ALAMOSA CITY COUNCIL
Regular Meeting Agenda

Alamosa City Council Chambers
300 Hunt Avenue, Alamosa, CO
May 1, 2013

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

6:00 p.m. – Work Session Regarding Airport IGA
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. Municipal Clerk's Week Proclamation
B. Knowledge Bowl Proclamation
C. Better Hearing and Speech Month Proclamation

VI. CONSENT CALENDAR A

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

C. 7. a. Approve Minutes of Regular Meeting April 17, 2013

VII. REGULAR BUSINESS

C. Business Brought Forward by City Staff

1. Public Works

a. Naranjo Annexation 2013
   1. Eligibility Hearing
   2. Resolution No. 8, 2013, A Resolution Finding Property Subject to the 2013 Naranjo Petition for Annexation to be eliible For Annexation

b. Approve Proposal for Engineering Services for SCADA System

8. City Manager/Legal

a. First Reading Ordinance No. 4, 2013, An Ordinance Amending Article III Of Chapter 11 of the Code of Ordinances of Alamosa, Colorado, to Regulate Panhandling

b. First Reading Ordinance No. 5, 2013, An Ordinance Amending Article VIII of Chapter 10 of the Code of Ordinances of Alamosa, Colorado, Regulating Solicitors and Peddlers

E. Committee Reports

F. Staff Announcements

VIII. LOCAL LIQUOR LICENSING AUTHORITY ACTIONS

A. CONSENT CALENDAR B

The Consent Calendar allows multiple actions with one motion. Consent Calendar B contains routine items that are under Council's jurisdiction as the Local Licensing Authority. Council may remove a consent calendar item for separate consideration.

B. 1. Approve Special Events Permit Application by Alamosa Kiwanis Club for Ride the Rockies June 12, 2013

B. 2. Accept Stipulation Agreement for Compliance Check Violations:

a. Safeway
b. Chief Liquor
c. Atencio's
d. Weekends

COUNCIL COMMENT

ADJOURNMENT

Alamosa City Council Meetings and Events

Updated 4/25/2013

All events are held in Alamosa Colorado unless otherwise noted

CITY HALL IS LOCATED AT 300 HUNT				
Date	**Time**	**Event**	**Location**	**Additional Information**
May 1, 2013	6:00 p.m.	Work Session Regarding Airport IGA	Council Chambers	*
May 13, 2013	11:30 a.m.	CML Spring Outreach Meeting	Monte Vista City Hall	**
May 17/18, 2013	noon on the 17th through early afternoon the 18th	Summer retreat	Cucharra Inn	*
June 18 - 21, 2013	starts Tues evening, ends Friday noon	CML Annual Conference	Vail	**
July 24, 2013	4:30 p.m.	City Services Fair	Cole Park	***
August 5, 2013	6:00 p.m.	Candidate Orientation Session	Council Chambers	***
September 25, 2013	TBD	CML District 8 Meeting	TBD	**

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

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

*** Citizens are encouraged to attend this community event

****This is a social event and is not open to the public. No City business will be discussed

*****This is a special meeting for the sole purpose of holding an Executive Session for Personnel Matters. While the meeting is open to the public, the Executive Session is not.

THE CITY OF ALAMOSA

Proclamation

Municipal Clerks Week
May 5 - 11, 2013

Whereas, The Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world, and

Whereas, The Office of the Municipal Clerk is the oldest among public servants, and

Whereas, The Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and

Whereas, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all.

Whereas, The Municipal Clerk serves as the information center on functions of local government and community.

Whereas, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, province, county and international professional organizations.

Whereas, It is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.

Now, Therefore, I, Kathleen J. Rogers, Mayor of Alamosa, CO do recognize the week of May 5 through May 11, 2013, as Municipal Clerks Week, and further extend appreciation to our Municipal Clerk, Judy Egbert, Deputy Clerks Sharon DeHerrera and Holly Martinez, and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

Dated this 1st day of May 2013.

____
Kathleen J. Rogers, Mayor

PROCLAMATION

IN RECOGNITION OF THE ALAMOSA HIGH SCHOOL KNOWLEDGE BOWL TEAM

WHEREAS, The Alamosa High School Knowledge Bowl Team won First Place in the 3A State Knowledge Bowl Association Championships; and

WHEREAS, this was an exciting and suspenseful two-day event involving two written rounds and seven oral rounds, with Alamosa prevailing over rival Salida; and

WHEREAS, The Alamosa High School Knowledge Bowl Team's coach Jerry Reed and Assistant Coach Ericha Henderson have provided leadership and inspiration for the participants; and

WHEREAS, The community of Alamosa takes great pride in the accomplishments of its young people and takes pleasure in congratulating the Alamosa High School Knowledge Bowl Team;

NOW THEREFORE, BE IT HEREBY PROCLAIMED that I, Mayor Kathleen J. Rogers, on behalf of the Alamosa City Council, recognize and congratulate the Alamosa High School Knowledge Bowl Team and its coaches for their victory as State Champions.

Given under my hand and the seal of the City of Alamosa this 1st day of May 2013.

____
Kathleen J. Rogers, Mayor

Attest:

____
Judy A. Egbert, City Clerk

GATEWAY TO THE GREAT SAND DUNES

THE CITY OF

ALAMOSA

Proclamation

May Is
Better Hearing and Speech Month

Whereas, An estimated 42 million Americans, or 1 in 10 families, have some type of communication disorder, with economic costs exceeding $30 billion due to lost work productivity, special education, and medical treatment.

Therefore, I am pleased to join with all citizens of in celebrating May is Better Hearing and Speech Month. Because of their tireless work, I salute the audiologists and speech-language pathologists who work in our City to bring better hearing and speech to those individuals who are affected by communication disorders.

During this observance, we should focus our attention on the needs of our citizens who have some form of hearing, speech, or language impairment to ensure that everyone has access to the audiology and speech-language pathology treatment that will help them lead full and productive lives.

Given under my hand and seal this 1st day of May 2013.

____
Kathleen J. Rogers, Mayor

____
Judy A. Egbert, City Clerk

ALAMOSA CITY COUNCIL
Wednesday, April 17, 2013
Minutes of the Meeting

The Regular Meeting of the Alamosa City Council was called to order on the above date by Mayor Kathy Rogers at 7:00 p.m. The Pledge of Allegiance was recited. Present at roll call: Mayor Rogers, Councilors Greg Gillaspie, Charlie Griego, Rusty Johnson, Josef Lucero, and Leland Romero. Councilor Marcia Tuggle previously requested to be excused. A quorum was declared. Also present: Interim City Manager Craig Dodd, City Attorney Erich Schwiesow, and Deputy City Clerk Holly Martinez.

AGENDA APPROVAL. Proclamation for Relay for Life was added under Ceremonial Items. It was moved by Councilor Griego and seconded by Councilor Lucero to approve the agenda as amended and to excuse Councilor Tuggle. The motion carried unanimously.

CITIZEN COMMENT

A. Audience Comments

Hoyt and Brody Anderson spoke in regards to traffic and safety issues around the neighborhood of Lakewood and Maroon Drive.

Leon Moyer complimented Council on the time they took with City Manager interviews. He went on in objection to the financial rebates being considered for Habitat for Humananity.

Kristina Daniel & James Trujillo thanked City Council for their support of the Boys & Girls Club and invited them to the Youth of the Year breakfast.

B. Follow-Up

Chief Dodd stated Public Works has been looking into the issue around the neighborhood of Lakewood and Maroon Drive and is considering possible solutions.

CEREMONIAL ITEMS

A. Arbor Week Proclamation

Mayor Rogers read the proclamation and Council presented it to Marilyn Loser of the Tree Board.

B. Relay For Life Proclamation

Mayor Rogers read the proclamation and Council presented it to Susan Williams & Emilia Herrera of the American Cancer Society.

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

C. 1. a. Accept Planning Commission's Recommendation to Approve Permitted Use by Special Review requested by Andy Trujillo to Allow Outdoor Sales in a CB Zone at 717/719 Main Street

C. 2. a. Receive March 2013 Expenditure Report

C. 7. a. Approve Minutes of Regular Meeting April 3, 2013
C. 7. b. Approve Minutes of Special Meeting April 5, 2013
C. 7. c. Resolution No. 7, 2013, A Resolution Rescheduling the June 19, 2013 and July 3, 2013 Regular Meetings of the Alamosa City Council to be Held Concurrently on June 26, 2013
C. 8. a. Receive March 2013 Monthly Reports

REGULAR BUSINESS

C. <u>Business Brought Forward by City Staff</u>

1. <u>Public Works</u>

b. <u>Habitat for Humanity Request for Fee Relief</u>

Habitat has requested fee relief for the project at 1530 Ross Avenue. The fees include building permit, water tap, and sewer tap, and total $4,137.00.

Councilor Romero moved, seconded by Councilor Griego to enter into a contract for services with Habitat for Humanity in the amount of $4,137.00. The motion carried unanimously.

c. <u>Accept Planning Commission's Recommendation To Approve Expansion of Permitted Use by Special Review Requested by Alamosa School District RE 11-J to Allow An Educational Agricultural Building and Athletic Complex in a RM Zone at 805 Craft Drive</u>

Don Koskelin explained the recommendation and stated that the Planning Commission looks at the impacts it will have, which will be in traffic and parking. He also stated they have asked the School District to soften the appearance of the Ag building project by including landscaping.

Larry Schreiner explained it will be a metal building but with a gable roof instead of flat top and that they are still in the process of choosing colors with the architect.

Councilor Romero moved, seconded by Councilor Griego to accept Planning Commission's Recommendation to approve expansion of permitted use by special review requested by Alamosa School District RE 11-J to allow an educational agricultural building and athletic complex in a RM zone at 805 Craft Drive as amended to include landscaping. The motion carried unanimously, with Councilor Johnson abstaining as a member of the project committee.

d. <u>Request from School District for Support Toward Stadium/Ag Building Project</u>

The School Board had approached Council at a recent work session about financial support toward the stadium/agricultue building project. Mr. Koskelin explained the costs of the items and what would be most cost-effective for the City to support.

It was moved by Councilor Lucero, and seconded by Councilor Gillespie to enter into contract with School District RE11-J in the amount of $38,000; $16,000 out-of-pocket and the remainder in waiver of fees. The hard funds will come from general fund and/or enterprise fund reserves. The motion carried unanimously with Councilors Romero and Johnson abstaining as School District employees.

8. City Manager/Legal

b. Approve City Manager Contract with Heather Brooks

Erich Schwiesow reviewed the contract with Council.

Councilor Johnson moved, seconded by Councilor Romero to enter into the contract with Heather Brooks as presented. The motion carried unanimously.

E. Committee Reports

Councilor Johnson reported on upcoming events for the Tree Board.

Councilor Gillaspie reported that Golf Board meets tomorrow.

Councilor Lucero reported on the Development Resource Group.

Councilor Griego updated on the recent Recreation Advisory Board.

F. Staff Announcements

Chief Dodd updated Council on the first communication received addressed to Heather Brooks. from Crossroads Turning Points requesting funding. Council advised to invite Leroy Lucero to come speak to Council regarding his request.

COUNCIL COMMENT

Councilor Romero addressed his concerns involving police activity in a four-way stop.

Councilor Johnson stated he would like to meet with the group that Is concerned with the traffic and safety issues and discuss what ideas they have that would help this situation.

Councilor Gillespie thanked Chief Don Chapman and firefighters for stepping up and taking an aircraft course to keep the airlines going. He also informed everyone that the new restaurant at the golf course is now open.

Councilor Lucero asked to be informed of when the meeting regarding Caroll Woods will occur.

Councilor Romero asked who is responsible for the paving of streets. Don Koskelin confirmed that it is the developer's responsibility.

ADJOURNMENT. The meeting adjourned at 8:40 p.m.

Holly C. Martinez, Deputy City Clerk

Kathleen J. Rogers, Mayor

COUNCIL COMMUNICATION

<table>
<tr><td>DATE: February 20, 2013</td><td>AGENDA NO. VII, C, 1, a</td><td rowspan="4">SUBJECT: Determine Eligibility, Naranjo Annexation</td></tr>
<tr><td colspan="2">Department Head:
Public Works Don Koskelin</td></tr>
<tr><td colspan="2">City Manager:
Craig Dodd</td></tr>
<tr><td colspan="2">PRESENTED BY: Don Koskelin</td></tr>
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Recommendation: That council conduct the public hearing on the eligibility of the subject property, and, unless evidence to the contrary is presented, pass resolution number 8-2013 finding the property eligible for annexation.

Background: These properties are generally west of Ross Avenue and north of Twentieth Street.. We already have city water and sewer installed on Ross so no utility lines will have to be installed to serve the properties. The majority of the McClain Fink Subdivision has been annexed over the years, leaving only the lots on Ross south of Seventeenth Street still outside of the City. The property is assumed eligible for annexation as long as it has at least $1/6^{th}$ (16.67%) contiguity with existing city limits unless certain specific conditions apply. This property has almost $1/4^{th}$ (23%) contiguity.

Issue Before the Council: Does council find this property to be eligible for annexation?

Alternatives: Council can approve resolution 8-2013 finding the property to be eligible for annexation which will start the ordinance process for annexation or find that the property is not eligible for annexation which would end the process..

Fiscal Impact: There should be no significant fiscal impact.

Legal Opinion: City Attorney will be present for comment.

Conclusion: This annexation is in line with our comprehensive plan and will close part of the city limits gap on south Ross Avenue.

Attachments: Resolution 8-2013

RESOLUTION No. 8-2013

A RESOLUTION FINDING PROPERTY SUBJECT TO THE 2013 NARANJO PETITION FOR ANNEXATION TO BE ELIGIBLE FOR ANNEXATION

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

The City Council of the City of Alamosa, Colorado, finds that the Petition for Annexation filed by Petitioners on January 22, 2013, with the City of Alamosa, Colorado, for the annexation of certain land described in said Petition, complies with the applicable annexation laws; that all requirements of the applicable parts of C.R.S. § 31-12-104 and C.R.S. § 31-12-105 have been met; that the land described is eligible to be annexed because there is at least one-sixth contiguity between the municipality and the area to be annexed; and, after considering all competent evidence adduced at the hearing on this matter, City Council makes the following further findings:

A community of interest exists between the area proposed to be annexed and the City of Alamosa; that said area is urban or will be urbanized in the near future; that said area is integrated with or is capable of being integrated with the City of Alamosa, the City has not found two or more the following disqualifying conditions to exist:

(a) Less than fifty percent (50%) of the adult residents of the area proposed to be annexed use some of the recreation, civic, social, religious, industrial, or commercial facilities of the City; and less than twenty-five percent (25%) of the adult residents of the area to be annexed are employed in the City;

(b) Fifty percent (50%) or more of the land proposed to be annexed (including streets) is agricultural, and the landowners of such agricultural land have expressed an intention under oath to devote the land to such agricultural use for at least five (5) years;

(c) It is not physically practicable to extend urban services which the municipality normally provides in common to all of its citizens on the same terms and conditions as such services are made available to such citizens.

The City Council further determines that all applicable parts of the *Municipal Annexation Act* have been met, and further determines that an election is not required under said *Act* and that there are no other terms and conditions to be imposed upon said Annexation; and

Having found that the property subject to said petition is eligible to become annexed, the City Council of the City of Alamosa, Colorado, shall undertake further annexation proceedings as provided by law.

ADOPTED this 1st day of May, 2013.

CITY OF ALAMOSA

By: ________________
Kathleen J. Rogers, Mayor

ATTEST: ______________________________
Judy A. Egbert, Deputy City Clerk

COUNCIL COMMUNICATION

DATE: February 20, 2013	**AGENDA NO. VII, C, 1, b**	**SUBJECT:** Consultant Services
Department Head: Public Works Don Koskelin		
City Manager: Craig Dodd		
PRESENTED BY: Don Koskelin		

Recommendation: That council approve the proposal for engineering services for designing a SCADA system for wastewater treatment plant (WWTP) and for initial investigation of arsenic discharge from the WWTP.

Background: We had monies in last year's budget to install a System Control and Data Acquisition (SCADA) system for the WWTP. We had a number of problems with the HVAC system at the plant and had to re-build one of the screw pumps so the SCADA project was deferred. Our current SCADA system uses an older DOS based software package and hardware that is becoming increasingly difficult to repair/replace. We need to upgrade this system so that we have better reporting and operating control of the system. The state is also in the process of modifying the arsenic limits in our wastewater discharge. Our levels are roughly three times higher than the levels we expect to see imposed on our new permit. While we will have some time to come into compliance we need to start the process to determine the best way to reduce our discharge levels. SGM has worked with this plant in the past, most recently to prepare for our permit renewal and prior to that to increase our plant loading limits. This will enable them to have a running start on these new initiatives and provide a more timely response.

Issue Before the Council: Does council wish to approve this engineering proposal?

Alternatives: Council can approve the proposal; approve with modifications; not approve the proposal.

Fiscal Impact: The "not to exceed cost" for this proposal is $19,500.00. We have $18,000 available in the engineering services account which should cover the expected cost of the contract which should to be less than the maximum amount listed in the contract. If we do approach that maximum we will fund it from the engineering supplies account. The scope of services attached includes a breakdown of the costs for the SCADA system development. In addition we have a lump sum of $5,000 for initial investigation of the arsenic issue and not more than $1,500 for reimbursable costs, primarily travel related.

Legal Opinion: City Attorney will be present for comment.

Conclusion: Our current plant SCADA system is not operating properly and will be costly to repair. That will still leave us with a limited system that is well past its design life. The arsenic limits too are something we have to start to address to at least identify treatment options.

Attachments: Scope of services

April 24, 2013

Don Koskelin
City of Alamosa
PO Box 419
Alamosa, CO 81101

Re: Request for Proposal - Engineering Services
SCADA Improvement Project

Dear Mr. Koskelin;

Thank you for the opportunity of providing this proposal for engineering services related to upgrading the SCADA system at the Wastewater Treatment Facility. It was a pleasure to meet with your staff recently and discuss the project in more detail.

SGM proposes to assist the City with preparing a final Request for Proposals (RFP) to solicit qualified Integration and Control contractors. Our assistance will focus primarily on preparation of a detailed control narrative supported by project specifications.

After bids are received, SGM will assist the City during the selection process. Following selection of the contractor, SGM will provide a separate proposal for submittal review and inspection services.

Thank you for the opportunity to propose services. We look forward to serving the City by providing unmatched responsiveness, quality products and attention to detail. Please feel free to contact me at (970) 384-9049 with any questions.

Sincerely,

Cooper Best, PE
Senior Project Manager

Attachments:
SGM Engineering Services Fee Estimate (2 pages)

The proposed scope has been developed based on our meetings and discussions. The project generally consists of two main components: (1) Assistance with SCADA RFP (2) Bid Services. Based on our current understanding, SGM proposes the following scope of services:

Task 01 – Project Management

Effective project management supports the delivery of timely, high-quality, efficiently-produced deliverables to meet City's needs. The following project management subtasks are envisioned.

- Develop project execution plan.
- Hold internal QA/QC and project ideas kickoff meeting.
- Hold internal QA/QC checkpoint meeting at project midpoint.
- Monthly project budget status and invoice reviews.
- Monthly project update emails to client.
- Project closeout.
- Two onsite meetings.

Task 02 – Control Narrative

The following sub-tasks will be completed as follows:

- Existing Data Collection and Review
- Prepare Draft Control Narrative
- Prepare Final Control Narrative
- Electrical Engineer Assistance

Task 03 – Specifications & Bid Package

The following sub-tasks will be completed as follows:

- Prepare Draft Specifications
- Prepare Final Specifications
- Electrical Engineer Assistance
- Revise Owner's RFP
- Prepare Bid Package

Task 04 – Bid Services

The following sub-tasks will be completed as follows:

- Attend Pre-Submittal Conference
- Electrical Engineer - Bid Services
- Prepare Addenda
- Review Proposals
- Provide Recommendation of Award

Schedule

SGM will immediately begin performing the Tasks outlined in this Scope of Services upon receipt of a signed agreement. SGM anticipates that it will need approximately 6 weeks to complete Tasks 01- 03.

Fee Estimate

The total estimated fee for the project scope defined above is $13,515 plus reimbursables. At the City's request, we have added an additional $5,000 to the total agreement price to provide general engineering assistance related to the wastewater treatment facility arsenic issues.

Significant deviations from this scope, either due to the City's request or unforeseen circumstances outside of SGM's control, will require a Change Order prior to execution of the associated new work. A detailed cost breakdown is provided in the attached spreadsheet.

We have excluded services after selection of the contractor and during construction. These services will be provided under a separate proposal, and based on the City's need for assistance.

SGM, INC. - ENGINEERING SERVICES FEE ESTIMATE							
Client:	**City of Alamosa**					**Date:**	**4/16/2013**
Project:	SCADA Improvement Project						
Project Manager Cooper Best, P.E.							
Phase #	**TASK DESCRIPTION**	**ELEC ENGR**	**SENIOR ENGR I**	**PROJECT MANAGER**	**ADMIN.**	**LABOR HOURS**	**TOTAL FEES**
		R. Sassakura PE	*C. Best PE*	*A. Racette PE*	*Misc. Staff*		
		$130	**$125**	**$110**	**$65**		
1	**Project Management**						
	Monthly budget reviews		1			1	$125
	Bi-monthly client email updates		1			1	$125
	Internal/external coordination and communications		2			2	$250
	Internal Project Kickoff/Setup		1	1		2	$235
	Onsite meetings with client - assumes 1 meeting		4			4	$500
	Electrical Engineer Site Visit	8					$1,040
	Task Subtotals	**8**	**9**	**1**	**0**	**10**	**$2,275**
2	**Control Narrative**						
	Existing Data Collection and Review		1	6	1	8	$850
	Prepare Draft Control Narrative		2	15		17	$1,900
	Prepare Final Control Narrative		2	5		7	$800
	Electrical Engineer Assistance	8					$1,040
	QA/QC		2	2		4	$470
	Task Subtotals	**8**	**7**	**28**	**1**	**36**	**$5,060**

Phase #	TASK DESCRIPTION	ELEC ENGR *R. Sassakura PE* **$130**	SENIOR ENGR I *C. Best PE* **$125**	PROJECT MANAGER *A. Racette PE* **$110**	ADMIN. *Misc. Staff* **$65**	LABOR HOURS	TOTAL FEES
3	**Specifications & Bid Package**						
	Prepare Draft Specifications		2	8	1	11	$1,195
	Prepare Final Specifications		2	4		6	$690
	Electrical Engineer Assistance	2					$260
	Revise RFP		2	4		6	$690
	Prepare Bid Package					0	$0
	QA/QC		2	2		4	$470
	Task Subtotals	**2**	**8**	**18**	**1**	**27**	**$3,305**
4	**Bid Services**						
	Attend Pre-Submittal Conference		8			8	$1,000
	Electrical Engr - Bid Services	2					$260
	Prepare Addenda		2	4			$690
	Review Proposals		2	4		6	$690
	Provide Recommendation of Award		1	1			$235
	Task Subtotals	**2**	**13**	**9**	**0**	**14**	**$2,875**
	TOTAL LABOR FOR TASKS 01 - 04	**20**	**37**	**56**	**2**	**87**	**$13,515.00**
	Reimbursables						
	Vehicle Mileage	$666.00					
	Reproduction and Delivery	$250.00					

COUNCIL COMMUNICATION

DATE: May 1, 2013	**AGENDA NO.**	**SUBJECT**: Ordinance relating to panhandling
Department Head: Craig Dodd, Interim City Manager		
City Manager: Craig Dodd, Interim City Manager		
PRESENTED BY: Craig Dodd, Interim City Manager Erich Schwiesow, City Attorney		

Recommendation

Adopt the ordinance as written.

Background

At the request of City Councilman Greg Gillaspie, staff has researched and is submitting an ordinance relating to panhandling for your consideration. The City of Alamosa doesn't currently have an ordinance; the ordinance submitted for consideration is drawn from a number of such ordinances common in many Colorado communities, many of which have withstood legal challenges. In general, this type of ordinance helps to address general community public safety concerns (aggressive/intimidating behavior), the unsafe/illegal ingress/egress of a roadway to consummate panhandling transactions, and impeding the flow of traffic flow on public roadways, while balancing First Amendment rights of panhandlers.

Issue Before the Council

Does Council believe the ordinance is necessary, and if so, does this ordinance (as written) meet with the intent of City Council?

Alternatives

1. Adopt the ordinance as written on first reading and schedule for public hearing on May 15, 2013.
2. Not adopt the ordinance, and request no further action.
3. Direct staff to make changes and bring back for further council consideration.

Fiscal Impact: NA

Legal Opinion Counselor Schwiesow available for legal questions.

Conclusion

Currently there are no provisions within our code of ordinances that specifically address the panhandling activities described in the ordinance. This ordinance would allow enforcement action to be taken.

ORDINANCE NO. 4, 2013

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

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

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

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

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

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

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

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

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

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

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

(1) Intentionally continuing to solicit from a person after the person has given a negative response to such solicitation;
(2) Intentionally making any physical contact with or touching another person in the course of the solicitation without that person's consent;
(3) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact in the course of soliciting;
(4) Intentionally using violent or threatening gestures toward a person solicited which would cause a reasonable person to be fearful for his or her safety;
(5) Persisting in closely following behind or alongside, or walking immediately ahead of a person who has been solicited with the intent of asking that person for money or other things of value, after the person solicited has informed the panhandler by words or conduct that such person does not want to be solicited or does not want to give money or anything of value to the panhandler;
(6) Intentionally using profane, threatening, or abusive language, either during the solicitation or following a refusal to make a donation, which tends to invite an immediate breach of the peace; or
(7) Approaching or following a person for solicitation as part of a group of two (2) or more persons, in a manner and with conduct, words, or gestures intended or likely to cause a reasonable person to fear imminent bodily harm or damage or loss of property or otherwise to be intimidated into giving money or other thing of value.

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

(1) No person shall panhandle on private property if the owner, tenant, or person in lawful control of the property has asked the person to leave or has asked the person to refrain from soliciting on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.
(2) No person shall panhandle when either the panhandler or the person being solicited is located within one hundred (100) feet of any automated teller machine. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the facility.
(3) No person shall panhandle when either the panhandler or the person being solicited is located in any public transportation vehicle or within twenty (20) feet of any bus or light-rail station or stop.
(4) No person shall panhandle in any parking lot or parking structure to which the public or a substantial number of the public has access.

(5) No person shall panhandle within six (6) feet of an entrance to a building to which the public has access.
(6) No person shall panhandle when the person being solicited is located within the patio or sidewalk area of a retail business establishment that serves food and/or beverages.
(7) No person shall panhandle in a public place during the night. Night shall mean one-half hour after sunset until one-half hour before sunrise.
(8) No person shall panhandle when either the panhandler or the person being solicited is located within twenty (20) feet of a public toilet.
(9) No person shall panhandle when either the panhandler or the person being solicited is located within twenty (20) feet of any pay telephone provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility.
(10) No person shall panhandle when the person being solicited is waiting in line for tickets, for entry into a building, or for another purpose.
(11) No person shall panhandle within one hundred (100) feet of any school grounds.
(12) No person shall panhandle directly from the occupant of any vehicle traveling upon any public street or highway when:

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

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

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

(1) Automated teller machine shall mean a device, linked to a financial institution's account record which is able to carry out transactions, including, but not limited to account transfers, deposits, cash withdrawals, balance inquires, and mortgage and loan payments.
(2) Automated teller machine facility shall mean the area comprised of one or more automatic teller machines, and any adjacent space, which is made available to banking customers after regular banking hours.
(3) Financial institution shall mean any bank, industrial bank, credit union, or savings and loan as defined in Title 11 of the Colorado Revised Statutes.
(4) Public place shall mean a place to which the public or a substantial part of the public

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

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

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

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

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

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

APPROVED, AND ADOPTED after public hearing the 15th day of May, 2013.

CITY OF ALAMOSA

By ______________________________

Kathleen Rogers, Mayor

ATTEST:

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Judy A. Egbert, City Clerk

COUNCIL COMMUNICATION

DATE: April 24, 2013	AGENDA NO.	SUBJECT: ORDINANCE NO. 5- 2013 AN ORDINANCE AMENDING ARTICLE VIII OF CHAPTER 10 OF THE *CODE OF ORDINANCES OF ALAMOSA, COLORADO,* REGULATING SOLICITORS AND PEDDLERS
Department Head: Craig Dodd, Interim City Manager		
City Manager: Craig Dodd, Interim City Manager		
PRESENTED BY: Craig Dodd, Interim City Manager Erich Schwiesow, City Attorney		

Recommendation

Approve the ordinance without the provision for establishment of the no-solicitation list referenced in Section 5 of the Ordinance.

Background

The City of Alamosa enacted Article VIII of Section 10 of the Code of Ordinances governing solicitors and peddlers in 2000. It requires licensing of solicitors, peddlers, and transient sellers. It exempts religious, non-profit, and charitable organizations from its operation. Section 10-213 contains an outright prohibition on door-to-door solicitation, unless pursuant to a previous invitation from the resident. Because of the exemption, the prohibition does not apply to religious, non-profit, or charitable solicitation.

The outright prohibition on door-to-door sales is a common feature of many solicitation ordinances throughout the country. However, such ordinances are increasingly challenged in the Courts, and have routinely been struck down on First Amendment principles. Recently, a solicitation firm addressed Council concerning their objections to the City's existing prohibition.

The ordinance presented modified Alamosa's existing ban on door to door solicitation by
1) Prohibiting door to door solicitation only where the resident posts a "no solicitors" or "no trespassing sign"
2) Exempting non-commercial solicitors broadly (rather than just religious, non-profit, and charitable organizations) from the licensing provisions, including exempting political candidates and ballot issue organizations
3) Setting time of day limitations on solicitors
4) Establishing a no-solicitation list to be made by the City

No provision is made in the ordinance for posting of "no commercial solicitation" signs, as opposed to simply "no solicitation" signs. Thus, the ordinance itself does not suggest to citizens that they could distinguish between different types of solicitors. If a no solicitation sign is posted, the property shall not be subject to either commercial or non-commercial solicitation. Other municipalities, notably Green River, WY, have made provision for posting signs distinguishing between the two types of solicitation. Council could, for instance, amend proposed Section 10-213(a) such that it would read:

(a) Solicitation prohibited by posting of "No Solicitation" or "No Trespassing" sign. No solicitor shall enter or remain upon any private premises in the City if a "No Solicitation", "No Trespassing", or "No Commercial Solicitation" sign is posted at or near the entrance(s) to such premises. If a "No commercial Solicitation" sign is posted, then only commercial solicitors shall be prohibited from entering upon the premises, and non-commercial solicitation, as defined in this ordinance, shall be allowed. For the purposes of this provision, if an occupant of a multi-family dwelling wishes to prohibit door-to-door solicitation by the posting of a sign, the sign prohibiting solicitation must be posted at or near the entrance(s) to the occupant's individual dwelling.

Staff considers the provision concerning establishment of a no-solicitation list to be significant effort and expense for limited return. It is probably easier for a resident to post a sign that to remember to update a request to be on the list every two years. However, Council should consider the advantages and disadvantages of such a program.

Issue Before the Council

Does Council wish to update the ordinance concerning solicitors to more closely reflect evolving First Amendment Jurisprudence? If so, how does Council wish to treat commercial vs. non-commercial solicitation, and does Council favor creation of a no-solicitation list.

Alternatives

1. Approve the ordinance as written on first reading and schedule for public hearing on May 15, 2013.
2. Approve the ordinance without Section 5 concerning the no solicitation list, as recommended by Staff, on first reading and schedule for public hearing on May 15, 2013
3. Approve the ordinance with changes to address commercial vs. non-commercial signage on first reading and schedule for public hearing on May 15, 2013
4. Direct staff to make further changes and bring back for further council consideration.
5. Direct staff to leave the existing ordinance in place as is.

Fiscal Impact: If the no solicitation list is implemented, there will be staff time and resources involved in maintaining the list. However, it is not anticipated that any increase in staffing would be necessary. A listing fee could be considered to help offset any increased costs.

Legal Opinion Counselor Schwiesow available for legal questions.

Conclusion The current code provisions prohibiting door-to-door solicitation are likely not in keeping with the requirements of the First Amendment. This ordinance attempts to strike a balance between First Amendment rights and the privacy concerns of citizens.

ORDINANCE NO. 5, 2013

AN ORDINANCE AMENDING ARTICLE VIII OF CHAPTER 10 OF THE *CODE OF ORDINANCES OF ALAMOSA, COLORADO,* REGULATING SOLICITORS AND PEDDLERS

WHEREAS, on October 18, 2000, the Alamosa City Council adopted Ordinance No. 14-2000 regulating solicitors and peddlers; and

WHEREAS, it has come to the attention of the City Council that the existing ordinance contains restrictions on door-to-door solicitation that may need to be revised to keep pace with evolving First Amendment jurisprudence; and

WHEREAS, the City has an interest in protecting the well being, tranquility, and privacy of its citizens in their homes; and

WHEREAS, the City must balance the privacy of its citizens with the first amendment rights of solicitors and peddlers

WHEREAS, the City Council of the City of Alamosa, Colorado, deems it to be in the best interest of its citizens that the City regulate solicitors and peddlers so as to strike a balance between the privacy interests of the Citizens of Alamosa and the First Amendment rights of solicitors and peddlers;

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

Section 1. Amendment of Section 10-212(a) of Article VIII of Chapter 10. Section 10-212(a) shall be amended to read as follows: (a) Religious, nonprofit and charitable organizations and persons soliciting on behalf of such organizations shall be exempt from the licensing provisions of this article.

Section 2. Amendment of Section 10-212(c) of Article VIII of Chapter 10. Secton 10-212(c) shall be amended to read as follows: (c) The sale of fresh produce shall be exempt from the licensing provisions of this article.

Section 3. Addition of Section 10-212(f) of Article VIII of Chapter 10. A new Section 10-212(f) is added to read as follows:

(f) Door-to-door non-commercial solicitation shall be exempt from the licensing provisions of this article. Door-to-door noncommercial solicitation means attempting to make personal contact with a resident at his or her residence, without prior specific invitation by or appointment with the resident, for the primary purpose of:

(1) Seeking or asking for a gift or donation for a public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501 (c)(3);

(2) Soliciting the sale of goods, wares or merchandise for present or future delivery, or the sale of services to be performed immediately or in the future, with the entire proceeds of such sale to be paid directly to, or used exclusively for the benefit of, a public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501(c)(3);

(3) Personally delivering to the resident a handbill or flyer advertising a future, not-for-profit event, activity, good or service;

(4) Proselytizing on behalf of a religious organization;

(5) Soliciting support for a political candidate or organization, or ballot measure or ideology; or

(6) Soliciting the sale of newspaper or magazine subscriptions.

Section 4. Amendment and Restatement of Section 10-213(a) of Article VIII of Chapter 10. Section 10-213(a) shall be amended and restated such that it reads in its entirety as follows:

(a) All solicitation prohibited by posting of "No Solicitation" or "No Trespassing" sign. No solicitor, whether commercial or noncommercial, shall enter or remain upon any private premises in the City if a "No Solicitation" or "No Trespassing" sign is posted at or near the entrance(s) to such premises. For the purposes of this provision, if an occupant of a multi-family dwelling wishes to prohibit door-to-door solicitation by the posting of a sign, the sign prohibiting solicitation must be posted at or near the entrance(s) to the occupant's individual dwelling. This provision shall apply to all solicitation, including, without limitation, all activities that are religious, charitable or political in nature and all solicitation of newspaper or magazine subscriptions.

Section 5. Amendment of Section 10-213(b) of Article VIII of Chapter 10 to correct typographical error. Section 10-213(b) is amended to reference Section 10-212(a) rather than 10-12(a).

Section 6. Addition of New Section 10-221 concerning maintenance of a no-solicitation list. A new Section 10-221 is added to Article VIII of Chapter 10 to read as follows:

Sec. 10-221. Maintenance of No Solicitation List for Commercial solicitations.

(a) Any owner or lawful occupant of any residence within the City who wishes to prohibit door-to-door commercial solicitation at his or her residence may register the address of such residence with the City by completing a form prepared by the Financial Officer, which form may be submitted to the City either in person, by mail, or on the City's website. Such registration shall take effect thirty (30) calendar days after the date of the City's receipt of the registration form.

(b) Door-to-door commercial solicitation means attempting to make personal contact with a resident at his or her residence, without prior specific invitation by or appointment with the resident, for the primary purpose of:

> (1) Attempting to sell, for present or future delivery, any goods, wares or merchandise, other than newspaper or magazine subscriptions, or any services to be performed immediately or in the future, whether or not the person has, carries or exposes a sample of such goods, wares or merchandise, and whether or not he or she is collecting advance payments for such sales; or
>
> (2) Personally delivering to the resident a handbill or flyer advertising a commercial event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a future time.

(c) The City Manager shall maintain and publish on the City's website a no-solicitation list consisting of all residential addresses that have been registered under Subsection (a) above and that have not been deleted by the City under Subsection (e) below or by the owner or lawful occupant of the registered property. Each permit holder shall be responsible for obtaining and reviewing a copy of such list immediately upon issuance of a permit under this Article and at such intervals thereafter as may be reasonably necessary to ensure compliance with the requirements of Subsection (d) below.

(d) As of the effective date of the registration of a residential address under Subsection (a) above, all door-to-door commercial solicitation at such address shall be prohibited until such time, if at all, that the address has been deleted from the no-solicitation list.

(e) Each residential address appearing on the City's no-solicitation list will remain on the list for two (2) years from the date it was submitted to the City, at which time it shall be deleted from the list unless a new form requesting no solicitation at such residence has been submitted by the owner or lawful occupant thereof. No less than sixty (60) calendar days prior to the deletion of any address from the no-solicitation list, the City Manager shall provide written notice to the property owner or occupant who registered the address with the City, which notice shall be sent to the registered address or to such other address as may have been provided to the City at the time of registration.

(f) Prior to the expiration of the two-year period referenced in Subsection (e) above, the owner or lawful occupant of any residence appearing on the no-solicitation list may cause such residence to be removed from the list by submitting a written request for removal of the same to the Financial Officer.

(g) Neither the City nor any of its officers, employees, agents or authorized volunteers shall be liable to any person for any injuries, damages or liabilities of any kind arising from or relating to any errors or omissions that may occur in compiling or maintaining the no-solicitation list.

Section 7. 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 8. 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 9. 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 10. Declaration of Public Interest. This ordinance is necessary to preserve the peace, health, safety, welfare, and to serve the best interest of the citizens of the City of Alamosa, Colorado.

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

APPROVED, AND ADOPTED after public hearing the 15th day of May, 2013.

CITY OF ALAMOSA

By ______________________________

Kathleen Rogers, Mayor

ATTEST:

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Judy A. Egbert, City Clerk

COUNCIL COMMUNICATION

<table>
<tr><td>DATE: April 23, 2013</td><td>AGENDA NO. VIII.A.B.2.</td><td rowspan="4">SUBJECT:
Special Events Permit Application – Kiwanis Club, Ride the Rockies</td></tr>
<tr><td colspan="2">Department Head:
Judy A. Egbert, City Clerk</td></tr>
<tr><td colspan="2">City Manager:
Craig Dodd, Interim Manager</td></tr>
<tr><td colspan="2">PRESENTED BY: Judy A. Egbert</td></tr>
</table>

Recommendation
Approve Special Events Permit for the Ride The Rockies event as described below.

Background
Applicant: Kiwanis Club

Event Description:

1. June 12, 2013 from 12:00 noon to 9:00 p.m.
2. Application is for malt, vinous and spirituous liquor
3. The event will be held at the Recreation Center within the confined boundaries of the soccer field (see attached drawing)

Factual Findings

- Applicant has possession of the premises through a permit.
- Applicant qualifies as a non-profit corporation.
- The application was submitted in a timely manner.
- All applicable fees have been paid.

Issue Before the Council
Does Council wish to approve this Special Events Permit?

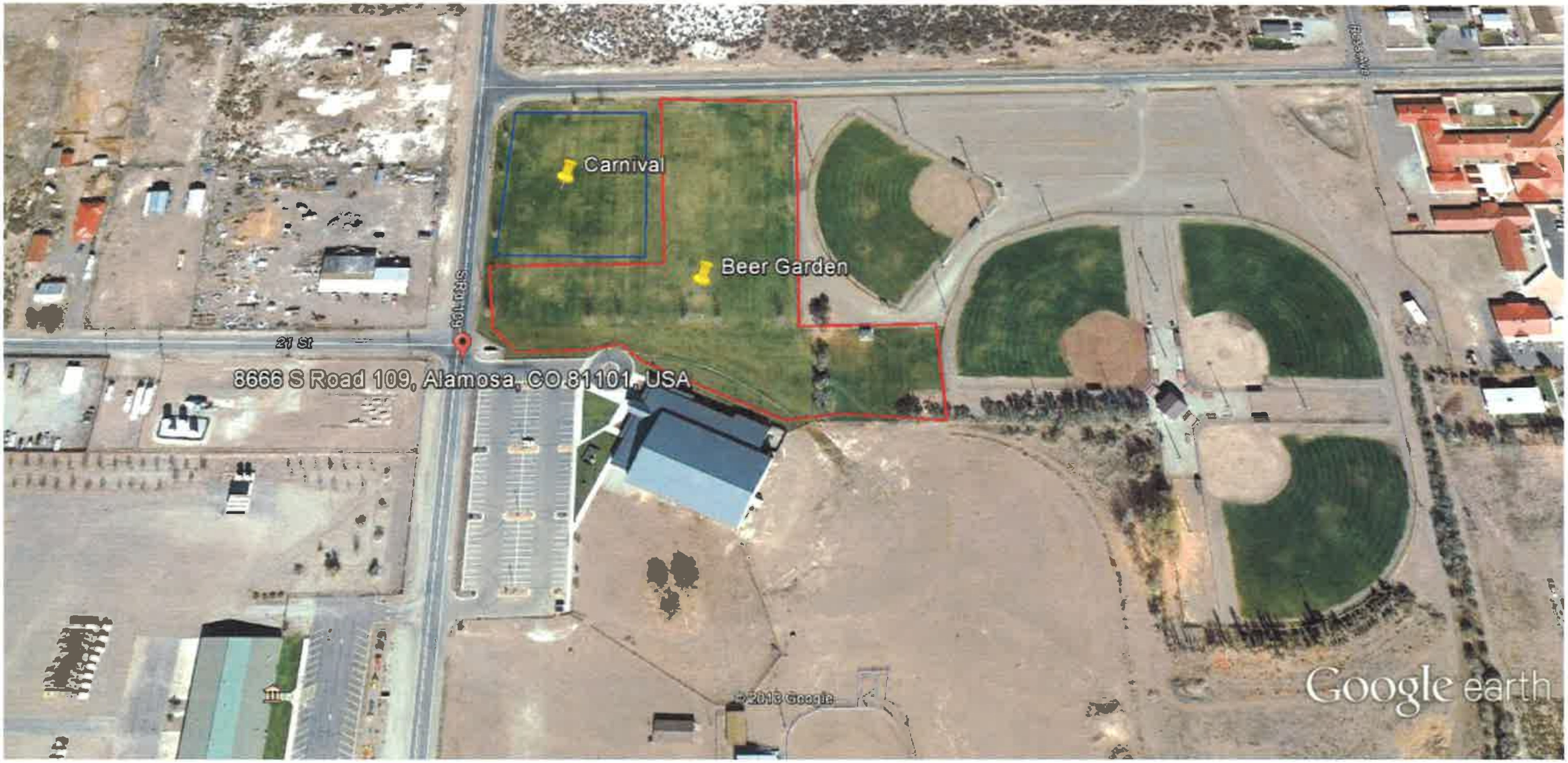
Alternatives

1. Approve the Special Events Permit application
2. Do act on approval. Determine potential reasons for denial, and set a hearing date.

Fiscal Impact
N/A

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

Conclusion
Approve Special Events Permit application.



Google earth

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COUNCIL COMMUNICATION

DATE: April 23, 2013	**AGENDA NO. VIII. A. B. 2. a.**	**SUBJECT**: Accept Stipulation Agreement for Compliance Check Violation – Safeway
Department Head: Judy A. Egbert, City Clerk		
City Manager: Craig Dodd, Interim Manager		
PRESENTED BY: Judy Egbert		

Recommendation
Accept the stipulated agreement.

Background
On March 16, 2013, the Police Department conducted compliance checks on a total of fourteen businesses. Four of these businesses sold to the underage person. Details are contained in the attached memo from Prosecutor Gene Farish.

A stipulation meeting was held by phone conference. The Licensee was represented by Stephen Lee, Legal Counsel for Safeway. The Licensee stipulated that the violation occurred, and the Prosecutor has made a stipulated offer. The Licensee has signed the agreement, and it is now presented to Council for formal action.

This is the third violation over a nine year period, with the last violation on March 15, 2008. The penalty range specified by ordinance is 0 to 10 days served with 15 to 5 days held in abeyance. The offered and accepted penalty in this case is 3 days served plus 7 in abeyance for one year. The Licensee is eligible to pay a fine in lieu of suspension and has expressed interest in doing do.

Issue Before the Council
Does Council wish to accept the stipulated agreement?

Alternatives
1. Accept the stipulation as presented, documenting that the violation occurred and accepting the proposed penalty.
2. Accept the stipulation that the violation occurred, but impose a different penalty.
3. Do not accept that the violation occurred, and request a hearing to receive evidence.

Fiscal Impact
N/A

Legal Opinion
Available at the meeting if needed.

Conclusion
All the preliminary steps have been completed, and it is appropriate for Council to act on the agreement presented.

MEMORANDUM

To: Alamosa City Council
Alamosa City Clerk

From: Eugene L. Farish, City Prosecutor

Date: April 15, 2013

Re: Offered Dispositions on Liquor Violations resulting from compliance checks on Safeway Store #1601; Chief's Liquor; Atencio's market and Weekend's Tavern

Date of Compliance Checks: March 16, 2013

Date of Offered Dispositions: April 15, 2013

Four cases were scheduled for offered dispositions at Alamosa City Hall on April 15, 2013, which resulted from compliance checks on Alamosa liquor license establishments conducted by Officer Tate Kindschuh and Detective Yvonne Gonzales in the evening hours of March 16, 2013. The officers utilized two underage operatives. One of the operatives was given a body microphone for monitoring and throughout the operation and a body cam device for audio/visual recording of the transactions, and interaction inside each establishment. Copies of the operatives' ID/Driver's Licenses were taken, and their ages were verified by picture identification. They were given $50 from the E.U.D.L. Grant funds allocated for compliance checks. They entered fourteen (14) liquor establishments: , Weekends Tavern, St. Ives – A Pub & Eatery, Chili's Bar and Grill, Spuddy's Cantina, SLV Brewing Co., City Market, Atencio's Market, The Office, The Bankshot, Beer Keg Depot, Chief's Liquor, Terry's Liquor, Wal-Mart and Safeway. Ten of the fourteen establishments passed the compliance checks; four did not.

At approximately 2105 hours, both underage operatives entered Safeway at 1301 Main Street, and the operatives walked to the cooler and selected a six pack of Budweiser. The operatives walked to the checkout counter with the Budweiser and gave the clerk a $50 bill. The clerk, Dylan Haslett, rang up the alcohol when they placed the Budweiser on the counter, without asking for ID and returned $42.21 in change to the operatives. The two operatives left the store with the alcohol and turned it over to the police officers. The police officers then entered Safeway and advised Mr. Haslett that he had just sold liquor to a minor.

At approximately 2137 hours, both underage operatives entered Chief's Liquor, 1280 Main Street, walked toward the coolers, selected a six pack of Budweiser bottles and then walked toward the clerk, Eugene Jay O'Connell, and offered to pay for the Budweiser with a $20 bill. The clerk asked for an ID, looked at the operative's ID and proceeded to ring up the sale; the operatives brought the Budweiser to the officers waiting outside. The officers confronted Mr. O'Connell and issued a citation to him. He responded as the officers were leaving the store "This is fucking bullshit, they are doing this on one of the busiest nights of the year". When the officer spoke with the operatives, they stated there were only three customers inside the store at the time of purchase.

At approximately 2150 hours, both underage operatives entered Atencio's Market, 802 State Avenue, and walked to the alcohol section of the coolers, selected a six pack of Budweiser and walked to the cashier's counter to purchase the alcohol where the clerk, Brian R. Marquez, asked for the operatives' ID. The operative handed his ID to Mr. Marquez and he compared the date on the ID to a date on the cash register. Mr. Marquez asked the operative whether he had updated his ID yet and the operative responded "no not yet". Marquez then rang up the sale, gave the beer to the operatives, and returned $2.09 in change for the $10 bill the operatives had given him. The officers observed that the piece of paper taped to the cash register read "alcohol 1992", Mr. Marquez had apparently not made the correct age calculation from the ID provided.

At approximately 2330 hours, the operatives entered Weekend's Tavern. They were asked for their ID's at the entrance. Both operatives provided their "under 21" ID's to the security staff. However one operative was given "under 21" marks on his hands by Tyler Haney, while the other was given a wristband which indicated that the operative was over 21. The one with the wristband walked to the bar, ordered a Budweiser, paid $3 to the bartender and upon being served, took the beer into the back of the bar. The operatives then videoed themselves with the alcohol, set the bottle down and left the tavern.

<u>Offered/Recommended Dispositions</u>

1. Safeway Store: Safeway Store #1681 has experienced an underage sale violation in 2004 and another in 2008. There have been no violations within the past year, so it is eligible for a fine in lieu of suspension. I discussed the case with Stephen M. Lee, Safeway's legal counsel, and he elected to accept the offered disposition as per regulation 047-6-04 of 10 days suspension with seven of the ten days stayed and three days to be actively served. In accordance with city practice, the 20% of sales fine would be calculated upon the 3 days to be actively served. If that amount is

less than the minimum fine of $200, then the minimum fine would be due to the city. The seven days would be suspended for a period of one year conditioned on no further violations. Safeway has signed a stipulation agreeing to that disposition with the final approval of City Council.

2. Chief's Liquor: This is the 6th offense for Chief's Liquor over the scope of twelve years (more than any other outlet in town). However, this is the first one under the present owners. The last offense was two years ago under previous owners. Ryan Workmaster and Bernard Van de Boogaard, co-owners, appeared at the disposition meeting and were quite impressive in their apologies and the determination not to allow a recurrence of such violations. They have posted prominent signs indicating that they do not accept vertical (under 21) ID's. Another sign indicates that persons under 21 are not even allowed in the store. The glitch in Chief's software has now been corrected and its employees are all now TIPS certified. In the last suspension of Chief's in June of 2011, it was given a 5 day suspension (active) with 10 days held in abeyance for one year. I offered the identical suspension on this occasion with consideration of the history of the establishment as well as the new ownership. Since there are no violations within a year, Chief's would also be eligible for a fine in lieu of suspension. The owners indicated they were satisfied with the offer. The City Clerk will prepare the *fine in lieu* documents.

3. Atencio's Market: Atencio's Market has had a history of four violations over the last 9 years – all being under the same owner. Jr. Atencio appeared at the disposition meeting and acknowledged that the sales clerk had checked the ID's of the operatives and apparently knew (or should have known) that the ID showed they weren't of age because he asked the operative whether he had "updated" his ID. When the operative said he had not, he sold the beer to him anyway. He did not make the calculation from the ID to the "1992" date on the register. Atencio's has now put in place a program which negates the sale when the underage ID is entered for alcohol sales. Atencio's was given a 15 day suspension on 6/1/11, actively served with an additional 10 days held in abeyance for a year. An identical 15 days was offered for this case. Atencio's is eligible for a fine in lieu and Jr. Atencio indicated he would accept that since alcohol sales are a minor part of a grocery's income. The City Clerk will prepare the *fine in lieu* documents.

4. Weekend's Tavern: This incident presented a "systems failure" where those checking ID's only marked one of the operatives as

being under 21 and should have marked both. A beer was served to the other operative who had been given a "bracelet" (over 21) and who ordered, received and paid for the beer at the bar. Manuel Olguin, owner/manager appeared by phone since he is currently in the hospital in Denver. We explained that Weekends is not eligible for a fine in lieu of suspension since Weekend's last suspension was on 6/27/12 for a violation occurring on 4/21/12. Three days were actively served for that violation with seven days being held in abeyance for a year. Therefore the seven days would have to now be served in addition to the 5 being offered for the immediate suspension (i.e., 12 active suspension days) in addition to 10 days being held in abeyance for 1 year. Manuel indicated he understood and accepted the disposition.

Summary: All four of the violations appear to have been resolved in satisfactory terms with each of the establishments. Each owner was told that final acceptance was the province of the City Council as well as the fact that any owner had the right to have the case heard before City Council. The police department performed its job in completing the compliance checks in a professional manner and none of the owners indicated that they were being treated unfairly. Each appeared resolved to not allow the violations to recur.

Respectfully submitted,

Eugene L. Farish

Eugene L. Farish
City Prosecutor

BEFORE ALAMOSA CITY COUNCIL SITTING AS THE LOCAL LICENSING AUTHORITY FOR THE CITY OF ALAMOSA

STIPULATION, AGREEMENT, AND ORDER

IN THE MATTER OF:

SAFEWAY STORES 46, INC.
D/B/A SAFEWAY STORE NO 1681
1300 MAIN
ALAMOSA, CO 81101

LICENSE NO. 21-70664-0007

THIS AGREEMENT BETWEEN the City of Alamosa (City) and SAFEWAY STORES 46, INC. d/b/aSAFEWAY STORE NO 1681, 1300 MAIN, Alamosa, CO 81101 (Licensee"), is offered for the purpose of a settlement of the matters detailed in the attached memo from Deputy Chief Robert Jackson attached hereto as Exhibit 1 (hereinafter "Memo"). The above-named parties submit and agree as follows:

1. The facts and allegations contained in the Memo are true and accurate.

2. The Licensee agrees to a ten (10) day suspension of its 3.2% Beer License as a penalty for its violation of the Colorado Liquor Code as set forth in Paragraph 1 of this stipulation and agreement. Said suspension of license is to take place as follows:

   A. License to be actively suspended for three (3) days. Specific days may be chosen by the Licensee, but must be consecutive and completed prior to May 31, 2013. Licensee must notify the City Clerk of the dates no later than May 8, 2013.

   B. During any period of active license suspension, Licensee will post its premises in compliance with Regulation 47-600(F), 1 C.C.R. 203-2. The City Clerk will provide appropriate posters.

   C. Seven (7) days of the suspension are to be held in abeyance for a period of one year from the date of approval of this agreement, pending no further violations of the Colorado Liquor Code during this period.

3. The Licensee is eligible to file a written petition to the City in accordance with 12-47-601(3), C.R.S. requesting that the Licensee be allowed to pay a fine in lieu of active suspension. The written request must be received by the City Clerk no

later than April 22, 2013. If the request is made, Licensee is asserting:

A. That the public welfare and morals would not be impaired by permitting the Licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes; and

B. That the books and records of the Licensee are kept in such a manner that loss of sales of alcohol beverages which the Licensee would have suffered had the suspension gone into effect, can be determined with reasonable accuracy therefrom; and

C. That the Licensee has not had its license suspended or revoked, nor had any suspensions stayed by the payment of a fine, during the two (2) years immediately preceding the date of the complaint which has resulted in this stipulation and agreement.

4. The parties agree that the fine shall be the equivalent of twenty percent (20%) of the Licensee's estimated gross revenues from the sales of alcohol beverages during a period of three days, except that the fine shall not be less than two hundred dollars ($200.00) nor more than five thousand dollars ($5,000.00). The parties agree that the average days' sales for the months of January 2013, February 2013, and March 2013 be the appropriate measure of said estimated gross revenues.

5. Payment of the fine pursuant to the provisions of this agreement shall be in the form of cash or check made payable to the City of Alamosa. Said fine shall be paid to the City on or before May 30, 2013.

6. Upon the payment of the fine as agreed upon in Paragraph 5, Licensee's suspension as set forth in Paragraph 2 of this stipulation and agreement shall be deemed automatically stayed.

7. If the Licensee fails to make payment in a timely manner as detailed in Paragraph 5 of this stipulation and agreement, the suspension shall be served as detailed in Paragraph 2.

8. The alcohol beverages that were sold or used in the violation described in the Memo are hereby forfeited.

If at any subsequent hearing or stipulation in lieu of hearing, the City of Alamosa should find that the Licensee, during the aforesaid one-year period, violated any provision of the Colorado Beer or Liquor Codes, including all regulations thereunder, then the City shall, in addition to any other penalty imposed, order Licensee to serve all or any days of suspension presently held in abeyance, pursuant to this agreement.

This Stipulation, Agreement, and Order shall not be effective unless and until approved by the Alamosa City Council.

APPROVED and ORDERED this 1st day of May 2013.

______________________________	______________________________
(Licensee)	Kathleen J. Rogers, Mayor
________________________	________________________
Date	Date

Judy Egbert

03/25/2013

On March 16th,2013, Officers of the Alamosa Police Dept conducted alcohol compliance checks throughout the City of Alamosa. Myself, (Capt. Robert Jackson) Evidence Tech., Kristi Duarte, Officer Kindschuh and Detective Gonzales participated in the operation. We used two operatives (one male and one female), who were both under 21 years of age. They were instructed to attempt to purchase alcohol and if they were asked for ID, to present their real ID which shows them to be under 21. They were both tested numerous times during the operation for the presence of alcohol in their system. All tests were negative.

At approximately 2105 hours, both operatives entered Safeway at 1301 Main St . They selected a 6 pack of Budweiser beer and took it to the checkout. The clerk sold them the beer without asking for any ID. After the operatives brought the beer to the officers, and described the clerk who sold the beer, we entered the store and contacted the clerk, who was identified as Dylan Haslett . Mr. Haslett was issued a summons into Municipal court for serving alcohol to a person under 21 years of age.

I am requesting a "Show Cause Hearing" be requested by the City of Alamosa for Safeway Stores Inc...

Respectfully

Robert Jackson

Deputy Chief

COUNCIL COMMUNICATION

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<tr><td>DATE: April 23, 2013</td><td>AGENDA NO. VIII. A. B. 2. b.</td><td rowspan="4">SUBJECT:

Accept Stipulation Agreement for Compliance Check Violation –
Chief Liquor</td></tr>
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Judy A. Egbert, City Clerk</td></tr>
<tr><td colspan="2">City Manager:
Craig Dodd, Interim Manager</td></tr>
<tr><td colspan="2">PRESENTED BY: Judy Egbert</td></tr>
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Recommendation
Accept the stipulated agreement.

Background
On March 16, 2013, the Police Department conducted compliance checks on a total of fourteen businesses. Four of these businesses sold to the underage person. Details are contained in the attached memo from Prosecutor Gene Farish.

A stipulation meeting was held on April 15, 2013. The Licensee was represented by Ryan Werkmeister and Bernie van de Boogaard. The meeting was for the purpose of Prosecutor Gene Farish and the Alamosa PD to discuss the evidence obtained and to uncover any aggravating or mitigating factors. The Licensee stipulated that the violation occurred, and the Prosecutor has made a stipulated offer. The Licensee has signed the agreement, and it is now presented to Council for formal action.

This is the sixth violation over a twelve year period, with the last violation on April 23, 2011 (under the prior owner). The penalty range specified by ordinance is 0 to 15 days served with 15 to 0 days held in abeyance. The offered and accepted penalty in this case is five days served plus 10 in abeyance for one year. The Licensee is eligible to pay a fine in lieu of suspension and has expressed interest in doing do.

Issue Before the Council
Does Council wish to accept the stipulated agreement?

Alternatives
1. Accept the stipulation as presented, documenting that the violation occurred and accepting the proposed penalty.
2. Accept the stipulation that the violation occurred, but impose a different penalty.
3. Do not accept that the violation occurred, and request a hearing to receive evidence.

Fiscal Impact
N/A

Legal Opinion
Available at the meeting if needed.

Conclusion
All the preliminary steps have been completed, and it is appropriate for Council to act on the agreement presented.

MEMORANDUM

To: Alamosa City Council
Alamosa City Clerk

From: Eugene L. Farish, City Prosecutor

Date: April 15, 2013

Re: Offered Dispositions on Liquor Violations resulting from compliance checks on Safeway Store #1601; Chief's Liquor; Atencio's market and Weekend's Tavern

Date of Compliance Checks: March 16, 2013

Date of Offered Dispositions: April 15, 2013

Four cases were scheduled for offered dispositions at Alamosa City Hall on April 15, 2013, which resulted from compliance checks on Alamosa liquor license establishments conducted by Officer Tate Kindschuh and Detective Yvonne Gonzales in the evening hours of March 16, 2013. The officers utilized two underage operatives. One of the operatives was given a body microphone for monitoring and throughout the operation and a body cam device for audio/visual recording of the transactions, and interaction inside each establishment. Copies of the operatives' ID/Driver's Licenses were taken, and their ages were verified by picture identification. They were given $50 from the E.U.D.L. Grant funds allocated for compliance checks. They entered fourteen (14) liquor establishments: , Weekends Tavern, St. Ives – A Pub & Eatery, Chili's Bar and Grill, Spuddy's Cantina, SLV Brewing Co., City Market, Atencio's Market, The Office, The Bankshot, Beer Keg Depot, Chief's Liquor, Terry's Liquor, Wal-Mart and Safeway. Ten of the fourteen establishments passed the compliance checks; four did not.

At approximately 2105 hours, both underage operatives entered Safeway at 1301 Main Street, and the operatives walked to the cooler and selected a six pack of Budweiser. The operatives walked to the checkout counter with the Budweiser and gave the clerk a $50 bill. The clerk, Dylan Haslett, rang up the alcohol when they placed the Budweiser on the counter, without asking for ID and returned $42.21 in change to the operatives. The two operatives left the store with the alcohol and turned it over to the police officers. The police officers then entered Safeway and advised Mr. Haslett that he had just sold liquor to a minor.

At approximately 2137 hours, both underage operatives entered Chief's Liquor, 1280 Main Street, walked toward the coolers, selected a six pack of Budweiser bottles and then walked toward the clerk, Eugene Jay O'Connell, and offered to pay for the Budweiser with a $20 bill. The clerk asked for an ID, looked at the operative's ID and proceeded to ring up the sale; the operatives brought the Budweiser to the officers waiting outside. The officers confronted Mr. O'Connell and issued a citation to him. He responded as the officers were leaving the store "This is fucking bullshit, they are doing this on one of the busiest nights of the year". When the officer spoke with the operatives, they stated there were only three customers inside the store at the time of purchase.

At approximately 2150 hours, both underage operatives entered Atencio's Market, 802 State Avenue, and walked to the alcohol section of the coolers, selected a six pack of Budweiser and walked to the cashier's counter to purchase the alcohol where the clerk, Brian R. Marquez, asked for the operatives' ID. The operative handed his ID to Mr. Marquez and he compared the date on the ID to a date on the cash register. Mr. Marquez asked the operative whether he had updated his ID yet and the operative responded "no not yet". Marquez then rang up the sale, gave the beer to the operatives, and returned $2.09 in change for the $10 bill the operatives had given him. The officers observed that the piece of paper taped to the cash register read "alcohol 1992", Mr. Marquez had apparently not made the correct age calculation from the ID provided.

At approximately 2330 hours, the operatives entered Weekend's Tavern. They were asked for their ID's at the entrance. Both operatives provided their "under 21" ID's to the security staff. However one operative was given "under 21" marks on his hands by Tyler Haney, while the other was given a wristband which indicated that the operative was over 21. The one with the wristband walked to the bar, ordered a Budweiser, paid $3 to the bartender and upon being served, took the beer into the back of the bar. The operatives then videoed themselves with the alcohol, set the bottle down and left the tavern.

<u>Offered/Recommended Dispositions</u>

1. Safeway Store: Safeway Store #1681 has experienced an underage sale violation in 2004 and another in 2008. There have been no violations within the past year, so it is eligible for a fine in lieu of suspension. I discussed the case with Stephen M. Lee, Safeway's legal counsel, and he elected to accept the offered disposition as per regulation 047-6-04 of 10 days suspension with seven of the ten days stayed and three days to be actively served. In accordance with city practice, the 20% of sales fine would be calculated upon the 3 days to be actively served. If that amount is

less than the minimum fine of $200, then the minimum fine would be due to the city. The seven days would be suspended for a period of one year conditioned on no further violations. Safeway has signed a stipulation agreeing to that disposition with the final approval of City Council.

2. Chief's Liquor: This is the 6th offense for Chief's Liquor over the scope of twelve years (more than any other outlet in town). However, this is the first one under the present owners. The last offense was two years ago under previous owners. Ryan Workmaster and Bernard Van de Boogaard, co-owners, appeared at the disposition meeting and were quite impressive in their apologies and the determination not to allow a recurrence of such violations. They have posted prominent signs indicating that they do not accept vertical (under 21) ID's. Another sign indicates that persons under 21 are not even allowed in the store. The glitch in Chief's software has now been corrected and its employees are all now TIPS certified. In the last suspension of Chief's in June of 2011, it was given a 5 day suspension (active) with 10 days held in abeyance for one year. I offered the identical suspension on this occasion with consideration of the history of the establishment as well as the new ownership. Since there are no violations within a year, Chief's would also be eligible for a fine in lieu of suspension. The owners indicated they were satisfied with the offer. The City Clerk will prepare the *fine in lieu* documents.

3. Atencio's Market: Atencio's Market has had a history of four violations over the last 9 years – all being under the same owner. Jr. Atencio appeared at the disposition meeting and acknowledged that the sales clerk had checked the ID's of the operatives and apparently knew (or should have known) that the ID showed they weren't of age because he asked the operative whether he had "updated" his ID. When the operative said he had not, he sold the beer to him anyway. He did not make the calculation from the ID to the "1992" date on the register. Atencio's has now put in place a program which negates the sale when the underage ID is entered for alcohol sales. Atencio's was given a 15 day suspension on 6/1/11, actively served with an additional 10 days held in abeyance for a year. An identical 15 days was offered for this case. Atencio's is eligible for a fine in lieu and Jr. Atencio indicated he would accept that since alcohol sales are a minor part of a grocery's income. The City Clerk will prepare the *fine in lieu* documents.

4. Weekend's Tavern: This incident presented a "systems failure" where those checking ID's only marked one of the operatives as

being under 21 and should have marked both. A beer was served to the other operative who had been given a "bracelet" (over 21) and who ordered, received and paid for the beer at the bar. Manuel Olguin, owner/manager appeared by phone since he is currently in the hospital in Denver. We explained that Weekends is not eligible for a fine in lieu of suspension since Weekend's last suspension was on 6/27/12 for a violation occurring on 4/21/12. Three days were actively served for that violation with seven days being held in abeyance for a year. Therefore the seven days would have to now be served in addition to the 5 being offered for the immediate suspension (i.e., 12 active suspension days) in addition to 10 days being held in abeyance for 1 year. Manuel indicated he understood and accepted the disposition.

Summary: All four of the violations appear to have been resolved in satisfactory terms with each of the establishments. Each owner was told that final acceptance was the province of the City Council as well as the fact that any owner had the right to have the case heard before City Council. The police department performed its job in completing the compliance checks in a professional manner and none of the owners indicated that they were being treated unfairly. Each appeared resolved to not allow the violations to recur.

Respectfully submitted,

Eugene L. Farish

Eugene L. Farish
City Prosecutor

ALAMOSA CITY COUNCIL SITTING AS THE LOCAL LICENSING AUTHORITY FOR THE CITY OF ALAMOSA

STIPULATION, AGREEMENT, AND ORDER

IN THE MATTER OF:

A-O.K. LIQUORS INC
D/B/A CHIEF LIQUOR
1280 MAIN STREET
ALAMOSA, CO 81101

LICENSE NO. 4700362

THIS AGREEMENT BETWEEN the City of Alamosa (City) and A-O.K. LIQUORS INC d/b/aCHIEF LIQUOR, 1280 MAIN STREET, Alamosa, CO 81101 (Licensee"), is offered for the purpose of a settlement of the matters detailed in the attached memo writen by Deputy Chief Robert Jackson attached hereto as Exhibit 1 (hereinafter "Memo"). The above-named parties submit and agree as follows:

1. The facts and allegations contained in the Memo are true and accurate.

2. The Licensee agrees to a fifteen (15) day suspension of its Retail Liquor Store License as a penalty for its violation of the Colorado Liquor Code as set forth in Paragraph 1 of this stipulation and agreement. Said suspension of license is to take place as follows:

   A. License to be actively suspended for five (5) days. Specific days may be chosen by the Licensee, but must be consecutive and completed prior to May 31, 2013. Licensee must notify the City Clerk of the dates no later than May 8, 2013.

   B. During any period of active license suspension, Licensee will post its premises in compliance with Regulation 47-600(F), 1 C.C.R. 203-2. The City Clerk will provide appropriate posters.

   C. Ten (10) days of the suspension are to be held in abeyance for a period of one (1) year from the date of approval of this agreement, pending no further violations of the Colorado Liquor Code during this period.

3. The Licensee is eligible to file a written petition to the City in accordance with 12-47-601(3), C.R.S. requesting that the Licensee be allowed to pay a fine in lieu of active suspension. The written request must be received by the City Clerk no

later than May 8, 2013. If the request is made, Licensee is asserting:

A. That the public welfare and morals would not be impaired by permitting the Licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes; and

B. That the books and records of the Licensee are kept in such a manner that loss of sales of alcohol beverages which the Licensee would have suffered had the suspension gone into effect, can be determined with reasonable accuracy therefrom; and

C. That the Licensee has not had its license suspended or revoked, nor had any suspensions stayed by the payment of a fine, during the two (2) years immediately preceding the date of the complaint which has resulted in this stipulation and agreement.

4. The parties agree that the fine shall be the equivalent of twenty percent (20%) of the Licensee's estimated gross revenues from the sales of alcohol beverages during a period of five days, except that the fine shall not be less than two hundred dollars ($200.00) nor more than five thousand dollars ($5,000.00). The parties agree that the average days' sales for the months of January 2013, February 2013, and March 2013 be the appropriate measure of said estimated gross revenues.

5. Payment of the fine pursuant to the provisions of this agreement shall be in the form of cash or check made payable to the City of Alamosa. Said fine shall be paid to the City on or before May 30, 2013.

6. Upon the payment of the fine as agreed upon in Paragraph 5, Licensee's suspension as set forth in Paragraph 2 of this stipulation and agreement shall be deemed automatically stayed.

7. If the Licensee fails to make payment in a timely manner as detailed in Paragraph 5 of this stipulation and agreement, the suspension shall be served as detailed in Paragraph 2.

8. The alcohol beverages that were sold or used in the violation described in the Memo are hereby forfeited.

If at any subsequent hearing or stipulation in lieu of hearing, the City of Alamosa should find that the Licensee, during the aforesaid one-year period, violated any provision of the Colorado Beer or Liquor Codes, including all regulations thereunder, then the City shall, in addition to any other penalty imposed, order Licensee to serve all or any days of suspension presently held in abeyance, pursuant to this agreement.

This Stipulation, Agreement, and Order shall not be effective unless and until approved by the Alamosa City Council.

APPROVED and ORDERED this 1st day of May 2013.

______________________________ (Licensee)

______________________________ Kathleen J. Rogers, Mayor

________________________ Date

________________________ Date

Judy Egbert

03/25/2013

On March 16th,2013, Officers of the Alamosa Police Dept conducted alcohol compliance checks throughout the City of Alamosa. Myself, (Capt. Robert Jackson) Evidence Tech., Kristi Duarte, Officer Kindschuh and Detective Gonzales participated in the operation. We used two operatives (one male and one female), who were both under 21 years of age. They were instructed to attempt to purchase alcohol and if they were asked for ID, to present their real ID which shows them to be under 21. They were both tested numerous times during the operation for the presence of alcohol in their system. All tests were negative.

At approximately 21:27 hours, both operatives entered Chief's Liquor at 1280 Main St . They selected a 6 pack of Budweiser beer and took it to the clerk. The clerk asked for ID which they provided. After looking at the ID, the clerk sold them the alcohol. The ID clearly identifies the subjects as being under 21 years of age. After the operatives brought the beer to the officers and described the clerk who sold the beer, they entered the store and contacted the clerk, who was identified as Eugene Jay O'Connell (10-16-67) . Mr. O'Connell was issued a summons into Municipal court for serving alcohol to a person under 21 years of age.

I am asking that a "Show Cause Hearing" be requested by the City of Alamosa to Chief's Liquor.

Respectfully

Robert Jackson

Deputy Chief

COUNCIL COMMUNICATION

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Recommendation
Accept the stipulated agreement.

Background
On March 16, 2013, the Police Department conducted compliance checks on a total of fourteen businesses. Four of these businesses sold to the underage person. Details are contained in the attached memo from Prosecutor Gene Farish.

A stipulation meeting was held on April 15, 2013. The Licensee was represented by Alfonzo “Jr.” Atencio. The meeting was for the purpose of Prosecutor Gene Farish and the Alamosa PD to discuss the evidence obtained and to uncover any aggravating or mitigating factors. The Licensee stipulated that the violation occurred, and the Prosecutor has made a stipulated offer. The Licensee has signed the agreement, and it is now presented to Council for formal action.

This is the fifth violation over a nine year period, with the last violation on April 23, 2011. The penalty range specified by ordinance is 0 to 15 days served with 15 to 0 days held in abeyance. The offered and accepted penalty in this case is fifteen days served with none held in abeyance. The Licensee is eligible to pay a fine in lieu of suspension and has expressed interest in doing do.

Issue Before the Council
Does Council wish to accept the stipulated agreement?

Alternatives
1. Accept the stipulation as presented, documenting that the violation occurred and accepting the proposed penalty.
2. Accept the stipulation that the violation occurred, but impose a different penalty.
3. Do not accept that the violation occurred, and request a hearing to receive evidence.

Fiscal Impact
N/A

Legal Opinion
Available at the meeting if needed.

Conclusion
All the preliminary steps have been completed, and it is appropriate for Council to act on the agreement presented.

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To: Alamosa City Council
Alamosa City Clerk

From: Eugene L. Farish, City Prosecutor

Date: April 15, 2013

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Offered/Recommended Dispositions

1. Safeway Store: Safeway Store #1681 has experienced an underage sale violation in 2004 and another in 2008. There have been no violations within the past year, so it is eligible for a fine in lieu of suspension. I discussed the case with Stephen M. Lee, Safeway's legal counsel, and he elected to accept the offered disposition as per regulation 047-6-04 of 10 days suspension with seven of the ten days stayed and three days to be actively served. In accordance with city practice, the 20% of sales fine would be calculated upon the 3 days to be actively served. If that amount is

less than the minimum fine of $200, then the minimum fine would be due to the city. The seven days would be suspended for a period of one year conditioned on no further violations. Safeway has signed a stipulation agreeing to that disposition with the final approval of City Council.

2. Chief's Liquor: This is the 6th offense for Chief's Liquor over the scope of twelve years (more than any other outlet in town). However, this is the first one under the present owners. The last offense was two years ago under previous owners. Ryan Workmaster and Bernard Van de Boogaard, co-owners, appeared at the disposition meeting and were quite impressive in their apologies and the determination not to allow a recurrence of such violations. They have posted prominent signs indicating that they do not accept vertical (under 21) ID's. Another sign indicates that persons under 21 are not even allowed in the store. The glitch in Chief's software has now been corrected and its employees are all now TIPS certified. In the last suspension of Chief's in June of 2011, it was given a 5 day suspension (active) with 10 days held in abeyance for one year. I offered the identical suspension on this occasion with consideration of the history of the establishment as well as the new ownership. Since there are no violations within a year, Chief's would also be eligible for a fine in lieu of suspension. The owners indicated they were satisfied with the offer. The City Clerk will prepare the *fine in lieu* documents.

3. Atencio's Market: Atencio's Market has had a history of four violations over the last 9 years – all being under the same owner. Jr. Atencio appeared at the disposition meeting and acknowledged that the sales clerk had checked the ID's of the operatives and apparently knew (or should have known) that the ID showed they weren't of age because he asked the operative whether he had "updated" his ID. When the operative said he had not, he sold the beer to him anyway. He did not make the calculation from the ID to the "1992" date on the register. Atencio's has now put in place a program which negates the sale when the underage ID is entered for alcohol sales. Atencio's was given a 15 day suspension on 6/1/11, actively served with an additional 10 days held in abeyance for a year. An identical 15 days was offered for this case. Atencio's is eligible for a fine in lieu and Jr. Atencio indicated he would accept that since alcohol sales are a minor part of a grocery's income. The City Clerk will prepare the *fine in lieu* documents.

4. Weekend's Tavern: This incident presented a "systems failure" where those checking ID's only marked one of the operatives as

being under 21 and should have marked both. A beer was served to the other operative who had been given a "bracelet" (over 21) and who ordered, received and paid for the beer at the bar. Manuel Olguin, owner/manager appeared by phone since he is currently in the hospital in Denver. We explained that Weekends is not eligible for a fine in lieu of suspension since Weekend's last suspension was on 6/27/12 for a violation occurring on 4/21/12. Three days were actively served for that violation with seven days being held in abeyance for a year. Therefore the seven days would have to now be served in addition to the 5 being offered for the immediate suspension (i.e., 12 active suspension days) in addition to 10 days being held in abeyance for 1 year. Manuel indicated he understood and accepted the disposition.

Summary: All four of the violations appear to have been resolved in satisfactory terms with each of the establishments. Each owner was told that final acceptance was the province of the City Council as well as the fact that any owner had the right to have the case heard before City Council. The police department performed its job in completing the compliance checks in a professional manner and none of the owners indicated that they were being treated unfairly. Each appeared resolved to not allow the violations to recur.

Respectfully submitted,

Eugene L. Farish

Eugene L. Farish
City Prosecutor

BEFORE ALAMOSA CITY COUNCIL SITTING AS THE LOCAL LICENSING AUTHORITY FOR THE CITY OF ALAMOSA

STIPULATION, AGREEMENT, AND ORDER

IN THE MATTER OF:

ATENCIOS ENTERPRISES, INC.
D/B/A ATENCIO'S MARKET
802 STATE
ALAMOSA, CO 81101

LICENSE NO. 23-88813-0000

THIS AGREEMENT BETWEEN the City of Alamosa (City) and ATENCIOS ENTERPRISES, INC. d/b/aATENCIO'S MARKET, 802 STATE, Alamosa, CO 81101 (Licensee"), is offered for the purpose of a settlement of the matters detailed in the attached memo from Prosecutor Eugene L. Farish attached hereto as Exhibit 1 (hereinafter "Memo"). The above-named parties submit and agree as follows:

1. The facts and allegations contained in the Memo are true and accurate.

2. The Licensee agrees to a fifteen (15) day suspension of its 3.2% Beer License as a penalty for its violation of the Colorado Liquor Code as set forth in Paragraph 1 of this stipulation and agreement. Said suspension of license is to take place as follows:

   A. License to be actively suspended for fifteen (15) days. Specific days may be chosen by the Licensee, but must be consecutive and completed prior to May 31, 2013. Licensee must notify the City Clerk of the dates no later than May 8, 2013.

   B. During any period of active license suspension, Licensee will post its premises in compliance with Regulation 47-600(F), 1 C.C.R. 203-2. The City Clerk will provide appropriate posters.

   C. None of the days of the suspension are to be held in abeyance.

3. The Licensee is eligible to file a written petition to the City in accordance with 12-47-601(3), C.R.S. requesting that the Licensee be allowed to pay a fine in lieu of active suspension. The written request must be received by the City Clerk no later than May 8, 2013. If the request is made, Licensee is asserting:

A. That the public welfare and morals would not be impaired by permitting the Licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes; and

B. That the books and records of the Licensee are kept in such a manner that loss of sales of alcohol beverages which the Licensee would have suffered had the suspension gone into effect, can be determined with reasonable accuracy therefrom; and

C. That the Licensee has not had its license suspended or revoked, nor had any suspensions stayed by the payment of a fine, during the two (2) years immediately preceding the date of the complaint which has resulted in this stipulation and agreement.

4. The parties agree that the fine shall be the equivalent of twenty percent (20%) of the Licensee's estimated gross revenues from the sales of alcohol beverages during a period of fifteen days, except that the fine shall not be less than two hundred dollars ($200.00) nor more than five thousand dollars ($5,000.00). The parties agree that the average days' sales for the months of January 2013, February 2013, and March 2013 be the appropriate measure of said estimated gross revenues.

5. Payment of the fine pursuant to the provisions of this agreement shall be in the form of cash or check made payable to the City of Alamosa. Said fine shall be paid to the City on or before May 30, 2013.

6. Upon the payment of the fine as agreed upon in Paragraph 5, Licensee's suspension as set forth in Paragraph 2 of this stipulation and agreement shall be deemed automatically stayed.

7. If the Licensee fails to make payment in a timely manner as detailed in Paragraph 5 of this stipulation and agreement, the suspension shall be served as detailed in Paragraph 2.

8. The alcohol beverages that were sold or used in the violation described in the Memo are hereby forfeited.

This Stipulation, Agreement, and Order shall not be effective unless and until approved by the Alamosa City Council.

APPROVED and ORDERED this 1st day of May 2013.

______________________________	____________________________
(Licensee)	Kathleen J. Rogers, Mayor
_______________________	________________________
Date	Date

Judy Egbert

03/25/2013

On March 16th,2013, Officers of the Alamosa Police Dept conducted alcohol compliance checks throughout the City of Alamosa. Myself, (Capt. Robert Jackson) Evidence Tech., Kristi Duarte, Officer Kindschuh and Detective Gonzales participated in the operation. We used two operatives (one male and one female), who were both under 21 years of age. They were instructed to attempt to purchase alcohol and if they were asked for ID, to present their real ID which shows them to be under 21. They were both tested numerous times during the operation for the presence of alcohol in their system. All tests were negative.

At approximately 21:50 hours, both operatives entered Atencio's Market at 802 State Ave. They selected a 6 pack of Budweiser beer and took it to the clerk. The clerk asked for ID which they provided. After looking at the ID, the clerk sold them the alcohol. The ID clearly identifies the subjects as being under 21 years of age. After the operatives brought the beer out to the officers and described the clerk who sold the beer, the officers entered the store and contacted the clerk, who was identified as Brian R Marquez (10-13-1993) . Mr. Marquez was issued a summons into Municipal court for serving alcohol to a person under 21 years of age.

I am asking that a "Show Cause Hearing" be requested by the City of Alamosa to Atencio's Market.

Respectfully

Robert Jackson

Deputy Chief

COUNCIL COMMUNICATION

DATE: April 23, 2013	**AGENDA NO. VIII. A. B. 2. d.**	**SUBJECT**: Accept Stipulation Agreement for Compliance Check Violation – Weekends
Department Head: Judy A. Egbert, City Clerk		
City Manager: Craig Dodd, Interim Manager		
PRESENTED BY: Judy Egbert		

Recommendation
Accept the stipulated agreement.

Background
On March 16, 2013, the Police Department conducted compliance checks on a total of fourteen businesses. Four of these businesses sold to the underage person. Details are contained in the attached memo from Prosecutor Gene Farish.

A stipulation meeting was held on April 15, 2013. The Licensee was represented by Manuel Ol'Guin by telephone. The meeting was for the purpose of Prosecutor Gene Farish and the Alamosa PD to discuss the evidence obtained and to uncover any aggravating or mitigating factors. The Licensee stipulated that the violation occurred, and the Prosecutor has made a stipulated offer. The Licensee has expressed intention to sign the agreement, although as of this writing it is not yet signed. The agreement is presented to Council for formal action.

This is the second violation within a year, with the last violation on April 21, 2012 and the suspension order June 27, 2012. The penalty range specified by ordinance is 5 to 30 days served with 30 to 5 days held in abeyance. The offered and accepted penalty in this case is five days served plus 10 in abeyance for eighteen months. The Licensee is not eligible to pay a fine in lieu of suspension. In addition to the 5 days served on this violation, there were 7 days stayed from the prior violation, making a total active suspension of 12 days.

Because the Licensee has not been available to sign the agreement, I ask that Council take action with the understanding that this issue may come back to Council for a hearing if the Licensee so chooses.

Issue Before the Council
Does Council wish to accept the stipulated agreement?

Alternatives
1. Accept the stipulation as presented, documenting that the violation occurred and accepting the proposed penalty.
2. Accept the stipulation that the violation occurred, but impose a different penalty.
3. Do not accept that the violation occurred, and request a hearing to receive evidence.

Fiscal Impact
N/A

Legal Opinion
Available at the meeting if needed.

Conclusion
All the preliminary steps have been completed, and it is appropriate for Council to act on the agreement presented.

MEMORANDUM

To: Alamosa City Council
Alamosa City Clerk

From: Eugene L. Farish, City Prosecutor

Date: April 15, 2013

Re: Offered Dispositions on Liquor Violations resulting from compliance checks on Safeway Store #1601; Chief's Liquor; Atencio's market and Weekend's Tavern

Date of Compliance Checks: March 16, 2013

Date of Offered Dispositions: April 15, 2013

Four cases were scheduled for offered dispositions at Alamosa City Hall on April 15, 2013, which resulted from compliance checks on Alamosa liquor license establishments conducted by Officer Tate Kindschuh and Detective Yvonne Gonzales in the evening hours of March 16, 2013. The officers utilized two underage operatives. One of the operatives was given a body microphone for monitoring and throughout the operation and a body cam device for audio/visual recording of the transactions, and interaction inside each establishment. Copies of the operatives' ID/Driver's Licenses were taken, and their ages were verified by picture identification. They were given $50 from the E.U.D.L. Grant funds allocated for compliance checks. They entered fourteen (14) liquor establishments: , Weekends Tavern, St. Ives – A Pub & Eatery, Chili's Bar and Grill, Spuddy's Cantina, SLV Brewing Co., City Market, Atencio's Market, The Office, The Bankshot, Beer Keg Depot, Chief's Liquor, Terry's Liquor, Wal-Mart and Safeway. Ten of the fourteen establishments passed the compliance checks; four did not.

At approximately 2105 hours, both underage operatives entered Safeway at 1301 Main Street, and the operatives walked to the cooler and selected a six pack of Budweiser. The operatives walked to the checkout counter with the Budweiser and gave the clerk a $50 bill. The clerk, Dylan Haslett, rang up the alcohol when they placed the Budweiser on the counter, without asking for ID and returned $42.21 in change to the operatives. The two operatives left the store with the alcohol and turned it over to the police officers. The police officers then entered Safeway and advised Mr. Haslett that he had just sold liquor to a minor.

At approximately 2137 hours, both underage operatives entered Chief's Liquor, 1280 Main Street, walked toward the coolers, selected a six pack of Budweiser bottles and then walked toward the clerk, Eugene Jay O'Connell, and offered to pay for the Budweiser with a $20 bill. The clerk asked for an ID, looked at the operative's ID and proceeded to ring up the sale; the operatives brought the Budweiser to the officers waiting outside. The officers confronted Mr. O'Connell and issued a citation to him. He responded as the officers were leaving the store "This is fucking bullshit, they are doing this on one of the busiest nights of the year". When the officer spoke with the operatives, they stated there were only three customers inside the store at the time of purchase.

At approximately 2150 hours, both underage operatives entered Atencio's Market, 802 State Avenue, and walked to the alcohol section of the coolers, selected a six pack of Budweiser and walked to the cashier's counter to purchase the alcohol where the clerk, Brian R. Marquez, asked for the operatives' ID. The operative handed his ID to Mr. Marquez and he compared the date on the ID to a date on the cash register. Mr. Marquez asked the operative whether he had updated his ID yet and the operative responded "no not yet". Marquez then rang up the sale, gave the beer to the operatives, and returned $2.09 in change for the $10 bill the operatives had given him. The officers observed that the piece of paper taped to the cash register read "alcohol 1992", Mr. Marquez had apparently not made the correct age calculation from the ID provided.

At approximately 2330 hours, the operatives entered Weekend's Tavern. They were asked for their ID's at the entrance. Both operatives provided their "under 21" ID's to the security staff. However one operative was given "under 21" marks on his hands by Tyler Haney, while the other was given a wristband which indicated that the operative was over 21. The one with the wristband walked to the bar, ordered a Budweiser, paid $3 to the bartender and upon being served, took the beer into the back of the bar. The operatives then videoed themselves with the alcohol, set the bottle down and left the tavern.

<u>Offered/Recommended Dispositions</u>

1. Safeway Store: Safeway Store #1681 has experienced an underage sale violation in 2004 and another in 2008. There have been no violations within the past year, so it is eligible for a fine in lieu of suspension. I discussed the case with Stephen M. Lee, Safeway's legal counsel, and he elected to accept the offered disposition as per regulation 047-6-04 of 10 days suspension with seven of the ten days stayed and three days to be actively served. In accordance with city practice, the 20% of sales fine would be calculated upon the 3 days to be actively served. If that amount is

less than the minimum fine of $200, then the minimum fine would be due to the city. The seven days would be suspended for a period of one year conditioned on no further violations. Safeway has signed a stipulation agreeing to that disposition with the final approval of City Council.

2. Chief's Liquor: This is the 6th offense for Chief's Liquor over the scope of twelve years (more than any other outlet in town). However, this is the first one under the present owners. The last offense was two years ago under previous owners. Ryan Workmaster and Bernard Van de Boogaard, co-owners, appeared at the disposition meeting and were quite impressive in their apologies and the determination not to allow a recurrence of such violations. They have posted prominent signs indicating that they do not accept vertical (under 21) ID's. Another sign indicates that persons under 21 are not even allowed in the store. The glitch in Chief's software has now been corrected and its employees are all now TIPS certified. In the last suspension of Chief's in June of 2011, it was given a 5 day suspension (active) with 10 days held in abeyance for one year. I offered the identical suspension on this occasion with consideration of the history of the establishment as well as the new ownership. Since there are no violations within a year, Chief's would also be eligible for a fine in lieu of suspension. The owners indicated they were satisfied with the offer. The City Clerk will prepare the *fine in lieu* documents.

3. Atencio's Market: Atencio's Market has had a history of four violations over the last 9 years – all being under the same owner. Jr. Atencio appeared at the disposition meeting and acknowledged that the sales clerk had checked the ID's of the operatives and apparently knew (or should have known) that the ID showed they weren't of age because he asked the operative whether he had "updated" his ID. When the operative said he had not, he sold the beer to him anyway. He did not make the calculation from the ID to the "1992" date on the register. Atencio's has now put in place a program which negates the sale when the underage ID is entered for alcohol sales. Atencio's was given a 15 day suspension on 6/1/11, actively served with an additional 10 days held in abeyance for a year. An identical 15 days was offered for this case. Atencio's is eligible for a fine in lieu and Jr. Atencio indicated he would accept that since alcohol sales are a minor part of a grocery's income. The City Clerk will prepare the *fine in lieu* documents.

4. Weekend's Tavern: This incident presented a "systems failure" where those checking ID's only marked one of the operatives as

being under 21 and should have marked both. A beer was served to the other operative who had been given a "bracelet" (over 21) and who ordered, received and paid for the beer at the bar. Manuel Olguin, owner/manager appeared by phone since he is currently in the hospital in Denver. We explained that Weekends is not eligible for a fine in lieu of suspension since Weekend's last suspension was on 6/27/12 for a violation occurring on 4/21/12. Three days were actively served for that violation with seven days being held in abeyance for a year. Therefore the seven days would have to now be served in addition to the 5 being offered for the immediate suspension (i.e., 12 active suspension days) in addition to 10 days being held in abeyance for 1 year. Manuel indicated he understood and accepted the disposition.

Summary: All four of the violations appear to have been resolved in satisfactory terms with each of the establishments. Each owner was told that final acceptance was the province of the City Council as well as the fact that any owner had the right to have the case heard before City Council. The police department performed its job in completing the compliance checks in a professional manner and none of the owners indicated that they were being treated unfairly. Each appeared resolved to not allow the violations to recur.

Respectfully submitted,

Eugene L. Farish
City Prosecutor

BEFORE ALAMOSA CITY COUNCIL SITTING AS THE LOCAL LICENSING AUTHORITY FOR THE CITY OF ALAMOSA

STIPULATION, AGREEMENT, AND ORDER

IN THE MATTER OF:

MANUEL OL'GUIN
D/B/A WEEKENDS TAVERN
2065 1ST
ALAMOSA, CO 81101

LICENSE NO. 14-45313-0000

THIS AGREEMENT BETWEEN the City of Alamosa (City) and MANUEL OL'GUIN d/b/aWEEKENDS TAVERN, 2065 1ST, Alamosa, CO 81101 (Licensee"), is offered for the purpose of a settlement of the matters detailed in the attached memo from Prosecutor Eugene L. Farish attached hereto as Exhibit 1 (hereinafter "Memo"). The above-named parties submit and agree as follows:

1. The facts and allegations contained in the Memo are true and accurate.

2. The Licensee agrees to a fifteen (15) day suspension of its Tavern Liquor License as a penalty for its violation of the Colorado Liquor Code as set forth in Paragraph 1 of this stipulation and agreement. Said suspension of license is to take place as follows:

   A. License to be actively suspended for five (5) days. Specific days may be chosen by the Licensee, but must be consecutive and completed prior to May 31, 2013. Licensee must notify the City Clerk of the dates no later than May 8, 2013.

   B. During any period of active license suspension, Licensee will post its premises in compliance with Regulation 47-600(F), 1 C.C.R. 203-2. The City Clerk will provide appropriate posters.

   C. Ten (10) days of the suspension are to be held in abeyance for a period of eighteen months from the date of approval of this agreement, pending no further violations of the Colorado Liquor Code during this period.

3. The Licensee violated a stayed suspension ordered on June 27, 2012. The seven (7) days suspended through that order shall be served in addition, making a total of twelve (12) active suspension days.

3. The Licensee is not eligible to file a written petition to the City in accordance with 12-47-601(3), C.R.S. requesting that the Licensee be allowed to pay a fine in lieu of active suspension.

4. The alcohol beverages that were sold or used in the violation described in the Memo are hereby forfeited.

If at any subsequent hearing or stipulation in lieu of hearing, the City of Alamosa should find that the Licensee, during the aforesaid one-year period, violated any provision of the Colorado Beer or Liquor Codes, including all regulations thereunder, then the City shall, in addition to any other penalty imposed, order Licensee to serve all or any days of suspension presently held in abeyance, pursuant to this agreement.

This Stipulation, Agreement, and Order shall not be effective unless and until approved by the Alamosa City Council.

APPROVED and ORDERED this 1st day of March 2013.

______________________________	______________________________
(Licensee)	Kathleen J. Rogers, Mayor
________________________	________________________
Date	Date

Judy Egbert

03/25/2013

On March 16th,2013, Officers of the Alamosa Police Dept conducted alcohol compliance checks throughout the City of Alamosa. Myself, (Capt. Robert Jackson) Evidence Tech., Kristi Duarte, Officer Kindschuh and Detective Gonzales participated in the operation. We used two operatives (one male and one female), who were both under 21 years of age. They were instructed to attempt to purchase alcohol and if they were asked for ID, to present their real ID which shows them to be under 21. They were both tested numerous times during the operation for the presence of alcohol in their system. All tests were negative.

At approximately 23:30 hours, both operatives entered Weekends Tavern at 2065 1st ST. The person at the front of the bar checked the ID of both operatives. He marked x's on the hand of the male indicating that he was underage and that he was not to consume alcohol or to attempt to purchase alcohol. It is also a "flag" to the bartender not to sell him alcohol. The operative female also presented her ID which clearly showed that she was under 21 years of age. The male party checking ID's (later identified as Tyler Haynie) gave her a wrist band which indicated that she was 21 or older. The female operative proceeded to the bar and ordered a beer from the bartender, later identified as Cassie Golf. Because of the complexity of the facts leading to the purchase of alcohol by this underage operative, we did not cite the two subjects, simply because the person checking the ID did not actually sell her the alcohol but did contribute to it by miscalculating her date of birth. The bartender was acting in good faith after checking the wrist band which indicated that the female operative was 21.

This establishment did sell alcohol to an underage operative.

A body cam was worn by the operatives which can be reviewed as well as the written statements provided by the operatives.

I am asking that a "Show Cause Hearing" be requested by the City of Alamosa to Weekends Tavern.

Respectfully

Robert Jackson

Deputy Chief