

**CITY OF ALAMOGORDO, NEW MEXICO  
CITY COMMISSION REGULAR MEETING MINUTES  
7:30 P.M., COMMISSION CHAMBERS  
MAY 12, 2009**

**MAYOR STEVE BROCKETT  
MAYOR PRO-TEM CHRIS LUJAN  
COMMISSIONER RON GRIGGS  
COMMISSIONER ED COLE  
COMMISSIONER MARION LEDFORD**

**COMMISSIONER - VACANT  
COMMISSIONER JOE FERGUSON  
INTERIM CITY MANAGER MATT McNEILE  
CITY ATTORNEY STEPHEN THIES  
CITY CLERK RENEE CANTIN**

Call Meeting to Order, Roll Call, Invocation, and Pledge of Allegiance.

Mayor Brockett called the meeting to order at 7:34 p.m. Roll Call was taken by the City Clerk. Invocation was given by Commissioner Cole followed by the Pledge of Allegiance that was led by Commissioner Ferguson and the National Anthem by the Alamogordo High School Show Choir.

**PRESENTATIONS:**

1. Request by Mayor Brockett to discuss Economic Development.

Mayor Brockett presented the following:

This comes on the heels of a presentation given two weeks ago by OCEDC Executive Director Mike Espiritu regarding that organization's economic development efforts. Tonight I am asking five individuals, Otero County Chairman Ronnie Rardin, Mr. Espiritu, New Mexico State University President Cheri Jimeno, New Mexico Space Museum Director Randall Hayes, and White Sands National Monument Superintendent Kevin Schneider, to each get up and talk about a potential to bring together different entities, including local governments which would include Cloudcroft, Tularosa, Alamogordo and the Otero County elected officials, as well as Ex-officio members to put together, along with OCEDC, a reasonable economic development plan that would cover a lot of different basis and work as one cohesive unit with different responsibilities.

This comes on the heels of a visit that Chairman Rardin and I, along with Mayor Pro-tem Lujan, Commissioner Ferguson, and some local business people, attended in El Paso with Mayor John Cook. We visited with him to find out what their economic development program was like. We cannot do everything they are doing obviously, but they do have some good ideas that we could clone. And I think it would all start, for lack of better word, an Economic Development Summit later this year, where different entities, different groups, and the Chambers of the three communities would be invited; and I would even try to get an invitation out to the Mescalero Apache Tribe.

We would be looking at, not just business recruitment as we have seen OCEDC do over the years; but keeping businesses here, discussions with the college on workforce development, and tourism as part of our economic development plan. We need to also keep in mind that about 80% of job creation in this country is from existing businesses. So it would be important to recognize the needs of existing businesses for business retention and expansion.

We have at our disposal one individual who works for the city who began his career in the Economic Development Department in the City of El Paso, who can bring to the table a lot of information and can also act as a conduit.

The City of El Paso has volunteered their services. Their Economic Development Corporation, REDCO, Chairman Bob Cook was supposed to be here tonight, but called at the last minute and had to cancel out, he just got back from a business trip to New York and was not up to coming.

Our Economic Development Plan that was developed more than 10 years ago, and that we heard a little bit about two weeks ago, is clearly a good place to start. Our goal should be to expand the focus into areas that were not a part of that plan and identify responsibilities and develop accountability measures. Basically coming together in the Summit and bringing intellectual infrastructure who would hammer out the details. That will be the tough part.

I think it is time that we looked at a broader range of economic development in order to assist, not just those who are coming in, but those who are already here. The door is opened and we can think outside of the box. We can look at revolving loans, which the City Attorney has told me could be used out of Economic Development Gross Receipts Tax dollars; We could look at things like micro-lending; We could look at a lot of different variables that are available to us.

What I wanted to do was to bring these individuals, who can all bring something unique to the table, up and let them talk.

Otero County Commission Chairman Ronnie Rardin addressed the Commission saying, I had the privilege of meeting with Mayor Brockett, Mayor Pro-tem Lujan and Commissioner Ferguson when we went down to talk with the Mayor in El Paso and I think what we came away with the fact that we all realized we need to come together as one. I think that is something that has been lacking with the County and the City in the past and that needs to be history.

We want to let you know that on our side, in the County, we have staff also that we have the same constituents that you have plus a few more and we feel it is imperative that we start a plan. I don't know what the answer to the plan is, I know that we need to come together as one. As we group up then we can show our power and our knowledge by bringing the people here tonight to the table.

The other Commissioners are very much on board with this on our side and we are excited to get going and get something on the ground, and start developing a plan so that we can aim at it and head for it. We think that we have one of the best kept secrets in the Country, I'm sure every town in the USA thinks the same thing, but we really do have a lot to offer and we are excited.

The reason I came tonight is to let you know the relationship we want to have with you all and that we don't have to be in the lead. We are willing to sit in the back and help where we can help, but if the lead is where we have to be, then so be it. There is no loser here except those who don't want to get involved and help.

We just want to tell you that the County Commission is ready to work with the City and the other entities and the local businesses to get something going that in a few years we can really see something on the ground.

Mayor Brockett thanked Mr. Rardin for coming and announced that he had an 8:00 meeting to attend.

Mayor Brockett then introduced Mr. Kevin Schneider, Superintendent from the White Sands National Monument. He came to us earlier this year and actually brought some people from the University of Arizona, and if you will, just touch upon that please and any other comments that you might have.

Mr. Schneider said that tourism plays a vital role in economic development; there is no question about that. I brought some numbers that I would be happy to pass up to you all about the economic importance of White Sands National Monument.

We attract 439,000 visitors to the park, and those visitors spend money in the community in Alamogordo. Our numbers suggest that non-local visitors, and most visitors come from outside the area, spend about \$118.00 per day in local communities. That's within 50 miles of the park, so that would include Alamogordo and Las Cruces.

Together the park supports about 500 jobs in those local communities because of the multiplying effect of economics. If a visitor buys gas, that money goes to a gas station; if they pay for a hotel, that hotel hires people to clean the room; and so on. That money cascades through the system in Alamogordo and Las Cruces.

For every visitor that we can attract to the park, in addition to the 439,000 that we already have, that is all the more money that is coming into the community. One of my goals as Superintendent is to ensure that the park is relevant to our visitors and to make sure we are providing the best experience for visitors.

When we met with the Mayor earlier this year and discussed how we can make White Sands National Monument a better place for our visitors and how we can make sure we are playing a role in the economic prosperity of this area.

Mayor Brockett said that the ladies from the University of Arizona were here doing a study.

Mr. Schneider said that was correct. They were doing what's called a Foundational Plan. This is essentially a planning effort to look at the parks goals, its objectives, where we want to go in the next 3 to 5 years, the recommendations and how we can do a better job serving our visitors and our community.

Mayor Brockett then said that what initially began as a focus on White Sands National Monument sort of branched out to the community and other venues that we offer.

Mr. Schneider said that that is right. We really wanted to look at our stake holders in that process so we sat down with critical stake holders. We met with the Mayor, County Commission, Otero County Sheriffs Department, the Boarder Patrol, and the University here in town trying to understand what their vision of what the monument would be and how we can better serve them and their constituents and the community.

The bottom line for us is that we are happy to support this effort and look forward to doing so.

Mayor Brockett then thanked Mr. Schneider and introduced Mr. Randall Hayes, Director of the New Mexico Museum of Space History, formerly the Space Hall of Fame.

Mr. Hayes stated that he wanted to echo everything Mr. Schneider said. Last year at the Museum, we had about 115,000 visitors, 75% were from out of County, so you can take his numbers and multiply that.

We have been working on cultural tourism, and working hard on it; and educational tourism. We have finally negotiated some contracts with the state and through a federal program. We are now starting to bring in students from around the state and residents, which is kind of odd for us because we are doing the whole thing with our space academy.

Today we went to three high schools, Gadsden, Santa Teresa and Chaparral, tomorrow we are in Albuquerque and Socorro; Friday we are in Deming. Last week we were in Portales, Artesia and there are three more schools after that.

If we do it right, we will bring in 400 students for one week to Alamogordo for the New Mexico Space Academy. This is the beginning of a four year program with the State. It brings in hundreds of thousands of dollars, not only into the Museum but the community.

Five weeks ago, I hosted a reception for ten Japanese Travel Operators. These were all CEO's of major travel companies from San Francisco, Los Angeles and Tokyo. This was an arrangement I made with the Department of Tourism in Santa Fe. They were bringing these people to New Mexico for their first visit and I convinced them to bring them to Alamogordo.

They visited White Sands, they did the Sunset Walk and then they came to the Museum and we had a buffet reception for them up on our patio overlooking the City as the lights came up. The Mayor graciously met us there with his wife who greeted them in Japanese. We were the hit. They loved White Sands; they had no idea what it was about. They are now planning to do educational and vacation tours from Japan, here.

From White Sands, they were taken up to the Mountain, to the Lodge. They want to come back to southern New Mexico and they are sending Japanese tourists here.

This is what we want to work with. We work closely with Ms. Schneider all the time. We do events with him and back and forth, but we would love to be a part of any organization that we could bring more people to town to do more things.

Our focus is Cultural Tourism, Educational Tourism and now Echo Tourism. We had two Travel Operators from Seattle here about two or three months ago that want to do Astronomy Tours. There are Astronomers in Seattle, I don't know why, but there are, but they don't have very good skies. We have the best skies in the world here. So they are now planning to bring Astronomers from Seattle and Portland to this community for one week trips.

We have talked with the Cloudcroft Chamber, we work with Mr. Espiritu at the Chamber, we just want to be a part of a clearing house that we all talk, that is I have something going, I can just pass it on. If somebody has a project, what can I do to support your project, because we all win.

Mr. Schneider does a fabulous job, Ms. Jimeno does a good job, Mr. Espiritu does a good job and we think we do a good job. We're good individually, together we would be formidable. I would like to see us all work together in all these areas and were willing to participate at any level that you ask of us.

Mayor Brockett said getting back to the CEO's, the Japanese have identified 20 must see places in this country. How many of those are in New Mexico?

Mr. Hayes stated there are three. One of them is White Sands. It is one of the 20 top places in the United States and White Sands is right on top. And after they saw it, it ranked way above number one.

Mayor Brockett then said that we also lucked out in that McGregor, I believe, was having a controlled burn that night. I told one of the guys that that was the light on El Paso.

Mr. Hayes then said I thought it was Oro Grande burning. They were just thrilled, we gave them a tour of the building, and we did a Southwestern Catering thing, so we had New Mexican food and we could not get them out of the building. We thought we would do this real quick, but they were up till ten o'clock that night.

That's what we need to do, we need to bring more in, and again, I went directly to the Department of Tourism myself to do this. I was up there, I know somebody in the department and they said we are doing this, is there anything you have in mind? I jumped all over it and that was the hit of their trip.

I am back in touch we want to bring more in, but I want to involve everyone. It isn't just me, it isn't just Mr. Schneider, it's all of us and we need to all share in this. That is what we are here to do, to support any effort all of us come together, any role you ask we will do if we can get people to this town.

Mayor Brockett thanked Mr. Hayes and said that pretty soon the New Mexico State University-Alamogordo will be offering a number of work force development curriculum and the ground breaking for the new vocational facilities later this summer. He then introduced Dr. Cheri Jimeno.

Dr. Cheri Jimeno, President of the NMSU-A stated that there are a couple of things when I take a look at economic development for the campus we look at two different things. First, is what we actually bring to the community where we exist, and we believe that we are a strong economic engine for this area and that's because of the number of people we employ, our payroll and, of course, the number of students that we bring to our institution.

If you take a look at us, we employ over 200 employees; we have a payroll of over 5 million dollars and so realistically even with the 2 to 1 multiplier effect, that's a strong economic impact on the area. One of the things, of course, that we are involved in since we are an educational institution, is improving the education level of the individuals who come to our institution and we are also very involved in workforce development training and professional development training for individuals who come to our institution.

We are growing obviously. This year we are going to serve over 6 thousand students which is a big growth for us. So when it comes to economic development, we are here to assist in any way, in the planning and in the development of the workforce, whatever we need to do.

One of the things the Mayor said is that we are just about ready to open our first lead silver building and that's our Allied Health addition. Now this one is built to lead silver certification standards, in fact we might be lead gold by the time that we are done. We are ready to open; we will be opening in June. We will have our Grand Opening of the facility after the students get back in August, so you can see our Grand Opening sometime in September.

We're getting very much into developing workforce for today's Green Jobs; for example we will be breaking ground this fall on an addition to the Tays Special Events Center where we can start doing training in areas typically called the trades. What we would be doing is looking at areas of alternative energies and automotive technology, particularly alternative engine type of automobiles. We are moving forward with that, we have a sustainability plan that we are working on and we want to take a look at how we can ensure that our campus is sustainable in the future.

When it comes to any type of economic development, we are happy to be a part of the table; we like to learn from you. Also, don't forget we have some great facilities that are open for your use.

Mayor Brockett thanked Dr. Jimeno, and said that last week Mike Espiritu visited with our state economic development. We do have the opportunity tomorrow to meet with Cabinet Secretary Fred Mondragon who will be in the community. OCEDC brings experience, they have the tools and they have the "know how" in terms of bringing business in, they have a criteria that had to be met. Mayor Brockett introduced Mr. Mike Espiritu, OCEDC Executive Director.

Mr. Espiritu stated that first economic development. If you asked everybody in the room what economic development was, every one of you would probably have a different answer because everyone sees it as a different animal. Let me explain a couple of things if I may. The Otero County Economic Development Office is an activity that works generally hard for Alamogordo and Otero County. Some of the things that the others have talked about this evening are very important because we do those in economic development and in chamber work everyday. I would like to hit on some of those things and be sure to talk about what happened last week because it is a great story.

When you look at the Tourism piece in Alamogordo and Otero County, we are deeply involved in that already. As you know, from a chamber perspective especially because we work very diligently on bringing activities to our community to bring in those out of town guests so they spend lots of money in our hotels and our restaurants and what have you and that is always a good piece. As you remember, this July 4<sup>th</sup> we have an incredible Freedom Bike Rally that is going to bring probably a few thousand people to town. We are going to continue to exploit those opportunities to bring those tourists into Alamogordo and Otero County to make it a destination.

On the educational side, I will tell you that OCEDC is deeply involved as is the Chamber with a program called CTE, or Career Technical Education. Our partnership is with Dr. Jimeno, with the NMSU-A Campus and with Mike Harris and his folks at the Alamogordo Public Schools, the Chamber and OCEDC.

Let me kind of explain that a little to bring you up to date. CTE is a program that is going to redefine education as we think it is today. We talk to these young kids in school and ask them what will you be doing when you graduate as a senior in high school. They say well, I don't know, maybe I'll go to school or into the military or I'll sit home eating potato chips. The whole idea is to get them focused on life after high school. CTE will do that.

We are going to shape and reshape their education starting from 8<sup>th</sup> grade up through an assessment program to help identify career paths that they are interested in, work with our industry partners here in town, and in the community, and help track or teach them through those career paths that they are interested in and tier those educational needs to those goals. Maybe there is a reason they need geometry to build those homes. We are going to partner them with our industry partners through our partners in education program with the Chamber and this truly is a workforce development or economic development issue.

One of the things that you have heard and I have heard as well is one of the things our Governor said, the greatest export we have in our state is our children, and they do. They move away to go someplace else to go to school, but we have those opportunities right here in our own public school system and at the Alamogordo campus. That is really exciting to continue on this trend. We have a lot of people involved throughout the community. We see some big things on the horizon, in fact we will have a large job expo industry event coming this October, which is already in the works.

As you know, OCEDC is very involved with the film industry and that of course brings in tourists because they want to see what is going on with the films. More importantly, it brings in a lot of economic pieces to our town and brings in some extra dollars and that is always a good piece.

I do want to share with you that last week, when I was in Albuquerque; I met with the Job Training Incentive Policy Board to support a company that we have done in Tularosa that is called Premiere Pellets. If you recall, Premiere Pellets came to Alamogordo about a year ago and said we would like to set up a shop and maybe have a business and create some jobs. We have worked through a lot of challenges and they are out of Jasper, Texas, but they have now been approved for a state incentive of about \$84,000 and that is good for them and that means that they are going to start hiring people at that state incentive which also qualifies them for other state incentives as they hire people into those jobs.

They produce pellets as well as wood shavings, and people don't realize it, but there is a tremendous need for the wood shavings industry with the race tracks of Ruidoso and Tularosa and all the animal husbandry opportunities that we have in our basin, so they are producing shavings both in bulk and in bags and they are producing pellets once the season gets closer to the sales peak.

We are busy in OCEDC marketing Alamogordo and Otero County and I will share with you that we diligently look at how we can best exploit the opportunities that we have, the great weather, the sunshine, the people, the climate, the facilities, the linkages to transportation, all those great attributes that we have and that we possess to bring clients here.

Currently, we are working on two companies to have them relocate to Alamogordo, if we will be successful, I am not sure, but you don't know until we get a little further down the road. I can't share which one with you because of proprietary information. I share with you that they are interested in Alamogordo because of the things that I just spoke about.

Marietta Biscuit Company is a big success for OCEDC as well as PreCheck and 1-800-Flowers and of course Premiere Pellets. Those are four wonderful companies that are here because of incentives that you have provided these companies to bring to Alamogordo and Otero County.

I can't tell you enough how envied we are to economic developers across the state because we have landed such great companies for what they consider such a rural area. Being South of I-40 is a good thing.

As you know PreCheck has received money to build out their building and we are very happy about that and the creation of jobs and the movement of the corporate offices and again OCEDC was in the middle of that transaction.

Lastly, I want to say that Mr. Mayor I believe what you said at the beginning is very important, synergistically it would be good that organizations get together and discuss, meet and plan and work together. You are right, they are right, we are pretty good at what we do individually and although we do seem to spend time with each other at different venues, we don't spend time together as one body thinking about, in this case, economic development. We talk about tourism, we talk about education and so forth but I think it would be a worthwhile venture and so I am certainly up for that.

Last thing I want to close with is your Chamber of Commerce married with OCEDC, I think it is an important role. You brought that up two weeks ago and I thought that over at length because I think that is just a wonderful marriage. OCEDC works diligently on creating the jobs, stimulating the economy here in our community and helping people with businesses, with the retention as well expansion. We are seeing that, PreCheck is a great example of a business and the relocation of a business from Jasper to Alamogordo.

I want to share with you that I believe moving forward with this marriage, the disability that the Chamber brings to OCEDC is absolutely huge. I may have mentioned that the Chambers website was redesigned last December, and as an example we had about 80,000 web hits to the Chamber website. That sounds like quite a few, but OCEDC redesigned website in January received over 260,000 hits and we were averaging close to 300,000 hits every month since January and the traffic is absolutely incredible. When I meet with you again, probably in the next quarter, I will give you a briefing kind of on where people are looking at us from around the world, it is very interesting.

To close, I firmly believe that we have a great community; we have incredible people in such positions as our University, White Sands, New Mexico Space Museum and so forth. Lot of great places and they certainly bring a lot to the table because we have a place, and you will hear me say this at a lot of events, this is a paradise. In fact when Lt. Governor Denish was here last summer, I told her, you have arrived, you are in paradise. We do have the best of everything.

Mayor Brockett thanked Mr. Espiritu and said that one thing that he got out of the meeting with the people in El Paso is that prior to them forming a group that works together, not a different group but working as one cohesive unit, everybody in the Greater El Paso Chamber of Commerce, the Hispanic Chamber of Commerce, the City, REDCO and some other organizations, they all did a good job doing what they were doing, it was just that they were all kind of not doing it together and one didn't know what another was doing and you might have a different group visit to talk about the same things and they may have even thought of ideas differently.

Chairman Rardin and I, we really didn't put together any kind of a program. We discussed perhaps some kind of an informal board or committee that would be made up of these. I talked to Mayor Cordova in Tularosa, and he is very interested in a regional project of this sort.

The City of El Paso is very much engaged in this, they do have an Economic Development Director. The City does the business retention of existing businesses and the revolving loans and so on, where as REDCO does what you folks have been doing.

As we look at businesses that grow, and as I said earlier, 80% of working development comes from existing businesses. PreCheck is a good example. They have been here two years, they opened their doors in 2007 if I am not mistaken, look what they are doing now. They are more than doubling their size and there will be more jobs created and more things going on there. Hopefully, Marietta will get back on track, hopefully they will continue with what they are doing. It seems like Flowers have been a good corporate partner with this community, they have been here a while.

I think having an organization come in and going to Tularosa is huge, because that truly is a county economic development venture. I appreciate your efforts on behalf of that company when you went to Santa Fe last week.

Mr. Espiritu is looking forward to Secretary Mondragon being here tomorrow, seeing what he might have to say about something like this. I believe that the City of El Paso made it very clear that, with no strings attached, because in their mind if we do well, they do well, which makes sense because we do have White Sands, we do have the Museum of Space History, they will be available to us if we have any questions or if we need any help getting things started. Ronnie and I felt that it was really important to mesh together and maybe get over some "turf" issues that are around, but it sounds like you guys work very well together, and create something, some body of some sort that can address all of these issues including the local business retention, including local business expansion.

Mayor Pro-tem Lujan said that when we went down to this meeting, I was not very positive; I'll be honest with you. I wasn't too positive; I did not like some of the things that had gone on before. I did like the presentation the last time we met; I am very impressed with that, I've been given some new hope.

I want to give some credit to the Mayor for getting everyone together so quickly, because I didn't think he could get everybody together this quickly and working together. I know that Chairman Rardin deserves a lot of credit for that as well. I guess I want to say that I want to be a lot more positive about this and I want to get more involved with this. I mean when you see everyone come together this quickly and want to work together, it just makes it seem like it is really possible now.

I like to give a lot of credit to Commissioner Ledford also. I talked to him earlier today and he kind of turned a switch on, and there is a lot about economic development that I didn't know and like you said earlier, a lot that I did not see going on and so some people don't like the idea that Commissioner Ledford is involved with the outcome of economic development but he is very positive about it and from what I got from talking to him earlier, he is really in there for the right reasons, he wants to better this town, he wants the same things that the Mayor wants and I'm pretty sure what everybody wants. He really turned me around, and I think it is a great thing, I just hope that a lot more comes from this and we go where it looks like where you guys have your eyes set and where everybody wants to go. I think you are doing a good job Mike.

Mayor Brockett said that I think your appearance here two weeks ago, providing the communication that you did, I think that opens a new door because I hear from different people than you guys do. I hear from the folks, a lot of them don't understand this or that. When I hear stuff like that, it troubles me to a certain degree, but at the same time, I do what I can and try to talk to them to try to provide them with the type of information that you hit us with. It was a very important first step, and I appreciate you taking it. As I said, the guys you questioned that were satisfied with communications, you said no and I take the responsibility for myself, you took the responsibility to come up here and that was a great first step. I think this is just a natural evolution to that. We are just going to continue going, but I would like to see this move forward with some ideas.

If we come up with one great idea by having all these people here, it would be worth it. I did not get in touch with Mayor Venable up in Cloudcroft, but I will make that effort. I also am undergoing an effort to contact the Reservation, they may bring a lot to the table because they are in Otero County and there are a lot of things that they offer up there and we can benefit from people traveling through to go there.

I am glad to hear Mayor Pro-tem Lujan's comments on that. I think it is important that we all stay on the same page in regards to where we go with the economic development strategy plan and so on. I am looking for later in the summer or early fall for something like this because we do have vacations coming up.

The five of you who spoke here tonight, I do appreciate you being here and I certainly appreciate what you had to say. It would have been nice if we would have had more people with the Japanese CEO, but you had that one person that I think made the difference. And they may have been talking about us, but we don't know unless you can speak Japanese.

Commissioner Cole commented that he had no idea that this was taking place. This involves Rotary to a degree. Local Rotaries have some Rotarians from Ecuador here and my wife and I are housing one of them. I had half a day with him yesterday, taking him around to the desal plant, the lady there gave him a quite a good indoctrination. Then I took him to Marietta Biscuit Company. One of the areas that he is involved in is wastewater, so we went out there to visit that plant. I wish I could have taken him some more places, but we mentioned what is taking place here in our community and economic development.

Marietta made an exception to talk to him about what they were doing there and I did not attend this particular discussion when I took him to the desal plant, he did that and then I picked him up. I was very proud of our City and what we are doing in many ways.

By the way Randy, we talked about water, because I picked up some things yesterday morning from my box and I had those things there and explained what we are trying to do with water and how we were handling it. This was his area of expertise in the country that he lives in. But I am glad to hear this tonight, and I am going to pass on some of this information that I had never talked about. When he was talking about wastewater, desal plant in the half day that I took him around town, it made me proud to be part of the Alamogordo community. We talked a lot about City government and it is completely different between what his government is and ours.

Commissioner Ledford stated that he thinks what is happening with economic development, OCEDC has had a rough history. We have been fortunate enough to pass this gross receipts tax and that has made a tremendous difference in how we have been able to bring in business and operate and compete with the rest of that state and the country. I am very involved with economic development and there is no doubt in my mind that every one of them up there and especially the Mayor does care about economic development and making sure that we work together as a group. I think what he is saying is that his big concern is that if we are going to continue doing with what we have been doing with this tax, we have to get the people to understand how important it is and maybe we have not been doing a job about how great it has done.

The things that you have said are great, but the same people keep hearing it. Maybe the answer is trying to get more people involved, and I think that is what he is trying to do. A lot of the things that were said tonight are good for the different institutions because the Chamber of Commerce have done an excellent job of reaching out to the public across the country to let us know about why it is there. It is about the Space Museum and a lot of things that we have and I think that marriage is important and I think the Chamber has a lot to do with that, more so than OCEDC, even though there is a similar relationship.

I think if you look at our membership of OCEDC, our board, they are represented by various people from municipalities; someone from the University is on the board or at least a member. So we have reached out, but probably haven't communicated as well to those institutions, Cloudcroft I believe was a member. We probably need to be more aggressive in trying to get the County as a whole more involved and we have talked about that to a lot of extent; try to bring in, and maybe the best way to do that is to get in the CEO's and Executives, at the County, University, the Monument, involved. Make sure they have a presents at the board or membership and maybe be a little more

active in trying to get them involved. Maybe have programs, I mean you are an excellent speaker and you do a good job to fit in your job, the two hats you wear.

I think that to communicate, you are doing a lot of that already, but get out and talk with them and letting them know what we are about and that we are doing some good. And I'll tell you what, a lot of what OCEDC has done in the last few years, I think has helped our University enrollment, I think it helped our visitation to our community because we provide jobs which bring in family members from out of town, a lot of good things.

OCDEC can't do everything, that's why we have the Chamber, that's why we have different non-profit organizations, to serve the purpose that they might serve. No doubt that we need to out reach to the economic development to the various institutions and maybe have them more involved, and I think you've understood that, and that's what you are working on and that is what the Mayor wants. Try to make sure everyone is aware of what we do, how we do a better job, and for sure get those voters out there are vote positive on this continued incentive with the Gross Receipts Tax, because I think that has made a major difference in our success in the community and I think people need to believe that.

I think Mayor Pro-tem Lujan mentioned that you have to have a positive feeling about it. The more people we can reach, the more institutions that we can reach that will support that, I think the better chance we have of continuing with that. We have another year before that will come up, so we have to work on that and I think communication is our number one goal, I think our biggest issue; and bring in as many institutions into that circle as we can.

Commissioner Griggs stated that there are a variety of organizations; the tourism board is set up to certainly promote tourism and pulling groups together, it may be a good idea. I am glad that this where this discussion was going because I didn't know where it was going, I didn't know what it was about, when it was put on the agenda. I would have like to, Mr. Mayor, known more about it before it occurred.

When you look at how it works, there are drivers to economic development. Certain things happen to change the way that things genuinely grow and do. Two events have incurred to help Alamogordo grow in the last ten years. One of them was the passing of the tax that has allowed us to promote the community and provide incentives to companies to be here; and the other was the location of the German Air Force to our community because they just came and brought in a large number of people.

That is what has happened somewhat in El Paso, as well, with the expansion of Fort Bliss and all that they see. Some of their growth, and maybe a whole lot of their growth, is directly attributable to the expansion of Fort Bliss.

What we need to do as a community is to see if a Summit might work. I don't know exactly how to plan it, I don't know who should plan it, I don't know who ought be invited as far as presenters. I think everyone in the community or anyone who wants to attend should be able to attend so that they can provide input.

I don't remember when the economic development ordinance was first considered. All the study and all the input that went into that to determine how the community would peruse economic opportunities.

We know for instance, that we have not been aggressive on retail improvement. We know we haven't done that and we haven't done that for a particular reason, but I think there may be other reasons coming down that may make us choose to do that. In Alamogordo, everyone is a stake holder in economic development, economic opportunity. It's one of the things that I have advocated for 10 years, so each and every one of us can grow more prosperous.

I think OCEDC has been on point on all that and I think there are issues where communication hasn't been as good, but I think there are people that like to moan and groan and complain and don't ask people why, they just like to talk. I think there are those people, and it is unfortunate that there are, because if people come to you, people come to the Mayor, people come to me, we have opportunities to sit down and visit. When we go out and we talk to the groups or the people, we make as much headway as we possibly can. Obviously we don't get to every body and there are a lot of people who are not a member of Rotary, Lions Club, or any other organization.

The University, for instance, has a brown bag lunch once a month or so, and those sorts of things might be good places to have someone get up and speak, be it from the Commission, OCEDC or the Chamber. That would reach another grouping of individuals.

I appreciate the fact that people need to work together and we can accomplish more if we do that. I just think in order to do that, you have to start here and involve the other people as you go along. I think that is a good way to head, I will just be interested in seeing how it fleshes out.

Mayor Brockett said the discussion that is before you is that you are going to be as much of the discussion as me; I just threw it out and invited a few friends to come up and speak on behalf of this. I've liked everything I've heard from you four Commissioners and it sounds like this is doable. As far as putting this thing together, it is going to take different groups. I think it will take us, the County Commissioners, OCEDC and the other guests that were here tonight, as well as City Staff, County Staff.

I think we need to get very proactive on this and certainly we just need to charge forward because we do have an incentive. That incentive is keeping that 1/8<sup>th</sup> or 1 percent Gross Receipts Tax dedicated for economic development intact. As I said two weeks ago, I believe in that tax, I think it can be used in a way that can make us better, we can always be better.

Again, I refer back to what Mayor Cook told me in El Paso, and told the other fellows that were down there; we are really doing a good job, each individual organization, but now we are doing a better job. To put it in Bob Cook's words, who is the Economic Development Director of REDCO, we did not dream that we would come this far, we did not think that we would be doing things like revolving loans. We were looking at all kinds of things, there was an article in the Wall Street Journal, and it talked about the long way that they have come. Even before the Bliss announcement and especially since and that is an advantage they have. It would have been nice if we could have had a President from New Mexico for eight year serving us, because we could have had all kinds of help.

I do want to talk about two things. One is, last year I did attend a meeting here in town that involved the Attorney General and I asked him to consider, under closed meetings, business recruitment, creative stuff and business propriety interest, creative intellectual properties and so on,. That should not be discussed in Open Session. I've had a few conversations with him since, but it is going to require changing the law, and so far he does not seem to want to go that route. Anybody who is here who has any kind of political clout with somebody, you might want to pick up the phone and call.

The other things is, I've been questioned about, is just how on board are you about some of the economic development activities that have been going on. I ask that you look up the New Mexico Independent website, look on the left hand side, go down a little bit, Monday a 1,500 word opinion was rendered and it is out there and has been published and it does defend this Commission, it does defend PreCheck and it defends some recent action that we have taken. I think there is no question, if you read that, where I stand on economic development. Mayor Pro-tem Lujan said a little while ago about being negative, I think my attitude is that I just want to make it better, and I think that is the attitude that we all what to have.

## **PUBLIC HEARINGS:**

2. Public hearing for application to grant city winery licenses to Black Mesa Winery and

Santa Fe Vineyards.

*Recommendation:* Approve the licenses.

Mayor Brockett asked if there were any comments because it was a public hearing.

Matt McNeile explained this would be a license that the vineyard could utilize at the Rotary Wine and Jazz Festival or if the Space Hall wanted to contract this vineyard to cater an event, that is what these licenses are for.

**Commissioner Griggs moved to approve the winery license to Black Mesa Winery. Mayor Protem Lujan seconded the motion. Motion carried with a vote of 5-0-0. Commissioner Cole was out of the room.**

**CALL OF THE CONSENT CALENDAR:** [Roll Call Vote Required – 8, 9, 11, &12]

Items on the Consent Calendar are considered routine and should not require further discussion. All items marked "CC" will be approved by a single motion unless removed at the request of a Commissioner, City staff, or a member of the public. Items removed from the Consent Calendar will be heard in the numbered sequence.

**CALL OF THE CONSENT CALENDAR: Items #3, 4, 5, 7, 8, 9, 11, 12, 14, 15, 16, & 17.**

Roll Call vote required on item #8, 9, 11, & 12.

**MINUTES:**

CC 3. Minutes of April 28, 2009 Regular Meeting.

*Recommendation:* Approve the minutes.

**CONTRACTS AND AGREEMENTS:**

CC 4. Approval of an agreement between the City and the New Mexico School for the Blind and Visually Impaired for Student Resource Officer.

*Recommendation:* Approve the agreement.

CC 5. Approval of the Fire Protection Fund Grant application.

*Recommendation:* Approve the application.

CC 7. Approval of an amendment to an agreement with New Mexico Aging and Long-Term Services Department for the Foster Grandparent Program (FGP) to decreased State funds.

*Recommendation:* Approve the amendment to the agreement.

**ORDINANCES AND RESOLUTIONS:**

CC 8. Consider Ordinance No. 1353 amending section 14-01-110 of the Code of Ordinance regarding the rates for solid waste collection.

*Recommendation:* Approve the ordinance for final publication. [Roll call vote required]

CC 9. Consider Ordinance No. 1356 approving the NMFA loan for the purpose of funding the water and wastewater infrastructure projects for \$5,520,673.

*Recommendation:* Approve the ordinance for final publication. [Roll call vote required]

- CC 11. Consider Resolution No. 2009-19 requesting written approval from the Local Government Division of the Department of Finance & Administration, State of New Mexico for the revised budget figures computed on May 12, 2009.

*Recommendation:* Approve the resolution. [Roll call vote required]

- CC 12. Consider Resolution No. 2009-21 designating the polling places, and appointing the Precinct Board Members for the June 23, 2009 Special Election.

*Recommendation:* Approve the resolution. [Roll call vote required]

### **OTHER BUSINESS:**

- CC 14. Investment Report for the quarter ended March 31, 2009, in accordance with the City of Alamogordo Investment Ordinance.

*Recommendation:* Accept the report.

- CC 15. RFP No. 2009-005, Audit Services.

*Recommendation:* Award the RFP to Hinkle & Landers, P.C.

- CC 16. Award of Public Works Bid. No. 2009-002, West First Street, Relief Route to White Sands Blvd, Segment 1A.

*Recommendation:* Award the bid to Mesa Verde Enterprises, Inc. in the amount of \$696,611.79, including NMGRS.

- CC 17. Statement regarding the Executive Session of April 28, 2009 and May 6, 2009.

*Recommendation:* Approve the statements.

**Commissioner Ledford moved to approve items #3, 4, 5, 7, 8, 9, 11, 12, 14, 15, 16, & 17 of the consent calendar. Mayor Pro-tem Lujan seconded the motion. Roll call was taken for items #8, 9, 11, & 12. Motion carried with a vote of 5-0-0. Commissioner Cole was out of the room.**

### **CONTRACTS AND AGREEMENTS:**

6. Approval of a memorandum of understanding with Mesa Verde to conduct further tests.

*Recommendation:* Approve the memorandum of understanding.

Mayor Brockett asked if there were any changes. City Attorney Thies said there are not. Mayor Brockett read the agenda report background for detail.

City Attorney Thies said the pumping test cost of the drill down of the 8 wells that have been drilled so far would be total cost of \$20,169.50. Mesa Verde would be employing the services of a well driller who would assist in the testing, I'm assuming equipping the wells and any other items that the driller would be required to do.

Mayor Brockett said that the question before the Commission tonight, before he opens it up for discussion, is this money that is well spent? Is this something that we want to do? There are no guarantees. This is a presentation regarding what I term a contingency water plan for the community that is available, that is contingent upon funding. That is a key thing. This is rocket science in terms

of the infrastructure that will have to be built and the responsibility to pay for it. We would have to get help, probably from the Federal Government.

Commissioner Ledford said it says \$20,000 do we have the budget to pay for this? Typically you put the amount budgeted. We have a fund that allows us to do stuff that we didn't plan on, right? LeeAnn Nichols, Finance Director said it's coming from Fund 49.

Commissioner Ledford then said he had a couple of questions regarding this. I think the \$20,000; I'm surprised that it is that cheap actually. To test the wells to determine that cavitations or how much pumping capacity they have, who is our representative? My question is, does this testing tell us the capacity of these wells and what kind of drawl down we will have in the area or what are we looking at?

City Attorney Thies said Brian Cesar, Public Works Director could better answer those questions as to what these two test would accomplish.

Brian Cesar, Public Works Director said that what Shomaker and Associates would do is a constant rate pumping test, that's going to show us how long we can pump the wells, the step draw down test. This will give us the size of the well, whether we are going to get 70 gallons a minute, 90 gallons a minute or 200 gallons a minute.

Commissioner Ledford then clarified that Shomaker is going to look at this on our behalf and based on these tests, it will tell us that information? Mr. Cesar confirmed that.

Brian Cesar, Public Works Director thinks that has always been the issue out in that area and I think the \$20,000 is a very good price. I think if we do anything out in that area we are going to have to pay a lot of money to test. A lot more than \$20,000 because the well is already there, so this allows us to check and do some study that is pretty economical from our stand point for fact finding information. I have no problem with doing this.

The responsibilities for the City in the MOU if the City determines that the wells will be a reliable source of water for use as supplemental wells. The City will actively seek funding to develop the well fields, and transmission lines. I have a concern about to what extent Mesa Verde expects us to do that because of the relationship with our application up North. I think there has been some discussion with our water attorney that we need to be careful with what kind of commitments we make. My goal, and hopefully we can do whatever we can to keep this application alive, to what extent expenditures can be made. Because when you go to the next paragraph, Page 2, the parties acknowledge and represent that they each are entering into this MOU in good faith and with full intent of complying with each and every provision detailed herein. The MOU constitutes solely a guide to the intentions of the parties and is not intended to authorize, commit or otherwise establish any funding or any new project, nor is it a legally binding contract.

City Attorney Thies said the Memorandum of Understanding is intended to not rise to the level of a contract so if someone breeched or did not perform under the Memorandum of Understanding, it would not give the other party the right to sue for breach of contact, it is just a statement of what you are intending to do.

Commissioner Ledford then said so if we don't do something based on what it says, we just cry and go home. City Attorney Thies stated that that is basically correct.

What my concern is based on the prior paragraph responsibility of the City, my concern is Mesa Verde may intend or may believe that we are going, if these tests are positive, to do some major stuff here from what I understand, but if we decide that because of the effects that it has on our application that maybe it is not in the best interest of the City to continue in the time frame that they may want us to; we can say we are not going to do it? City Attorney Thies said that that is correct.

Commissioner Ledford stated, "I think that is significant and I want to make sure Randy understands that that is what I see here. I had more hopes of not so much doing all this work possible is that somehow we can find some type of agreement to where we can save their application because it is of interest to me, it is just how we get there."

Mr. Randy Rabon said what the intent here is just as much anything as Shomaker coming to the table here as your representative is to validate what we have already submitted and so in both cases, this is going to give us the documents that we need that if the City decides to move forward with it, we can take that wherever we might need to go to find the funding and move it to that next step. So that is as much as anything, our understanding. Part of the reason that the fee that he submitted is extremely reasonable is because we are picking up the other half. The fees from Statewide, the pumping, they are going to provide all the pumping, the electrical cost, and that sort of thing, so we are going to have about as much time in this thing as the City is and we are engaging a third party as well to perform at their direction.

Commissioner Ledford said at \$40,000 even the size of that wells there, that is the expense you have had already. That is a tremendous savings for us, so I am well prepared to go into a partnership like this no doubt. My concern was is that the funding is okay, what I am concerned about is our application up North, that we don't hinder that outcome.

Mr. Rabon said that that is even their understanding but I think without doing this testing, you are not really going to understand where you are at. And in addition to that, what they are also going to do, I guess as part of that fee, not only the drawl down testing, so we are going to validate the quantity, they are going to validate the quality of the water. They are going to do some testing there what will provide some additional information. That is all it is going to do is create that understanding and then we will sit across the table and try to figure out if there is some use here. What we are moving forward in the development, if we don't go left, we are going to go right, and we have to validate or put the water to beneficial use in one fashion or another.

Commissioner Cole said when we were visiting yesterday on this, all this does is says based on the testing we can go to the next step or not go to the next step. City Attorney Thies stated that all it said basically is that we would hire Shomaker to perform these tests and then we will look at the results of those tests and then based on those results, if they determine that they are a reliable source of water, a supplemental source of water, we would then engage in further discussions with the Mesa Verde Ranch Partnership along the lines set forth in the Memorandum of Understanding.

Commissioner Cole then said that he thinks that is what Commissioner Ledford was asking only in different terms.

Mayor Brockett said that one of the things Commissioner Ledford brought up is we were willing to provide something that could be sent to the State Engineer asking for more time for them to do that because we are working at this, but the bottom line is that we would never under mind our application up north. Am I correct in remembering that?

Commissioner Ledford said that we did talk about that; I was not for sure how we were going to do that. I don't know if the State Engineer would extend it, if he would, that would be great.

Mayor Brockett said that he thinks that it being at this time, it being 5 years, it is almost not enough time. Steve, do you think there is something we could do to assist them because potentially this could help the City.

City Attorney Thies stated that assuming that the test results come back and show that it is worth perusing, then we could explore options to allow them to get an extension in that time period.

Mayor Brockett said one of our long term goals in this project, if this were to work out, is to eventually purchase the water rights, which has always been the philosophy of the City Commission since I

have been here. I think it has been the philosophy of the City Commission since 1999 when Commissioner Griggs joined and probably before that. Or maybe that is something that has just evolved, but I think it is smart to, even if we were to be provided the water; it is something that we would want to do.

City Attorney Thies said that that is correct, we would look at that option long term, it is a long term option; but the first step is to determine if it is worth perusing and that is what this Memorandum of Understanding does.

Commissioner Ferguson said I think that we seriously need to look at this, I think we need to spend the \$20,000 to find out and I'm sure that most of you know that I am not a big fan of the Snake Tank Project, but I guess it is going to continue on; but the way that it is going, it may be another 5 to 6 years before we even get there because of the lawsuit. I know they are going to appeal, so that could put it off another 2 or 3 years. There are going to be a lot of legal fees, you know we are talking at present day 33 million dollars just to do this Snake Tank Project. By the time you finish with all the courts and everything, it could be 50 million dollars. I'm sure we can get a lot of grants and stuff to help build it, but it is still going to be a lot of money out of everybody's pocket.

In the meantime, if we keep having dry seasons like we are going to have, we are going to be out of water. I think that we definitely need to pursue getting or buying bulk water or if the Commission wants to talk to Randy about buying the water rights or just buying it out, I don't know how much he would want for it, but we would have to find out. I think we need to pursue it as having water that is in between times. I am sure that the State Engineer would not take away our water rights because it is held up in court and we needed water.

If we have a company that comes in here that needs a lot of water, and they are going to provide 50 to 100 employees, I don't want to turn them away, I want to be able to provide water to them and this will give us the option. We could get this done in less than a year and we can have water at a reasonable price.

There is no more free water anymore, our surface water is just gone and now it is expensive water and how much money do we want to spend for it. I think this is a good first step and let's see how it works and then we can discuss it from there.

**Commissioner Ferguson moved to approve the memorandum of understanding with Mesa Verde to conduct further tests. Commissioner Griggs seconded the motion. Motion carried with a vote of 6-0-0.**

**Recessed at 8:51 p.m. and reconvened at 9:03 p.m.**

**ORDINANCES AND RESOLUTIONS:**

10. Consider Resolution No. 2009-16 establishing revised rates for solid waste collection service.

*Recommendation:* Approve the resolution. [Roll call vote required]

Mayor Brockett read the item on the background information.

Mayor Brockett was not sure if this was a question for Mr. Rex McCourt or City Staff, the consumer price index has increased by 3.8% how does that work

Mr. McNeile said that that is correct Mayor.

Mayor Brockett said that this is per contract, it is tied to the consumer price index, I was just surprised to see it go up that high.

Mr. McNeile said that that is the 12 month CPIU of last year.

**Commissioner Cole moved to approve Resolution No. 2009-16 establishing revised rates for solid waste collection service.**

**Commissioner Griggs seconded the motion. Roll call vote was taken. Motion carried with a vote of 6-0-0.**

**OTHER BUSINESS:**

13. LaValle and Sharon Hinton are requesting the Commission to reconsider the approval of a leak adjustment in excess of \$1,000. Service address is 1102 N Scenic Dr, Account 56035-3220.

*Recommendation:* Deny the request.

Mayor Brockett didn't recall if that was the recommendation last time

Mayor Brockett stated I don't recall if that was the recommendation last time. Mr. McNeile said that, yes it was. Mayor Brockett said that this is coming back to an item that we addressed, was it the last meeting or two meetings ago, I don't recall.

Sharon Carr, Realtor with Welcome Home Realty was present to represent the family. Mr. and Mrs. Hinton is a military family who left the area about 6 months ago to Langley AFB, and called me in the middle of January stating that they received a huge water bill for \$1,200 and asked me to get a plumber in there to see why that happened.

Of course, I did that for them and I actually had Darnold Plumbing go to the house and do a pressure test, they didn't find a leak at all. Apparently Mr. Hinton did speak with the City when he got this bill and they advised him to go out there and find a leak, and so we did that and they did not find a leak at that time.

We informed the City that there was no leak there and we provided them with an invoice and I'm basically here to ask on their behalf, they were residents here for 5 years and tier one users and now they have had double house payments for nine months. They are just asking for a break on this amount.

Mayor Brockett said that one of the questions I have is when they left did they continue paying the normal rate? Ms. Carr said that yes, they kept all of the utilities on. Mayor Brockett said that they have a swimming pool in the back yard, to your knowledge was that emptied, cleaned out and then filled back up?

Ms. Carr said actually when I took the listing there was a cover on the pool and there was water in the pool. I found out recently that there was a leak in the pool and we are in the process of getting that fixed now. That is a couple of thousand dollars and it has actually compromised an adjoining wall to the property next door which is another \$1,500 to get that fixed too. I am basically here on their behalf.

Mayor Brockett said so to your knowledge, the pool was not emptied and then filled back up again? Ms. Carr said no, it was up and running when she took the listing. He then asked if that was before they received the big bill and Ms. Carr confirmed that.

I guess it seems like we looked at this at a situation where perhaps, even though technically they might have qualified for the leak abatement, there were some questions about the water hose placed in the swimming pool. The water was on when the meter was read, the hose was turned off and a tag was left to notify the customer.

The leak adjustment request from the customer came in February of this year indicating that there had been a small leak in the shower and it was Darnold's that came back the second time?

Ms. Carr said that yes, it was and I actually do have a copy of that invoice too and basically it was the shower valve that was faulty and they had to replace that.

Mayor Brockett then asked if it was in their opinion that that was the reason there was so much water usage because of that valve. Ms. Carr said that they would not say but she could not see that something like a shower valve would create a \$1,200 water bill.

Mayor Brockett then said that he did not recall the vote, but I know that Commissioner Ledford felt and made the argument that this is something that did qualify for the leak abatement, but I think for the rest of us, there are just too many unanswered questions regarding the water usage. I for one recall not thinking that there is no way a leak could cause that much problem and in the fact that a hose was found in the swimming pool with the water on.

Ms. Carr stated that she was not aware of that, but as far as the pool, it had a cover on it.

Mayor Brockett then asked who had permission to go and turn on the water on their property. I assume as property supervisor during their absence, you would be the only one that would have that per their instruction.

Ms. Carr said that actually realtors show properties all the time, we access properties with a lock box key, it could have been a kid, I don't know. All I know is that this is a GI who PCS'd out of here unexpectedly. He wasn't expecting to go to Langley. Now he has double house payment. He is paying rent out there, can't buy anything until his house sells here and he has this huge bill.

He realizes that something has to be paid, he understands that. He is just asking for a break on the amount really, I think more than anything else.

Commissioner Griggs said when we looked at this last time, I didn't see that there was a way in the world that it worked. I appreciate the problem that he has got. The water was used, so the issue becomes how we charge for it. He was in tier five for a quite awhile and wound up being pretty expensive to be in tier five.

When the City established the tier system, we tried to have the actual tier four, tier five, and mainly tier five, punitive tiers. They are designed to make you know that you used the water.

One of the things that I would like to see, not as a result of this, is that maybe we need to look at our whole rate structure once again to see if we have a lot of people that are in tier four tier five to where the punitive approach is needed any longer; it may not be.

The only things I can look at on this thing is maybe charge the guy in tier three and that is far as we go and not penalize him, but I really don't have any good basis to do that; I don't have any ground work, maybe that is just what would be fair for us to do. That could probably cut his bill in half, but it is still going to make his bill substantial.

Ms. Carr said that she would really appreciate that and she was sure he would too.

Mayor Brockett said that he thinks the fact that he is in the service and that these things do happen, I think we all know people who PCS out, that to me is something that we all need to consider but I think Commissioner Griggs has a fair thing to do and I appreciate his comments when he talked about re-looking at the rates. I think that the structure is something that we may want to look at in the not too distant future.

I would support that myself, I understood where Commissioner Ledford was coming from when he was in the minority, and I think he might have been the only one who voted that way, but I certainly understood. I just thought that these people are not here, I always give people the benefit of the doubt, I doubt they told the next door neighbor go empty the pool and fill it up so the water will look nice, I just don't think that happened especially hearing these other challenges that they have and being where they are at. Being in Virginia isn't like being in Alamogordo.

Mayor Pro-tem Lujan said that if he believes correctly, Commissioner Ledford and himself were together on this last time. He was trying to find a reason to agree with him and thought that that might have been the one where I was running the meeting and you said something about that it might have been our fault for not letting them know of something. I don't know if that is the same issue or not.

Commissioner Ledford said that I think it is. The problem I have is, I didn't want to charge this to start with for other reasons. I don't agree with Commissioner Griggs motion because we feel sorry, that is totally illogical because all it does is open up the door for a lot of problems. My basis was based on something a lot more technical.

I sympathize with the situation, but every consumer has issues and we tried every way we could and we thought that the shower head, there was a lot of weight given to that possibility, but we decided that could not be it and now you are saying that it for sure could not be it. To me you have given us nothing except let's give 'em a brake. There are no technical issues, so I don't know how we are legally approaching this.

Commissioner Cole said that it seems like to me that we set up rules and regulations or policy, and we need to abide by them. We've had three different cases of water now where people have given us some type of story, right or wrong, hardship or no hardship and want some type of credit. If we are going to have a policy, we need to follow it. If we are not going to have a policy and we don't need to follow it, we can take it case by case. Consequently, I think we need to stand firm on what we decided.

It also concerns me, that we make a decision and if the patron doesn't like it, they can come back a second time and ask us to reconsider, somewhere in there we have to start standing firm and I think this is a case where we need to stand firm. I felt that way on a previous one, but I am not sure how I felt over there on 18<sup>th</sup> Street and Rockwood, I think that was where it was at, in the vicinity when the gentleman came in. I understand those concerns.

If we are going to have someone come in and ask to give them some type of sympathy, leeway, we don't need the policy just leave it open and let them come in and go against whatever staff decides to do that is fair. Consequently, I don't support going back and voting on this and giving them some type of leeway. I don't need to be hard nosed, I think we need to be firm on this, we have a policy, and we need to stand with it. I definitely don't support going to tier three or we can do that for anybody.

Commissioner Griggs said that there are a couple of things in play here. One of the things is that we said last time that we felt that this didn't qualify for the leak abatement policy. That's the policy in play that I see, that I don't think it qualifies for the leak abatement policy today. I think what they turned around and asked for is that they just have thrown themselves on the mercy of the Court, so to speak, to ask for a reduction. We can either do that or not. We don't have, whether it is illogical, logical or not; we don't have a particular means to do that other than to say well this is the approach that we want to take in this instance and this is what we have voted on in the past.

Staff recommends not doing this, and it is for good reasons, they used the water and they need to pay for the water. Now payment of the water is well, if you pay for it in tier three, tier two, tier one or tier four, you still pay for it, it's just how much do you pay for it is what we are talking about.

That is why I came back to the tier three type approach, whether there is a reason you can make or argument you could make, it may or may not be a good argument, but you could make it. I think absent that that is one of the things we have got to go back and look at some the rates to see if we genially want to continue to charge people such an amount that punitive and clearly intended to be punitive. I believe that the vast majority of people in Alamogordo understand and they aren't in that particular tier.

This guy, I don't know whether it was an accident or not, he may have intended to fill his pool and he didn't know it would cost so much money. We don't know, other than the fact that it doesn't appeared to be a leak in the shower. Something happened and he is going to pay for that. Ms. Carr stated that he was not even here.

We've made decisions that appear to be contrary to one another at different times. We could make the decision based on what I'm talking about if it is the will of the Commission.

Mayor Brockett asked City Attorney Thies if that was correct.

City Attorney Thies stated that you set the rates for the water/sewer charges and exceptionally you can modify them.

Commissioner Griggs said that essentially what he is saying is to just charge him in tier three. We can do that? City Attorney Thies said that it is no different than rate setting.

Commissioner Ferguson asked isn't that what we did for the Desalination Plant when they had their leak, we just changed the tier? Mr. McNeile said that yes that is what he believes.

Commissioner Ferguson said they were entitled to more of an abatement, they ended up paying more than they actually had to because he asked if we would just change his tier to reduce it, which we excepted because he was actually entitled to the abatement. We did start precedence to that by changing the tier for somebody, we have done that.

Mayor Pro-tem Lujan asked if this is the one where the hose was left in the pool, the water was turned off and the gentleman went back, the water was turned back on with a little bit of water coming out of the hose, correct? Now I remember that I did vote against it because of the fact, and I will probably vote the same way tonight, that water was turned off. That water was supposed to be turned off, so no matter what happened, when our city staff went back there, that water was turned back on.

Whether there was a leak or not or even if he did bring us proof of that leak, that water was turned back on and it was not supposed to be turned back on. Mr. McNeile stated that that was correct.

Mayor Brockett said that's one of the things that holds water, pardon the expression, with me is during an appeal to the Commission to provide them with abatement is the appearance of somebody and there was nobody here to speak for these folks. I think with Commissioner Griggs, he just threw that out, but we really don't know the circumstances. I think that we can be flexible. He then asked City Attorney Thies, I've never seen anyone come back and ask us to address this before, is that allowed?

City Attorney Thies said that there is nothing in our Code of Ordinance or Charter that says once you made a decision that it is final and that you cannot reconsider that decision. Mayor Brockett clarified that we can reconsider.

Commissioner Ledford said I would say that if they would come back and what I was anticipating that they would come back with some new information, and I've got nothings. Mayor Pro-tem Lujan and I were trying to help them and we lost. I don't know if anybody is going to vote no, what are you going to vote no to?

Mayor Pro-tem Lujan said that even the discount, or as far as giving them the breaks, we can't. I do remember that once we got the information what can we do, the water was turned off.

Commissioner Ledford said that if we had new information that would give us something to think about.

Mayor Brockett said that he appreciates the fact the Commissioner Griggs did throw that out there. He also brought up something that is pretty darn important and I agree, the majority of this community does not abuse this intentionally, and if they do they should be held accountable and there should be punitive action taken.

I don't know where you all want to go with this, this is as I recall one of those damned if you do, damned if you don't situations where I can see merit on both sides. I feel like, if the water goes through the hose, it is being used. It is a shame that these folks are truly innocent of knowing, this could have been anyone who could have turned it on. It could have been a Realtor, could have been a kid, could have been anybody who was mad at them, who knows. And then on the other side, it could have been somebody out in Virginia, who owns the home, who said I am going to put more water in the pool and as Commissioner Griggs said, had no idea how much it was going to cost.

Commissioner Ledford said if they did fill up the pool intentionally, and I don't know why we don't have some answers, if they did would it take this much water, would it cost that much? Would it have hit tier five? Mayor Brockett stated that staff indicated that it would have hit tier five. Commissioner Ledford then asked if they filled up the pool, it could have caused this?

Mr. McNeile stated that it depends on how big the pool is, but yes. Commissioner Ledford said that if it was intentional, then he owes it, he just didn't know the rule which is what we are saying.

**Commissioner Cole moved to deny the request. Mayor Pro-tem Lujan seconded the motion. Motion carried with a vote of 5-1-0. Commissioner Ferguson voted nay.**

18. Appointments to Boards and Committees.

Mayor appointed Rita Lake Wirta to the Public Library Board. Mayor asked if the clerk will notify this individual.

#### **UNSCHEDULED COMMUNICATIONS:**

##### **A. Mr. McNeile commented on the following:**

- 1) Water report. Storage is at 100% capacity.
- 2) Saturday is Armed Forces Day, Saturday in the Park/Gus Macker. Opening Ceremonies are at 8:30 a.m. and there will be a flyover by the F-22's.

Commissioner Cole asked Brian Cesar, Public Works Director a question about the water tank at Foothills Park. He mentioned that was a new tank. Brian Cesar, Public Works Director said from 2001 or 2002. They had a long discussion about this tank and the repairs. Commissioner Cole feels it needs an investigation.

##### **B. Mayor commented on the following:**

- 1) Asked Matt what the giant view master is. Matt McNeile said it was a gift from the Scenic By-way exhibit from Ruidoso downs for promotions and it needs a little care to get up and running for a promotional idea. Mayor Brockett said to offer our thanks to them.
- 2) He thanked the Captain Plaster from the Alamogordo High School Air Force Jr. ROTC for inviting him to their ceremony. The group of kids represent their peers very well. If you get an opportunity to attend the banquet next year please do so.

**EXECUTIVE SESSION:** Adjourn into Executive Session to discuss limited personnel matters (City Manager recruitment) and threatened and pending litigation (Keelin).

**Mayor Pro-tem Lujan moved to adjourn into executive session to discuss limited personnel matters (City Manager recruitment) and threatened and pending litigation (Keelin) at 9:37 p.m. Commissioner Ledford seconded the motion. Roll call vote was taken. Motion carried with a vote of 6-0-0.**

**ADJOURNMENT.**

*/s/Mayor Steve Brockett*

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Mayor Steve Brockett

(SEAL)

ATTEST:

*/s/Reneé L. Cantin*

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City Clerk Reneé L. Cantin

*(Prepared by Marsha D. Brady)  
Approved at the Regular Meeting held on May 12, 2009.*