

ALAMOSA CITY COUNCIL
Wednesday, May 15, 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 7:02 p.m. The Pledge of Allegiance was recited. Present at roll call: Mayor Rogers, Councilors Greg Gillaspie, Charlie Griego, Rusty Johnson, Josef Lucero, Leland Romero, and Marcia Tuggle. A quorum was declared. Also present: Interim City Manager Craig Dodd, City Attorney Erich Schwiesow, and City Clerk Judy Egbert.

AGENDA APPROVAL. Councilor Tuggle requested Item C. 1. c. be moved to Regular Business. It was moved by Councilor Tuggle and seconded by Councilor Lucero to approve the agenda as amended. The motion carried unanimously.

CITIZEN COMMENT

A. Audience Comments

Pat McDermott of Division of Water Resources offered to be available for the golf course water discussion, saying the Division is willing to discuss potential solutions.

B. Follow-Up None.

CEREMONIAL ITEMS

A. Mental Health Month Proclamation

Mayor Rogers read the proclamation and presented it to Kristina Daniel, who spoke about mental health services.

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

- C. 2. a. Receive April 2013 Expenditure Report
- C. 7. a. Approve Minutes of Regular Meeting May 1, 2013
- C. 8. a. Receive April 2013 Monthly Reports

REGULAR BUSINESS

C. Business Brought Forward by City Staff

1. Public Works

a. Herrera Vigil Chavez Annexation 2013

1. Eligibility Hearing

Don Koskelin reviewed the location of the property and the purpose of the hearing.

Mayor Rogers opened the hearing at 7:16 p.m. and asked for those wishing to speak on this matter. There being no one wishing to speak, the hearing closed at 7:16 p.m.

2. Resolution No. 9, 2013, A Resolution Finding Property Subject to the 2013 Herrera Vigil Chavez Petition for Annexation to be Eligible for Annexation

Councilor Griego moved, seconded by Councilor Tuggle to adopt Resolution No. 9, 2013. The motion carried unanimously.

b. First Reading Ordinance No. 6, 2013, An Ordinance Approving the Annexation of the 2013 Naranjo Petition for the Annexation of a Tract Located in the SE ¼ Section 9 Township 37 North, Range 10 East, New Mexico Principal Meridian, Alamosa County Colorado

Don Koskelin reviewed this property, noting that action on this ordinance is the final step in this annexation.

Councilor Romero moved, seconded by Councilor Johnson to pass Ordinance No. 6, 2013 on first reading and to set a public hearing thereon for Wednesday June 5, 2013 at 7:00 p.m. or as soon thereafter as the matter may be heard. The motion carried unanimously.

c. Accept Planning Commission's Recommendation to Approve Permitted Use by Special Review to Allow an Upholstery Shop in an RM Zone at 1003 Alamosa Avenue

Councilor Tuggle voiced opinion that this action is equivalent to spot zoning, and encouraged Council to consider the overall area in the decision.

Council noted that this is not a zoning action, but a Permitted Use that can be revoked if conditions are not met. Staff clarified that the owner has a vested property right in the granting of the use, and it could only be revoked if specified conditions are not met or if the use is abandoned for six months or longer.

In response to question from Council, Mr. Koskelin noted that all the business activity in contained inside the building. There is a fence planned, but it is not a condition of approval. This use could potentially be conducted as a home business, but the square footage exceeds the allowed amount for a home business. Any signage will need to comply with the sign code. A variance has been obtained for setbacks.

Council continued discussion, asking questions of the applicant.

Councilor Romero spoke in objection, saying citizens have contacted him with concern.

Councilor Griego moved, seconded by Councilor Gillaspie to accept Planning Commission's Recommendation to Approve Permitted Use by Special Review to Allow an Upholstery Shop in an RM Zone at 1003 Alamosa Avenue. On discussion, Councilor Tuggle reviewed the commitments made at the Planning Commission hearing, saying that this will be an attractive business in this location. Councilor Lucero voiced support. Councilor Romero asked the applicant if he owned the property, to which he answered yes. The motion carried six to one, with Councilor Romero casting the no vote.

c. Pickup Purchase

Mr. Koskelin presented this item. The purchase is planned for a future budget year, but is possible now because of savings on other vehicle and equipment purchases.

Councilor Tuggle moved, seconded by Councilor Johnson to purchase a 2013 Ford 250 Pickup in the amount of \$24,869.00 through the State of Colorado bid system. The motion carried unanimously.

4. Parks/Recreation/Library

a. Discuss Division of Water Resources Policy Affecting Cattails Front Nine Well

Heinz Bergann reviewed water policies affecting the water available for the front nine of the golf course. When considering a five year average, it is clear that there is not enough water allocated for the remainder of this year and next year. No action is requested tonight, although something will need to be considered soon.

Mr. Koskelin pointed out that the golf course water is part of the city's collective water supply, and should be considered for conservation measures along with all other water issues.

A work session will be set in the future to discuss options for resolving this matter.

8. City Manager/Legal

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

Chief Dodd reviewed the background, saying that the need had been brought forward, researched, and ultimately brought to Council for consideration of addressing public safety issues around panhandlers. The ordinance addresses where panhandling may be restricted and how it impacts traffic flow, as well as aggressive panhandling. It does not eliminate panhandling entirely, just addresses public safety issues.

Mayor Rogers opened the hearing at 7:53 p.m. and asked for those wishing to speak on this ordinance.

Lance Cheslock, Director of La Puente, clarified that it is important to balance regulation of aggressive panhandling and public safety. He agreed with the intent of the ordinance, but believes that the details of applying the law leave no location possible to conduct panhandling. This affects the lives for those whom panhandling is the last resort. Begging for alms is one of the rights of the poor everywhere. The intent of the law isn't always the end result. It is important for everyone affected to have input into the law to avoid overreaching. He believes this ordinance eliminates any location that would be effective for someone who needs to be able to do this.

Calvin Monroe, resident of La Puente, told Council that he has been unemployed for nineteen years. He does temporary jobs that do not pay enough. He trades work for a place to live, but does not have cash for the necessities that food stamps don't cover, such as soap and toiletries. He stands with a sign, and people can decide whether to stop and help or not. It is a civil exchange going on, and is not assertive or aggressive. He understands how panhandling can easily escalate into an aggressive situation. He suggested forming a committee to review the details of the ordinance, consisting of those complaining, those who want to give, and those needing to receive. As currently written the ordinance looks like a method to remove people from the street. Complaints should be dealt with when people are fearful or in jeopardy. He requested that Council postpone a decision and work on the details.

Dan McCann, a City resident, said “only by the grace of God go I”. He told Council that he has family support, but not everyone does. There are Veterans in need. There is no easy way to deal with this. Some people need resources to get over the hump, and some people never get over it. Some people abuse panhandling and drive away in a BMW. Police should be able to refer panhandlers to agencies that can help. Safety is important.

Mary Van Pelt, a City resident, echoed comments already stated.

There being no one further wishing to speak, the hearing closed at 8:05 p.m.

Council discussed:

- There is a genuine concern for people who are in need
- Safety is important. The concept of a safe place to panhandle was not agreed upon.
- Aggressive panhandling is not advocated by anyone.
- Panhandling reflects poorly on the community.
- There are resources such as La Puente and churches to provide help.
- Citizens have made complaints, with a lot of the complaints coming from parking lot situations.
- The ordinance does need to accommodate those in genuine need.

Council thanked those who spoke, noting that it takes an effort to be at a meeting to do this. Mayor Rogers added that her point of view had been changed by listening to those here tonight.

Councilor Griego moved, seconded by Councilor Lucero to table action on this ordinance to allow time for staff to meet with affected groups and bring back changes to the ordinance. On discussion, Councilor Lucero suggested setting up a subcommittee to work on this. The motion carried unanimously.

Council took recess from 8:20 p.m. to 8:25 p.m.

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

Counselor Schwiesow gave an overview of the origin behind this ordinance. Commercial solicitors will be allowed through a license. Property owners may prohibit any solicitor by way of posting a sign. There is no registration requirement for non-commercial solicitation.

Mayor Rogers opened the hearing at 8:28 p.m. and asked for those wishing to speak on this ordinance.

Jenna Mazzucca of Salida, spoke in favor of the ordinance.

There being no one further wishing to speak, the hearing closed at 8:30 p.m.

Councilor Romero moved, seconded by Councilor Griego to finally adopt Ordinance No. 5, 2013. On discussion, Council clarified that the motion is to approve as presented. This exempts non-commercial solicitation from the license requirements. Commercial solicitors must obtain a license, but are not required to produce the license to customers. Councilor Lucero expressed interest in a system that would provide a solicitor with a badge of some type that would lend credibility. Councilor Tuggle questioned the definition of solicitors and how it affects

real estate salespersons. Counselor Schwiesow responded that the definition in section 10-211 has not changed.

The motion carried unanimously.

E. Committee Reports

Councilor Tuggle reported on the Senior Citizens meeting.

Councilor Gillaspie:

- pointed out the work session next week regarding Dan Russell's proposed RV park
- Said that Liz Hensley's marketing research class may have services to offer the City
- Ride The Rockies will be here June 12
- The barbeque challenge will be here September 6, 7, and 8
- The Fireball Run will be here September 22
- There will be a raptor convention over Thanksgiving weekend.

Councilor Lucero reported on the recent CML Policy Committee meeting, which centered around removing restrictions related to municipally owned utilities. He also reported on the CML Spring Outreach meeting in Monte Vista dealing with legislative updates.

F. Staff Announcements

Ms. Egbert proposed that the May 22 work session be moved to 7:00 to allow use of Council Chambers. Council agreed to the change.

LOCAL LIQUOR LICENSING AUTHORITY ACTIONS

B. Liquor Licensing Items.

1. Hearing on Special Events Permit Application, Alamosa Senior Citizens, 100th Anniversary, 7/4/13

Ms. Egbert reviewed the need for the hearing, saying that the applicant had requested service hours of noon through 9:30 p.m. The Police Department was concerned about extending service that late in relation to security. Additionally, Leon Moyer filed a protest that Council may or may not determine contains elements of reasons for denial.

Chief Dodd described his concerns. The headliner band is nationally-known, and expected to draw a crowd that is larger and more varied than typically occurs in Cole Park venue events. This presents difficulty in security, as there is no fencing, inadequate number of security personnel, no ability to regulate backpacks/searches, and the proximity of the river and the fireworks. Even though resources are being requested from other agencies, he does not feel prepared to deal with the risk involved. He suggested that beer sales stop at 5:00, allowing a buffer of time between the end of the alcohol and the start of the headliner at 7:30.

Mayor Rogers opened the hearing at 8:53 p.m.

Ronny Wright, President of the Senior Citizens, said that he appreciates Chief Dodd's efforts, but if sales are cut off as early as 5:00 or 5:30 they will not be able to break even with the expenses involved, such as insurance purchase. He requested that sales be allowed until 8:00.

Most of the attendees won't arrive until later in the day. He offered to hire additional security if needed. The taxi service will be on stand-by, and the Seniors are willing to pay for rides home for people.

Dorothy Van Trese, Senior Citizens Director, assured Council that the group will handle sales responsibly. They will recognize when a customer needs to be cut off, and will appropriately ID customers and provide arm bands. They have experts training them on how to pour beer. Much of the crowd won't arrive until 3:00 or 4:00. They have lots of experienced people helping with the event, such as Mark Melgares, and Gene from Coors. Younger volunteers are responsible and will help with ID and arm bands. They will use the ID scanner provided by the Police Department.

Randy Wright added that there will be a system of scanning the ID, buying a ticket, then getting the beer. The tickets are customized for the event, and can't be forged. He welcomes other suggestions to improve the event.

Chief Dodd recognized that this is a difference of opinion. He is not concerned with the level of responsibility that the Seniors offer, but rather with the availability of alcohol in general at this type of event.

Michael Yohn, County Commissioner, said that this is a good event. This is not just a beer garden, but the entirety of the event. The County isn't benefitting from the beer sales, and the Senior Citizens can use the fundraiser. It will be conducted in a responsible way.

There being no one further wishing to speak, the hearing closed at 9:03 p.m.

Councilor Tuggle commented that the Seniors are clearly going to operate responsibly. She reminded Council that the community had been advocating to Summerfest for some time to bring in name bands and the resulting people from outside communities. This is the chance to do that. This band is a Grammy winner and has a large following. She has talked to people who have attended these concerts with no problems. Multiple other events have worked well in the park. If 9:30 is too late, she would be willing to cut back a bit, but in a way that still allows those who arrive at 5:00 or 6:00 to get a drink. She proposed 8:00.

Councilor Lucero said that he likes to see non-profit organizations work to become more self-reliant, and this is a good opportunity to do so.

Councilor Gillaspie felt that the potential for abuse is too high, and advocated ending at 6:00.

Councilor Johnson said that he doesn't view this as much different from other festivals. When he asked Chief Dodd how Council could best support him, he said that the unknown was in the number of people. The need is simply for security resources.

Councilor Tuggle noted that Monte Vista has two very large events, one with bikers and one with cowboys. Both are managed well.

Councilor Griego expressed concern with the fireworks and resulting congestion issue.

Mr. Yohn added that there would be eight State Patrol, eight Sheriff officers, eight ASU officers, and eight City officers. Chief Dodd said that there would be twenty five total law enforcement personnel present. These resources also will cover the surrounding areas as well as the event itself. Mr. Yohn noted that the band will have its own security personnel, and there will be other

event volunteers. The fireworks have been located at Polston before. The Little Britches Rodeo is using the fairgrounds during this time.

Councilor Tuggle moved, seconded by Councilor Lucero to approve the Special Event Permit with the end time changed to 9:00 p.m. On discussion, Councilor Romero said that he would like to see an earlier time. Mayor Rogers thanked Chief Dodd for his efforts. The motion carried with four in favor (Lucero, Rogers, Tuggle, Johnson) and three opposed (Griego, Gillaspie, Romero).

Council noted that the protest by Leon Moyer was not addressed at this hearing. Council did not directly address the issue of merit to the protest, but noted that because the hearing was held, the opportunity was there for citizens to speak to any issue of interest. Mr. Moyer was not present during the hearing.

2. Reconsideration of Atencio's Market Liquor Violation Stipulation

At the last meeting, Council imposed a 15 day suspension for this violation and authorized acceptance of a fine in lieu of suspension. Because the business had a violation within the past two years, it should not have been eligible to pay a fine.

Councilor Lucero moved, seconded by Councilor Johnson, to reconsider action on this item, and send the issue back to Prosecutor Gene Farish for a different recommendation. The motion carried unanimously.

COUNCIL COMMENT

Council thanked the County for the recent airport tour.

Councilor Tuggle told Mike Yohn she appreciated the good working relationship with the County.

Councilor Griego thanked Chief Dodd for his safety concern.

Councilor Lucero agreed with Councilor Griego.

Mayor Rogers spoke regarding the RV Park development. Dan Russell had presented his project to her, Councilor Griego and City staff. The media has reported that the City is "on board" with the project, when the fact is that the City has not yet been asked for any decision regarding this project. There have been no meetings conducted in secret, nor any promises made. The initial meeting resulted in the scheduling of the May 22 work session, which will be the first that Council will hear from Mr. Russell.

ADJOURNMENT. The meeting adjourned at 9:34 p.m.