ALAMOSA CITY COUNCIL
Wednesday, October 16, 2013
Minutes of the Meeting

The Regular Meeting of the Alamosa City Council was called to order on the above date by Mayor Pro Tem Charlie Griego at 7:00 p.m. The Pledge of Allegiance was recited. Present at roll call: Mayor Pro Tem Griego, Councilors Greg Gillaspie, Rusty Johnson, Josef Lucero, and Leland Romero. Mayor Kathy Rogers and Councilor Marcia Tuggle previously requested to be excused. 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 Gillaspie and seconded by Councilor Lucero to approve the agenda as presented and to excuse Mayor Rogers and Councilor Tuggle. The motion carried unanimously.

CITIZEN COMMENT

A. Audience Comments

Dan Russell requested that Council favorably consider both the annexation and land swap request in a timely manner.

Julie Mordecai encouraged Council to consider both the RV and Healthy Living Park projects as worthwhile, and find a way to work together. She asked that Council wait until the outcome of the trial next week to make any decision.

Diana Jones encouraged Council to seek expertise on determining the value of the land that is proposed for the swap.

Dan McCann spoke regarding the national economy.

B. Follow-Up None.

CEREMONIAL ITEMS

A. Recognition of Dave Hayden for 10 Years of Service as Tactical Team Negotiator and Mental Health Services

Captain Robert Jackson presented a SWAT t-shirt and plaque in recognition of the service provided by Dave Hayden in services assisting the Police Department.

B. Lifesaving Awards

Duane Oakes presented lifesaving awards to Brian Cooper, Ken Anderson, and Daniel Jimenez.

CONSENT CALENDAR A. It was moved by Councilor Lucero and seconded by Councilor Gillaspie 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 to Allow a Professional Office in a Residential Medium Zone at 113 State Ave.
C. 2. a. Receive September 2013 Expenditure Report
C. 7. a. Approve Minutes of Regular Meeting October 2, 2013
C. 8. a. Receive September 2013 Monthly Reports

REGULAR BUSINESS

A. Presentations from Outside Agencies

1. Valley Educational Garden Initiatives (VEGI), Victoria Brunner Removed from the agenda at the request of the presenter.

C. Business Brought Forward by City Staff

1. Public Works

a. Public Hearing, Ordinance No. 15, 2013, An Ordinance Approving the Annexation of the 2013 Peoples Place Addition No. 2 Petition for the Annexation of a Tract Located in the SE ¼ Section 16 Township 37 North, Range 10 East, New Mexico Principal Meridian, Alamosa County, Colorado

Don Koskelin noted that the annexation agreement has been added to Council's agenda packet, and offered three items within that agreement that warrants further discussion.

- The agreement says that the City will waive tap fees. Mr. Koskelin recommends striking this from the agreement and consider on a case by case basis as it comes up. In response to a question from Council, he reviewed the price structure for tap fees.
- The County wants to do its own building inspections. This is unusual, but he does not have an issue with it.
- In the early 2000's, the City entered into an IGA agreeing to give up ten acre-feet of water because the County chose not to annex. If the City wants to require that that this annexation bring in water as with other annexations, this can be considered, but it is something Council should think about.

Counselor Schwiesow clarified that the earlier water action came about because the County withdrew an annexation petition at that time, and the City allowed the County to buy water at the standard double rate for services outside city limits, up to a cap of ten acre-feet. Without the IGA, water service would not be an option at that time. This annexation, if approved, would make that IGA moot.

Mayor Pro Tem Griego opened the hearing at 7:38 p.m. and asked for those wishing to speak on this ordinance.

Jason Kelly and Juan Altamirano presented background on the reason for requesting the tap fee waiver, mentioning that this assists with grant funding.

In response to a question from Council, Mr. Koskelin clarified that both the City and County use the same building codes, so standards should be the same.

Dan McCann encouraged the City and County to work together.

There being no one further wishing to speak, the hearing closed at 7:45 p.m.

Mr. Koskelin again reviewed tap fees at the request of Council.

Councilor Romero moved, seconded by Councilor Johnson to finally adopt Ordinance No. 15, 2013 subject to reaching a satisfactory annexation agreement regarding water issues. On discussion, Councilor Romero clarified that his motion includes removal of the tap fee waiver provision. With that clarification, Councilor Johnson withdrew his second.

Council asked Counselor Schwiesow to restate the motion. The motion is to finally adopt Ordinance No. 15, 2013 contingent on negotiation of an acceptable annexation agreement, with the parameters for the agreement to include working out a way to deal with the requirement to bring in water, and to remove the tap fee waiver provision.

The vote was three in favor (Griego, Lucero, Romero) to two opposed (Gillaspie, Johnson).

Later in the meeting, Counselor Schwiesow noted that passage of an ordinance requires four affirmative votes, and thus failed.

Council agreed to revisit the issue.

Councilor Johnson moved, seconded by Councilor Gillaspie to finally adopt Ordinance No. 15, 2013 contingent on the annexation agreement dealing with water issues and waiver of tap fees.

At Council's request, Counselor Schwiesow restated the motion. Motion is to approve Ordinance No. 15, 2013 contingent on the annexation agreement bringing in the requirement for water and allowing waiver of tap fees. On discussion, Council expressed concern on how this would affect the budget. Three voted in favor (Griego, Gillaspie, Johnson), and two opposed (Lucero, Romero)

Councilor Johnson moved, seconded by Councilor Lucero to adopt Ordinance No. 15, 2013 contingent on the annexation agreement reflecting appropriate water issues, and removing the water tap waiver from the agreement to allow consideration separately. On discussion, Counselor Schwiesow pointed out that this is the same action as the first motion. The motion carried unanimously.

b. <u>First Reading, Ordinance No. 16, 2013, An Ordinance Amending Sections 21-1 (Concerning Definitions, Amending "Club" and "Lot Line"), 21-97, Schedule A, (Concerning Use Groups and Permitted Uses), and Adding A New Section 21-99 (Concerning Metal Siding In Residential And Commercial zones) To The Code of Ordinances of Alamosa, Colorado, With Respect To Definitions and General Zoning Regulations</u>

Mr. Koskelin reviewed the changes proposed in this ordinance, including:
- Clarifies the definition of Club and changes it to a permitted use rather than permitted by right in CB zones.
- Clarifies how corner properties are addressed
- Adds a category for indoor firing ranges,
- Adds RV parks to use group C-9
- Cleans up footnotes
- Adds limitations to the use of metal siding

Councilor Johnson moved, seconded by Councilor Gillaspie, to introduce Ordinance No. 16, 2013 on first reading and to set a public hearing for Wednesday November 6, 2013 at 7:00 p.m. or as soon thereafter as the matter may be heard. The motion carried unanimously.

8. City Manager/Legal

a. Public Hearing, Ordinance No. 13, 2013, An Ordinance Adopting the Proposed 2014 Budget

Mayor Pro Tem Griego opened the hearing at 8:09 p.m. and asked for those wishing to speak on this ordinance. There being no one wishing to speak, the hearing closed at 8:09 p.m.

Councilor Romero moved, seconded by Councilor Lucero to finally adopt Ordinance No. 13, 2013. The motion carried unanimously.

b. Public Hearing, Ordinance No. 14, 2013, An Ordinance Establishing the Employee Pay Plan

Mayor Pro Tem Griego opened the hearing at 8:10 p.m. and asked for those wishing to speak on this ordinance.

Ruthie Brown stated that she did not know what the pay plan is, but hopes that Council remembers the crews below department heads even if they are at the top of the range. She said that even though salaries go up two percent, health insurance goes up thirteen percent. They need money more than a Christmas dinner.

There being no one further wishing to speak, the hearing closed at 8:13 p.m.

Councilor Lucero moved, seconded by Councilor Romero to finally adopt Ordinance No. 14, 2013. The motion carried unanimously.

c. Resolution No. 22, 2013, A Resolution Of Intent To Construct Improvements By Use of a Special Improvement District Pursuant to Alamosa Charter Article XV, Section 3, and CRS §31-25-501 et. seq. for Portions of the Carroll Subdivision Addition No. 2

On August 24 Council held a work session to assess interest in forming and funding a Special Improvement District. Council was agreeable in moving forward, and this Resolution begins the process. There will be future options for public input prior to final action.

Councilor Johnson moved, seconded by Councilor Gillaspie to adopt Resolution No. 22, 2013. The motion carried unanimously.

d. Discussion on timing and Process for Consideration of Proposed Land Exchange with the Alamosa RV Resort on the Rio Grande, LLC

Ms. Brooks told Council that the annexation process is moving forward at the pace required by law. The land swap item is not tied to the annexation, and this discussion is for the purpose of Council to determine its future actions and venues for discussion and deliberation on this issue.

Council expressed interest in a work session to receive information from staff prior to receiving public input. A public forum was also discussed. The court decision on the school board's action is scheduled October 24. Council agreed by consensus to hold a work session for the purpose of staff advisement on Oct 30 at 6:00 p.m. A public forum may be scheduled at a later date.

E. Committee Reports

Councilor Gillaspie reported on Golf Board activity.

F. Staff Announcements

Jim Belknap gave an update on the fiber project.

Chief Dodd invited Council to the firearms range opening event on October 29 at 1:00 p.m.

LOCAL LIQUOR LICENSING AUTHORITY ACTIONS

B. Liquor Licensing Items.

1. Hearing to Determine Needs and Desires for a New License Application by TimoRiv.llc d/b/a Ts Railroad Lounge

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

Counselor Schwiesow opened the hearing at 8:45 p.m.

Duane Montano introduced himself as attorney for the applicant. In response to questions from his attorney, Tim Rivera provided the following:

He was born in Sanford Colorado, and has lived in Alamosa all of his life except the twenty-seven years when he worked as Vice President at Metro State College on the Auraria campus. He has no felony or misdemeanor convictions. He operated Mrs. Rivera's Kitchen for eighteen years, and the Downtown Cantina for five years. He had no liquor violations for either of the prior businesses. The Downtown Cantina is at 513 State Avenue, the same location where this license is proposed, and has been in use as a bar for sixty-three years. Prior businesses have been the Garcia's, Greco's, the Downtown Cantina, and Spuddy's.

His intention is to bring back the customer base he had before, bringing in local people and some college students. He would like to bring in people who ride the train during seasonal times.

Pam Trujillo, owner of the Rubi Slipper, is in favor, as is Andrew Trujillo who owns The Office, The Pig, and St. Ives. Al Lujan from the Bank Shot is in favor.

He circulated petitions in favor, and described that the application was described to the signers who signed in front of him. Additional petitions and a letter were delivered to the City Clerk separately as well.

He asked Council grant this license, and if possible to issue the license this month.

Mr. Rivera presented the petitions to Mr. Schwiesow. He went on to describe that there is a need for the license, as existing businesses are mostly eating establishments. His is the only one that is a drinking establishment. However, some food will be served. He provided a menu.

In response to questions from Counselor Schwiesow, Mr. Rivera described that he obtained signatures on the petition from residents of the neighborhood and people on the street.

Mr. Rivera continued, describing that the Rubi Slipper was located directly across the street, the Bank Shot located eight or nine blocks away on Highway 285, the Purple Pig is in the same block, St. Ives three blocks away, and The Office two blocks away.

Mr. Rivera operated the business until three years ago. The business met the needs and desires then, and still does now. He intends to operate it himself, with the help of family.

Counselor Schwiesow accepted the three petitions and the letter that were previously submitted to the Clerk as Exhibit A; the petitions presented tonight, approximately fifty-five or fifty-six pages, as Exhibit B; and the menu Exhibit C. Mr. Schwiesow pointed out that the wording on the petitions had blanks for the name of the applicant, business name, address, etc. Mr. Rivera confirmed that he did personally deliver the petitions to the signers and explained the business name, location, type of business to all signers.

In response to a question from Counselor Schwiesow, City Clerk Judy Egbert produced the poster, saying that it was posted on October 2, 2013 and removed tonight at 6:00 p.m.

In response to questions from Councilor Gillaspie, Mr. Rivera said that he would avoid incidents such as occurred under the Spuddy's ownership by his own presence. He does not drink. He invites the Police Department to visit, as before when he operated the business. He said that the smoking and chairs in front is an embarrassment, and didn't want that. He will always have security. He will ensure that smokers meet the fifteen foot requirement and would encourage smokers to move into the alley or in front of the next building which is currently vacant. Councilor Gillaspie added that he wasn't sure that was any better.

Councilor Lucero asked what he will do to enhance the appearance for train customers and entice people to come downtown. Mr. Rivera replied that he had just painted the building. He has had plumbers come to inspect it. He is changing the name. He is trying to entice train customers to create a different customer base.

Counselor Schwiesow asked for others in favor wishing to speak.

Lisa Trujillo told Council that she had worked for Mr. Rivera before. There were not even one third of the problems that arose from Spuddy's. Mr. Rivera is always there, always sober, and kept the employees sober. She wants to have a play to have fun and relax without having to drive to the Bank Shot. She respects Tim and Gloria. He wants to make it work.

Dan McCann, spoke in support of private business.

Sarah Dixon described that people choose to walk on the other side of the street, and don't want to go downtown. Saying that he will run it as he as in the past is not a good thing. The old Greco's crowd isn't wanted. She suggested raising the prices and class it up.

Counselor Schwiesow asked for those wishing to speak in opposition.

Leroy Polkowski, described himself as a La Jara resident, and also owns the business next door. He is not necessarily against the application, but has concerns. The smoking issues have caused some of the problem. He has had to wash urine off of the building. It is disgusting when people are hanging out in front to smoke. He supports small business. Nonprofits are parasites on the community. He hoped that Mr. Rivera could make the bar into something people want to go to, such as the brew pub. But the way it is, is a detriment to our community. Counselor Schwiesow asked what business he owns, and he replied Essentials, two doors down from the bar.

Carol Mondragon, introduced herself as the owner of business next door. In the past three years when the bar was leased, there were problems. She questioned how a landlord makes sure the building is secure. She owns the framing shop next door. She deals with the problems on a daily basis, such as smoking, and smoking pot. What does this say about our city. The area is a gateway to the railroad and visitors center. We have a national park, so many things to grow from. What do we have to do to change it? Personally, she had no complaints about Tim and Gloria. Her only concern is a leak in the common area. Mr. Rivera has provided no help or follow-through. Neighbors need to communicate and trust each other and help when needed. They still have the leak problem. But she feels there is capability to do great things. How do we make this something that will benefit the community? There are cigarette butts all over, and tourists cross the street. People are afraid to walk by. How do we make rules and regulations that will be followed? How will his actions be in the future if granted. She questioned the need. How many bars to do we need? If we are going to have a bar, make it attractive, make it for everyone. It should be a place where people can meet and socialize, then go downtown. People arrive drunk and leave drunk. There was a situation where a person passed out on 6th street. Her concern is not to fight business, but we need business people with the right ideas in mind to do good. We need trust and communication to help each other be successful.

Councilor Gillaspie asked if she had witnessed drugs. She replied that she had seen drug deals at the door to the frame shop. People are so drunk they didn't know what they were doing. She is not judging what goes on behind closed doors, but it should not be downtown. Who is responsible if they leave drunk? Are the owners or bartenders drunk? What requirements do you have for bars? There should be requirements such as not letting people leave if they are drunk. This has not been followed for the past three years. She hopes that Mr. Rivera follows through. She never saw any petitions, and would not have signed if asked. She know that Papers of Distinction owners are opposed, and there may be others. No one wants to speak out. It needs to come to the forefront and talk about it. There are lots of good things here, ASU, TSJC, Sand Dunes. There is such potential to grow in right direction. This is a gateway, how do we keep it clean and inviting?

Councilor Lucero asked if she had called the police when she saw drug deals and illegal activity. Yes replied yes. But there are times when she is with a customer and can't make the call. She said that she is asking to clean up the area out of respect for each other.

Councilor Gillaspie asked if the neighborhood improved after Spuddy's closed. She replied that it did. It comes back to asking who is in charge when they leave the bar.

Ruthie Brown stated that Mr. Rivera had already made improvements to the building. The smoking is horrible. She has never been in the business, but just in that location. In her location, three drunks were passed out on the corner. There are cigarette butts, people dropping bags of cocaine at the gas station. She said that you can't judge Mr. Rivera on Spuddy's. If he is in violation, you will be after him. We need another business. I can choose to go or not, but he should be allowed to win the business back and clean up. If we all can clean butts in the morning, it would make it better for tourists and residents.

Mr. Rivera was offered the opportunity for rebuttal.

Counselor Montano stated that he heard Ms. Mondragon say that the problems were in the past three years. Ms. Brown said that she would not judge him on Spuddy's. Everyone is well aware of the problems with Spuddy's, as the license was revoked. There has been a plumber in to look at the plumbing problem. Mr. Rivera described that there is a space behind all the building on State. Some of it is water seeping out of the brick, and the plumber determined that this was coming from Firedworks. The roofs incline into the alley, the surface water stays there and is absorbed by the ground. The speculation is that the water problem is coming from the roofs.

There being no one further wishing to speak, the hearing closed at 9:28 p.m.

Councilor Gillaspie stated that he had spoken with several business owners who were opposed but not at the meeting, and thanked Ms. Mondragon for coming. The City wants to attract people from the train and tourism in general. This is the perfect opportunity clean up State Avenue. The Pink Elephant project will bring in more business and tourists. Loitering deters people from attempting to come into downtown. Others who did not attend have told him how happy they are not to have tavern there. The problems go back before Spuddy's time. Now is the time to do it.

Councilor Romero added that there is an opportunity to help Mr. Rivera change the persona. He didn't have control over the tenants in his role as landlord. He believes he will change the situation. He doesn't want to stop a business based on someone else's actions. Mr. Rivera has had success with other businesses, and been positive in the community. He should have the opportunity to clean it up.

Councilor Lucero agreed with Councilor Gillaspie. Businesses are struggling. State has been the bar street. It is changing, and businesses are trying to clean it up. Everyone deserves an opportunity. Mr. Rivera has had no infractions in the past.

In accordance with established procedures, a decision will be made at the next meeting.

COUNCIL COMMENT

Councilor Johnson noted that McDonalds is changing the drive-through, and thanked Don Koskelin for help in solving that problem.

Councilor Gillaspie pointed out the xeriscape and thanked Public Works. Ms. Brooks added that the Parks and Recreation staff assisted with this project.

Councilor Lucero thanked Public Works for the construction on Brown. The bubble is up on the training facility.

ADJOURNMENT. The meeting adjourned at 9:45 p.m.

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Judy A. Egbert, City Clerk Charles J. Griego, Mayor Pro Tem