

ALAMOSA CITY COUNCIL
Wednesday, May 19, 2010
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, Charles Griego, Rusty Johnson, Josef Lucero, and Marcia Tuggle. Councilor Leland Romero requested to be excused. A quorum was declared. Also present: City Manager Nathan Cherpeski, City Attorney Erich Schwiesow, and City Clerk Judy Egbert.

AGENDA APPROVAL. Mayor Rogers requested to add an Executive Session regarding property acquisition just prior to adjournment. It was moved by Councilor Griego and seconded by Councilor Gillaspie to approve the agenda as amended and to excuse Councilor Romero. On the roll call the vote was ayes six, nays none. The motion carried.

CITIZEN COMMENT

A. Audience Comments

Cheryl O'Dowd spoke about difficult wheelchair access to the levee walking path near the State Avenue bridge.

Don Thompson asked that water rates be raised to allow replacement of cast iron water pipes sooner than scheduled. He further opined that it appeared that Council did not feel the water was safe because of the bottled water used during meetings.

Steve Goldstein spoke in favor of medical marijuana.

Leon Moyer requested that Council pass a Resolution saying that no Council member's name would appear on a plaque for a new City facility. He opined that Council is seeking this facility only for personal glory. He also objected to money spent on the recent retreat, the upcoming breakfast meeting, and the pizza at the CML meeting.

B. Follow-Up

Mr. Cherpeski followed up on a comment made at the last meeting regarding the lack of public restrooms in City Hall. The current restrooms are not ADA accessible and can't be made to be so. In addition, there are security issues brought to light by items recently removed from staff offices.

Mr. Cherpeski told Council that the parking area at the State Avenue bridge was changed to improve traffic patterns, but will look at ways to improve wheelchair access.

Councilor Griego noted that Council uses bottled water out of convenience, not because tap water is unsafe.

Mayor Rogers commented that she wasn't expecting her name on any plaque, and glory was not the reason behind Council's accomplishments. The meals that occur as part of meetings are incidental, and Council is mindful of how it spends public money.

CEREMONIAL ITEMS

A. Mental Health Month Proclamation, May 2010

Mayor Rogers read the proclamation and presented it to Kevin Jenkins, who described upcoming events.

B. Recognition of Poppy Days.

Mayor Rogers recognized Evelyn Thomas who described upcoming events.

CONSENT CALENDAR A. It was moved by Councilor Gillaspie and seconded by Councilor Griego to approve Consent Calendar A as presented. On the roll call the vote was ayes six, nays none. The motion carried. Items:

- C. 2. a. April 2010 Expenditure Report
- C. 2. b. First Quarter 2010 Investment Report
- C. 7. a. Minutes of Regular Meeting May 5, 2010
- C. 7. b. Minutes of Special Meeting May 12, 2010
- C. 8. a. April 2010 Monthly Reports

REGULAR BUSINESS

A. Presentations from Outside Agencies

1. Cathy Garcia, Action 22

Ms. Garcia spoke of Action 22's history and mission. She cited protection of Enterprise Zone funds and protecting prisons as two issues that affect Alamosa directly. Another priority is advocating highway development along 160 and 50, and opposing broadband regulations that would harm rural areas.

2. SLV Museum Request for Funding

At the last meeting, Council asked that Dorothy Brandt provide additional information for consideration tonight. The museum is now requesting approximately \$12,000 to finish the electrical work and heating/cooling.

In response to a question from Council, Mr. Cherpeski said that the City had contributed \$10,000 in 2006, and later paid for the sidewalks at 100%, representing a value of about \$5,700. Building permit fees have been waived twice.

There was some confusion about whether the work had been started or not, but Ms. Brandt ultimately said that the work was underway and should be completed within a week. The rest of the project has been fully paid. She further clarified that this request will fully complete the entire building.

In response to a question from Council, Mr. Cherpeski reminded Council that the traffic signal cost is still unknown and could be up to \$250,000. There are no funds available in the existing budget for this. If Council chooses to fund the museum request, he asked for direction as to what other items to cut. The current policy says that the City typically does not fund capital projects.

Dan McCann offered to contribute \$500 as match to what Council contributes.

It was moved by Councilor Griego and seconded by Councilor Johnson to enter into a Contract for Services in the amount of \$6,000, with funds from the economic development earmarked funds. On the roll call the vote was ayes six, nays none. The motion carried.

C. Business Brought Forward by City Staff

1. Public Works

a. First Reading – Ordinance No. 11, 2010, An Ordinance Renaming Park Court

Don Koskelin presented the Planning Commission's recommendation to rename Park Court to Jefferson Avenue. Park Court is the north/south street on the west side of the school property currently under development in the Stockton Addition. The current name causes confusion because Park Avenue and Park Place are on the north side of town, and could be a problem for emergency responders. The other north/south streets in this area are named for early presidents. Adjacent property owners and the sole resident on the street are in support of this request.

Council debated the option of naming streets in honor of a local person, but agreed that it would be appropriate to develop a policy first.

It was moved by Councilor Lucero and seconded by Councilor Gillaspie to introduce Ordinance No. 11, 2010 on first reading and set a public hearing thereon for Wednesday June 2, 2010 at 7:00 p.m. or as soon thereafter as the matter may be heard. On the roll call the vote was ayes six, nays none. The motion carried.

3. Police

a. First Reading – Ordinance No. 5, 2010, An Ordinance for the Regulation of Traffic by the City of Alamosa, Colorado; Adopting by Reference the 2010 Edition of the "Model Traffic Code", Repealing all Ordinances in Conflict Therewith; and Providing Penalties for Violation Thereof.

The 2010 Edition of the Model Traffic Code corrects numerous errors in the 2009 edition. The recommendation from staff includes removal of the section regarding bicycle races as unnecessary; and with removal of the provision requiring 50% of the fines collected for proof of insurance violations to be remitted to the County.

It was moved by Councilor Griego and seconded by Councilor Tuggle to introduce Ordinance No. 5, 2010 on first reading and set a public hearing thereon for Wednesday June 2, 2010 at 7:00 p.m. or as soon thereafter as the matter may be heard. On the roll call the vote was ayes six, nays none. The motion carried.

8. City Manager/Legal

b. First Reading, Ordinance No. 10, 2010, An Ordinance Amending Article VIII Of Chapter 10 Of The Code Of Ordinances Of The City Of Alamosa, Colorado, To Allow For The Renewal Of Transient Dealer's Licenses For Food And Beverage Vendors And To Allow For More Than One Individual To Operate Under A License So Long As Operating In The Same Location

The existing solicitors and peddler's ordinance contemplates the issuance of a transient dealer's license for peddlers, solicitors, and transient sellers, who generally engage in the business of selling goods and services not from a fixed location. Staff has recently received requests for licensing of mobile vendors of foodstuffs. Such a business would not be issued a normal sales tax license under Chapter 18, because it does not have one or more fixed places of business, and also because it apparently intends to operate from streets or other public property. The appropriate license would appear to be one under Chapter 10, Article VIII. However, such licenses are limited to 14 days, and are not renewable. That does not dovetail well with the type of business sought to be licensed. This ordinance would amend Section 10-216(1) of the *Code of Ordinances of the City of Alamosa* to allow for renewals of such licenses for vendors of food and beverages, up to a total of 180 days per year.

Additionally, Section 10-218 requires separate licenses for every person engaged in the licensed business, making it cumbersome for such a business to have more than one person involved in the business, an unrealistic process. This ordinance would amend Section 10-218, requiring only one license so long as all persons operating under that license are operating in the same location, ie allowing multiple servers at a food stand.

It was moved by Councilor Tuggle and seconded by Councilor Lucero to introduce Ordinance No. 10, 2010 on first reading and set a public hearing thereon for Wednesday June 2, 2010 at 7:00 p.m. or as soon thereafter as the matter may be heard. On the roll call the vote was ayes six, nays none. The motion carried.

c. Resolution No. 6, 2010, A Resolution Making Supplemental Appropriations and Authorizing Expenditures in Excess of Amounts Budgeted for the City of Alamosa in Ordinance 11, 2009, and Known as the 3rd Budget Amendment

This budget amendment recognizes revenues and expenditures associated with four grants: The Internet Crimes Against Children Grant, the Marketing District Grant for Ranch signage, the Library Summer Reading Grant, and the Colorado Tree Coalition Grant.

In addition, it allows purchase of Storage Area Network and Network Attached Storage devices. This purchase was planned in connection with the new city facility, but it is not feasible to delay this purchase along with the delay of the new facility.

It was moved by Councilor Griego and seconded by Councilor Gillaspie to adopt Resolution No. 6, 2010. On the roll call the vote was ayes six, nays none. The motion carried.

d. Public Hearing, Ordinance No. 9, 2010, An Ordinance Extending the Current Temporary Moratorium on the Submission, Acceptance, Processing, and Approval of any Application for a City of Alamosa Sales Tax Permit or License, or For Any Use of Property Within the City of Alamosa Related to The Operation of a Business That Sells Medical Marijuana Pursuant to the Authority Granted by Article 18, Section 14 of the Colorado Constitution

On November 4, 2009 Council imposed a 120 day moratorium regarding medical marijuana dispensaries to allow time to investigate the City's ability to regulate such businesses and to develop appropriate regulations. On March 3, 2010, Council extended that moratorium an additional 90 days to June 1, 2010. However, the General Assembly is still debating the issue of imposing regulations, including allowing a provision for local opting out. An additional 90 day extension would allow the City to study appropriate approaches and review regulations propounded by the General Assembly and/or other Colorado cities.

Mayor Rogers opened the hearing at 8:39 p.m. and asked for those wishing to speak on this ordinance.

Dan McCann stated that he favored the idea of the city complex being decided by election, and suggested delaying action on this to allow it to be voted on in November.

Ted McNeilsmith spoke regarding the museum funding and poppy days. Regarding this hearing, he equated this as allowing the camel's nose under the tent. He agreed with the prospect, and added that the whole camel should be allowed. He is in favor of legalizing all drugs except methamphetamine. Drugs should be taxed like alcohol and tobacco, with the money designated for law enforcement, health care, education, and drug education/treatment. Law enforcement efforts should be solely and successfully aimed against methamphetamine. He described a Time Magazine with Willie Nelson, with Willie in favor of legalizing marijuana and quoted as saying sooner or later we'll get around to legalizing it everywhere because it is not as horrible as it was once thought to be. If marijuana is legalized, it could be taxed and be a big source of revenue.

He went on to compare legalization of drugs with gay marriage. Both controversies are nearly settled whether we like it or not. They are two inevitable changes. A report from May 2005 talked about two former Japanese soldiers that were found on an island sixty years later who thought the war was still on. The war on drugs and gay marriage are over too.

Leon Moyer displayed his shirt describing that it was made partially from hemp. He spoke in favor of free enterprise and less government regulation. Business should be determined by trying, selling, buying, failing. This is what makes a business community thrive. He described a news release from CDHPE regarding marijuana use. Government should let people do what they want to do until they harm their fellow man, then there is a judicial process to deal with that. The ordinance proposed tonight is aimed at eventually opting out, and this is not the right decision. He invited Sensitiva to be here tonight, but they are not interested because they are located outside the City. The City could benefit from such a business operating in the right scenario. He advocated letting the whole camel in.

Aaron Marquez said that he was not in favor of legalizing all drugs, but wanted to find a way to move people who need marijuana away from criminal activity so they could be safe.

There being no one further wishing to speak, the hearing closed at 8:49 p.m.

Council debated the options presented, including possible opt out, licensing, and/or zoning. The possibility of taking the question to voters in November was explored. The state legislation does not address the smaller caregiver functions, although those providing care for up to five persons do have to register with the state. Chief Jackson added that the small model was the original intent when the amendment was passed, and there was no mechanism contemplated for the large growing or distribution centers.

Council agreed that more time was needed to fully understand and implement the new state legislation. There was concern that the proposed 90 days would not be enough time if Council were to consider a November ballot question.

It was moved by Councilor Griego and seconded by Councilor Lucero to finally adopt Ordinance No. 9, 2010 with the amendment to extend the moratorium to December 31, 2010. On the roll call the vote was ayes four (Griego, Johnson, Lucero, Gillaspie), nays two (Tuggle, Rogers). The motion carried.

E. Committee Reports

Councilor Lucero reported that the Council of Governments is still in formative stages and is moving forward. The Xcel project is on hold.

Councilor Johnson reported that the draft of the Ranch Management Plan is nearly complete and should be available soon. Weed control will be conducted this summer with parks staff.

F. Staff Announcements

Ms. Egbert noted upcoming items on Council's schedule.

Mr. Cherpeski pointed out recent changes to the planters in front. Once the concrete is cured, new plants will be put in.

LOCAL LIQUOR LICENSING AUTHORITY ACTIONS

A. Consent Calendar B

It was moved by Councilor Tuggle and seconded by Councilor Johnson to approve Consent Calendar B as presented. On the roll call the vote was ayes five, nays none. Councilor Griego abstained as the spouse of a liquor license holder. Items:

- B. 1. Hotel/Restaurant License Renewal – Hideaway
- B. 2. Tastings Permit Application – Beer Keg Depot
- B. 3. Tavern License Renewal – Purple Pig

COUNCIL COMMENT

Councilor Tuggle commended Dan Gutierrez for his actions at the Senior Center.

EXECUTIVE SESSION. CRS §24-6-402(4)(a)

It was moved by Councilor Lucero and seconded by Councilor Gillaspie to move into Executive Session (9:20 p.m.) pursuant to CRS §24-6-402(4)(a) for the purpose of discussing acquisition of real property. On the roll call the vote was ayes six, nays none. The motion carried.

When back in Regular Session, Mayor Rogers confirmed 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