, Val Verde, Block 10, City of Alamosa, Alamosa County, also known as 421 Poncha Ave.

The public hearing opened at 6:01p.m.

White: Please step up to the podium and state your name and address for the record. Let us know what you've changed.

McLauchlan: Mark McLauchlan, 421 Poncha Ave., and since last month's meeting when I was here, I have re-measured the lot and found I have an additional two feet. The building inspector has come by the site. The second issue was drainage; we also have changed the roof arrangement no water will drain on the adjoining property. The third issue was emergency vehicle access. The fire chief visited our property and I believe you have a copy of the conversation I had with him stating he has no problem with this. The variance would be from the required seven feet to three feet.

White: Thank you. Is there anyone else that would like to speak for this? Against?

The public hearing closed at 6:04p.m.

White: Any other questions? Is there a motion?

Bervig: We appreciate that you worked with the building dept. and found a solution.

For the record, all adjacent property owners were notified of the hearing for the revised variance.

M/S/C. McWhirter, Clark. Motion made to approve the revised variance request of Mark McLauchlan and Claire Van des Plas for relief from the required 7 ft. side yard setback to 3 ft. on the south side of the property. The property affected is Lot 21, Val Verde, Block 10, City of Alamosa, Alamosa County, also known as 421 Poncha Ave. (Unanimous)

Staff informed the applicant this was final action on the request. A building permit must be obtained before work begins.

Next Item:

Planning Issues

1B. The request of Viaero Wireless for a Permitted Use by Special Review to allow a telecommunications tower, 120 ft. in height, in a Commercial Business zone (Use Group C-32). The property affected is Lots 18-20, Lakeview, Block L, City of Alamosa, Alamosa County, located on the west side of Railroad Ave. between 11th St. and Highway 285.

The public hearing opened at 6:06 p.m.

White: Please state your name and address for the record. I know we have some new material we just received from you.

Gonzalez: I will be happy to go over that. My name is Ed Gonzalez, Site Acquisition Specialist for Viaero Wireless. Address is 2604 Northcrest Drive, Colorado Springs, CO 80918. I am representing the owners of the property, Zerbi Law Firm, PC for Anna Cordova and Marveen Manzanaraes who own Lot 20 together. We are proposing a permanent 120 ft. telecommunications tower, self- supported, lattice type. There will be a 9' x 17' equipment building, an emergency backup generator, 1,000 gal. propane tank enclosed by a six foot tall security fence. As part of the application, the existing rubble foundation and weeds and debris would be removed. It's on the west side of Railroad Ave., east of Highway 285 as indicated on the site map I submitted.

Staff pulled the site up on Google and indicated the area where the proposed tower would be located.

Gonzalez: To the south the zoning is CB, to the west is CB, north is CB, east is the railroad and the right of way which is industrial in nature and it's about 200 ft. to the residential zoned property to the east. After I put together the application and looked at the zoning code and submitted it, I received a copy of the memo from Pat recommending denial and would like to address that.

Mr. Gonzales went on to explain the “search ring” which is the basis for his search, this is generated by Viaero’s engineers. They analyze deficiencies and find areas to improve service. This area is inside the search ring. This property had a For Sale sign and Viaero came to an agreement with the owners.

He explained there is an explosion in use that is driven by data using smart phones. For example the Galaxy, and tablets as we have moved to 4G coverage, customers are maxing out towers. Flip phones are being phased out. People also want to use electronic devices indoors. Viaero has four cell sites in the Alamosa area. As people switch over to smart phones and tablets the cell towers existing are being maxed out.

He also stated he had contacted numerous property owners in the area but concluded that the proposed site met all the criteria as well as being a permitted use by special review in the commercial business zone.

In regards to the “improvement of gateway corridors” Mr. Gonzales noted that the City did approve the cell tower on the west side of town that was approved by City Council a couple years ago at their retail store. He was not aware of the improvement of gateway corridors as an action item by Council. Beautification of a gateway can take many forms. After they are done, the crumbling foundations will be removed, all weeds and debris will be gone, I would say the site is blighted today. It would be a clean facility. Use by right could be a hotel, retail sales, bar, restaurant and would be a use by right and would have lights increase in traffic and kinds of use with big impact. All these uses would be much more intense than a cell tower site. This use would generate only ten trips per year. There would be property maintenance. I feel it would be an appropriate transitional use. It will not require lighting at the top, it does not require red and white painting, it would be galvanized steel. It will not generate noise, lights, traffic as other allowed uses would.

In response to the proposed facility not being compatible with the existing land use to the north, he stated there is one residence north of the proposed site which is similar to the situation at the retail store on the west side where a residential area is surrounded by commercial and industrial uses. Viaero would be open to discussion as to screening to further soften the transition.

Mr. Gonzalez also stated reasons that co- location with the CDOT tower to the west would not be possible due to the tower being fully populated on the upper half, only 85 ft. tall and below the optimal height needed. He referred to the photo supplied and showed the dipole and metal antennae’s. The only place would be about 6-8 ft. above roof line and would not be usable at such a low level.

Viaero has obtained the state and Federal approvals needed to construct and operate the propose facility at this location along with the State Historical survey. The tower itself is a permitted use by special review. With the exception of the height we meet all those requirements, setbacks. In my opinion I believe it is a good compatible use with the residential area to the north. It I believe it will provide a public benefit. I respectfully request the commission recommend approval.

White: Thank you. Is there anyone else that would like to speak for this proposal? Against? Step up to the microphone and state your name and address.

Romero: Frankie J. Romero, 1012 State, better known as Boogie Romero Jr. I was raised on that land .I own the triangle piece next to this, with my Dad. It will clean up the property, it never used to look like that. I have no problem with the tower being located there. I know the City Council is looking at a moratorium on towers. I was hoping they would buy my land.

Steenburg: Just to clarify the issue, there was a first reading regarding a moratorium on telecommunication towers. We are not trying to discourage it, good cell communication benefits the City, we just want to better address some of the issues with solid ordinances and regulations. We want an opportunity to put together in the zoning ordinances on how to handle these requests.

White: We will be informed of any changes? This does not affect this application, correct?

Steenburg: Yes, it will be incorporated in the zoning regulations. This application was received before the first reading.

White: Okay. Is there anyone else that would like to speak?

Gallegos: Mary Ann Gallegos, my husband and I live in La Jara but we own Lot 21.directly north. We have it for sale it's only one lot and contacted the people next door if they would be interested. We have no use for it. In that way I am for it. There is not much to do. Driving in I don't know if I would like to see a tower but there is a lot of things like that when you drive in. You have a tough job. I am for progress.

The public hearing closed at 6:38 p.m.

Bervig requested clarification on the map of the central Alamosa tower.

The towers are fully populating. It's an issue that needs to be addressed, dropped calls, inability to make calls this tower will be robust enough to handle one or two more carriers and if we can provide the structural stability.

Bervig questioned franchise fees.

Steenburg: no serious discussion on municipally owned towers that I know of.

Gonzalez: Nationally they are talking about doubling the number of cell towers by 2020. We have 15, 16 towers just in the Valley- La Jara is getting another one , Manassa has two, in Monte Vista, Del Norte two, possibly three. This is the magnitude of the problem. Earlier this year, globally there are more cellular devices than people on the planet. This is not just a Viaero problem.

Manzanares: They should all play together. When you started there was an objection to the west tower and the railroad tower. Why in the drive entrances of our community? Why not more hidden areas?

McWhirter: Is council looking at an engineering firm on how to manage this? This is a recommendation, correct?

Steenburg: Assuming the moratorium passes, it will allow us time to prepare a more standardized response to this requests. We will check on how it is handled in other communities. It is not my intent to stifle their business, or any other cell phone business my recommendation for denial is based solely on the location. You have the opportunity to take the recommendation or not.

Manzanares: Back to my question, and also in other communities I have seen towers that are designed to look like trees for example. What about making them blend in with the area?

Gonzalez: To answer the first question, we do try to play nice actually there are multiple carriers on the railroad tower. We make every effort to co-locate on an existing tower. AT& T uses fiber optic and we use microwave, we're trying to provide coverage. Why are we locating in gateway? That is where the traffic is. The further away, the less reliable the coverage. Apple has just introduced technology for cars to become cellular compatible. It's going to get worse and worse. That is what is driving this. We want to be able to provide service while people are at their desks at work. When 5G comes out I will be most likely looking for more sites in Alamosa to fill the holes in coverage.

White: Tonight, he meets all the regs except the height. We are looking at this now, not in the future and what might happen.

Gonzalez: That is correct.

Steenburg: The moratorium has nothing to do with this. The reason for my recommendation is I don't think it's compatible with the residential area to the north.

Gonzalez: I don't know if the gateway plan is a part of the zoning code.

M/S/C. Bervig, Manzanares. Motion made to recommend denial of the request of Viaero Wireless for a permanent telecommunications tower in a Commercial Business zone. The property affected Lots 18-20, Lakeview, Block L, City of Alamosa, Alamosa County, located on the west side of Railroad Ave. between 11th St. and Highway 285 S. (Four yeahs, Manzanares, Clark, McWhirter, Bervig. One nay, White)

The applicant was informed that the recommendation would go to City Council on August 6, 2014.

Other Business:

The weeds at the Alamosa Elementary School were brought up and at the railroad. Weeds were also left at Carroll Park after trimming on the sidewalks.

Correspondence: Distributed.

After no further business, the meeting was adjourned at 7:03 p.m.

Respectfully submitted,

Julie Scott
Recording Secretary



Memo

To: Planning Commission Members

From: Pat Steenburg, Public Works Director

Subject: Viaero Application for Permitted Use by Special Review

Date: July 23, 2014

I have reviewed the request for Permitted Use by Special Review submitted by Viaero Wireless for the construction of a 120' tall, open lattice cellular communications tower and recommend that it be denied for the following reasons:

- Applicant claims that they have analytical and quantifiable data that requires the facility be located on this property to optimize their cellular coverage yet no outside studies or information to this effect have been provided to substantiate this claim, nor has applicant provided the data they claim to have to the City.
- Numerous vacant properties exist in the immediate vicinity of the proposed tower location that would effectively move the proposed facility from the middle of an identified city gateway, no evidence has been submitted that would indicate any effort by the applicant has been made to contact these owners, nor that there is any reason why such nearby property would not be acceptable.

- The “improvement of gateway corridors into our community” was specifically identified as an action item by City council in our most recent mission statement. The approval of this facility would be in direct opposition to this statement and be contrary to Council’s vision of the future development and appearance of our City.
- Although the property is zoned commercial business and this use is allowed by special review, the area to the north of the proposed facility is predominantly residential. Section 21-118 (a) states that “No special review use application shall be approved unless the approving agency finds that the application (3) “is designed to be compatible with surrounding land uses and the area of its location”. Staff does not feel that the proposed facility is compatible with existing area land uses.
- An existing CDOT tower is in use only 600’ southwest of the proposed location, no evidence has been submitted by the applicant to indicate any efforts at colocation have been attempted.



120'

SPEED
LIMIT
35

ONLY ONLY ONLY

FAMILY
DOLLAR



120'

540



July 18, 2014

Pat Steenburg
Director of Public Works
City of Alamosa
PO Box 419
Alamosa, CO 81101

**RE: Letter dated July 11, 2014 and Memo dated July 23, 2014
Alamosa SW Tower Application for Permitted Use by Special Review**

Dear Mr. Steenburg:

I received the letter and memo noted above in which you stated that you would be recommending denial of our zoning application for five reasons. I wanted to take this opportunity to respond your reasons prior to the Planning Commission meeting in addition to making myself available to discuss it in more detail at your convenience prior to the meeting.

Reason 1-You stated that Viaero did not provide analytical and quantifiable data to prove that the facility must be located in the area proposed to optimize our cellular coverage.

Response: Enclosed you will find a copy of the Viaero "search ring" which was the basis for my search. This search ring is generated by our in-house engineers. As you can see, the proposed site is inside the search ring as well as very near the "ideal" site noted on the map.

Reason 2-You stated that numerous vacant properties exist in the immediate area and that Viaero provided no evidence that these property owners were contacted or that these properties were not acceptable.

Response: I did contact a number of property owners in the area, including the City of Alamosa through the former Director of Public Works, Don Koskelin, before concluding that the proposed site met all of our criteria for an acceptable site as well as being a permitted use by special review in the CB zone.

Reason 3-You stated that the "improvement of gateway corridors" was specifically identified as an action item by City Council and that approval of the site would be in direct opposition to this statement.

Response: From what I can gather, there are four major entrance corridors to the city. Highway 17 from the north, Highway 160 from the east and west and Highway 285 from the south. At all of these points there are existing towers near the highway. One of note was approved by City Council a couple of years ago at our retail store on the west side.



A review of the site photos included in the application or a visit to the site would reveal that between the partially demolished home and the existing debris and weeds, it would be reasonable to characterize the site as blighted as it exists today. Further, a tour of our existing facilities in and around the Alamosa area would reveal that Viaero has established a good reputation for having well maintained and neat sites.

As part of our development of the site Viaero will agree that as a condition of approval, all remnants of the old home will be removed along with all debris and weeds. Because the proposed facility would clean up the site, it is my opinion that our proposed use would be an improvement to the southern gateway area and thereby in keeping with the wishes of City Council.

Reason 4-You feel that the proposed facility is not compatible with existing land use to the north.

Response: An overview of the surrounding areas reveals that to the south, west and northwest, all of the uses are commercial or industrial in nature. Across the street to the east, there is vacant land owned by the railroad that is zoned residential but is in reality an industrial use.

There is one residence north of the proposed site in a CB zone. This is similar to the situation at our retail store on the west side where a residential area is surrounded by commercial and industrial uses. At our retail store, the 150' tower is about 100' away from a number of residences. In this case, the proposed tower is 120' tall, one lot and approximately 150' away from one residence. A copy of the Assessor's map with surrounding land uses highlighted is included.

The proposed site is in what could be classified as a transitional area between residential uses and more intense commercial uses that would naturally occur adjacent to a major arterial into the city. I submit that an operational tower that will generate approximately one trip per month, does not produce any obnoxious odors, excessive noise, or other hazardous conditions is a reasonable transitional use between commercial and residential uses and will help to minimize the impact more intense nearby commercial uses will have on the existing residence. Additionally, Viaero would be open to discussing other methods of screening to further soften the transition.

Reason 5-There is an existing CDOT tower near the site and Viaero did not attempt to collocate on it.

Response: The CDOT tower near our proposed site was not considered for collocation for two reasons. The first was because the 85' height was far below our optimal height for this location. Secondly, the upper portion of the tower is fully populated with existing equipment which would force us to place our equipment on the bottom half of the tower. This would result in an



ineffective location for our needs thereby increasing the need for an additional tower in the area. A photo of the CDOT tower is included for your reference.

Telecommunication facilities are large capital investments and are not proposed without serious consideration and analysis. That is why after finding a willing land owner and before going under contract, I met on site with the former Director of Public Works, Don Koskelin. He didn't voice any significant concerns to me at the time, so I moved forward with the project.

Viaero has already obtained all necessary State and Federal approvals needed to construct and operate the proposed facility at this location. Copies of key approvals from the Federal Aviation Administration and the State Historic Preservation Officer were included in the application.

While I make no claim to be an expert on Alamosa's zoning code, I could not find any zoning regulations that would require Viaero to:

1. Prove that the proposed use is needed at this location,
2. Prove that all other possible locations had been considered and rejected,
3. Prove that the proposed use was an improvement to the gateway corridor and,
4. Prove that collocation had been considered.

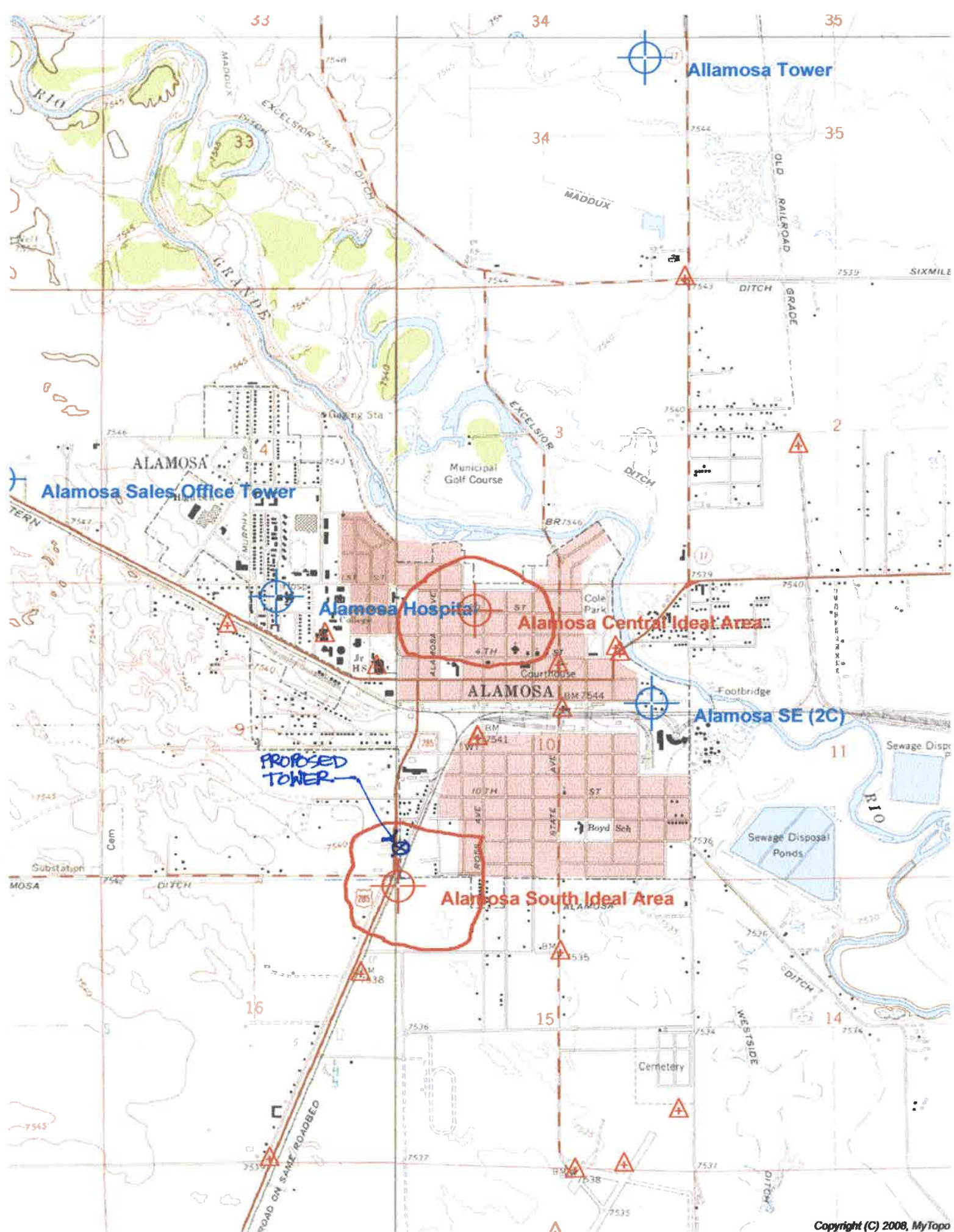
Therefore, these reasons don't appear to be zoning code based justifications for a recommendation of denial. While compatibility with surrounding land uses is an important consideration and addressed in the code, it is my opinion that this is an appropriate, low impact, transitional use between the existing commercial uses and the residential use to the north and is therefore compatible. For these reasons I respectfully request that you reconsider your position and recommend approval of our application to the Planning Commission.

Please pass along a copy of my letter to the Planning Commissioners and feel free to contact me if you should have any questions or comments.

Sincerely

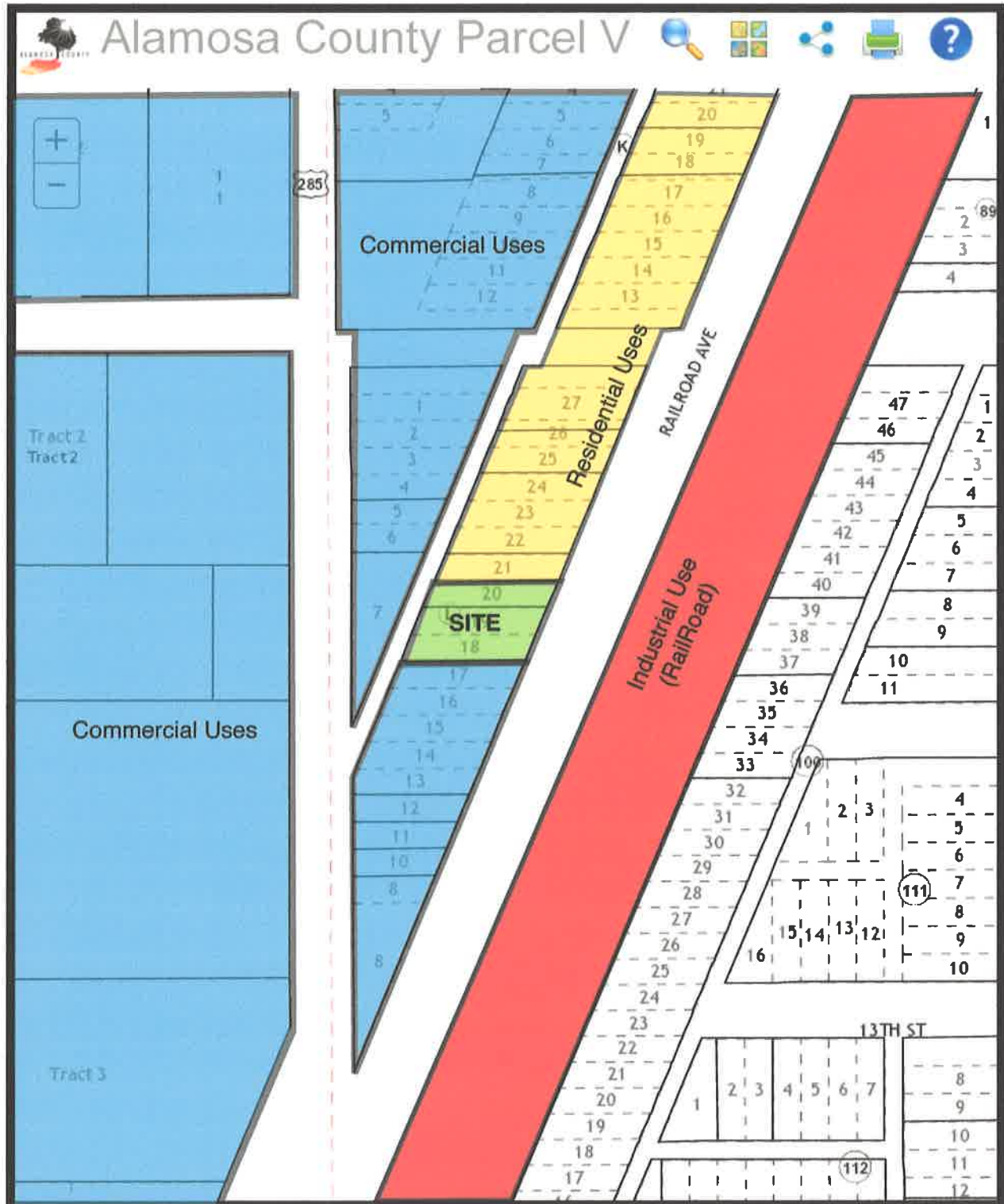
A handwritten signature in blue ink, appearing to read "Edward Gonzalez", is written over a large, stylized blue circular mark that resembles a stylized "G" or a large loop.

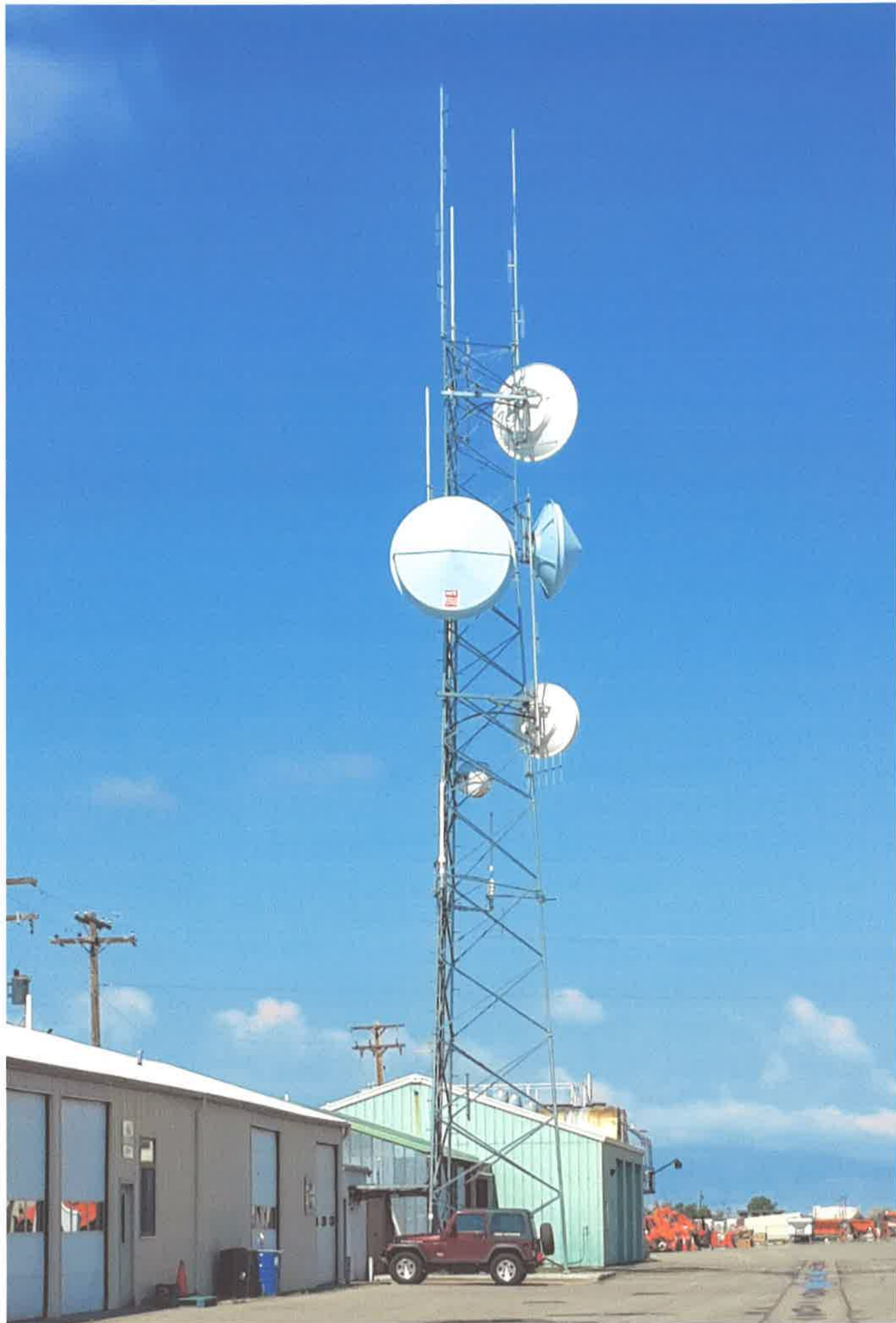
Edward Gonzalez
Site Acquisitions Specialist
Viaero Wireless
2604 Northcrest Drive, Colorado Springs, CO 80918
719-691-4400
edward.gonzalez@viaero.co



Alamosa SW Tower

Surrounding Land Uses





COUNCIL COMMUNICATION

DATE: August 6, 2014	AGENDA NO. VII, C, 1, b	SUBJECT: Annexation Petition, Stacey Foote
Department Head: Public Works Pat Steenburg		
City Manager: Heather Brooks		
PRESENTED BY: Pat Steenburg		

Recommendation: That council pass resolution 10-2014 accepting the annexation petition as being substantially complete as presented and set it for a public hearing on September 17th, 2014.

Background: This property is located at the east end of Leroy Street. Water and sewer have been in service at the existing home on the property for many years. It is the intent of the applicant to subdivide the property after annexation for the creation of an additional building site. We have experienced difficulties with the existing sewer that serves the property and its neighbors because of little use and low flows, the addition of another home to the line will improve the situation by increasing flows and shortening the line somewhat.

Issue Before the Council: Does council wish to accept this petition and set the matter for public hearing?

Alternatives: As long as the petition is in substantial compliance with state statute council has little option but to accept the petition and set the public hearing but is not obligated in any way to annex the property if you feel it is not in the best interests of the City.

Fiscal Impact: There is no financial impact in accepting the petition other than the costs associated with the subsequent public hearing.

Legal Opinion: City Attorney will be present for comment.

Conclusion: This annexation will split an existing enclave within the city, resulting in two enclaves. This is an undesirable situation but staff feels that the improvements in sewer function and the efficient land use proposed by the ultimate division of land outweigh the disadvantages.

RESOLUTION NUMBER 10-2014

A RESOLUTION FINDING SUBSTANTIAL COMPLIANCE OF THE FOOTE ANNEXATION PETITION FOR THE ANNEXATION OF A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER (SW1/4NE1/4) OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 10 EAST, NEW MEXICO PRINCIPAL MERIDIAN, ALAMOSA COUNTY, COLORADO; AND SETTING FORTH DETAILS IN REGARDS THERETO; AND SETTING A DATE FOR A PUBLIC HEARING TO CONSIDER SAID PETITION:

WHEREAS, the owners of 100% of the real property included in an area proposed to be annexed, lying generally east of the east end of Leroy Street and north of Carroll Street, Alamosa County, Colorado (which area is described in exhibit A attached hereto and made a part hereof by reference), excluding public streets and alleys and any land owned by the City of Alamosa, have filed a petition for annexation of said area with the City Clerk of the City of Alamosa, Colorado, requesting the City to commence proceedings for the annexation of said area; and

WHEREAS, having received the petition for annexation, the City Council is required under the *Municipal Annexation Act of 1965*, as amended, to determine whether said petition is in substantial compliance with C.R.S. Section 31-12-107 (1), and if so, to follow the procedure set forth in C.R.S. Sections 31-12-108 through 111;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALAMOSA, COLORADO:

1. City Council hereby finds that the petition for annexation has been signed by 100% of the landowners in the area proposed to be excluding public streets and alleys and any land owned by the City of Alamosa.
2. The City Council hereby finds that the petition for annexation is in substantial compliance with the requirements of C.R.S. Section 12-31-107 (1), as amended.
3. City Council hereby finds that it has the necessary jurisdiction to proceed with the annexation of said area.
4. The City Council hereby determines that it shall hold a public hearing to determine if the proposed annexation complies with Sections 31-12-104 and 31-12-105, C.R.S., as amended, to establish whether or not said area is eligible for annexation under the *Municipal annexation act of 1965*, said hearing to be held at a regular meeting of the City Council on the 17th day of September, 2014 at 7:00 p.m., in the Council Chambers at City Hall, 300 Hunt Avenue, Alamosa, Colorado.
5. The City Clerk is hereby directed to give notice of said public hearing in accordance with the provisions of Section 31-12-108 (2), C.R.S., as amended.
6. This resolution shall take effect upon its adoption.

REVIEWED, CONSIDERED, APPROVED AND ADOPTED this 6th day of August, 2014.

City of Alamosa, Colorado

Josef F. Lucero

Attest: (SEAL)

Kristi Duarte, City Clerk

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY TO BE ANNEXED INTO THE CITY OF ALAMOSA

A tract of land located in Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 4, Township 37 North, Range 10 East, New Mexico Principal Meridian, Alamosa County, Colorado, more particularly described by metes and bounds as follows:

Beginning at a point of intersection of the east line of the existing city limits of the City of Alamosa and the north line of a tract of land described at Book 223, Page 41, Alamosa County records, monumented by a $\frac{3}{4}$ " smooth bar, from which the Northwest corner of said Section 4 bears N $63^{\circ}03'03''$ W a distance of 3124.11 feet; thence S $89^{\circ}54'07''$ E along the North line of said tract a distance of 464.37 feet to a point monumented by a 24" No. 4 rebar with 1.5" aluminum cap marked "Russell 22583"; thence S $60^{\circ}03'37''$ W along the South line of said tract a distance of 399.81 to a point monumented by a 24" No. 4 rebar with 1.5" aluminum cap marked "Russell 22583"; thence N $30^{\circ}28'44''$ W along said existing city limits a distance of 232.46 feet to the Point of Beginning, containing 1.067 acres, more or less, and subject to any and all existing easements and/or rights of way of whatsoever nature, including but not limited to an easement of existing levee for the Rio Grande River as shown hereon.

3. PETITION FOR ANNEXATION

(100% Property Owner Petition)

The undersigned landowners ("Petitioners"), in accordance with the Municipal Annexation Act of 1965 (Article 12, Chapter 31, C.R.S., as amended) hereby petition the City Council of the City of Alamosa, Colorado, for annexation to the City of Alamosa of the unincorporated territory more particularly described below, and in support of said Petition, your Petitioners allege that:

- (1) It is desirable and necessary that the following described territory be annexed to the City of Alamosa, Colorado:

A tract of land located in Southwest Quarter of the Northeast Quarter (SW 1/4NE 1/4) of Section 4, Township 37 North, Range 10 East, New Mexico Principal Meridian, Alamosa County, Colorado, more particularly described by metes and bounds as follows:

Beginning at a point of intersection of the east line of the existing city limits of the City of Alamosa and the north line of a tract of land described at Book 223, Page 41, Alamosa County records, monumented by a 3/4" smooth bar, from which the Northwest corner of said Section 4 bears N 63°03'03" W a distance of 3124.11 feet; thence S 89°54'07" E along the North line of said tract a distance of 464.37 feet to a point monumented by a 24" No. 4 rebar with 1.5" aluminum cap marked "Russell 22583"; thence S 60°03'37" W along the South line of said tract a distance of 399.81 to a point monumented by a 24" No. 4 rebar with 1.5" aluminum cap marked "Russell 22583"; thence N 30°28'44" W along said existing city limits a distance of 232.46 feet to the Point of Beginning, containing 1.067 acres, more or less, and subject to any and all existing easements and/or rights of way of whatsoever nature, including but not limited to an easement of existing levee for the Rio Grande River as shown on the associated plat.

The Petitioners are owners of property located within such area proposed to be annexed.

- (2) Not less than one-sixth (1/6) of the perimeter of the area proposed to be annexed is contiguous with the City of Alamosa.
- (3) A community of interest exists between the area proposed to be annexed and the City of Alamosa, Colorado.
- (4) The area to be annexed is urban or will be urbanized in the near future.
- (5) The undersigned comprise one hundred percent (100%) of the landowners in the area proposed to be annexed, and said landowners attest to the facts contained in this Petition and agree that the subject area may be annexed to the City of Alamosa without the necessity of an annexation election.
- (6) No land in the area proposed to be annexed which is held in identical ownership and consisting of either a single tract or parcel or two or more contiguous tracts or parcels have been divided into separate parcels without the written consent of the landowners thereof

- (7) No land in the area proposed to be annexed, which is held in identical ownership and comprising twenty (20) or more acres and having an assessed valuation for tax purposes in excess of \$200,000, has been included in the area proposed to be annexed without the written consent of the landowner(s).
- (8) No part of the area proposed to be annexed is more than three (3) miles from a point in the municipal boundary, as such was established more than one (1) year before this annexation will take place.
- (9) The area proposed to be annexed is located solely within unincorporated Alamosa County, Colorado.
- (10) The undersigned request that the City of Alamosa, Colorado approve the annexation of the area proposed to be annexed.
- (11) The signature, the mailing address, and the legal description of the land owned by each of the undersigned Petitioner(s), including the date of the signing of each signature are all shown on the signature sheets which are attached to and made a part of this Petition.
- (12) There is attached hereto the affidavit of each circulator of this Petition, whether consisting of one or more sheets, that each signature hereon is the signature of the person whose name it purports to be.
- (13) Accompanying this Petition are four (4) copies of the Annexation Map containing the following information:
 - (a) A written legal description of the boundaries of the area proposed to be annexed;
 - (b) A map showing the boundary of the area proposed to be annexed;
 - (c) Within the annexation boundary map there is shown the location of each ownership tract in un-platted land, and, if part or all of the area proposed to be annexed is platted, then the boundaries and the plat numbers of the plots or of lots and blocks.
 - (d) Next to the boundary of the area proposed to be annexed is drawn the contiguous boundary of the Town of Alamosa, and the contiguous boundary of any other municipality abutting the area proposed to be annexed.
- (14) The area proposed to be annexed is not presently a part of any incorporated city, city and county, or town.
- (15) The petitioner(s) hereto acknowledge the fact that the City of Alamosa is not legally obligated to annex the described area, and if the City does annex the described area, the annexation shall be contingent upon the conditions and agreement of the petitioner(s) to the conditions as set forth in a proposed "Annexation Agreement", which the petitioner(s) agree to enter into prior to the effective date of this annexation.

Wherefore, the Petitioner(s) request that the City Council of the City of Alamosa, Colorado, approve the annexation of the area described herein.

By: Stacey Joyce Foote, Trustee Date: 7/29/2014
STACEY JOYCE FOOTE, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF SYLVIA JOYCE FOOTE, A/K/A
JOYCE FOOTE, DECEASED

Mailing Address: 829 West Country Lane, Payson, AZ 85541-6643

Are you a resident of the area to be annexed? () Yes (☒) No

Legal Description of land owned:

A tract of land located in Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 4, Township 37 North, Range 10 East, New Mexico Principal Meridian, City of Alamosa, Alamosa County, Colorado, containing 1.96 acres, more or less, which tract is more particularly described by metes and bounds as follows, to-wit:

Beginning at the Northwest corner of the tract herein described, whence the Northwest corner of said Section 4 bears N 62°12'30" W a distance of 3033.52 feet; thence S 00°07'00" W a distance of 100.00 feet to a point; thence S 89°53'00" E a distance of 72.62 feet; thence S 00°07'00" W distance of 240.00 feet to the Southwest corner of the tract herein described; thence S 89°53'00" E distance of 95.00 feet to the Southeast corner of the tract herein described; thence N 0°07'00" E a distance of 110.00 feet to a point; thence N 60°07'00" E a distance of 460.00 feet, more or less, to a point in the center of the Rio Grande, the Northeast corner of the tract herein described; thence N 89°53'00" W a distance of 566.00 feet more or less to the Point of Beginning.

EXCEPTING Therefrom the tract of land 95 feet x 110 feet as particularly described in Warranty Deed from grantees herein to Bonney Construction, Inc., recorded October 6, 1972, in Book 215 at Page 326 of the records of Alamosa County, Colorado.

FOOTE ANNEXATION

TO THE CITY OF ALAMOSA
LOCATED IN SOUTHWEST QUARTER OF THE NORTHEAST QUARTER (SW 1/4 NE 1/4)
OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 10 EAST,
NEW MEXICO PRINCIPAL MERIDIAN,
ALAMOSA COUNTY, COLORADO

KNOW ALL MEN BY THESE PRESENTS that the undersigned "PETITIONERS" in accordance with the Municipal Annexation Act of 1932 (Article 12, Chapter 31, C.R.S., as amended) hereby petition the City Council of the City of Alamosa, Colorado, for annexation to the City of Alamosa of the unincorporated territory more particularly described as follows:

A tract of land located in Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of Section 4, Township 37 North, Range 10 East, New Mexico Principal Meridian, Alamosa County, Colorado, more particularly described by metes and bounds as follows:

Beginning at a point of intersection of the east line of the existing city limits of the City of Alamosa and the north line of a tract of land described at Book 223, Page 41, Alamosa County records, monumented by a 3/4" smooth bar, from which the Northwest corner of said Section 4 bears N 63°03'03" W a distance of 3124.11 feet; thence S 89°54'07" E along the North line of said tract a distance of 464.37 feet to a point monumented by a 24" No. 4 rebar with 1.5" aluminum cap marked "Russell 22583"; thence S 60°03'37" W along the South line of said tract a distance of 399.81 feet to a point monumented by a 24" No. 4 rebar with 1.5" aluminum cap marked "Russell 22583"; thence N 30°28'44" W along said existing city limits a distance of 232.46 feet to the Point of Beginning, containing 1.067 acres, more or less, and subject to any and all existing easements and/or rights of way of whatsoever nature.

SIGNED:

Stacey J. Foote, Executor
SYLVIA JOYCE FOOTE ESTATE

STATE OF COLORADO } SS
COUNTY OF ALAMOSA }

The foregoing was acknowledged before me this ____ day of ____, 2012, by Stacey J. Foote, as executor of the Sylvia Joyce Foote Estate. Witness my hand and seal. My commission expires ____.

SIGNED:

Notary Public

ACCEPTANCE OF ANNEXATION

The Annexation as shown on this plat is hereby accepted and approved by the City of Alamosa on this ____ day of ____, 2012.

SIGNED:

Mayor

ATTEST:

City Clerk

SURVEYOR'S STATEMENT

I, Daniel M. Russell, a duly registered land surveyor in the State of Colorado, do hereby state that this plat was prepared from the notes of an actual field survey performed by me or under my direct supervision and is true and correct to the best of my knowledge and belief.

Date

CLERK AND RECORDER'S CERTIFICATE

STATE OF COLORADO } SS
COUNTY OF ALAMOSA }

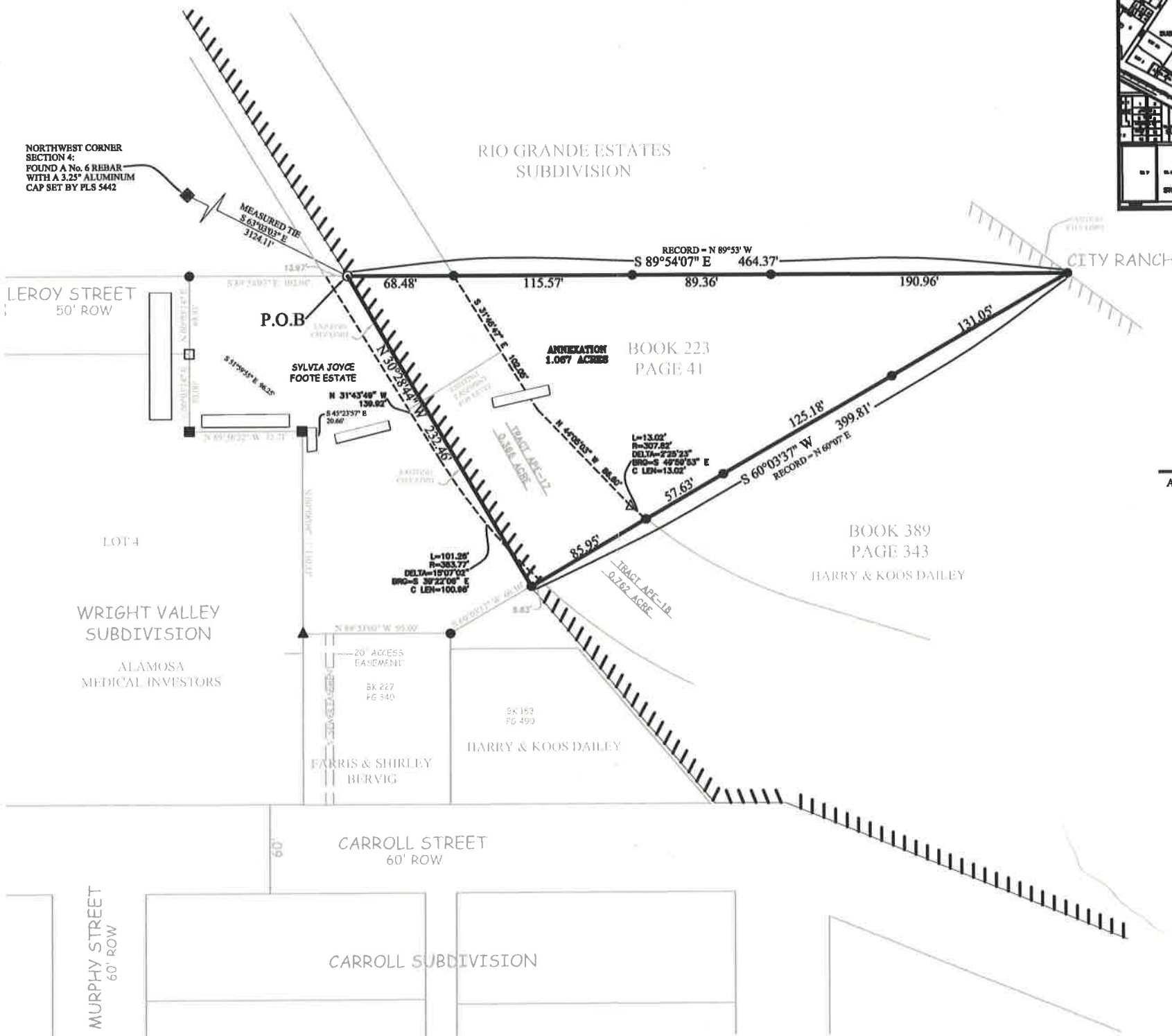
I hereby certify that this instrument was filed in my office at ____ O'clock, ____ M,

the ____ day of ____, 2012, and is duly recorded under Reception

No. ____, and is Filed In Plat Cabinet ____, Map No. ____.

SIGNED:

Recorder



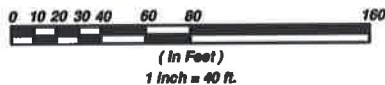
Location Map
Not to Scale



BEARING BASIS

ALL BEARINGS ARE BASED ON THE ASSUMPTION THAT THE NORTH LINE OF THE PROPERTY SHOWN HEREON BEARS S 89°54'07" E MONUMENTED AS SHOWN HEREON.

GRAPHIC SCALE



LEGEND

- Section or Quarter Section Corner, As Described
- Found 1/2" Rebar with 1.5" Aluminum Cap, PLS No. 23891
- Found 3/4" Smooth Bar
- Found 1/2" Rebar with 1.5" Yellow Plastic Cap, PLS No. 16128
- Found 1/2" Rebar with 1.5" Aluminum Cap, PLS Illegible
- Found Smooth Steel Pin, No Cap
- Set a 24" No. 4 Rebar 1.5" Aluminum Cap, marked "Russell 22583"
- Annexation Boundary
- Existing City Limit
- Record Call
- Measured Call
- Adjoiners Boundary

RECORD = N 89°53' W
S 89°54'07" E 464.37'

TOTAL PERIMETER LENGTH OF ANNEXATION = 1096.64 FEET
CONTIGUOUS WITH EXISTING CITY LIMITS OF ALAMOSA = 232.46 FEET
PARCEL IS 21.19 % CONTIGUOUS

NOTE: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than two years from the date of the certification shown herein.



RUSSELL SURVEYORS & ASSOCIATES, INC.
6820 S. Hwy. 17, ALAMOSA, COLORADO 81101
(P) 719/587-3630 (F) 719/587-3632

FOOTE ANNEXATION
TO THE CITY OF ALAMOSA
LOCATED IN SOUTHWEST QUARTER OF THE NORTHEAST QUARTER
(SW 1/4 NE 1/4) OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 10 EAST,
NEW MEXICO PRINCIPAL MERIDIAN,
ALAMOSA COUNTY, COLORADO

SHEET
NUMBER
1 OF 1

DRAWN: CTW
CHECKED: DMR
DATE: 8-7-12
DRAWING NAME:
R01101
FOOTE
ANNEXATION
CLIENT:
ROBERT
FOOTE
REVISIONS:

JOB NUMBER
R01101



DATE: July 15, 2014	AGENDA NO.	SUBJECT: An ordinance establishing a temporary moratorium on the submission, acceptance, processing, and approval of any new special use applications for the operation of telecommunications facilities within the City of Alamosa Effective July 11, 2014 through November 30, 2014, and declaring the City's intention to consider the development of appropriate regulations for the issuance of such permits
Department Head: Pat Steenburg		
City Manager: Heather Brooks		
PRESENTED BY: Erich Schwiesow		

Recommendation:

It is the recommendation of staff to adopt alternative 1 passing the ordinance on first reading and setting the ordinance for a public hearing as presented or amended.

Background: This ordinance provides for a moratorium on the acceptance and processing of applications for use by special review for telecommunications facilities. Telecommunications facilities, including cell towers, are allowed by right in industrial zones, and by special review in agricultural, commercial business, and commercial light zones. They are prohibited in all residential zones. Recently, Viaero Wireless presented an application for a tower directly behind what was the Blanca's Fiesta restaurant at the intersection of Highway 285 and Railroad Avenue, which is one of the gateway areas into the City. This application would not be affected by the moratorium, but it points out the need for development of standards with respect to the siting of such facilities, and appropriate conditions for the special use permits. The City expects to see increasing numbers of applications for such facilities. The *Code of Ordinances* does not provide guidelines or regulations for the standards to be applied for such facilities other than those contained in the general standards for use by special review, generally requiring compatibility with surrounding land uses and the area of their location. Such guidelines or regulations would be helpful for the orderly processing of applications for special use permits for telecommunications facilities and for ensuring that such facilities are developed in a manner that is beneficial for the City's current configuration and future growth. A moratorium on the submission, acceptance, processing, and approval of special use applications for the operation of telecommunications facilities until after November 30, 2014, will allow City staff, the City Planning Commission, and City Council an opportunity to consider and develop regulations concerning telecommunications facilities

Issue Before the Council: Does Council wish to establish a temporary moratorium on the acceptance and processing of applications for special use permits for telecommunications facilities in order to develop regulations regarding such facilities?

Alternatives:

Alternative 1: Adopt the proposed ordinance creating the temporary moratorium expiring November 30, 2014 on first reading, and set for public hearing.

Alternative 2: Adopt the proposed ordinance with a different expiration date.

Alternative 3: Decline to adopt the proposed ordinance, and give staff further direction.

Fiscal Impact: Staff does not anticipate any fiscal impact as a result of this ordinance.

Legal Opinion: The City Attorney will be present for any comments.

Conclusion:

The proposed ordinance would provide time for the City to consider appropriate regulations governing the standards applicable to the siting and location of telecommunications facilities within the City of Alamosa prior to further development of such facilities, so that such development may proceed in an orderly fashion.

ORDINANCE NO. 9, 2014

AN ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM ON THE SUBMISSION, ACCEPTANCE, PROCESSING, AND APPROVAL OF ANY NEW SPECIAL USE APPLICATIONS FOR THE OPERATION OF TELECOMMUNICATIONS FACILITIES WITHIN THE CITY OF ALAMOSA EFFECTIVE JULY 11, 2014, THROUGH NOVEMBER 30, 2014, AND DECLARING THE CITY'S INTENTION TO CONSIDER THE DEVELOPMENT OF APPROPRIATE REGULATIONS FOR THE ISSUANCE OF SUCH PERMITS

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 siting of telecommunications facilities in past years, but is seeing an increase in the number of cell tower sites under consideration or development within the City; and

WHEREAS, the Alamosa *Code of Ordinances* addresses zoning considerations for the locations of telecommunications facilities in Section 21-97; and

WHEREAS, the *Code of Ordinances* does not provide guidelines or regulations for the standards to be applied for such facilities other than those contained in the general standards for use by special review, generally requiring compatibility with surrounding land uses and the area of their location; and

WHEREAS, such guidelines or regulations would be helpful for the orderly processing of applications for special use permits for telecommunications facilities and for ensuring that such facilities are developed in a manner that is beneficial for the City's current configuration and future growth; 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 siting and appropriate conditions for such telecommunications facilities be explored and developed; and

WHEREAS, a moratorium on the submission, acceptance, processing, and approval of new special use applications for the operation of telecommunications facilities effective July 11, 2014 through November 30, 2014, will allow City staff, the City Planning Commission, and City Council an opportunity to consider and develop regulations concerning telecommunications facilities; and

WHEREAS, a moratorium on the submission, acceptance, processing, and approval of special use applications for the operation of telecommunications facilities

until after November 30, 2014, is a reasonable length of time to allow for the consideration and, if appropriate, development of such regulations and guidelines, and will not unduly prejudice applicants for such special use permits;

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

Section 1. Moratorium on New Telecommunications Facilities Applications. A moratorium is hereby established on the submission, acceptance, processing, and approval of new special use applications for the operation of telecommunications facilities effective July 11, 2014, through November 30, 2014, unless sooner lifted by action of Council or made moot by the adoption of regulations governing standards for such facilities. City staff and the City of Alamosa Planning Commission are directed not to accept for filing or process any new applications for use by special review for any such telecommunications facilities while this moratorium is in effect.

Section 2. Staff Direction. City staff and the City Planning Commission shall investigate issues surrounding the use and siting of telecommunications facilities within the City of Alamosa and prepare a proposed ordinance concerning the standards applicable to the use by special review for telecommunications facilities 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 16th day of July, 2014, 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 6th

day of August, 2014, 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 6th day of August, 2014.

CITY OF ALAMOSA

By _____
Josef Lucero, Mayor

ATTEST:

Kristi Duarte, City Clerk

COUNCIL COMMUNICATION

DATE:	AGENDA NO. VII. C.7. b.	SUBJECT: First Reading, Ordinance No. 10, 2014, An Ordinance Approving An IGA with Alamosa County For Conduct of the November 4, 2014 Coordinated Election
Department Head: Kristi Duarte, City Clerk		
City Manager: Heather Brooks		
PRESENTED BY: Kristi Duarte		

Recommendation

Introduce the ordinance on first reading and set a public hearing for Wednesday, August 20, 2014.

Background

The City has one ballot issue for the November 4, 2014 election, that being the question of the issuance of debt for the Carroll Subdivision SID, which will only be submitted to electors of the district, being those electors eligible to vote who reside or who or whose spouse owns property within the SID. The County Clerk has estimated the City's proportional cost at approximately \$1,000.

Since the inception of Coordinated Elections in 1993, the City has coordinated its Regular Election with Alamosa County. This IGA specifies the responsibilities for each party in conducting the election. The terms of the IGA are the same as in past elections.

Issue Before the Council

Does Council wish to enter into the IGA with Alamosa County to conduct the November 4, 2014 coordinated election?

Alternatives

1. Introduce the ordinance on first reading and set a public hearing for August 20, 2014.
2. Do not introduce the ordinance and take no action. The result of this alternative would be to require conducting an independent polling place election on the same day as the County's mail ballot election. Because the City does not possess the necessary equipment to conduct an independent election and Alamosa County's equipment would be in use on the same day, this option would require an extremely high financial investment in order to secure equipment, if in fact such equipment could even be located.

Fiscal Impact

The \$1000.00 cost will be passed on to the property owners if the vote is successful or it will be paid by Mr. VanRy if the vote is unsuccessful.

Legal Opinion

Counselor Schwiesow has reviewed the IGA, and will be available at the meeting if needed.

Conclusion

Coordinated elections have proven to be convenient for the voter and have increased voter turnout. Adopting this IGA will continue the history the City has had in conducting its elections in this manner.

ORDINANCE NO. 10, 2014

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH ALAMOSA COUNTY FOR CONDUCT OF THE NOVEMBER 4, 2014, COORDINATED ELECTION FOR APPROVAL OF BONDED INDEBTEDNESS FOR A SPECIAL IMPROVEMENT DISTRICT

WHEREAS, the City Council intends to submit the question of the issuance of bonds for construction of improvements in the Carroll Subdivision No. 2 special improvement district to the electors of that district at the November 4, 2014 election; and

WHEREAS, the City Council has determined that it is in the best interest of the City to conduct a coordinated election pursuant to the Uniform Election Code of 1992 for the election scheduled for November 4, 2014 and has adopted Resolution 8, 2014 formalizing that decision; and

WHEREAS, an Intergovernmental Agreement is required pursuant to CRS 1-7-116(2) to specify the duties and responsibilities in conducting a coordinated election;

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

Section 1. Approval of Intergovernmental Agreement. The Intergovernmental Agreement attached to this Ordinance is hereby adopted and approved, and the Mayor is directed to execute the Agreement on behalf of the City of Alamosa.

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

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

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

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

INTRODUCED, READ AND APPROVED on first reading the 6th of August 2014, 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 20th day of August 2014, 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 20th day of August 2014.

CITY OF ALAMOSA

By _____
Josef Lucero, Mayor

ATTEST:

Kristi Duarte, City Clerk

INTERGOVERNMENTAL AGREEMENT FOR GENERAL ELECTION

This Intergovernmental Agreement concerning responsibilities for the November 4, 2014, Election is entered into by the Alamosa County Clerk and Recorder, hereafter referred to as "County Clerk" and the City of Alamosa, a Municipal Corporation of the State of Colorado, hereafter referred to as "City", collectively as the "Parties". The Parties agree to cooperate and contract for the purpose of conducting the 2014 General Election.

WITNESSETH

WHEREAS, pursuant to C.R.S. §1-7-116(2), as amended, the County Clerk and the City shall enter into an agreement for the administration of their respective duties concerning the conduct of the General election to be held on November 4, 2014 ("Election"); and

WHEREAS, the County Clerk and the City are authorized to conduct elections as provided by law;

WHEREAS, the County Clerk will conduct the Election as a "Mail ballot election" as such term is defined in the Uniform Election Code of 1992, C.R.S. Title 1, as amended ("Code") and the current Colorado Secretary of State Election Rules, as amended ("Rules");

WHEREAS, the City has certain ballot race(s), ballot issue(s) and/or ballot question(s) to present to its eligible electors and shall participate in this Election; and

NOW, THEREFORE, for and in consideration of the promises herein contained, the sufficiency of which is hereby acknowledged, the County Clerk and the City agree as follows:

ARTICLE I PURPOSE AND GENERAL MATTERS

A. Goal.

The purpose of this Agreement is to set forth the respective tasks in order to conduct the Election and to allocate the cost thereof.

B. General Election Official.

The County Clerk shall act as the "General Election Official" ("CEO") in accordance with the Code and Rules and shall conduct the Election for the City.

The County Clerk, Melanie Woodward, whose telephone number is 719-589-6681, is the "Contact Officer", to act as the primary liaison between the County Clerk and the City. The Contact Officer shall have primary responsibility for the coordination of the Election with the City.

C. Designated Election Official.

The City designates _____ as its "Designated Election Official" ("DEO") to act as primary liaison between the City and the Contact Officer. The DEO shall have primary responsibility for Election procedures to be handled by the City. The DEO shall act as the "designated election official" in accordance with the Code and Rules. The DEO shall be readily available and accessible during regular business hours, and at other times when notified by the Contact Officer in advance, for the purposes of consultation and

decision-making on behalf of the City. In addition, the DEO is responsible for receiving and timely responding to inquiries made by its voters or others interested in the City's election.

D. Jurisdictional Limitation.

The City encompasses territory within Alamosa County, Colorado. This Agreement shall be construed to apply only to that portion of the City situated within Alamosa County.

E. Term.

The term of this Agreement shall be from the date set forth above through December 31, 2014 and shall apply only to the Election.

**ARTICLE II
DUTIES OF THE COUNTY CLERK**

A. Voter Registration.

Supervise, administer and provide necessary facilities and forms for all regular voter registration sites.

B. Ballot Preparation.

1. Layout the text of the ballot in a format that complies with Code and Rules. To avoid ballot space issues, the County Clerk requests each ballot issue and ballot question are not more than 250 words.

2. The County Clerk will assign the letter and/or number of the City's ballot issue(s) or ballot question(s) which will appear on the ballot, and provide this assignment to the City.

3. Provide ballot printing layouts and text for the City's review and signature. If the City fails to provide approval by the required deadline, the content is to be considered approved.

4. Certify the ballot content to the printer(s).

5. Contract for ballots.

C. Voter Lists.

Upon request of the City, create and certify a list of registered voters containing the names and addresses of each elector of the district (See CRS 31-25-501(17) eligible to vote in Carroll Subdivision No. 2, Special Improvement District.

D. Election Judges.

Appoint and compensate a sufficient number of election judges.

E. Mail Ballot and Walk-in sites.

1. Provide that mail ballot packets be mailed to every active elector and that the Election shall be conducted in accordance with C.R.S. Title 1, Article 7.5.

2. Conduct mail, accessible, and emergency voting. Coordinate the location of walk-in sites.

3. Obtain and provide all ballots and supplies necessary for mail, accessible and emergency voting together with replacement ballots and affidavits and ballots for property owners who live in another Colorado county.

4. Provide all necessary equipment, forms and supplies to conduct the Election, including electronic voting equipment.

F. Voting Jurisdiction.

Provide the City a street locator file, which lists the street addresses located in the City within the statewide voter registration system. In order for the County Clerk to provide correct ballots to the electors, it is critical that the information contained in the City's locator file be accurate.

G. Election Day Preparation.

1. Provide, no later than ten days before the Election, notice by publication of a mail ballot election in accordance with C.R.S. §1-7.5-107(2.5). Such notice shall satisfy the publication requirement for all entities participating in the election pursuant to C.R.S. §1-5-205(1.4).

2. Prepare and run pre-election logic and accuracy testing and required post-election tests and audits of the voting system in accordance with C.R.S. §1-7-509 and Rules.

3. Provide necessary electronic voting equipment together with personnel and related computer equipment for pre-election logic and accuracy testing and Election Day needs.

4. Conduct post-election audit of voting equipment and vote-counting equipment in accordance with C.R.S. §1-7-509 and Rules.

H. TABOR Notice.

1. If the County Clerk is responsible for preparing a TABOR notice, the County Clerk shall do so in compliance with Article X Section 20 of the Colorado Constitution and any pertinent Code and Rules.

2. Charge the City for all expenses for the preparation, printing, labeling and postage for the TABOR notice. Said expenses shall be pro-rated among all Entities participating in the TABOR notice. Such pro-ration to be based in part upon the number of addresses where one or more active registered electors of the district reside.

3. Coordinate and mail the TABOR notice not less than thirty days prior to the election in compliance with Article X Section 20 of the Colorado Constitution and any pertinent Code and Rules. The County Clerk shall determine the least cost method for mailing the TABOR notice and address the TABOR notice to "All Registered Voters" at each address in Alamosa County where one or more active electors of the district reside. Nothing herein shall preclude the County Clerk from sending the TABOR Notice of the City to persons other than electors of the District if such sending arises from the County Clerk's efforts to mail the TABOR Notice at least cost.

I. Counting Ballots.

1. Conduct and oversee the ballot counting process and report the results to the City.

2. Establish backup procedures and backup sites for ballot counting should counting equipment and/or building facilities fail. In such event, counting procedures will be moved to a predetermined site.

3. If it is determined that counting must be moved to an established backup site, all related costs shall be paid by the Entities.

J. Certifying Results.

1. Appoint, instruct and oversee the board of canvassers.

2. Certify the results of the City's Election within the time required by law and provide the City with a copy of all Election statements and certificates required under Code.

3. If a recount is called for, conduct a recount in accordance with Code.

K. Recordkeeping.

1. Pursuant to C.R.S. §1-7-802, store all Election records as required.

2. Keep an accurate account of all Election costs.

L. No Expansion of Duties.

Nothing contained in this Agreement is intended to expand the duties of the County Clerk beyond those set forth in Code or Rules.

**ARTICLE III
DUTIES OF THE CITY**

A. Authority.

Provide the County Clerk with a copy of the ordinance or resolution stating that the City will participate in the Election in accordance with the terms and conditions of this Agreement. The ordinance or resolution shall further authorize the presiding officer of the City or other designated person to execute this Agreement.

B. Call and Notice.

1. Publish all notices relative to the Election as required by Code, Rules, the City's Charter and any other statute, rule or regulation.

2. Mail notices pursuant to C.R.S. §1-7-906(2) for active electors of the district who do reside within Alamosa County or counties where the City is located.

C. Voting Jurisdiction.

1. Review the information contained in the street locator file and certify its accuracy, as well as any changes, additions or deletions to the file. It is the City's responsibility to ensure that the information contained in the locator file is an accurate representation of the City's street indexes contained within the Carroll Subdivision No. 2's legal boundaries. The certification of the street locator file shall be made no later than August 27, 2014 at 5:00 p.m. to the County Clerk. If the certification is not provided by the date specified herein, the City may not participate in the Election.

2. Any proposed address not already identified by a tax authority code in the county Assessor's records, shall be provided to the County Clerk with a certified legal description, map and locator, identifying all "high/low" ranges for street addresses within the proposed City, no later than August 27, 2014 at 5:00 p.m. Once the information has been entered in the statewide voter registration system, the DEO shall review the information contained in the street locator file and shall certify its accuracy, as well as any changes, additions or deletions to the file no later than August 30, 2014 at 5:00 p.m. to the County Clerk. If the certification is not provided by the required deadline specified herein, the City may not participate in the Election.

D. Petitions, Preparation and Verification.

Perform all responsibilities required to certify any candidate or initiative petition to the ballot.

E. Ballot Preparation.

1. Be solely responsible for determining whether a ballot race, ballot issue, or ballot question is properly placed before the voters.

2. Pursuant to C.R.S. §1-5-203(3) (a), provide a certified copy of the ballot content (races, issues and questions) by email to mwoodward@altamosacounty.org, at the earliest possible time and in any event no later than sixty days before the election, September 6, 2014 at 5:00 p.m., The ballot content must be certified exactly in the order in which it is to be printed on the ballot pages and sample ballots.

3. The certified list of ballot race(s), ballot issue(s) and/or ballot question(s) submitted by the City shall be final.

4. Proofread and approve the City's ballot content for printing within three business days of receipt from the County Clerk. The City shall provide a fax number and designate a person to be available for proofing and approving ballot content for printing. Due to time constraints, the City must provide contact information for someone who is available from 8:00 a.m. to 5:00 p.m. from September 6, 2014 until September 11, 2014, or until final approval of printing of ballots has been reached. The County Clerk agrees to keep all contact personnel informed of ballot printing status. The City has designated _____, whose phone is _____, cell is _____ and fax is _____.

5. Once approval has been received, the County Clerk will not make any changes to the ballot content. If the City fails to provide approval by the required deadline, the content is to be considered approved.

6. Provide audio recording of the proper pronunciation of any candidate name certified to the County Clerk. Please see exhibit B.

7. The City shall defend and resolve at its sole expense all challenges relative to the ballot race(s), ballot issue(s) and/or ballot question(s) as certified to the County Clerk for inclusion in the Election.

F. Election Participation.

If requested by the County Clerk, provide person(s) to participate and assist in the Election process. The person(s) provided by the City must be registered to vote in Alamosa County.

G. Property Owners.

1. Notify and provide information and materials to property owners where an eligible elector may vote at any walk-in site or make application for a mail-in ballot specific to that City to be voted on and filed with the County Clerk. C.R.S. §32-1-806, C.R.S. §1-7-104, C.R.S. §1-8-104(3)

2. The City shall be responsible for obtaining its property owner list(s) from the County Assessor's office in accordance with C.R.S. §1-5-304.

3. Electors who own property within the City in Alamosa County but who reside and are registered to vote in another Colorado county may vote in person or may request a mail ballot from the County Clerk.

H. TABOR Notice.

1. If the City is responsible for preparing a TABOR notice for any ballot issue(s), the City shall do so in compliance with Article X Section 20 of the Colorado Constitution and any pertinent Code and Rules.

2. The City shall be solely responsible for calculating and providing to the County Clerk any fiscal information necessary to comply with TABOR. The County Clerk shall in no way be responsible for the City's compliance with TABOR or the accuracy of the fiscal information.

3. The process of receiving written comments relating to ballot issue(s) and summarizing such comments, as required by TABOR, is the sole responsibility of the City.

4. The City shall be solely responsible for its preparation, accuracy and the language contained therein, and shall submit such notice, including pro and con summaries and fiscal information, to the County Clerk no later than September 23, 2014 at 5:00 p.m., pursuant to C.R.S. §1-7-904. Such notice shall be provided to the County Clerk as an email attachment to mwoodward@alamosacounty.org

5. The certified text, summary of comments and fiscal information submitted by the City shall be final.

6. Proofread and approve the City's TABOR content for printing. The City shall provide a fax number and designate a person to be available for proofing and approving TABOR content for printing. Due to time constraints, the City must provide contact information for someone who is available from 8:00 a.m. to 5:00 p.m. from September 26, 2014 until September 30, 2014, or until the TABOR notice is mailed. The County Clerk agrees to keep all contact personnel informed of TABOR printing status. The City has designated

_____, whose phone is _____,
_____, cell is _____ and fax is _____.

7. Once approval has been received, the County Clerk will not make any changes to the TABOR content. If the City fails to provide approval by the required deadline, the content is to be considered approved.

8. Pursuant to C.R.S. §1-7-906(2), the City shall be responsible for mailing the TABOR notice to each address of one or more active registered electors who do not reside within Alamosa County.

I. Cancellation of Election by the City.

If the City resolves not to participate in the Election, notice shall be delivered in writing to the Contact Officer immediately; *provided, however that* the City shall not cancel after the 25th day prior to the Election, October 10, 2014, pursuant to C.R.S. §1-5-208(2). The City shall reimburse the County Clerk for the actual expenses incurred in preparing for the Election. If cancellation occurs after the certification deadline, full election costs may be incurred. The City shall provide notice by publication, as defined in Code, of cancellation of the Election and a copy of such notice shall be posted at each walk-in site, in the office of the City, in the office of the County Clerk, in the office of the DEO, and, if the City is a special City, in the office of the Division of Local Government.

ARTICLE IV COSTS

A. Election Costs.

The minimum fee for election services is \$150.00

1. The City's proportional share of costs shall be based on County expenditures relative to the Election and the number of electors of the District. Costs include, but are not limited to, supplies, printing, postage, legal notices, labor, rentals, and other expenses attributable to the County Clerk's administration of the Election for the City. The City shall be charged its pro-rated share of election costs for any software programs used to count voted ballots as well as pre-election and post-election maintenance and on-site technical support.
2. The City affirms that it has sufficient funds available in its approved budget to pay its prorated Election expenses.
3. If it is determined that counting must be moved to an established backup site, the City shall be charged its pro-rated share.
4. The cost of any recount(s) will be charged to the City, or if more than one Entity is involved in the recount, the cost will be prorated among the participating Entities.
5. Upon receipt of the invoice, pay to the County Clerk within thirty days a fee which shall be an amount determined in accordance with the formula set forth on Exhibit A. If Exhibit A cannot be completed at the time of the mailing of this Agreement, it will be provided as soon as possible.
6. The City shall pay any additional or unique election costs resulting from City delays and/or special preparations or cancellations relating to the City's participation in the Election.

B. TABOR Costs.

The minimum fee for TABOR services is \$50.00.

The City shall pay a pro-rated amount for the costs to produce and mail the TABOR notice. Such pro-ration to be based, in part, on addresses where one or more electors of the District reside.

C. Invoice.

The County Clerk shall submit to the City an itemized invoice for all expenses incurred under this Agreement and the City shall remit to the County Clerk the total due upon receipt. Any

amount not paid within 30 days after receipt will be subject to an interest charge at the lesser of 1 ½% per month or the highest rate permitted under law.

ARTICLE V MISCELLANEOUS

A. Entire Agreement.

This Agreement and its Exhibits constitute the entire agreement between the parties as to the subject matter hereof and supersede all prior or current agreements, proposals, negotiations, understandings, representations and all other communications, both oral and written.

B. Indemnification.

To the extent permitted by law, each party agrees to indemnify and hold harmless the other party, its officials, officers, employees and agents from and against any and all losses, costs (including attorneys' fees), demands or actions arising out of or related to any negligent actions, errors or omissions of the indemnifying party in connection with the transactions contemplated by this Agreement.

In the event a court of competent jurisdiction finds the Election for the City was void or otherwise fatally defective as a result of the sole breach or failure of the County Clerk to perform in accordance with this Agreement or laws applicable to the Election, the City shall be entitled to recover expenses or losses caused by such breach or failure up to the maximum amount paid by the City to the County Clerk. The County Clerk shall in no event be liable for any expenses, damages or losses in excess of the amounts paid under this Agreement. This remedy shall be the sole and exclusive remedy for the breach available to the City.

C. Conflict of Agreement with Law, Impairment.

Should any provision of this Agreement be determined by a court of competent jurisdiction to be unconstitutional or otherwise null and void, it is the intent of the parties hereto that the remaining provisions of this Agreement shall be of full force and effect.

D. Time of Essence.

Time is of the essence in the performance of this Agreement. The time requirements of Code and Rules shall apply to completion of required tasks.

E. No Third Party Beneficiaries.

Enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the parties, and nothing contained herein shall give or allow any such claim or right of action by any other person or City.

F. Governing Law; Jurisdiction & Venue.

This Agreement, the interpretation thereof, and the rights of the parties under it will be governed by, and construed in accordance with, the laws of the State of Colorado. The courts of the State of Colorado shall have sole and exclusive jurisdiction of any disputes or litigation arising under this Agreement. Venue for any and all legal actions arising shall lie in the District Court in and for the County of Alamosa, State of Colorado.

G. Headings.

The section headings in this Agreement are for reference only and shall not affect the interpretation or meaning of any provision of this Agreement.

H. Severability.

If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, void or unenforceable, such provision shall be deemed to be severable, and all other provisions of this Agreement shall remain fully enforceable, and this Agreement shall be interpreted in all respects as if such provision were omitted.

EXHIBIT B
AUDIO FOR ACCUVOTE TSX UNIT

In accordance with Secretary of State Rule 10.5, all candidates shall provide an audio recording to the County Clerk no later than the last day upon which the City certifies the ballot content, pursuant to C.R.S. §1-5-203(3)(a). The audio recording of the candidate's name shall be recorded exactly as it is certified to the County Clerk.

The Alamosa County Clerk and Recorder's office will contact the City if pronunciation guidelines on any ballot race(s), ballot issue(s) and/or ballot question(s) are needed.

Please contact our office at 719-589-6681 if you have any questions or need additional information.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective upon the date first above written.

**ALAMOSA COUNTY, COLORADO
CLERK AND RECORDER**

Date: July 31, 2014

Melanie Woodward
Melanie Woodward

Date: _____

CITY OF ALAMOSA

MAYOR

ATTEST:

City Clerk