

# SMALL BUSINESS REGULATORY ADVISORY COMMISSION

## CITY OF ALBUQUERQUE

Chairman: Anthony Trujillo  
Vice Chairman: Beverly Chavez  
Ex-Officio Commissioner: Gary Oppedahl

Commissioners: Alex Romero  
Don Kaufman  
Larry Garcia  
Larry Rainosek  
Scott Throckmorton



### MINUTES from August 19, 2014

#### ATTENDEES:

Anthony Trujillo  
Alex Romero  
Beverly Chavez  
Larry Rainosek

#### GUEST:

Robert Hoberg  
Heather Esqueda  
Jay Wheeler  
Gina Meyers  
Nancy Erickson  
Catherine Gordon  
Jose Garcia

#### STAFF:

Cheryl Rein  
Jenny Walters  
Donna Griffin

The meeting was called to order by Chairman Trujillo at 7:34 a.m.

Permitting issue discussion was an addition made to the Agenda (item 5).

MOTION BY COMMISSIONER ROMERO  
SECOND BY COMMISSIONER CHAVEZ  
MOTION CARRIED UNANIMOUSLY

The July minutes were approved by the Commission.

MOTION BY COMMISSIONER ROMERO  
SECOND BY COMMISSIONER RAINOSEK  
MOTION CARRIED UNANIMOUSLY

#### **Review Response for Declaratory Ruling and Board Action—Cheryl Rein, City of Albuquerque**

The request from the Commission to the Planning Department to issue a new or modified declaratory ruling regarding food trucks on private property as an outside activity was declined. Brennan Williams, Code Compliance Manager, suggested some alternative options

to achieve the goals of the committee while at the same time making sure that it meets all zoning code standards.

1. He advised that Planning is proposing modifying the existing special events process. Basically that would result in working with regulatory agencies that would oversee the food trucks, coming up with an expedited shortened process that would allow folks to propose to the review committee a site specific location, then garner all the other approvals, police, fire, environmental health, zoning, possibly other departments to specify a designated time period.

2. Go before a public hearing officer to request site specific exception/approval that can take up to 60 days processing.

3. Go before City Council and ask for the declaratory ruling to be changed.

Ms. Rein did not have a recommendation but asked the Commission for the direction they would like to take going forward. Chairman Trujillo asked if the Commission could appeal the decision made by the Planning Department. City Attorney, Donna Griffin suggested they not make an appeal for several reasons: there is a fee and the Commission is not authorized to spend funds, Commission is not a representative of a food truck, a Commission appealing to City Council would be awkward. Regarding the later reason Ms. Griffin said if the Commissioners wanted to support a local food truck who was appealing the declaratory ruling then that would be more reasonable. Ms. Griffin suggested meeting with Suzanne Lubar, Director of Planning again. Ms. Rein suggested speaking with John Moore, STEPS Executive Director, to see if there is any interest for the food truck owners to appeal the declaratory ruling before City Council. Also she recommended the Commission ask for any new legislation with regard to food trucks (that they may be contemplating) to be provided to the Commission for review prior to being sent to City Council.

Commissioner Romero made a motion to give the food truck industry all of the information thus far that the Commission has worked on; the results and the options for the food trucks moving forward. Mr. Romero wanted to express the Commissions support for whatever action the food trucks plan on taking. Also, the motion includes a letter of recommendation to the Mayor. After further discussion the motion was withdrawn and not voted on, however the actions may still be viable for the Commission to act on.

**Albuquerque Growers Market Managers-Presentation on challenges faced by local markets with compliance to various City Department regulations “rules” and various interpretation of regulations**—Gina Meyers, Downtown Growers Market & Civic Plaza and Catherine Gordon, Nob Hill Growers’ Market

Ms. Meyers gave a handout of the MOU between the City and participating growers’ markets. They wanted to go over the underlined sections (areas of most concern) for clarification and discussion.

B. Responsibilities of the Growers’ Markets:

3. The Growers’ Markets will be operated in compliance with all applicable City regulations and ordinances and in a manner consistent with the health and safety of vendors and consumers.

Ms. Gordon said that they do not have any recourse to anyone because each of the individual departments is interpreting the MOU differently. The Fire Marshal has placed some unreasonable restrictions on each of the markets represented here today. The whole purpose of the MOU is to allow for everyone to know what is expected and required and then be able to follow the guidelines so that all are in compliance and happy, however that has not been the case this season.

4. Each Growers' Market shall submit a site plan and tent/canopy plan for their location annually for prior approval by the Fire Department, Planning Department, and, for Growers' Markets that meet in City parks, the Parks and Recreation Department. Site plans shall conform to applicable City of Albuquerque Fire Code requirements and shall reasonably anticipate the layout of the market, including the maximum number of vendor spaces and/or canopies at peak season, placement of chile roasters, placement of fire extinguishers, and the on-site location of the Market Manager's table. Vendors may set up under any of the Fire Department's eight Preapproved Tent Floor Plans, except that vendor-specific floor plans shall be submitted for any vendor who uses a canopy floor plan different from the pre-approved floor plans, multiple spaces, or a heat source. Revision or amendment of the approved site plan will require a new site plan be submitted for approval and inspection, in accordance with City Ordinance 0-12-23.

The growers' markets are now being held to requirements that are not written in the MOU.

#### E. Amendments

Any Growers' Market within the City of Albuquerque that wishes to participate in this memorandum of understanding may do so by agreeing to the terms of this agreement and by compliance with applicable City regulations and ordinances. Signatory City Departments and other participating Growers Markets shall be provided a copy of the participating growers market signature page upon their inclusion of this Memorandum of Understanding.

Parks and Recreation Department advised that "they" would decide whether or not a new growers' market (San Pedro Mile-Hi) would be allowed to be added/sign the MOU. The San Pedro farmer's market has obtained the annual park permit but the Parks Dept does not want to add Heather Esqueda's name to the MOU. As a consequence the Fire Marshal said they would not permit any of the site plans or canopy plans until San Pedro was a part of the MOU. Zoning will not issue a permit until the fire marshal has approved the site plan.

Ms. Rein informed the Commissioners that there was a meeting with the City Chief Administration Officer, Rob Perry; the Fire Chief, David Downey; and Deputy Chief Curtis Green regarding the issues with the Growers Market. The Fire Department volunteered to prepare a one or two page memorandum listing requirements for the Growers Market. When the memorandum is completed there will be a meeting with the Growers Market Managers to discuss and review.

There was discussion of some inconsistencies and complaints shared:

1. Fire Marshal advised there can be no cooking under canopies and asked vendor to take it down. Vendor takes canopy down. Environmental health then arrives and requires vendor to have a canopy if cooking food.
2. Fire Marshal requires vendor to provide proof that children's clothes hanging on tent were treated with fire proof spray.
3. Fire Marshal made vendor take down antique table clothes as he did not have receipt for fire proofing.
4. Guidelines are inconsistent and also should be different for indoor market vs. outdoor market.
5. Chili roaster is no longer a vendor at the Nob Hill Market because of all the burdensome requirements.

Ms. Griffin suggested that the Commission look at the MOU, as a policy of the city, to understand internally where the disconnect is occurring or whether there is a potential breach of contract.

There was a motion from Commissioner Romero to authorize Ms. Griffin to contact the Director of Parks and Recreation, Barbara Baca. Also, the commission is to review the MOU between now and the next commission meeting to determine any recommendations.

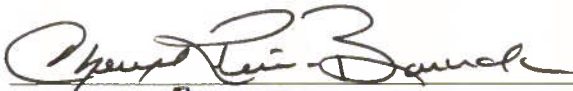
MOTION BY COMMISSIONER ROMERO  
SECOND BY COMMISSIONER CHAVEZ  
MOTION CARRIED UNANIMOUSLY


**Permitting Issue for Local Company—Commissioner Chavez**

Accurate Custom and Injection Molding (ACIM) and Accurate Machine & Tool (AMT), Greg Pluemer (Owner), employs 350 people in Albuquerque. Recently they applied for permitting with the City of Albuquerque in order to expand their operations. Mr. Pluemer advised Ms. Chavez that the permitting process was too restrictive and burdensome and they were forced to look for space outside of Albuquerque. The City of Los Lunas offered generous incentives for this company to relocate to Los Lunas. ACIM will be expanding and adding jobs to the existing 350 in Los Lunas.

There was discussion regarding the lack of enthusiasm from the City of Albuquerque to keep jobs in Albuquerque and the subsequent frustration from the Commissioners in this regard. This discussion prompted the need of the Commissioners to re-evaluate their purpose as a Commission at a "retreat" type setting in order to better understand their goals moving forward.

Meeting adjourned at 9:08 a.m.

Minutes submitted by:  Date 9/16/14  
Cheryl Rein Borunda

Minutes approved by:  Date 9/16/14  
Anthony Trujillo, Chairman of the Board