ALAMOSA CITY COUNCIL
Wednesday, July 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, Leland Romero, and Marcia Tuggle. A quorum was declared. Also present: City Manager Heather Brooks, City Attorney Erich Schwiesow, and City Clerk Judy Egbert.

AGENDA APPROVAL. It was moved by Councilor Romero and seconded by Councilor Gillaspie to approve the agenda as presented. The motion carried unanimously.

CITIZEN COMMENT

A. Audience Comments

Vern Davis requested that Council consider permanent restrooms at the cemetery.

Jan Oen encouraged Council to consider allowing retail marijuana facilities.

Don Thompson also encouraged Council to consider allowing retail marijuana facilities.

B. Follow-Up

Heinz Bergann reported that he has been researching restroom options for the cemetery and will continue to pursue this project.

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

C. 2. a. Receive June 2013 Expenditure Report
C. 7. a. Approve Minutes of Regular Meeting June 26, 2013
C. 8. a. Receive June 2013 Monthly Reports

REGULAR BUSINESS

A. Presentations From Outside Agencies

1. Friends of Locomotive 169 Update, Jim Poston

Jim Poston and Chuck Proudfoot gave a report on the progress toward restoration of the steam engine.

2. PERA Update, Greg Smith

Greg Smith, General Counsel, described PERA’s economic impact through distributions of retirement benefits, support of jobs, and investments in Colorado companies. He also reported on the organization’s sustainability, and how it weathered the economic crisis.

B. Board/Commission Business

1. Appoint One Member to the Planning Commission Ward Four

Robert McWhirter currently serves as the Ward 4 representative to the Planning Commission and has requested reappointment. Nora Gengo has also applied for this position.

Ballots were cast with Robert McWhirter receiving the most votes.

Councilor Gillaspie moved, seconded by Councilor Romero to appoint Robert McWhirter to the Ward Four Planning Commission seat with a term to expire June 1, 2018. The motion carried unanimously.

2. Appoint One Member to the Tree Board

Adam Moore has applied to fill a long-standing vacancy on the Tree Board. He is the sole applicant.

Ballots were cast with Adam Moore receiving the most votes.

Councilor Johnson moved, seconded by Councilor Griego to appoint Adam Moore to the Tree Board with a term to end June 1, 2017. The motion carried unanimously.

C. Business Brought Forward by City Staff

1. Public Works

a. First Reading Ordinance No. 11, 2013, An Ordinance Approving An Intergovernmental Agreement With Alamosa County for Mutual Aide in the Provision of Emergency Food Assistance

Don Koskelin reviewed this agreement that would provide water and sewer taps to the County's food bank facility without cost to the County. The value of the taps is $1,500. This property is currently outside City limits, but is proposed for annexation.

Councilor Romero moved, seconded by Councilor Griego to pass this ordinance on first reading and set a public hearing for Wednesday August 7, 2013 at 7:00 or as soon thereafter as the matter may be heard. The motion carried unanimously.

b. Naranjo Replat

1. Public Hearing

Mr. Koskelin told Council that this is a line change in the newly annexed area.

Mayor Rogers opened the hearing at 7:38 p.m. and asked for those wishing to speak on this matter. There being no one wishing to speak, the hearing closed at 7:38 p.m.

2. Resolution No. 12, 2013, A Resolution Approving the Re-Plat of Lots 90, 91, and 102 McClain Fink Subdivision – City of Alamosa, Alamosa County, Colorado

Councilor Lucero moved, seconded by Councilor Johnson to adopt Resolution No. 12, 2013. The motion carried unanimously.

c. Jeff Martinez Replat

Mr. Koskelin reported that the subdivision improvement agreement has not yet been negotiated. At issue are defining the timing and trigger for the future improvements for curb/gutter/paving on Foster. Council may approve the replat, but it will not be filed until the agreement is reached. The recommendation from the Planning Commission is that first two buildings be allowed to be built, but any future development would trigger improvements.

Council debated the effects of the timing of improvements.

1. Public Hearing

Mayor Rogers opened the hearing at 7:57 p.m. and asked for those wishing to speak on this matter.

Jeff Martinez, applicant, described the proposed access being from First Street, not Foster. Parking for the first two units is defined. Commitment to develop all the way to Chico isn't needed for the foreseeable future, and provides no benefit. This is an existing City street, and he questioned the City's responsibility toward development.

In response to questions from Council, Mr. Martinez responded:

- The requirement for parking is 1.5 spaces per unit. He feels that this is not adequate, and additional parking is planned.
- The current plan is to have all the traffic off of First Street. If the entrance off of Foster is used in the future, he would be willing to commit to the improvements at that time.

Councilor Lucero described a different project where the property owners contributed to the improvements. He suggested that there may be possibility to do that here.

Dan McCann spoke in favor of approving the replat with the recommended condition.

There being no one else wishing to speak, the hearing closed at 8:11 p.m.

Council further debated its desire for requiring improvements now or at some future trigger.

2. Resolution No. 13, 2013, A Resolution Approving the Re-Plat of Lot 1, Block 1, Sierra Vista Addition – City of Alamosa, Alamosa County, Colorado

Councilor Lucero moved, seconded by Councilor Tuggle to adopt Resolution No. 13, 2013, with the condition that the subdivision agreement include the requirement for improvements on Foster from First to Chico to be immediately completed. On discussion, Council clarified that pavement from First to Chico be completed prior to building on the lot. The motion failed three (Lucero, Tuggle, Romero) to four (Griego, Gillespie, Rogers Johnson).

In response to a question from Council, Mr. Koskelin clarified that the Planning Commission's recommendation is that the first two units could be installed with access from First; if any development occurs on Foster to existing properties, improvements would be triggered. He further explained how a performance bond works, saying that it would be appropriate in this case.

Councilor Tuggle moved, seconded by Councilor Gillaspie to approve Resolution No. 13, 2013, with the stipulation that Foster Avenue will be paved if there's any construction past the proposed first two units, or any units that would egress onto Foster with the understanding that the first two units will have access to First Street only. If there is no further development, Foster must be paved to Chico within 5 years. Additionally a five-year performance bond will be required. On discussion, Councilor Lucero stated that he prefers a shorter time period for the performance bond. The motion carried six to one with Councilor Lucero casting the no vote.

d. Accept Planning Commission's Recommendation to Approve Permitted Use By Special Review to Allow Multifamily Dwellings in a Commercial Business Zone at First Street and Foster Avenue.

It was moved by Councilor Griego and seconded by Councilor Johnson to accept the Planning Commission's recommendation to approve Permitted Use By Special Review to allow multifamily dwellings in a commercial business zone at First Street and Foster Avenue. The motion carried unanimously.

8. City Manager/Legal

a. First Reading Ordinance No. 10, 2013, An Ordinance Prohibiting Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities, Marijuana Testing Facilities, and Retail Marijuana Stores Within the City of Alamosa, Colorado

Counselor Erich Schwiesow reviewed the constitutional amendment that allows municipalities to regulate recreational marijuana facilities or opt out. This does not affect personal use allowed under the amendment. If Council desires to allow these facilities, more time will be needed to develop a regulatory structure and recommended a temporary moratorium.

Chief Craig Dodd offered the following:

- In his experience on the drug task force, he believes that these facilities will attract burglary, robbery and cause driving under the influence of marijuana.
- Alamosa has highest crime rates of comparable sized towns.
- Substance abuse is nearly always involved in criminal cases.
- Stakeholders around the SLV are already facing challenges from alcohol, cocaine, and methamphetamine.
- Medical marijuana is already established, and seems to be adequately serving those in need.
- Results of the audit of the Medical Marijuana Division were not good, and this agency will be providing oversight for recreational marijuana.

Counselor Schwiesow answered a question from Council, saying the state is actively working on the regulatory structure. Regulations were enacted on an emergency basis effective July 1. More will be forthcoming.

Councilor Griego moved, seconded by Councilor Johnson to introduce Ordinance No. 10, 2013 on first reading and set a public hearing thereon for Wednesday August 7, 2013 at 7:00 p.m. or as soon thereafter as the matter may be heard.

On discussion, Councilor Tuggle noted that the citizens voted to allow these facilities. It is better to create a legal structure and have some control and remove potential illegal activity. Crime is not necessarily attributed to marijuana, and there are other factors.

Councilor Lucero stated that his constituents are not in favor of retail sales. A structure to allow these facilities may be done now or later if desired. Opting out isn't a permanent action.

Councilor Griego reminded Council that this is a first reading, and a different action can be taken based on testimony at the hearing.

The motion carried, with Councilor Tuggle casting the no vote.

E. Committee Reports

Councilor Lucero reported DRG grant activities.

Councilor Tuggle reported that the Senior Citizens have worked hard on fundraising, but still face challenges. She commended Alamosa citizens for volunteers that worked at the beer garden at the Fourth of July event.

Councilor Griego reported on the Water Conservancy event.

Councilor Gillaspie reported that the Golf Board will be held tomorrow night.

Mayor Rogers reported that the Council of Government is progressing well.

F. Staff Announcements

Mr. Koskelin told Council of conversation regarding a proposed bulk propane facility. This is in the general area of La Due and Sixth, but will be sufficient distance from residences. Council expressed concern about large trucks through the residential area, and Mr. Koskelin suggested implementing a weight limit on those streets. This use is permitted in this zone, so no Council action will be needed.

Counselor Schwiesow reminded Council of its obligation to consider quasi-judicial issues solely on evidence presented at the appropriate hearing. The proposed RV park may arise to an annexation or other land use issue. Because there is no application yet submitted, Council members may speak freely with citizens. However, once an application is received, it becomes a quasi-judicial matter before Council and at that time, Council members should then refrain from ex-parte communications with citizens. Further, any conversations that occurred prior to application should not be considered.

Ms. Egbert:

- Conveyed a request from the Rio Grande Inter-Basin Roundtable to appoint Charlie Griego as representative for the towns in Alamosa County. She cautioned that Council may not have authority or desire to appoint representation outside of the City. Council directed Ms. Egbert to submit a letter appointing Charlie Griego as representative for the City of Alamosa.
- Requested a date for a special meeting to conduct her employment evaluation. Council agreed by consensus to meet on July 31, 2013 at 6:00 p.m.
- Reported on the upcoming election.

COUNCIL COMMENT

Councilor Tuggle:

- Thanked Council for participation on in the July 4 event.
- Confirmed that she is running for reelection.
- Thanked the airport board for air show.

Councilor Griego thanked the Upward Bound group for cemetery clean-up.

Councilor Gillaspie:

- Reported on the upcoming golf tournament July 27
- Thanked Marcia for decorating the parade float
- Asked to be excused for the August 7 meeting.

Councilor Lucero thanked everyone who worked on the July 4 event.

Councilor Johnson thanked staff for accommodating the Sea to Sea cyclists that were re-routed on short notice.

Mayor Rogers:

- Thanked County Commissioners and staff for the July 4 event.
- Reported that an anonymous letter had been received making an unfair accusation about a Councilor. She wanted the person or persons to know that they are uninformed, and she would welcome a personal conversation with them.
- Reported that she will not be seeking reelection at the upcoming election.

Councilor Lucero announced that he will be running for the Mayor's seat.

EXECUTIVE SESSION – Pursuant to CRS 24-6-402(4)(a), the purchase or acquisition of real property; and pursuant to CRS 24-6-402(4)(e) to determine positions on matters subject to negotiations, develop strategies for negotiations, and instruct negotiators.

Councilor Romero moved, seconded by Councilor Tuggle to move into Executive Session (9:25 p.m.) pursuant to CRS 24-6-402(4)(a), for the purchase or acquisition of real property; and pursuant to CRS 24-6-402(4)(e) to determine positions on matters subject to negotiations, develop strategies for negotiations, and instruct negotiators. The motion carried unanimously.

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

ADJOURNMENT. The meeting adjourned immediately following the Executive Session.

Judy A. Egbert, City Clerk	Kathleen J. Rogers, Mayor