

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION SPECIAL MEETING MINUTES
6:00 P.M., COMMISSION CHAMBERS
JUNE 3, 2008**

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

**COMMISSIONER ERIC BREWER
COMMISSIONER JOE FERGUSON
CITY MANAGER PAT McCOURT
CITY ATTORNEY STEPHEN THIES
CITY CLERK RENEE CANTIN**

CALL MEETING TO ORDER AND ROLL CALL

Mayor Brockett called the meeting to order at 6:00 p.m., and the City Clerk called the roll. Commissioner Brewer was absent.

1. Presentation by Kevin Powers of RBC Capital Markets discussing the funding options for capital projects.

Mr. Kevin Powers of RBC Capital Markets explained that he was there to talk with them about debt capacity and bond sale information in the context of how the City could best utilize its borrowing capacity and what kinds of options would be available to the City to borrow funds. There are statutory and constitutional provisions that limit the options that the City has to borrow funds, and there are also market condition considerations that tend to get in the way and drive some of the decisions.

Mr. Powers went on to describe the four basic ways that the City could borrow funds. Those include a competitive sale, a negotiated sale, going through the NMFA and finally a private placement or bank placement. The City has in the past utilized the first three types. The competitive sale has been used on the general obligation bonds because the statute requires that it be done that way. Negotiated sales have been used by the City when it has borrowed money using Gross Receipt Tax or the water and sewer system as the collateral for the loans. Finally, the NMFA has been used on some projects and loans basically using the Gross Receipts Tax and the utility system again as the repayment source for those loans. Alamogordo hasn't used a bank placement in the past.

As an example of a revenue bond, Mr. Powers explained that the City along with Otero County and Lincoln County borrowed to build the landfill, and in that case the Environmental Gross Receipts Tax imposed by those entities was used to back that bond up for credit worthiness. The actual revenue generated from the refuse systems of the entities involved in that joint powers authority were actually used to make payments on the bonds. Revenue bonds are different from GO bonds from a constitutional standpoint in that GO bonds are true debt. They are authorized by the voters, and they are a debt of the issuer. It is possible for a local government to use other legally available revenue to make debt service payments on those kinds of bonds and not actually impose a property tax, which though not done frequently is done.

Gross receipt tax bonds and utility revenue bonds or special revenue bonds are not considered debt under the constitution. They are considered special fund obligations, and as such, they are payable solely from an identified revenue stream. If revenue is not sufficient to meet debt service payments, they cannot come after any other revenue streams or any other sources of payment from the City. In the GO case, the City would have the obligation to continue to raise property taxes to the point where payments could be made.

Mr. Powers then went on to address the positives and negatives of each of the different types of borrowings. In terms of the pros, the competitive sale is a lot like doing the procurement bid at the City level. It is a public offering in which the City sets up a sale date and has bidders. The City opens the bids, and the one with the lowest interest rate is the best bidder. At that point in time, the City can clearly say that it got the lowest interest rate for the bond issue at that time. The pros with regard to a

negotiated sale include that it has more flexibility in the timing of the sale. The day of pricing can be adjusted if market conditions are not good. The other beneficial aspects of the negotiated sale include also that the City has the ability to determine the distribution of the bonds a little better. The other thing that the negotiated sale gives the City the ability to do is to fine-tune the structure up until the time that the City Commission adopts the Ordinance approving the sale of bonds.

The main benefit of the New Mexico Finance Authority loan is the lower cost of interest. Over the last few years the cost to put a bond transaction into the marketplace has increased, and a lot of those costs are fixed regardless of the size of the transaction. Bank and private placements are similar to the NMFA loans in that typically they have a lower cost of issuance. They tend to be for smaller kinds of borrowings. The Finance Authority has a set of policies that change from time to time. They require certain minimum coverages on certain types of obligations, and they have cost of issuance allocations depending on the size of the loan up to \$5 million. They do on a reimbursement basis above 5 million, and now they're doing it on a simultaneous borrowing basis. They are negotiable to some degree, which may require that they waive a policy, but that is done on an individual loan-by-loan basis. Banks also may be flexible in negotiating terms such as optional redemption provisions, which is very important.

In terms of the cons of each of the various types of borrowings, Mr. Powers explained that the competitive sale has a limited ability to move the sale date should the market conditions not be ideal. If the sale is canceled, the transaction has to be re-bid and documented. Competitive sales also tend to have a slightly higher cost of issuance. On bigger deals, perhaps over \$10 million, that is not as much of a factor.

In negotiated sales, rates are subject to what the underwriter's ability is to successfully market the bonds. Most of the time underwriters can point to similar types of issues that have been done in the market place at the same time to compare the interest rates that they are willing to underwrite bonds for compared to other deals that took place in the market at similar times that have similar provisions and similar credit quality. There are also market indexes that can be looked at to see what a triple-A rated bond should be going for or what an I-rated bond should be going for. There are benchmarks by which the City could measure its bond sale against. Finally negotiated sales have traditionally higher issuance costs much the same as competitive sales do.

In terms of the cons for the NMFA loan, they have limited financing flexibility and limited structuring flexibility. They typically require reserve funds, and the coverage requirements and the lien level requirements vary from loan to loan. The interest rates are based on the rates received on the PPRF sale if above \$5 million. Otherwise, they are based on an index that they look at at the time of loan approval.

In a bank placement, the interest rates are set by the bank, and a difficulty may be for the City to be able to justify what those interest rates are and whether they are appropriate. Something that can be a pro or a con is that the terms have to be negotiated with the bank.

Mr. Powers then went on to show a side-by-side comparison of the estimated borrowing costs for each sale type. If the City is seeking to maximize proceeds, it may want to look at one type of borrowing over another. He explained that in trying to do an apples-to-apples comparison one has to make a lot of adjustments to get everything on par. Commissioner Cole asked what the DSRF was, and Mr. Powers explained the debt service reserve fund. Mr. Powers stated that as a governing body the City Commission needs to focus on what the true cost of borrowing is, and it may be in some cases more than the All in TIC.

Mr. Powers' presentation then covered the different types of municipal bonds including gross receipts tax, general obligation and joint utility, and he showed the gross receipts taxes imposed and authorized for the City of Alamogordo. The City currently has a number of bonds outstanding that are supported by the Gross Receipts Tax. There is a 2000 Municipal Gross Receipts tax bond issue that is supported by one-quarter percent municipal gross receipt tax for flood control purposes, and those

bonds run through 2021 with roughly an annual payment of about \$370,000. Alamogordo also has bonds outstanding from a 2002 series and a 2004 series that are supported by the state's shared Gross Receipts Tax. They run through 2019, and the combination of those results in an annual debt service payment of about \$1.1 million. The pledge revenue on that is about 6.2 million giving the City 5.5 times coverage. Mr. Powers said that going forward they would recommend borrowing off the new quarter. Instead of borrowing using the quarter solely as the pledge and the repayment source, they would recommend that Alamogordo use the State shared gross receipts tax as the pledge on the bonds and the quarter as the payment source for the actual debt service, which would get the City a higher coverage rate and allow them to borrow more efficiently in the marketplace. It gives more flexibility and allows the City to do it without a reserve fund. In addition, it keeps all of the borrowing under one credit making it easier to track and plan for.

Mr. Powers pointed out that the rates that the City has on the 2002 and 2004 series are extremely attractive. In the 2002 series, the average coupon is somewhere around 3.625% and the 2004 slightly under 4%. Commissioner Ledford asked if they pledge the shared Gross Receipts Tax what that does for future issues. Mr. Powers explained that it is a common practice in the State, and the shared Gross Receipts Tax is 1.225%. That is used as the pledge, and typically the coverage rates run somewhere between three and five times. By having the larger pledge and higher coverage rate, better terms can be commanded in the market place. Commissioner Ledford went on to ask what that would do to the City's potential borrowing capacity, and Mr. Powers said that it would allow the City to better manage it. Commissioner Ledford said that he wasn't even sure where they stood on the shared tax, and Mr. Powers said that right now the City has 5.5 times coverage on that. Commissioner Griggs asked if the \$18+ million is based on the ¼%, and Mr. Powers stated that it is based on the entire amount of the ¼% growing at 2% a year for 20 years. There is no coverage in that the entire increment would be used to make debt service payments. Commissioner Cole asked for clarification regarding the expected revenue. Mr. Powers referred to the chart on page 14 of his presentation in which the total P&I matches up to what the expected Gross Receipts Tax revenue would be over the period of time.

The issue was brought up of whether the City would have an arbitrage problem, and Mr. Powers explained that the arbitrage regulations are such that when the City borrows money tax exempt it has to sign a certificate stating that it reasonably expects to spend the proceeds in the three-year temporary period. The City would have to have a plan of finance and an estimated draw schedule that draws down the entire amount of money in three years. If the City doesn't do that, there are provisions where the City would go in and do certain things like restricting the yield on the investments to the bond yield to avoid penalties. The arbitrage is on the amount of money that is delivered to the City from the proceeds of the bonds on the closing of the bonds, and the arbitrage regulations say that if the City borrows money at 4.47% and there is a three-year period to spend that money, if the bond issue is over \$5 million, then the City is limited to 4.47% interest on the proceeds during that three-year temporary period. If the City finishes the period and spends all of the money and it has to go through and have an arbitrage rebate calculation done, what it does is the future value. If the City earned 4.47% or less, the City doesn't owe anything. If the City earned 6%, however, it would have to give back to the feds everything above 4.47%. That said, in today's market the City won't be able to get anywhere near 4.47, which is other reason why the program in today's market may be a little better. One option would be to get into a cycling program instead of doing the whole thing at one time, which reduces the amount of money up front but also reduces the amount of interest cost. Over the life, the City could actually get more money and get it on a regular basis. Doing it that way tends also to mitigate market interest rate risk.

Commissioner Cole asked if Mr. Powers was saying that every three years the municipality would borrow, and Mr. Powers said that was the case. The market rates are locked in for the first borrowing but the municipality would be exposed for three years from then and three years from that. By doing it every three years, the City could look at the revenue growth, and if it was better than anticipated the second phase could be bumped up just from revenue growth. Commissioner Griggs made the point that the costs of projects continue to go up, and the initial thought was that you do the projects in the first three or four years. The costs of doing the projects are substantially less than what they would be

six years out. Mr. Powers said that some governments do it on a two-year basis, and the program is not limited only to Gross Receipts Tax. They do general obligation bond cycling programs for a number of communities also, and those are set up on anything from a two or four-year. Commissioner Griggs asked if arbitrage is really an issue the way the market is currently, but Mr. Powers said that it is a significant issue right now. He asked if they borrowed \$18 million today when they could actually expect to start spending the money because in just a six to nine-month period they would lose probably 2% on the funds because it is being borrowed at 4.5% and invested at 2.5%. LeeAnn Nichols, Finance Director, stated that they faced that issue with the 2002 funding because they got the bond issue at such a low interest rate. It only affected them by \$3,000, however. Mr. Powers suggested that perhaps some blend between a one-time borrowing and an every-three-year borrowing might be effective.

Mayor Brockett asked if there have been tremendous percentage increases in the cost of petroleum products and if there is a precedent that they have ever seen before. Mr. Powers stated that they have seen increases in building costs in time periods where they have had a little bit of hyperinflation on construction costs, but they tend to level off and sometimes even adjust back. It's not necessarily a straight line. Mr. Powers said that they have an energy trading operation where they trade gas and oil so he could get some information that would be relevant to what is going on today.

Commissioner Ledford asked if there are options they could utilize that would prevent negative arbitrage such as perhaps buying CDs. LeeAnn Nichols said that they do have CDs for which they are getting 5% and 6%, and when the economy falls, it takes longer for the state to fall. Mr. Powers said that if they have a three-year temporary period, first of all, the investment couldn't go beyond the three-year temporary period. In addition, if there is a draw schedule that says they are going to issue \$5 million today and they expect to draw that in three years, they have to stagger investments so that the cash is available when needed to finish the project. One is stuck with the market rates. Commissioner Ledford said that he is concerned about the cost of the projects, and he thinks the cost of projects has cost more than interest rate risk because it has doubled and he doesn't think that is going to slow down any. Mr. Powers said that perhaps they do want to do it every two years and front load it to get some of the major projects done initially. The finance plan has to be married to the capital plan, and Commissioner Ledford said that part of the problem is that hasn't been done. Commissioner Cole said that he is not sure the City can get the projects done as fast as what Commissioner Ledford was talking about. The timeline has to fit the plan.

Mr. Powers said that the other thing they can look at is flexibility as they go forward. Some can be built in for making adjustments on the fly. The nice thing about a cycle program is it gives flexibility to react to things that change that the City doesn't have any control over, and that may be an economic downturn where the revenue doesn't grow the way it's supposed to or even a case of the revenue growing more than expected. The only thing that affects the arbitrage in terms of the law is if the money is not spent in the three-year period. In terms of actually losing money, that would occur if the City doesn't spend the money and is in a position where the borrowing cost is higher than the investment cost. Commissioner Ledford said they certainly need to investigate the projects in terms of costs and timeframe, and it certainly is becoming more complex. Mr. Powers said that municipal financing is complex, and it has gotten more complex over the years. He suggested that one of the things they might look at doing is trying to use some cash on hand that is legally available to do some of the engineering because the source of revenue is in place. Maybe the City could go out to bid and be ready to go with the bond issue when the bids come in. Then they would have a better idea of what their needs are, and they could adjust the size of the bond or the length of the cycle at that time to match up to the actual bid price. You can't go out to bid and then plan to get the bond ready.

The question was raised as to whether they could go ahead and borrow money from some other fund to do engineering, for instance, and then repay it back from the bond. Mr. Powers said that could be done. They would need to put in place a reimbursement resolution, but that is simple to do. Bond attorneys do them all the time for local governments, and basically the government just declares its intent to reimburse itself for certain projects from a future bond issue. It is a very common practice.

Commissioner Griggs said that the bonding was initially presented to the citizens in the context of getting some projects done in the relative short-term, and he thinks that maybe a shorter-term bonding cycle could work. It would have to be carefully explained, however, because what the citizens are looking for is for the City to come up with the money and start building streets.

Mr. Powers raised the question also of how many street projects they could have going on at one time without causing traffic flow issues. He also suggested that the City may need to look at overall borrowing needs that may be above the road tax or street tax, which is the GO bonding ability that the City has such as the needs in the utility system and how those borrowings will occur. The City has some bonds that are almost paid off, and there is actually capacity there with voter approval to borrow another \$10 million with GO bonds without increasing the tax rate.

Mayor Brockett agreed that they need to look at the entire City and everything that they have and not just the roads.

The meeting was recessed at 7:24 p.m. and reconvened at 7:41 p.m.

To sum up the debt service information, as long as the City has a bond election some time in late 2008 or early 2009 and issued bonds in 2009 prior to August 1st of 2009, the City could continue the tax rate that is in place and have the ability to issue up to \$10 million of general obligation bonds.

The joint utility is another area where the City has capacity to issue debt and pay debt, and Mr. Powers showed the utility and they think the City could issues \$4.5 to \$5 million worth of utility revenue bonds given the cash flows and the coverages that the City has in the utility system without impacting the City's bond rating or future borrowing capacity.

One of the things he referred to earlier was how one tells if the interest rates they are seeing are "on the market." They use a municipal market data service that provides interest rates to them, and Mr. Powers showed the different credit qualities. He also showed the yield curve as it is currently. Mr. Powers included Alamogordo's bond ratings. Maintaining flexibility is good, looking at long-term needs is very good, and looking at the big picture in terms of all of Alamogordo's borrowing and capital needs is also good. Those are three things that are good things to keep in mind.

Commissioner Cole asked what the next step is for the City in general, and Mr. Powers said that he thinks it is for the City to look at the capital plan and try to come up with a process by which they can look at the financial needs and capabilities and match them up to come up with the most effective way to deal with it.

2. Consider projects to be completed with the Municipal Gross Receipts Tax of one-fourth of one percent (1/4 of 1%) for street improvements that was passed by the voters during the March 2008 election.

Recommendation: Provide direction to staff.

Mr. Brian Cesar, Public Works Director, explained that a number of questions came up during the process regarding where they come up with their cost estimates, and in the handout he provided an explanation of what they base their estimates on. They have projects, and the estimates are based on the last project that was bid, which was South Florida. For the 13 projects, they broke out the estimates into the paving portion and the utility portion because they would be two different funding sources. Mr. Cesar then showed the timeline not just for the 2008 Gross Receipt Tax, but also for the 2004 Gross Receipts Tax and the crack and slurry-sealing program. He explained that when they were saying four projects a year going out, the engineering portion and design portion begins in January and continues for 200 days for those four projects. Then there is 45 days when they go through the bidding process and begin actual construction, which continues for an additional 250 days. The four projects aren't complete the same year.

Commissioner Griggs noted that some streets on the project list would require work prior to street work, and Mr. Cesar said that it is just like the existing street maintenance program. Commissioner Griggs asked if it would take water and sewer on Cornell, which it would. New York 12th to 16th doesn't take any of that.

Mayor Pro-Tem Lujan left the meeting at 7:50 p.m.

LeeAnn Nichols said that according to the way they budgeted it, they don't have any money in the water and sewer fund to cover the water and sewer, and they were suggesting that they get a different bond issue to cover that. The Environmental Gross Receipt Tax does allow you to use it for the purpose of water and sewer lines. You can't use it for streets, but you can use it for the under structure. It only raises about \$450,000 a year.

Commissioner Griggs said that on a three or four-year plan it raises enough by itself to pay the cost unless some of it is encumbered.

Ms. Nichols further explained that they are using the 1984 Gross Receipts Tax for streets, which is ¼% and is paying for the flood control and the subsidy for the streets. That money is planned to be used for the continuation of flood control with additional bond issues.

Commissioner Ledford asked Mr. Powers if he knew about that, and Mr. Powers said that it is a special fund obligation. It's revenue that they have already, and it would basically be advanced.

Mr. Cesar showed a spreadsheet breaking out the 13 projects by district, and there is some overlap. He pointed out that there was some question regarding how much of the project was going into each of the various districts. Normally, they do not provide a definitive list of street projects that goes out three years because of the way costs have escalated. The only portion they are really comfortable with is the upcoming 2009 fiscal year, which was doing North Florida and 24th Street. In terms of street selection, the list was originally generated in 2002 when the street department manager went out and assessed the streets along with the past public works director and the city manager. Since the classification of the streets, they specified the length and width and broke the streets into segments so they are able to relatively easily pull segments out. Finally, Mr. Cesar provided a memo from the Community Development Department with regard to them having set out traffic counters on two different occasions for 24-hour periods.

Maps were provided showing the projects that had been completed to date, the projects they were proposing for the 2008 Gross Receipts Tax and the projects that are projected for the 2004 Gross Receipts Tax.

Commissioner Ledford left the meeting at 7:55 p.m.

Mayor Brockett said that obviously they need to come up with some sort of a blended means of financing the projects. As far as the list of projects, they do need to have priorities. Hamilton stands out in his mind as being a priority, and that is due to the fact that the access is limited. Considering the cost increases with petroleum products, he thinks they need to come up with a blended approach to get the projects done quickly.

Commissioner Cole agreed with Mayor Brockett's comments. Commissioner Griggs said that they need to come up with a program that addresses the needs, whether that be a two-year street program or a nine-year street program. As the decision is made on how to utilize property tax, if the decision is to use it for some quality of life things as well as some streets, that in itself may help things along also.

Mayor Brockett asked Ms. Nichols and Mr. Cesar to keep the Commission informed, as it will need all of the information it can get. When they start prioritizing roads, it is going to become political, but they need to keep the politics out as much as they can particularly as the staff has done such a good job of putting the program together. It is a program that can work, and it can be sold to the public.

Ms. Nichols said that they would work on it and get a date to the Commission in terms of coming to the Commission with the outline sometime at the end of July.

Mr. Powers suggested that it is helpful to have a timeline for expenditures. They put spreadsheets together that look at a master cash flow.

ADJOURNMENT.

Commissioner Cole made a motion to adjourn at 8:12 p.m. Commissioner Ferguson seconded the motion. A vote was taken, and all voted "aye." The motion carried with a vote of 5-0-0.

/s/Mayor Pro-tem Chris Lujan

Mayor Pro-tem Chris Lujan

(SEAL)

ATTEST:

/s/Reneé L. Cantin

City Clerk Reneé L. Cantin

*(Prepared by Ubiquis Reporting)
Approved at the Regular Meeting held on June 24, 2008.*