

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
7:30 P.M., COMMISSION CHAMBERS
AUGUST 25, 2009**

**MAYOR RON GRIGGS
MAYOR PRO-TEM CHRIS LUJAN
COMMISSIONER ED COLE
COMMISSIONER MARION LEDFORD
COMMISSIONER JOE FERGUSON**

**COMMISSIONER ROBERT RENTSCHLER
COMMISSIONER JOSH RARDIN
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 Griggs called the meeting to order at 7:30 p.m. Roll Call was taken by the City Clerk. Invocation by Pastor Vaden Gilloth. The Pledge of Allegiance was led by Commissioner Ledford.

1. Appointment of Joshua Rardin to the position of District Four City Commissioner.

Mayor Griggs asked the Commission if they had any questions of Mr. Rardin. No questions being asked, he thought it appropriate that Mr. Rardin be appointed as District 4 City Commissioner.

Commissioner Ferguson moved to approve the appointment of Joshua Rardin to the position for District Four City Commissioner. Commissioner Cole seconded the motion. Motion carried with a vote of 6-0-0.

2. Swearing in of new District Four City Commissioner.

Renee Cantin, City Clerk performed the swearing in of the new City Commissioner.

PRESENTATIONS:

3. Presentation on city project updates.

These updates will be scheduled at the first meeting of each month.

CALL OF THE CONSENT CALENDAR: [Roll Call Vote Required – 6]

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 #4, 6, 7, 8, 9, 10 & 14.

MINUTES:

- CC 4. Minutes of August 11, 2009 Regular Meeting.

ORDINANCES AND RESOLUTIONS:

- CC 6. Consider Resolution No. 2009-37 authorizing the Mayor to execute the agreement for membership in the Southeastern New Mexico Economic Development District/Council of Governments (SNMEDD/COG).

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

CONTRACTS AND AGREEMENTS:

- CC 7. Approval of State of NM Non-Metro Area Agency on Aging Nutrition Service Incentive Program (NSIP) Vendor Agreement for Senior Center Programs.

Recommendation: Approve the agreement.

- CC 8. Approval of State of NM Non-Metro Area Agency on Aging Vendor Agreement for the Senior Center Programs.

Recommendation: Approve the agreement.

- CC 9. Approval of a lease agreement with Phil and Adelinda Efird for lease of Lots 20 and 21,
Block 4, A. G. McMath Building Site 1 & 3, Revised.

Recommendation: Approve the lease agreement.

OTHER BUSINESS:

- CC 10. Consider award of Public Works Bid No. 2008-010, Upgrade Electric Project Housing Authority of the City of Alamogordo.

Recommendation: Award of bid to Fox Builders, Inc. in the amount of \$380,110.33, including NMGRT.

- CC 14. Statement regarding the Executive Session of August 11, 2009.

Recommendation: Approve the statement.

Commissioner Ledford moved to approve items # 4, 6, 7, 8, 9, 10, & 14 of the consent calendar. Commissioner Rentschler seconded the motion. Roll call was taken for item #6. Motion carried with a vote of 7-0-0.

PLANNING ITEMS:

5. Consider Ordinance No. 1361 to amend the zoning map to change the zoning of 1208 Adams Avenue to R-4, Multiple-Family Dwelling District, from R-2, Townhouse Dwelling District, requested by Paul B Chamberlain. [Case # Z-09-0688(A), located on the east side of Adams Avenue between Aspen Drive and 12th East Street].

Recommendation: Approve the ordinance for first publication.

Interim City Manager Matt McNeile stated that the Planning and Zoning Commission recommended the rezoning of this property by a vote of four to nothing at their August 6, 2009 Regular Meeting and Rocio Dominguez from the Planning and Zoning Department is here to answer any questions about this rezoning request.

Commissioner Ledford said there was one letter of protest and there were some issues about adequate parking, which would be a safety issue. Normally when we have an ordinance issue, we would typically have the City Attorney or DPS Director review it to insure those issues were addressed whether there was a letter of protest or not. He does not see those signatures and wanted to know how that was addressed. Ms. Dominguez explained that for R-4 there are no parking requirements. In the Zoning Ordinance there are no parking requirements for R-4 for parking.

Commissioner Ledford said the letter was talking about where they would park; the street would be very congested. It is an Ordinance, which is a legal issue, and there is no signature from the City Attorney looking at this ordinance. He does not ever remember the City Attorney not looking at it to

ensure it is appropriate. Is this not a legal document, Ordinance Number 1361? Has the City Attorney looked at this ordinance? Ms. Dominguez said when she completes a report she sends it to the City Clerk and she forwards it to the Commission and the City Attorney.

Commissioner Ledford said he would like to know why the City Attorney did not sign off on this item. City Attorney Thies stated that he had never seen this document prior to it appearing in the agenda packet. Commissioner Ledford reiterated that the procedure is to give the report to the City Clerk, the City Clerk is supposed to forward it to the appropriate department. He then asked if Public Safety looked at these issues if there is an ordinance or zoning change.

Sam Trujillo, Director of Public Safety said this did not go before Public Safety, zoning changes usually do not. Commissioner Ledford asked that if we change a property from residential to commercial, does this not usually involve quite a bit of safety issues? Mr. Trujillo said he has had a chance to look at some of the statements in the letters in reference to zoning; the concern seems to be parking. They are worried that if this change is to be made, they would have to have additional parking and that parking would have to be in the alley. We do have a current City Ordinance that prohibits parking in the alley, so if that occurred, we would be able to enforce that and be able to have those vehicles removed.

Commissioner Ledford said his question was when we have changes in zoning from residential to commercial, does Public Safety look at those, because you had made the comment that you don't look at zoning changes.

Marc South, Planning Director, explained that this is not a change from residential to commercial. This is a change from R-2 to R-4 and therefore there are no parking requirements, there would be no need to run it past DPS. Mr. Trujillo explained this type of change does not normally go before Public Safety for review.

Commissioner Ledford said he misunderstood. He thought Mr. Trujillo said zoning changes does not go before Public Safety. His only thought was that he has never seen an ordinance that did not get reviewed by at least the City Attorney or City Manager. He thinks it could be a dangerous situation if the only department that looks at a zoning change is Community Development.

Interim City Manager Matt McNeile said he will ensure that Staff will sit down on Thursday and tighten up these procedures to ensure the proper people are aware of these issues.

Mayor Griggs had a couple of concerns. He believes that one of the statements in the application is that the land owner will be installing a staircase to the second floor to access his accounting practice. He asked Ms. Dominguez if when reviewing this application, did anyone go and visit this property and if they had any idea of where this staircase is to be located. Ms. Dominguez stated she does and was able to show on a picture where it would be located in the front of the property. Mayor Griggs asked if the stair case would come to a landing and go up. Ms. Dominguez confirmed this. She said when we agreed to change the property from R-2 to R-4; he understood that before he can place the staircase, he will have to come before us again and submit a building permit so we can ensure that all the set backs have been met. It will then go to the State and the State will review and see if it meets their building code requirements.

Mayor Griggs said he does understand that process but the concern he has with this is Mr. Chamberlain has paid the City the cost of the rezoning process and potentially cannot build what he would like for whatever reason. He wants to make sure we integrate this process so that Mr. Chamberlain will not have to do this twice and is at risk of spending his time and money to have it rezoned and then not being allowed to construct his staircase. If it is not approved, he does not know if Ms. Chamberlain would be allowed to have his practice on the lower level of the property. Do we know for sure that this is a permit that will be approved or not? Ms. Dominguez stated that we do not know for sure if he will be approved or not until he submits the plans for his staircase. We talked to Mr. Chamberlain about a sketch that he made of the staircase and we asked the State Building

Official of any requirements that he may need later to get the permit approved. We passed that information on to Mr. Chamberlain and gave him the number to the State so he could talk with them directly to ensure that what he wishes to build meet all the requirements for the set back. Mayor Griggs asked if Mr. Chamberlain is aware that his project is potentially at risk. Ms. Dominguez confirmed this.

Commissioner Ledford asked if we have had issues in the past of not knowing all of the facts to make a zoning change. Did we not have this problem out near the airport concerning the taxidermy business? Don't we have to know what they are going to do and all the safety issues before we approve this? Once they are R-4, they stay that way. Mayor Griggs said that is correct if he rezones this to R-4, it may not benefit him the way that he plans.

Commissioner Ledford said he has heard staff say before they did not want to approve a zoning change without knowing all of the facts. Mayor Griggs stated that the only difference at those times were we controlled the building code department and we no longer do that. He would suppose the only real argument on this item is that we would address the zoning and the State would address the building permit. It does appear that this could cause issues for those individuals who are planning to do what Mr. Chamberlain is doing. It would be in his best interest to know if he can do this before he requested the rezoning.

Commissioner Ferguson moved to approve Ordinance No. 1361 for first publication to amend the zoning map to change the zoning of 1208 Adams Avenue to R-4, Multiple-Family Dwelling District, from R-2, Townhouse Dwelling District, requested by Paul B Chamberlain. [Case # Z-09-0688(A), located on the east side of Adams Avenue between Aspen Drive and 12th East Street]. Commissioner Ledford seconded the motion.

Commissioner Cole asked the protestor to come forward. His name is John Horatio and he lives at 1214 Adams. Mr. Horatio stated he has a couple of issues on this, one being the parking. Everybody has a mailbox on the street and Mr. Chamberlain is a tax man. Come April he is going to have twenty cars parked on the street and the mailman will not be able to get to the boxes. We also have children who play in the street and with more traffic it will be hazardous. Another reason is he bought one of these town houses and they all look alike, this stairway is just going to be an obliteration of whole five houses, it will just spoil the appearance of all of them. The main worry is the traffic and he moved there because it was a residential street and residential streets do not have businesses on them. That is his whole objection to this.

Mayor Griggs asked if Mr. Horatio was aware of restrictions on business activities in this particular form of zoning. Mr. Horatio said he was not.

Ms. Dominguez stated when she sends out the letters to the neighbors, she also sends out what is allowed in R-4 and R-2. R-4 states any use of permitted into family dwelling, professional offices or studios of doctors, dentists, artists, musicians, lawyers, and other like professions. The reason this is there is because they are small businesses that will not bring as much traffic. She does not know what the square footage is on the top floor of that building, but she does know it is a bedroom now. A bedroom is not that big and it will not hold 20 people at once. Mr. Chamberlain wants to do this out of his home by himself, so there will only be one or two clients at a time. As far as any other restrictions, there is no bigger business that is authorized in R-4. It is still residential, but with the capacity of having a small business in either the whole building or just the top.

Mr. Horatio asked what would happen if Mr. Chamberlain moved out, would that rezoning still be there for any business. Could that business be a laundry or anything else? Mayor Griggs stated that it could only be a business that falls under the R-4 category. Mr. Horatio said it is a residential street and loves the appearance of these houses and a staircase would spoil that.

City Attorney Thies said it is a town house, it is conceivable that there are some restrictive covenants in place that would restrict this use. Normally when you develop a town house, the covenants might

restrict what they can be used for. We are not in the habit of checking this, but he suggests that they look into this. He also asked Mr. Horatio if they were subject to a home owners association and pay dues.

Mr. Horatio said there are two that are connected. Mayor Griggs said he is somewhat familiar with these units and he would be surprised if there was a home owners association. There may be deed restrictions and they may have to check these to ensure there are no restriction in place.

Mr. South said in fact in the course of this process, we raised that question with Mr. Chamberlain and he assured us that there are no such covenants in place. Mayor Griggs said the only other thing for him to do is to check for restrictions. Mr. South stated he did check them and there are not any restrictions.

Mayor Griggs explained this ordinance is for first publication and will go for final publication a month from now. There are opportunities for Mr. Horatio to talk with Mr. Chamberlain and become more comfortable with the plan.

Motion carried with a vote of 6-1-0. Commissioner Cole voted nay.

OTHER BUSINESS:

11. Natalie Dysart is requesting approval of a leak adjustment in excess of \$1,000, located a 1349 Discovery Ave in the name of Marie Stewart.

Recommendation: Approve request pursuant to leak abatement policy.

Matt McNeile explained that the meter reader went out to read the meter and noticed a very high abnormal reading. It was discovered there was a large leak in the back part of the property. Because of the billing cycle, the leak spanned two billing cycles. We have provided a detailed report of the repairs for your review.

Commissioner Cole thought that on issues like this there was supposed to be some type of pre information to the Commission so they are prepared to make a better decision. Mayor Griggs said he doesn't recall that. This item is not any different from any other agenda item.

Matt McNeile recalls that before the recommendation was to provide direction to staff and now if the request meets the criteria and it is a normal leak abatement we can request that they grant the leak abatement. We now say that we have looked at it and it meets the criteria of the normal leak abatement and we recommend the Commission grant the leak abatement.

Armando Ortega, Customer Service Manager said the reason we bring it to the Commission is because it's over our \$1,000 amount that we are limited to. This still meets the criteria of the leak abatement policy, but it is the dollar amount that requires us to bring it before the Commission.

Commissioner Ledford moved to approve leak adjustment. Mayor Pro-tem Lujan seconded the motion. Motion carried with a vote of 7-0-0.

12. Request for a refund of a building permit issued by the City of Alamogordo to Mr. Ronny Rardin.

Recommendation: Approve refund less 15% administrative fee.

Commissioner Rardin requested to abstain from voting on this issue because he is related to the requestor.

Matt McNeile began by saying this is an issue, like our leak abatement policy, our staff does not have authority to authorize a refund. Mayor Griggs asked if this is a normal result should an individual come to us and ask or is this an abnormal situation.

Mark Threadgill said this might be abnormal because it transcends from the time when we were the building code authority to the time when the state became the building code authority. It was issued in August of 2007 and our permits had a life of one year and if you did not complete your construction by that time we would allow for an extension as requested by the applicant. By the time that this one came expired, we had turned over that function to the state. Mr. Rardin, by his own admission, has not been engaged in actively pursuing construction on this site. He says he had submitted an application for an extension on construction but we do not have a copy of that in our records. We do have a record of the letter saying his permit is expiring; we do this seven days in advance. Now he is coming in to either extend the permit or get a refund. We are no longer authorized to issue building permits or to renew expired permits. He has to go to the state to get his permit to build this now. The only thing we have is the administrative fee, since he has not actively continued with construction we did not have to send out inspectors, so that is why we are saying to approve the refund less administrative fees.

Mayor Griggs asked if we had continued to be the one to administer the permits would we have just extended this. Mr. Threadgill confirmed this. Commissioner Ledford is concerned about the transition Mr. Threadgill talked about. Do we have any permits that we issued before the state took over? Mr. Threadgill stated that we still have a few permits that we are actively continuing to do the inspections on. Commissioner Ledford said this is something that there is a lot of?

Mr. Threadgill said he does not see another case like this with the permits we have now unless someone just ups and quits working. It has been a year and the state is now doing the inspections. This is a rather unique situation in that no work was done and no activity on our side.

Commissioner Ferguson moved to approve the refund less the 15% administrative fee. Commissioner Cole seconded the motion. Motion carried with a vote of 6-0-1. Commissioner Rardin abstained.

13. Commissioner Ferguson is requesting to apply for 500 acre feet of water per year from the Office of the State Engineer until we have the Snake Tank built.

Recommendation: Provide direction to staff.

Commissioner Ferguson said he is very concerned about what we would do if before our Snake Tank was built and we had a very dry season what we would do. He spoke to the State Engineer and they would not oppose us applying for a temporary permit, 500 acre feet per year until our Snake Tank was on line. It is not to say that we have to use it because if we don't need it we will not have to buy water. If they give us the permit, it gives us the ability for us to buy it; otherwise we cannot get any more water than what we have right now. These extra 500 acre feet per year will give us a little leeway just in case we have a few dry years before our Snake Tank is built. What he is requesting is we ask staff to allow us to apply for a permit to use the extra 500 acre feet per year until the Snake Tank is finished.

Commissioner Rentschler asked if Commissioner Ferguson was aware of how many acre feet per year that Alamogordo actually has water rights to? Commissioner Ferguson was not aware. He continued by saying we are in the area of 25,000. Do you know what we are using? Commissioner Ferguson stated four to five thousand. But we cannot take any more water than what we are taking now because the State Engineers closed the basin. We have water rights on paper but we can't go drill another well, they will not allow it.

Commissioner Rentschler asked if this is for drilling another well? Commissioner Ferguson said no, this is a deal to go buy water. We cannot just go buy water to use it; the engineers have closed up

the basin. This allows us to get extra water if we need it until we go online with the Snake Tank. Sure, we are in good shape right now and we may be up until the Snake Tank goes online but if we have a few very dry seasons, what are we going to do?

Commissioner Rentschler said what he would say is if we have 25,000 acres of water available on paper and we are not able to access them, maybe it is time to give some of them up. The State Engineer closed Alamogordo down because of that; we have more water rights than the City of Las Cruces. He does not know what the expense is involved in doing this and does not know if it is necessary.

Commissioner Ferguson said he knows it is up to the Commission, but he is just saying that if we do run low regardless of how much water we have on paper, we cannot go and drill another well.

Commissioner Ledford asked if this application would be a paper application. Commissioner Ferguson stated it would just be a standard application. Commissioner Ledford said what the difference of having this 500 on paper and having the other on paper. Commissioner Ferguson said the State Engineer is going to allow us to buy water if we need it because of this application.

Commissioner Ledford asked if he approves it today, we can go tomorrow and buy water. Commissioner Ferguson said it is a standard permit, but it will still have to go through the standard protest process. Commissioner Ledford said we have water rights that we can do with now. Commissioner Ferguson said no, the State Engineer would not allow it.

Commissioner Ledford said but he will allow this. We have a pretty serious water program with the Snake Tank; we have water attorneys and water engineers, hydrologists. Have you run this by them to get their accountability of this? Commissioner Ferguson state he talked to Mr. Brockman and he explained that even though we have paper water rights, we cannot get any more water than what we have right now. If we have a dry spell, we might be in trouble. He asked them if we applied for 500 acre feet per year until we get the Snake Tank on line, would they be against it, they said they would not.

Commissioner Ledford asked if this was a temporary permit. This was confirmed. He asked if the attorney says this was okay and would not bother our application? Commissioner Ferguson said he kind of hinted at it but the State Engineer said it would not bother our applications.

Commissioner Ledford asked if Commissioner Ferguson knew how long we have waited for the State Engineers to give us a permit on the Snake Tank. All of our water application and processes have gone through the attorney and the reason is because we do not want to bother our applications as they exist now. He would love to have more water if he could. He is a little upset that Commissioner Ferguson did not supply a letter from the attorney and asked if staff was aware of this.

City Attorney Thies stated that he has had some discussion with Mr. Brockmann in the past about acquiring additional water rights primarily in association with the Rabon water and Mr. Brockman's advice to him was to proceed with caution. Anytime we put anything before the State Engineer requesting additional water rights, could potentially open the door for them to revisit the Snake Tank Issue.

Commissioner Ledford said they had cut us on our application up north. We asked for a lot more and they agreed to less. He is a little surprised that they would allow us to have 500 acres feet per year if we have a bad season. He does not know why we would go though the process of paying for this application just to satisfy our dry spell. He thinks we would need more information. He wants to make sure the water attorneys are comfortable with this process, he has sat through a lot of trials and they implied that we should not ask for additional water and now they are saying they are fine with it, it just makes no sense.

City Attorney Thies said he suspects that if we were to amend our 40 year plan and we showed the State Engineer that we were in need of this additional acreage, he might consider it. As Commissioner Ferguson pointed out we have more water rights on paper right now up to 25,000 acre feet of water rights. We could potentially harvest from the mountains, we have some wells that are not being used on a daily basis because they are being used as reserves in case we need them.

Commissioner Ledford asked if some of the rights that we have now, could they not be reclassified for purchase purposes. Could they not be redirected to fit this purpose? We have specific water rights, we have transferred water rights from one place to another can we not do that here? City Attorney Thies said it would require an application to the State Engineer to move the place of appropriation.

Commissioner Ledford said lets say we have a drought and we have the 500 acre feet. How do we buy that water? Does someone tap it and we go get it? Droughts are going to come and he does not know how we would access that water. He does not understand the purpose of this if we have twice the amount of water on paper than we do wet water. The State has been very specific about these applications. We have had applications turned down and all of the sudden they are willing to let us do this. Is there a letter from the State saying we can do this?

Commissioner Ferguson stated they told him verbally and specifically said that it is only a temporary permit until the Snake Tank is built. It is all the water we will get. The only reason he is requesting it is just in case we are in a hurting situation, we would have it. Commissioner Rentschler said if Alamogordo is out of water, do you think the State Engineer would sit on his hands for two or three months. Commissioner Ferguson said it could get to dangerous levels for us and they might say you still have enough. He just wanted to protect us in the long run.

Mayor Pro-tem Lujan said he appreciated Commissioner Ferguson ambition but since he has been on the Commission, they have done things a certain way. He has seen a lot of things happen in Executive Session that were advised to the Commission through a lawyer. As far as he is concerned he is not going to do or support anything that is not the way it has been in the past unless they are directed through a lawyer or by the State Engineer. To him, it does seem like the information that was received is a little shaky. He supports staying on the track we have been on. We have way too many hours and money invested in our future water. He will not support this unless it is done with the procedures that are already in place.

Commissioner Ferguson said it is fine but he reminded the Commission that he had brought it up in Executive Session a few months ago, what he has done and who he had talked to. Mayor Pro-tem Lujan stated that he did not support it then either.

Commissioner Ferguson said there was not any type of motion then either. He is just bringing it up so the Commission is aware of what was said the state would not be against a temporary permit.

Mayor Pro-tem Lujan said there are procedures that have been followed for the past three years. We are advised by our attorneys and he does not take the chance of jeopardizing Alamogordo's water rights. Commissioner Ferguson said the worst that could happen is that we apply for it and they say no. He is just saying to vote if we want to do this or not.

Mayor Pro-tem Lujan said that may be what happens we apply and they say no, the worst that could happen is that they say yes and it messes with our Snake Tank Permit. We should just keep going with the advice our lawyers are giving us and stay on this course.

Mayor Griggs said he seems to remember when they discussed this in Executive Session, Commissioner Ferguson indicated that this water would be used in our Reclaimed System, is that correct? Commissioner Ferguson said correct. That is what he has talked to the State Engineer about, what if we run low on water for our municipal system, where can we get water.

Mayor Griggs said he is asking if that was his discussion with the State Engineer. He then asked the City Attorney, on an application for water, do we not have to identify the source where the water is coming from? Can we apply for 500 acres per feet from anywhere or do we have to identify where that 500 acre feet would come from? City Attorney Thies stated all the applications that he has seen require the applicant to identify where the water is being obtained, normally where the water is coming from and how it will be used. Unless the existing permit allows for moving the use of the water, you would have to resubmit the permit.

Mayor Griggs said what he would suggest with this issue regardless of how we feel about Snake Tank and how this will impact Snake Tank, without knowing where this 500 acre feet was going to come from, we should not consider any sort of action this evening until we have a sort of idea of where this water is coming from. Commissioner Ferguson said he is not an expert on this thing and he is just looking for direction. He was just relaying what the State Engineer told him. If the Commission thinks this will cause a problem with the Snake Tank, then just vote no and we will not pursue it at all.

Mayor Griggs said absent of some specifics, he does not see how we can proceed. He does have a concern about the fact that the Snake Tank is our big ticket item; any discussion that compromises that is not good. He thinks as we go along, and once Snake Tank is producing water, we need to continue to go after additional points of supply. We have had people come to us to sell us water and he thinks it is available to us at a price, but he does not want to do anything to jeopardize Snake Tank. He would like to have something in writing before trying to pursue this.

Commissioner Cole asked City Attorney Thies did the State's Engineer say if we were to go out and get more water; he would reduce our amount that he had already approved.

City Attorney Thies stated that in discussions with Mr. Brockman when we purchased water from the Rabon's that we should precede with caution. Any permit that goes before the State Engineer could give him the opportunity to revisit our Snake Tank application.

Commissioner Cole said that yesterday he would have supported this, but in light of the information he does not support it at this time.

Mayor Griggs said if we want to proceed with this, he would need a motion from the Commission to direct staff to do this. There was none.

15. Appointments to Boards and Committees.

Mayor Griggs appointed J. Malcolm Yox to the Parks & Recreation Board. He asked if the clerk will notify this individual. He asked the clerk to notify the other applicant and ask him to continue to be available to another board.

UNSCHEDULED COMMUNICATIONS:

A. Commissioner Cole commented on the following:

1) Requested an update on the Ninth Street Bridge. Mark Threadgill gave an update. He is saying October.

B. Commissioner Rentschler commented on the following:

1) Is curious about the road on South Florida and the nice new sidewalks. He wondered who owns the tumbleweeds. Mark Threadgill said the property owners but he would have to check to make sure it's not our right-of-way.

C. Commissioner Ferguson commented on the following:

1) Discussed the letter he sent to Representative Vaughn and the mistakes in it. It was regarding the funding for the Library of \$1.1 million. Ms. Vaughn informed him that if this money is not used it could be taken away. He was asking to get it reauthorized to \$200,000 for a park in his District. It will be a

green park, no water just Astro turf.

Mayor Griggs responded isn't our normal process for legislative funding to address it through our ICIP. He believes that this park was on the last ICIP but the last list submitted to the legislature did not include this park as the top five. He asked if we had any particular projects that would be shovel ready in the community that we could use a million dollars for. Could we have a pipeline for reclaimed water that we need to run or issues like this? Matt McNeile replied there are several projects in our ICIP that are project ready. If Commission directs us, we can take a look and develop a priority list and have it ready for the next meeting.

Mayor Griggs asked if there are other means to potentially fund this park. Matt McNeile said there is nothing in the current budget, but we do on a daily basis look for federal and private grants. The park is on our grant watch list so we are always looking for other ways to fund that park.

Commissioner Cole asked about the Legislative projects we have all agreed on. He is concerned we will start jeopardizing the total project plan that we go through. In this case, he is not in favor of this. Looking for money from other areas is fine, but we should not start writing the legislature to move moneys when we feel like it without all seven commissioners agreeing, it is not a good trend. He hesitates to send this letter to Ms. Vaughn at this time. Commissioner Rentschler concurred with Commissioner Cole. We should be moving as a unit and discussing items like this and moving forward together. Once we discuss it and vote on it, we then write to the legislature.

Mayor Griggs said that has been the normal process. He's not sure how Representative Vaughn would work this particular issue. The State of New Mexico will be looking at all funds not being used. He thinks it's important the Commission as whole address that as a project. He is not sure how Ms. Vaughn will be able to get this approved with all the budget cuts. He thinks the Commission should discuss how this money should be discussed and decide how best to use it. Parks should be funded through grants and the like. It took us seven years to fund South Florida because the legislature was able to give us a little funding each year. If this park would have been in competition with that, it would have slowed the project down even more. He recommends that before we send this letter to Ms. Vaughn, the commission as a whole sit down with the ICIP and decide how to best spend the money for the best interest of the City.

Commissioner Ferguson said that the Governor is looking for every penny he can get. Ms. Vaughn said she may not be able to get this money reallocated, but she was willing to try and that is why I brought it before the Commission. His district is the poorest in town and has no park and wanted to try to get this funding. This is not ICIP money that will be used for next year, it has already been allocated. If we do not use this money, they will take it back. If we are going to do that, it will need to be done sooner than later in case they call a special session.

Mayor Griggs said the special session will have certain things on the agenda, he doubts that Capital Outlay will be on the agenda. He asked if we want staff to bring some of the projects back to revisit.

Commissioner Ledford said there was a lot of discussion before budget hearings about the Governor taking some funding back on projects that were not started. Where are we on that type of things? Matt McNeile reported on the capital outlay report. We will be revisiting that issue on the regular session. We gathered the information for the state and they will be revisiting that in the next legislative session. Commissioner Ledford said we don't know that the \$1.1 million that is left, if we change it to other projects, we would not lose it? We could spend a lot of time but we have a top five, do we readdress that?

Mayor Griggs said the question now is how we want to approach Representative Vaughn to use the funding. It was designated to build a new library and now she will have to address how best to reuse this money for other projects. Would we like to address reclaimed water, a park, we need to decide? Commissioner Ledford said we decided on it and now we have to decide how best to use it if not for the library. Mayor Griggs asked Mr. Threadgill if he remembered the top five, he named a few. He

said we could easily ask for more money on the Waste Water Treatment Plant and that would take a big chunk. The voters did support that, but did not support a park in any district.

Commissioner Cole made a motion to stick to our game plan. Stay with the ICIP and the top five priorities. City Attorney Thies directed the Commission that they cannot take action on this item at this meeting they can bring it back to the next meeting and consider it. Since it was not on the agenda, the Commission cannot take any action tonight.

Mayor Griggs asked if they should bring this up at the next meeting as an actionable item. City Attorney Thies said if they want to vote on it, yes. You can address Staff to bring it up at the next meeting. Mayor Pro-tem Lujan said he does not know the history of the money that Ms. Vaughn acquired for the library. Did we ask her to get that funding? Mayor Griggs said he believed that it was funding that the library folks asked for and Ms. Vaughn provided funding for. He does not believe that the City asked for it through the ICIP. Interim City Manager Matt McNeile said the library is in the ICIP, it was not a priority.

Mayor Pro-tem Lujan said the only problem that he has, is before Commissioner Ferguson brought this up, no one thought of this. Commissioner Ferguson has been fighting for this park for a while now, and we should consider it along with other pressing projects in the ICIP.

Mayor Griggs said the request of staff is to bring this up as an action item at the next regular meeting. Mayor Pro-tem Lujan said he wants it to be flexible enough to discuss it and to be able to consider all projects. Mayor Griggs said we want to make it vague enough to either act on Commissioner Ferguson's request for a park or any other item listed in the ICIP. City Clerk agreed to word it in this manner. **Mayor Griggs requested staff to place it on the next agenda.**

D. Mr. McNeile commented on the following:

1) Water report. Storage is in great shape.

E. Mayor Griggs commented on the following:

1) The Commission and the public had the opportunity to meet with the City Manager candidates. The Candidates were Donald Crawford, Craig Whitehead, Mark Roath, and Bo Thomas. He announced that the Commission interviewed them today and was impressed with all four. They will try to move forward as quickly as they can. He thanked them for their interest.

EXECUTIVE SESSION: Adjourn into Executive Session to discuss limited personnel matters (City Manager recruitment).

Commissioner Cole moved to adjourn into Executive Session to discuss limited personnel matters (City Manager recruitment) at 9:00 p.m. Mayor Pro-tem Lujan seconded the motion. Motion carried with a vote of 7-0-0.

ADJOURNMENT.

/s/Mayor Ron Griggs

(SEAL)

Mayor Ron Griggs

ATTEST:

/s/ Reneé L. Cantin

City Clerk Reneé L. Cantin

(Prepared by Marsha D. Brady, Deputy Clerk)

Approved at the Regular Meeting held on September 8, 2009.