

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION WORK SESSION MINUTES
6:00 P.M., CITY COMMISSION CHAMBERS
APRIL 20, 2010**

**RON GRIGGS, MAYOR
ED COLE, MAYOR PRO-TEM
MARION LEDFORD, COMMISSIONER
JOE FERGUSON, COMMISSIONER
ROBERT RENTSCHLER, COMMISSIONER**

**JOSH RARDIN, COMMISSIONER
AARON RANCE, COMMISSIONER
MARK ROATH, CITY MANAGER
STEPHEN THIES, CITY ATTORNEY
RENEE CANTIN, CITY CLERK**

Call Meeting to Order and Roll Call.

Mayor Griggs called the meeting to order at 6:00 p.m. Roll Call was taken by the City Clerk. Commissioner Rance was absent.

1. Review of the Snake Tank Project and Water Issues with Jim Brockmann.

Mayor Griggs stated the purpose of tonight's meeting is to get Jim Brockmann, who is the City's Water Attorney, to go over the history of the snake tank project and explain to all of us what the deal is. Why did we go here, where we stand, how do we get to where we stand and answer any questions the Commission may have, to help us better understand this entire project. He then turned the floor over to Mr. Brockmann.

Mr. Brockmann said what he would like to do is make this as informal as possible.

Mayor Griggs stated if that is the easiest, he thinks it would be. As Mr. Brockmann is moving forward on this, if anyone has a part of it that anyone has a questions about, that would like explained either more thoroughly or just explained, he thinks that would be outstanding. He also emphasized that the Alamogordo Daily News was present as well. He thanked them for coming and said this is a big project and it is very important that everyone know as much about it as we possibly can.

Mayor Pro-Tem Cole asked what the end result that the Commission and City Staff are looking for when we get towards adjournment; what are you expecting or is this just discussion only.

Mayor Griggs said there may be some things coming out of this as we go along, but we have several members of the City Commission that has a limited understanding of this whole project. This will give them the understanding to continue to move this thing forward. The process, the project, has been going on for over 10 years. It is Alamogordo's future, as far as our water supply goes. At least that is his opinion of that, and he hopes as we go through this, that the rest of the Commission shares that opinion. That is what he is looking for out of this is just more and better understanding for members of the Commission who haven't sat through the over 10 years of this project. Also, there could be some ideas that come out of this that we may need to move forward on that may be on several fronts. We have the water rights now, the only thing we don't have is the completion of the EIS. We don't have the money to fund it yet, so we will need to look into how to do that, are there other ways. Should we be initiating the request for proposal process, and see if we can get people to tell us how it is that they will do this project and finish it us for us. Should we be looking at federal grants? All of those things will come out in the end, but it is his hope right now is to get it in enough detail that everyone understands it.

Due to Mr. Brockmann walking around and not utilizing the microphone, most of what he said was inaudible. He gave a brief background about the process and where the water comes from. Throughout the presentation, he highlighted the following three areas: a description of the Snake Tank and how we arrived there; the length and time for all the administrative hurdles, such as the BLM EIS; and were we go from here, additional permits, designing the Desalination Plant and getting a team together to work on financing of the project.

Commissioner Rance joined the meeting at 6:08 p.m.

Mr. Brockmann said there are a number of municipalities that are in a similar position as Alamogordo as far as expanding and diversifying their water supply. We are working with these municipalities using ground water when they can and surface water when they can.

Mayor Griggs asked Mr. Brockmann to differentiate between Surface Water & Ground Water. Mr. Brockmann explained the difference. The city has historically tried to rely on the Surface Water first and the La Luz will complement that.

Commissioner Ferguson asked if we have ever run into a situation where there is excess Surface Water. Mr. Brockmann confirmed this and gave an explanation.

Commissioner Ferguson asked if we could look for some place to put that if we have any excess. The reason he asks is because there are two tanks sitting over by Highway 82 that have been sitting empty for two to three years, couldn't that excess surface water be stored in there and use it when we need it. Mr. Brockmann said there are a couple of different things that come into consideration. One is whether or not that excess water is part of the City's rights. Part of what the City has is called a rate right. They can take up to 16cfs. If the excess water is 32cfs, the City can only take 16.

Commissioner Ferguson said he is just asking because those tanks are just sitting there and they are not doing anything. He has asked before about putting effluent water in there and we can't do that because if we did that, we would never be able to use them for clean water again.

Mr. Brockmann said probably from our stand point, it would be up to the State Engineer. Commissioner Ferguson would just hate to see all that excess water going out to the desert. He thinks it would make more sense to store it. Mr. Brockmann said it would all be subject to a permit process. No water can be diverted, taken, stored or used in this state without a state permit.

Commissioner Ledford stated our collections won't allow us to take the excess because we are not set up to do that. He then he said he knows this is a legal issue, but how hard or difficult would it be to take those paper rights and turn them into capture rights. Would it require us to change our infrastructure because we are not set up for the excess capacity? What he is really asking is does it make sense to do that, to trade some of our paper rights for some real water rights.

Mr. Brockmann said he would not trade the rights you have because there are times when they are exercisable. He doesn't think it is a matter of trading. Does this happen once every 10 years, every 20 years, how often does it happen. How long are we talking about and how much water is actually there. What are the infrastructure requirements for capturing that water? Water rights are very strictly regulated in this state. Every permit specifies a point of diversion, purpose of use, place of use, amount and priority. Each permit states you can take surface water for this point or that point, it specifies your points of diversion. You can't say that it would be better for us to have a point of diversion here or there, because that would require a change to the permit. You would have to put in another application to change the place of diversion, which is part of the legal side. You would have to look at whether or not it is worth it to build a new structure, change a structure and to spend money on that permit process.

Commissioner Rentschler asked if the state engineer looks at the fact that the water is going out there and actually recharges the aquifer, it is not going to there to evaporate. He thinks that would be part of the change to ensure the aquifer is recharged. If we start to take that, are we shooting ourselves in the foot? Mr. Brockmann said an analysis is required to see if it is doable.

Mayor Griggs said as a practical matter, in some instances, those are surplus flows. If 16cfs is filling up our reservoir, and we can't use it quick enough and it is flowing past our reservoirs, that is the water to catch and return to the aquifer through the aquifer storage and recovery. That is one of the

things the City did take the lead on, and that was a difficult decision for the State Engineer to make to allow that to happen. Mr. Brockmann replied the city had a pretty high per capita rate. By the mid 1990's the City made a decision they wanted to have better storage of that water and make that resource available. The City started a water conservation program to use less water. They created the Waste Water Treatment Plant to treat the water and pump it back into the City to water the green spaces, golf course, parks, cemetery, and ball fields. Alamogordo was the first City in the state to do that. The City stored water into the aquifers for when it would be needed. (Inaudible) Soon they did not have excess storage water to serve the public and were looking for alternative sources of water.

Commissioner Ferguson asked how far away from the City is it allowed, can it be right in the middle of it. Mr. Brockmann indicated something on one of the maps. (Inaudible) Commissioner Ferguson asked if we go west, we would end up hitting government land before we got out the area. Mr. Brockmann stated you would definitely run into military land. There is a limited distance to the south.

Mayor Pro-Tem Cole said we have a business man here in town who has given diagrams and he has sat in his office a few times, he has also spoken to military staff about getting water on some of the military lands. He then asked Mr. Brockmann when he had indicated that is opening a can of worms, has he been involve more in that where he can say more about it if it comes up tonight; why we don't try to take water from military lands.

Mr. Brockmann explained there are a couple of reasons why. In terms of the military, there are a number of reasons why that particular option is not pursued. One of the biggest reasons is that there is a great uncertainty as to what is out there in terms of the amount and quality of water. The location is another reason. Because it is up north, it is subject to gravity flows coming down from the City. The City is going through a process with BLM. This requires an Environmental Impact Study to access the BLM land and it is a challenging process. To access military land, it is subject to closure, trying to access 100 percent of the time, not just on municipal levels. Because of all the problems, the City chose not to pursue this. In the late 90's early 2000, the surface water dropped, the City relied on its ground water. At that time, the City relied on their emergency water ordinances. Some emergency surcharges were put on water usage, saying if you use x amount of water, there is a surcharge added. Eddie Livingston who is our water rights engineer, and does a lot of work throughout the State of New Mexico. The City needs to have a long term plan and the State of New Mexico asked us to come up with a 40 year water plan. We have the ability to look and see what we need in that plan. That was another element to Eddie Livingston's plan. One criteria the consultants suggested and came up with, is the City's increase in population, the decrease in supply, we started looking at which area we need to look at to try to build a better deal. That 40 year plan is an important document because it shows what the city looked at. Eddie Livingston is going to be doing an evaluation of ground water and surface line.

Commissioner Ferguson said before the legislature changed the law; he guesses the State Engineer only had control over the water above 2,000 feet, is this correct. Mr. Brockmann confirmed this. Commissioner Ferguson went on to say he believes we put in for six permits per deep wells, would we be able to drill those deep wells inside this enclose area. Since those permits were put in before, maybe they will be grandfathered in. Mr. Brockmann explained that it is not actually correct to say the engineer did not have jurisdiction below a certain amount. There is a statute on the books that said, if most you want to drill if below 2,500 feet, which most people do not go down that deep, if the quality of the water is less than 1,000 parts per million, you could do it. As you are aware, the State does have the right to go through and act on those. The State Engineers did get the legislature to act in 2009, and they did change the statute. The statute expressively states that even if he produces half of what he needs, he cannot prepare another well. By drilling a deep well, he will not have to first look at preparing a well site, but he cannot look at preparing some where else. If someone starts to drill a well, someone else can implore you to stop. Another question is where a shallow aquifer starts. (Inaudible) He recommends that with the Desal Plant, the City highly tests spots to see where to drill.

Mayor Pro-Tem Cole asked where Dry Canyon is in relation to the Snake Tank. Mr. Brockmann indicated on a map where each place was located.

Commissioner Rentschler asked if he knows if we have ever been in danger of violating those parameters with our La Luz well field. Do we know where we are at on it; have we ever even come close? Brian Cesar, Public Works Director said we have never come close.

Commissioner Ferguson asked if we have the option to buy water instead of water rights. Assuming we had 300af of agricultural water, we didn't buy the rights, we just buy the water. Mr. Brockmann explained about the difference between buying just the water and the water rights.

Commissioner Ledford wanted to go back to what Commissioner Ferguson was saying. Let's say we have a 500af water right permit, we have a well there, once you change the location of that water, we need a new application process with the State Engineer, is that correct. It is all subject to the agricultural water becoming less, or 50 percent. Just because we request it doesn't mean we are going to get the same amount, is that correct? Mr. Brockmann said you could easily transfer your request. For what the City is getting for the Snake Tank well field, the City would have to dry out most of the irrigated land in this area. He thinks the Commission really took that into consideration.

Commissioner Ferguson already sees that there are a lot of people who quit using the water. There are a lot of water rights that the state is going to give back. A gentleman in Tularosa used to use it for his hay, and now he uses it for the houses. It is cheaper for him to buy hay from Texas than to irrigate it and have it cut. The water right is now just sitting there and not being used. He has found that this is happening all over the Tularosa Basin, people are just stopping and letting it go because it is too much money. It is what is happening; it is not because of us. We are trying to get the water protected and sell it. Mr. Brockmann said he knows there are instances all over the state.

Commissioner Ferguson understands, back then everyone was trying to sell their rights. No one knew, that in the future, we would need this water.

Commissioner Ledford said no one knew the production of houses would drive up the cost. They made that choice; they are not buying acres cheaper somewhere else. Tularosa is looking at a backup plan to increase those rights because Mescalero is growing. Tularosa wants that water; they don't want us to get it. We had a lot of talk with the neighbors and we talked with them about the Snake Tank project. Snake Tank is really what we want in this community and we are not trying to make it detrimental to our neighbors. The question he has is even if we had a 100af that someone is giving us, is it correct that there is no guarantee the State Engineer will give it to us. Mr. Brockmann confirmed this. Anytime you file an application and basically transfer water rights, the State Engineer is going to start by looking at the need. Based on the diversion and conversion, just because a person says they diverted this amount, the State Engineer has the ultimate administrative authority to decide how much they get to transfer. They look at the validity of the line, how much water being transferred.

City Manager Roath stated Mr. Brockmann made a pretty good case as to why the decision was made for doing the Snake Tank and the issue in contrast to some of the other alternatives. One of the criticisms that he has heard, since he has been here, is why is it taking so long. He asked if he would touch on all the issues that the City has had to face with regards to where we are at today and why that has taken so long. Mr. Brockmann said he would be around later tonight to answer any question they may have. And replied to why it has taken so long.

City Manager Roath stated part of the reason he asks is because the press is here and he thinks they should have an understanding that people have not just been sitting and doing nothing. There has been a lot of work behind the scenes and an explanation of that would be helpful. Mr. Brockmann agreed but his explanation was inaudible.

Recessed at 7:09 p.m. and reconvened at 7:16 p.m.

Mr. Brockmann continued explaining the map. After this initial evaluation process, the City needed to discuss an alternative for the transmission point. The basic structure of the plant is fairly simple, the water gets taken out, it goes through these bend lines and comes out fairly pure.

Commissioner Rance asked if the evaporation process would be much cheaper than deep well extraction. Mr. Brockmann said it can be. Commissioner Rance also asked about the cattail purification process is it available for our use. Mr. Brockmann gave a brief explanation but what was said was inaudible.

City Attorney Thies stated we do have some available land at the landfill, but the cost, based on what has been represented to us, the deep well injection costs have gone down. Now it is economically feasible to inject as the ability to build these expensive ponds for evaporation.

Commissioner Rentschler asked how much water we are talking about, how many acre feet. Mr. Brockmann said right now, he believes it is 4,000 acre feet. There are years when that can go up to 5,000 acre feet, as long as we don't divert 20,000 acre feet in a five year period.

Commissioner Rentschler said if we lose 20 percent of that to desalination and then we are going to inject. He then asked what the typical cost to desalinate this water is. He actually understands better right now exactly why the Snake Tank was chosen, it has to be the efficiency that we have to push this water to the Desal Plant. He then asked if there was a figure anywhere of what our savings are for the way we have to do it, compared to taking it out just to the west. Mr. Brockmann wasn't sure what the savings would be. The cost to maintain the water is about \$275,000. That cost came out of Eddie Livingston's evaluation process. He wanted to explain it quickly; we did have to file an application for ground water. The State Engineer issued a permit. The area included South of the well fields near Three Rivers and Tularosa. The state issued a certain number of parameters. The process has the City pushing the water in accordance with the State Engineer.

Mayor Pro-Tem Cole asked Mr. Brockmann to show the area geographically that he was just talking about. Mr. Brockmann showed where the well fields were. Mayor Pro-Tem Cole then asked if there were four of them. Mr. Brockmann stated there were nine of them.

Commissioner Ferguson wanted to go back to the Desalinization Plant; we can inject the bad stuff back into the ground. How do you know that it will not start affecting our output? Mr. Brockmann said if the deep well injecting process, you can get permits for doing your own injecting. The State has to decide.

Commissioner Ferguson stated no one is really done to measure where the water is. You could look at the land and that is what most of them do. He doesn't understand, they say we are going to do deep well injections with this stuff and then you find out that it is starting to approach where our La Luz wells are. If we take the La Luz wells and run them through the Desalination Plant, we are still cleaning it out because we are putting really bad stuff in there. He understands that there is a lot of gypsum in there and he would like to look at a way to dry it out and maybe sell it.

Mr. Brockmann said those possibilities do exist. He doesn't think the City has any intent of doing deep well injections without having some assurance with appropriate technical studies as to where that water goes, where it will be contained that won't contaminate. It is not a new or unusual science. There is a fair amount; there is actually a large amount of deep well injections. Keep in mind that when you get down to deeper levels where an injection well would actually take that brine; typically the water quality decreases when it is down. He agrees and the studies need to be there and complete before the City would be allowed to do it. Through the process, you would have to look at the various alternatives. Where the City is in its process right now is you were about to get the State Engineer's permit, which is the most difficult part of moving this process forward in his opinion. What is left is to get the BLM Permits, the discharge permit and get a funding package of some sort that the City can work with. We have experience with different municipalities in the state and what each of

them is taking on a major public works project for the water supply system. We have got to do each of these processes at the same time, so we are not waiting until one is done to start the other. Each of these steps will all flow together. It is his understanding that the City Manager is working on putting together a team and making sure that each of these areas are addressed so the City can move forward on this project as quickly as possible. For some of the members of the Commission who have been here a long time, it may not seem that way, but he thinks the project has come a very long way from when it started. It may not feel like it, but it is about 75 to 80 percent of getting this project completed.

Mayor Griggs said to put it a little bit in context on the speed that this project moved with, he remembers the application for permit was filed about 1999 or 2000. We went to hearing in 2003. We were granted the permit in late 2004. We did reach a settlement agreement with HFR, and Three Rivers. It took until 2007 to get that trial in District Court, which was actually January of 2008. It was then appealed. One of the interesting comments he found in Mr. Brockmann's document, was the statement that was from Peter White, who was the council for the Tularosa contestants, that he was aware of the settlement discussions with HFR and Three Rivers, but indicated that he didn't think he needed to participate; because if HFR and Three Rivers reached a settlement, his clients would be protected as well. Then he turned around and kind of reneged on that a little bit and took us to the Court of Appeals and then to the Supreme Court. These actions ultimately delayed the process even further. His way of looking at this deal is that the Tularosa people are protected because of the agreements that we reached with HFR, primarily, and the monitoring wells we put in place. These monitoring wells will protect HFR, which in turn should protect Tularosa. When he first joined the Commission in 1999, this was exciting. We thought we would get this deal finished and have water for the community, but as you see, we still do not have it. He is sure Mr. Brockmann could tell them how long it has taken the City of Albuquerque to get their approvals and about their process. If it was simple, we would have been finished a long time ago. The community had lots of people talking about why we are not providing the water. We didn't provide it because the process takes a long time. If we were to go and attempt to buy water rights again today, we could be looking at the same timeline because of the process itself; not necessarily because of anything the City does or doesn't do, but because of the process.

Mr. Brockmann stated Mayor Griggs' point is well taken. Albuquerque if going through a similar project, but the City of Alamogordo is actually ahead of them. It is a little bit different issue. We are done with the appeals process; we are done with the Supreme Court. The City of Alamogordo actually started after the City of Albuquerque, but we are finished before them. The City of Alamogordo has come through that very successfully.

Commissioner Ferguson said the test facility out there, all the stuff that is in the paper about us and what we are supposed to do; if he remembers right, they said they were going to give us about 100,000 acre feet per year. We have not seen a drop of water and he doesn't know what is going on. His question is they bought the water rights from the people around it, are we going to be in the same situation as everyone else is. If we are not using the water, will we end up losing it? Mr. Brockmann stated he has not read any of the newspaper articles or press releases, but he doubts it is 100,000 acre feet per year.

Mayor Griggs said another thing on that deal was that it was gallons. If they were trying to talk about acre feet, they messed up. They talked about gallons that it could process per day, to be pumped into parks and such.

Commissioner Ferguson understands that is part of the whole deal, but if they are not using the water, what happens to it. Mr. Brockmann stated there are two different elements to that. The first is the he is not sure how much water they can divert or what their usage is, so he really can't answer that one. More directly to the question, is that the City has a 40 year plan, and it is a document that is approved by the State Engineer; it says we need to meet the need for water. Right now we are meeting that need. There would have to State Engineer process to change the point of diversion to go against the 40 year plan.

Commissioner Ferguson said when they created the 40 year water plan; they didn't know where they were going to get all this water. Mr. Brockmann's understanding the facility, if anything, is to help develop the next generation of Desal technology, whether it is working on membrane or various processes.

Commissioner Ledford said it should be for research and development. Commissioner Ferguson agreed but mentioned the newspaper read differently.

Mayor Griggs said some of the discussions about that is that maybe we could put it on the land across the street, and they may have places where they can farm, for lack of better words, so they can look at different classes and their salt tolerances and all of that.

Commissioner Ledford said Mr. Brockmann has a lot of experience around the state. If we were to take the size that we have there and we were to make it, he thinks a lot of people are moving to this area because we are starting to run out of water, would you think it would be a long process again. It is all subject to litigation protest, and he can guarantee we will get those protests no matter what we do. We had this drought at the lake, it happened for one or two years, if we don't get any rain here, like we did back then, do we have time to get something done. Will the State Engineer give us emergency water or allow us to do things if we abandon this project in order to satisfy our needs? Mr. Brockmann explained that they do make exceptions to the rules. When we were working on the State Engineer progress, the City didn't have enough water. If you look at the 40 year plan, today, the City is short of meeting that requirement. You have come a long way and you have to finish this out. It makes no sense to try and start again because it took 10 years to get this far. It will become more expensive and difficult to accomplish this again.

City Manager Roath asked Mr. Brockmann if he would expand on what we need to do, going forward, now that you have talked about the decision and why it took us to where we are at now. Can you briefly highlight some of the things that we still have to do in this whole process?

Mr. Brockmann said the primary areas that he is aware of is, and he knows the City has been pushing it, anytime you do a project of this nature, going through the state permits and other permits, it sometimes gets out of your hands. He thinks the BLM Environmental Impact Statement is taking a lot longer than the City expected. From what we understand, the BLM is coming out with that draft EIS and at some point it should become some sort of set process; so many days for comments, and so many days for public meetings. We will get more of a schedule once that draft is released, but that is one of the big areas that need to be finished for public permitting.

City Manager Roath asked for clarification, what it allows us to do. Mr. Brockmann explained it provides for a right-of-way across BLM lands. Once the wells are drilled, the pipeline and infrastructure can be put in. That is basically what the permit is for; giving us permanent access across federal lands to allow us to operate the well field. There is still a little bit of work to be done at the state land office, to make sure the City handles appropriate access across state lands when necessary. It is not an area that they are directly involved in, but we have some experience with the permits the City will have to acquire from the State. The funding is approached in different ways, sometimes with grants and loans and others with state funding. The City of Albuquerque's process involved some sort of grant to help educate the public to make sure the water goes where it needs to go. Another thing that has changed in recent years, the City did look at evaporation ponds with the deep well injections.

Commissioner Rance asked Mr. Brockmann if he had any idea of what the projected cost was 10 years ago. Mr. Brockmann stated it was \$33 million. Commissioner Rance asked if it would be roughly an additional \$20 million will need to be acquired. Commissioner Ledford stated that is what happens when a cost goes up. That is expected when you do a project of this size. Capital cost is something people try to get through federal grants, to try to help, which is a one time thing. What this project allows us to do is minimize the operating cost, which we have to pay every year, and we can't

get any grants for those. We have to make sure we know what the project is and operating costs is minimized. Capital costs are an issue, but once we tackle that, operating costs will be minimal.

Commissioner Rardin asked if we have a ballpark estimate of what the operating costs will run per year. Mr. Brockmann stated as he recalls from Eddie Livingston's last report, it was somewhere \$375,000. If the City is acceptable to take this project across the finish line, you will have to request the funding. It is the future for the City as far as water is concerned.

Mayor Pro-Tem Cole asked getting the EIS approved, how does he see this taking 12 to 18 months, and that may be too long; what would be the next two or three steps that would be involved with the Community to get to a point where that system is working. Mr. Brockmann stated he would hope that EIS process would be quicker than that. Mark Threadgill, Community Development Director said he's sticking to the story they are suppose to have the draft late June and the set of guidelines depending on the number of comments. The plans could be late December of this year.

City Manager Roath asked if it would be a fair statement to say we are now at the stage where we are transitioning over into the technical side and actually getting someone on board to design things and look at how we get all of these elements built and the financing that goes with it. We are now over the hurdle of trying to fight everybody to try and get the right to have this water and the right to cross boundaries. We are towards the tail end of that process and actually moving into the construction side. Mr. Brockmann thought that was definitely true. He knows in the past when the City has talked with some of the legislatures about finding loans, the answer they got was get those well rights in place and then come see us. That was a big hurdle to be able to say we have final need of the permit, and we are ready to go. Using the City of Albuquerque as an example, they had their engineering going parallel with the whole process. They actually finished their need process before their state engineer process. Because you have a valid permit, once it is issued by the State Engineer in District Court, they actually designed and constructed their plan in Albuquerque; it is operational. The valid permit allowed them to actually do the construction because of their need.

City Manager Roath stated recently, the Mayor was so kind to give him a history of this project. In that discussion, we raised the issue of trying to expand our horizon a little bit and start and working on various fronts; other than the BLM issue. The whole issue of possibly moving towards construction or at least the design phase and moving that forward. He thinks we are at that stage right now where we start acting on more fronts in moving things forward.

Mayor Griggs added that one of the things he thinks the Commission needs to evaluate is that several years ago; the City actually went out with an RFP on getting the water rights and getting the water to the City. We are at the point where we could go out with an RFP for a design build project, to build the plant, dispose of the brine, and deliver the water to the City. He thinks those are something that we could work towards to have companies like our current Water Systems Operators, Severn Trent, and there are numerous other companies who could respond to an RFP designed to do this entire project. At the time, we would have to work on getting the funding. It is also quite possible, because we had one company come to us at one time and said they could build it and they would recover the funding out of water sales. We did not know exactly how that would come to pass, but that is what they believed. Anything is possible, and we need to, this is what we have; this is what we need, so tell us what you can do it for. He would like to see us initiate that this year we could make some determinations as to what this is going to cost. There haven't been any real numbers that have been bounced around on this. Commissioner Ferguson mentioned \$33 million, but he remembers when this project was first set up, it was \$10 million for the wells, \$10 million for the pipeline and \$10 million for the plant, so \$30 million. Whether it will cost more than that or whether it will cost less than that, we won't really know until we get out there and bid it out. We have recently been very successful on public works projects, being far less than we anticipated and maybe this project will be the same way. If we don't move forward on this, then what we wind up looking at is starting some process again and he does not see how we can afford to do that. Wherever we go and whatever we do, it is going to be expensive and time consuming. Almost all of the fresh water or water that we would have access to in the basin is gone; one way or another, the rest is going to

have to be desalted so it will have to go through that process. Buying water rights is going to be expensive and time consuming, and how many can you get. We have a viable project and he thinks we need to aggressively move forward in an attempt to get the plant built.

Mayor Pro-Tem Cole said it seemed like to him when Mayor Chavez was still in charge of Albuquerque, they went ahead, similar to what Mayor Griggs is talking about, and started the process for receiving their water and they took the chance of ending up in court. As he recalls, it never ended up in court.

Mr. Brockmann stated that is true as far as the legal process, once that legal process was final, and getting the Environmental Impact Statement, that wasn't challenged in court. Because of that process, they were about to construct and start using their plant. Mayor Pro-Tem Cole then asked if they were still getting their water right now. Mr. Brockmann stated they have been running it for a year and a half.

Commissioner Ledford thinks we need to sit down and decide what our criteria are and see what the best way to respond is. He remembers when this first started going, he insisted on seeing some numbers because he wants to make sure the cost of the project made sense. How is that \$35 million going to be used and how we were going to pay for it? The court deal is what is throwing him off, but we got that and were successful there and he does agree that getting the EIS will also be successful. We need to make sure we get all the necessary right-of-ways. He thinks we need to put a plan together and decide what the parameters are going to be, but we do need to be working on it. If we wait until the EIS is received by the end of the year, it could take an additional six months to a year to get everything required for the RFP. Commissioner Rance agreed with Commissioner Ledford.

Commissioner Rardin asked when the Commission decided to do the Snake Tank project, what were some of the other options that were also on the table at the time. Commissioner Rardin asked once we get the Desal Plant going, what the life span is expected to be; how long before we would either have to refurbish or build a new one. Mr. Brockmann said that is a better question for the engineers. The remainder of what was said was inaudible.

Commissioner Rardin stated we can always drill more wells, but he is more interested in the life span of the Desal Plant. If we spend \$54 million on the plant and in 15 or 20 years from now, is it going to have to be redone? Mayor Griggs explained that they put these Desalinization Plants together in what they call are trains; where they have modules that can be pulled out and replaced. The technology, since this process has started, has improved dramatically. He believes the Commissioner Rentschler brought up the 80 percent recovery and there is some discussion, that he has heard, that now that recovery is pushing 90 percent. What we will need is a large metal building to put the trains in. Before they thought we would need a larger building to put these trains in, but because of today's technology, we will not need such a large building. It is easier and less expensive to do than what we previously thought. The ability to change things in and out is what makes this process very exciting.

Mayor Griggs added that the national research facility has the unit from the Navy sitting out that we could visit that will give us an idea of what we are looking for. It is capable of producing about .5 million gallons of water a day. It is a neat process, but it is a lot of money. What he is seeing with this is that there is not any fresh water, so the water we get will have to go thorough the Desal process, whether it was west, south, or north.

City Manager Roath asked if El Paso has a Desal plant. Mayor Pro-Tem Cole stated Horizon City does. Mr. Threadgill said El Paso has a very large production facility. We have a standing invitation from Stan Archuleta to take a tour of the K. Daly Hutchinson facility in El Paso. City Manager Roath stated he was going to suggest possibly arranging a tour of their facility.

Commissioner Rentschler said he has one more question about water rights. This water, no matter what we do is still going to be our most expensive water, is that correct? Mr. Brockmann confirmed

this. Commissioner Rentschler asked if we would be using every other resource that we have before we pull this water in. If we have this 4,000af of water available to us, and as we have been talking, the water rights in New Mexico, are use them or lose them. If we don't draw on that 4,000af of water, what happens to those water rights over a 10 or 15 year period. Mr. Brockmann stated it will not be that absolute. To answer the water rights question, it comes into the second thing that he discussed which was the 40 year stat. As a municipality, Alamogordo will be able to hold onto those water rights for 40 years.

Commissioner Rentschler said even if we don't use more than 100afy, we are still going to have that 4,000af. Mr. Brockmann confirmed this.

Commissioner Rentschler said we have an individual out near the site of the future Desal plant that has offered to give us 368 feet of water a year. If we take that, do we reduce our other water rights? Mr. Brockmann said that could be a huge consideration, because in the State Engineer's view, you have enough water. Commissioner Rentschler asked if it was the same thins we did with the Walker Wells. Mr. Brockmann confirmed this as well.

Commissioner Ledford said you have to consider that any time you buy water; you have to consider the investment costs. If we start buying water, we will have a lot more costs to endure. That is why it's more serious, political, and expensive. It is a lot cheaper to process your own water than it is to purchase someone else's water. We don't want to violate our water rights that we have already, because it is the cheapest water we have. He would say the north project water will be cheaper passing on the water because you will have to have an initial investment and we don't have that. We will still have to have the Desal Plant to process anyone else's water, as well.

Commissioner Rentschler mentioned the 368 feet of water Mr. Sheffield wanted to give the city.

Mayor Griggs asked if anyone had any issues with trying to move forward with an RFP. He thinks we need to start putting that together, so if all of this comes into place, which we are at least even with the game and not behind it. Commissioner Rance believes there are some areas that are left to be discussed.

Mayor Griggs thanked Mr. Brockmann for coming tonight. He said he is sure Mr. Brockmann will be available to us at anytime, when we are ready to move forward on all of this.

ADJOURNMENT.

The meeting was adjourned at 8:18 p.m.

/s/Mayor Ron Griggs

(SEAL)

Mayor Ron Griggs

ATTEST:

/s/ Reneé L. Cantin

City Clerk Reneé L. Cantin

*(Prepared by Marsha D. Brady, Deputy Clerk)
Approved at the Regular Meeting held on April 27, 2010.*