

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
7:30 P.M., COMMISSION CHAMBERS
AUGUST 27, 2007**

**MAYOR DON CARROLL
MAYOR PRO-TEM RON GRIGGS
COMMISSIONER INEZ MONCADA
COMMISSIONER ED COLE
COMMISSIONER MARION LEDFORD**

**COMMISSIONER CHRIS LUJAN
COMMISSIONER STEVE BROCKETT
CITY MANAGER PAT McCOURT
CITY ATTORNEY WILLIAM BROGAN
CITY CLERK RENEE CANTIN**

CALL MEETING TO ORDER, ROLL CALL, INVOCATION, AND PLEDGE OF ALLEGIANCE

Mayor Don Carroll called the meeting to order at 7:30 p.m. Roll call was taken, and all of the commissioners were present. The invocation was given by Ms. Dotti West, and the pledge of allegiance was led by Mayor Pro-Tem Ron Griggs.

Mayor Carroll drew attention to the fact that since the last City Commission meeting, they have learned of the untimely death of former DPS Captain John Anderson. Mayor Carroll extended condolences to his family and friends.

On a happier note, Mayor Carroll said that he spoke with DPS Director Sam Trujillo on Saturday. He is doing well and was discharged from the hospital. The surgery went well. Director Trujillo will spend a few more days in Houston, and he will then return home and have a four to six-week period of recuperation. Mayor Carroll extended best wishes to Director Trujillo.

PRESENTATIONS:

1. Presentation of Proclamation to Sefora Hernandez and Cheyenne Hoyt for "Miss Alamogordo/Miss Otero County Day."

Mayor Don Carroll made a presentation to Sefora Hernandez and Cheyenne Hoyt reading the proclamation regarding Miss Alamogordo and Miss Otero County Day.

2. Presentation by Cathy Harper on the NM Spaceport Authority Community Advisory Committee

Ms. Cathy Harper appeared before the Commission and stated that the meeting of the NM Spaceport Authority Community Advisory Committee was held on August 21st. That morning, the NM Spaceport Authority held their regular meeting.

Ms. Harper presented the gist of what they discussed, as compiled by a legislative fellow with Congressman Pearce's office. They talked about the budget of Spaceport America, which is about the same as it was before, \$198 million that is set, \$140 million from the state and \$58 million from local county taxes. No federal money is currently listed, but that avenue is being discussed. There has been talk about dual-use capability, and with regard to indemnification, negotiations between the New Mexico Spaceport Authority and Virgin Galactic are going well. Completing the details, however, is rather complicated. The target operational date is December 2009 for Virgin launches into space from New Mexico, but the criteria are that Virgin must have spaceship #2 certified to fly with passengers and Spaceport America must be ready to operate, which includes runway, maintenance hanger, passenger terminals, etcetera. There are a lot of technicalities involved with all of this considering that it is the first time anything like it has ever been done.

Commercial sub-orbital rockets will be launched like the ones that have been launched from Up Aerospace from the pads at the spaceport in 2008 and 2009 during construction on the runway. Due to construction and rocket launching in the same area, there will be a pretty complicated schedule,

which is something that they will have to learn how to do because there will always be many customers operating at the site and always something going on for the next few years with regard to construction. Commercially speaking, just as important as orbital operations will be point-to-point flights—for instance, from the Rio Grande to the Rhine in one hour. Flights that are orbital or point-to-point have similar operational requirements, which are different from the sub-orbital flights. However, the sub-orbital flights during the next decade will provide invaluable safety data about rocket-powered passenger vehicles. This will be critical for convincing the FAA, insurance companies, and the general public that over-flights of populations by ascending rocket-powered spacecraft can be accomplished safely. The data will complement existing safety data about descending spacecraft such as the shuttle.

When Spaceport America becomes the location for sub-orbital arrivals and departures from around the world, then everything from El Paso to Albuquerque becomes part of a new economic hub for America. The next meeting of the Spaceport Authority will be in the Board of Regents room at NMSU in Las Cruces on September 18th at 10 a.m. Following the NMSU meeting, Ms. Harper explained, the Community Advisory Council convened and was briefed on the above information. Then, the new deputy program manager for the architecture and engineering services contractor for the Spaceport Authority gave a presentation to the Council that covered a variety of topics. He re-emphasized the mission of the Spaceport, which is to develop and operate the world's first purpose-built, commercial spaceport capable of horizontal launch, vertical launch, sub-orbital launch, orbital launch, space-related events and space-related education. It will be a catalyst for a new industry providing jobs across all economic levels, increasing the tax base in southern New Mexico and helping to retain young people by providing diversity of employment and increased pay scales.

Ms. Harper went on to say that other items of interest included the fact that the winner of the THF, which is the Terminal Hanger Facility RFP, should be chosen this week, and there should be preliminary drawings of the facility ready for the next CAC meeting. Virgin is putting together an all-inclusive conceptual plan for space tourists. A hotel and training center is expected to be located somewhere in the state, very likely in southern New Mexico, but the site has not been chosen yet. In addition, Virgin Galactic is expected to be in the area on September 4th for the THF announcement, and the CAC has asked to be notified if they would like presentations from local communities or if they would like representatives from the communities on-site to answer any questions that they may have.

With regard to construction packages, currently there are 13 separate RFPs being viewed in 5 different design packages. The CAC has been asked, again, to be notified as soon as the RFPs have been determined. The Spaceport Authority has been in discussion with several potential new customers and tenants. Also, Embry-Riddle University has approached the Authority with regard to launching sounding rockets from the spaceport, and there is a large potential impact in terms of educational opportunities, especially possible relationships between Embry-Riddle and local high schools.

Ms. Harper explained that there has been a lot of talk about visitors' centers at the Hatch or Truth or Consequences ends of the Spaceport, and the visitors' center at Hatch was discussed at the meeting. It is expected to have a restaurant, hotel, visitors' center and museum. A partnership with the New Mexico Museum of Space History in regards to an annex was discussed, and it met with a favorable response. Museum Director Randall Hayes was at the meeting and emphasized that the museum is the designated repository for Spaceport America and therefore an appropriate entity to help in the creation of the proposed museum annex in Hatch. The Spaceport Authority will be issuing an RFP to study the feasibility of a welcome center, and the study is expected to run into the first quarter of 2008. Truth or Consequences, again, is another possible location for a welcome center. Ms. Harper said it is her understanding that \$1 million has been set aside to build the welcome center at whichever location is chosen.

The CAC vice chairman suggested that Otero County and Sierra County representatives keep themselves apprised of the progress being made in Dona Ana County regarding the County's portion of the Spaceport GRT. An advisory council has been formed to oversee the funding that has been

designated for education, and currently they're looking at it as an endowment opportunity, especially considering that the tax will sunset in eight or nine years when it reaches \$49 million. CAC members have been charged with creating a one to three-page packet of information about their communities based on economic development figures including tourism aspects, and the deadline to return that information is September 1st at which time it will be compiled with the intent of using it to entice potential businesses, aerospace businesses, to southern New Mexico. Ms. Harper has been in touch with the local economic development folks, and they are putting that together at this time.

The Advisory Council also requested that they be informed of all upcoming Spaceport America meetings and any other meetings that might be relevant to the communities involved. The next CAC meeting is scheduled for November and will probably be on the same day as the Spaceport Authority meeting.

In summary, Ms. Harper stated that Spaceport America is progressing probably faster than should be expected for something that's never been done before. A whole new industry is being born in southern New Mexico that will impact not only those communities but also the state, the country, and the world. It's a very big picture. Sixty-two years ago, Wernher von Braun and a group of forward-thinking scientists and engineers were in the Tularosa Basin working on what would prove to be the backbone of the American manned space program. Forty-two years ago, when President Kennedy vowed to put a man on the moon before the end of the 1960s, von Braun and his colleagues were moved to a little town in southern Alabama that was probably not as big as Tularosa at the time. Today, Huntsville is the hub of the American space program—a booming community of over 168,000 in the metropolitan area earning an annual median family income of \$64,000. Of the top 35 employers in Huntsville, at least 12 are in the aerospace industry employing nearly 35,000 people. Out of the top 100 federal prime contractors, 29 are located in the Huntsville area with contracts in excess of \$40 billion. Ms. Harper asked if the Commission members could imagine the economic, cultural, educational and scientific impact the last 40 years has had on that area though there is no launch facility closer than Cape Canaveral, which is roughly 700 miles away.

Ms. Harper said that she is not entirely sure why the space program was moved, and it doesn't make any difference now because that opportunity was lost. Today, however, another opportunity is knocking. The representation that Ms. Harper is providing to the community at the CAC meetings is critical to ensure that the interests of the community are considered as the negotiations and planning for Spaceport America go forward. It's not enough to guarantee a shot at the economic diversity that Huntsville took away from their community some forty years ago. Ms. Harper encouraged the City Council to work with the County Commission and Economic Development to create a strategic planning committee whose purpose is to bring the aerospace industry back to the Tularosa Basin, the birthplace of America's space program.

Mayor Carroll thanked Ms. Harper for the informative and wide-ranging report. He asked if there had been any discussion about Holloman hosting the first air and space Wirefly event in October and what the Spaceport Authority planned to do as part of that if nothing else in terms of advertising and educating on what the Spaceport is and what the potential is. Ms. Harper said that she believes the Spaceport Authority will have an exhibit booth at the event, but other than that she was not aware of anything else. She will check into it though. Mayor Carroll said that he thinks that would be a wonderful opportunity because there is still a lot of education that needs to be accomplished in southern New Mexico about the potential benefits of a spaceport. Seeing what has happened in the flight industry in the last 100 years, there is no way of knowing what the next 100 will bring and what the opportunities might be for southern New Mexico, Otero County and Alamogordo as a part of that and getting in on the ground floor. The more that citizens can be educated, the better it will be.

Ms. Harper said it is her understanding that the Spaceport Authority will be holding their monthly meeting in Alamogordo in conjunction with the X PRIZE Cup events. She has offered the use of facilities at the museum, and of course they are public meetings so that anyone who is interested could attend. If it looks like it will be bigger than what the classrooms will hold, Ms. Harper said they would find a bigger and better place for it.

Mayor Carroll once again thanked Ms. Harper for her involvement with the committee.

3. Presentation by Kevin Powers from RB Capital Markets concerning Revenue Bond for Gerald Champion Regional Medical Center (GCRMC).

City Manager Pat McCourt explained that the City was approached some time back by Gerald Champion Regional Hospital to be the sponsor for some industrial revenue bonds. As part of that, the internal staff does not have the knowledge to properly analyze them. As a result, they have hired RBC Capital Markets and one other firm as consultants to assist the City in analyzing those and making sure the City is properly protected. The cost of these services will be paid for by Gerald Champion Regional Medical Center.

Mr. Kevin Powers explained that RBC has been retained by the City to review the transaction. They have been provided information by the financial advisor to the hospital, and based on that information, they have done financial analyses reflected in the books provided to the commissioners. Mr. Powers said that Eric Harigan was also present at the meeting, and he did a lot of the financial analysis and number running. Dwayne Brown was also present to go through the legal documentation analysis.

Mr. Powers went on to say that basically the hospital has a couple of options open to it by which they could borrow money. One would be to do a corporate borrowing where they would be borrowing money from the financial markets at taxable interest rates. By coming to the City to use the hospital revenue bond procedure, the hospital could borrow money if the purpose qualified at tax-exempt rates. The hospital is proposing approximately a \$38.8 million borrowing, \$30.5 million of which will be tax-exempt and \$8.5 million taxable based on the use of the proceeds.

On page three of the handout that was provided, Mr. Powers had broken down into pie-chart format the various uses of the \$38.8 million in bonds in terms of the different project types that had been supplied to them by the financial advisor. In terms of historical information on the hospital, in 1997 the hospital issued bonds, and a little over \$8.5 million remain outstanding from that issue. Those bonds will be paid off completely in 2013, and the interest rate on those averages a little over 5.25%. In addition to those bonds, the hospital also has an outstanding loan of \$13 million from Bank of America, and for the purposes of just looking at what their annual obligations are for debt, an interest-only payment was assumed on those. They came up with an annual debt service payment of a little over \$2.5 million. Based on the net revenue of the hospital, they have a coverage ratio of slightly less than five times coverage.

Mr. Powers stated that the hospital plans to issue variable-rate demand notes, which are floating rate obligations. The taxable piece would be tied to the LIBOR interest rate index. The tax-exempt piece would be tied to the SIFMA tax-exempt, short-term interest rate index. In addition to the variable-rate debt, the hospital plans to swap or synthetically fix \$20 million of the tax-exempt bonds to a fixed-rate mode that will limit their interest rate exposure. The final maturity of all of the debt would be 2037 so they would be extending the debt by a considerable period of time, but importantly, they would not be increasing the amount of their debt payment in any fiscal year. They are extending debt. They are providing new money for capital, and they are not significantly increasing their annual obligation.

Mr. Powers explained that they have analyzed the new debt requirements, and he referenced page eight of the handouts in terms of what the projected debt burden is. The coverage is actually slightly improved over the coverage on the outstanding debt, and on page nine they provided a graphic depiction of how the synthetic fixed rate mechanism works, which is a standard financial transaction that is used very commonly on hospital debt. There are also a number of municipal governments in the State of New Mexico that issued variable rate debt and then synthetically created fixed-rate debt with a swap product.

Mr. Powers then referenced page ten of the handout, which was a very detailed time schedule though they tried to isolate the action that would be required by the City Commission. On September 11th, the hospital would bring to the Commission a bond ordinance for first reading. Then, on September 25th the bond ordinance would be brought back for final adoption. That would allow for a bond pricing of the variable rate debt on October 25th and a bond closing on October 29th. Mr. Powers said they had also put together some ratio analyses in the last pages of the handout that showed how the hospitals had audited financials the last five years compared to the S&P's, Moody's and Fitch's median ratio analysis for other hospital facilities. Based on the debt burden of Gerald Champion Regional Medical Center, the hospital's debt really stacks up into the "A" category, and the bonds will actually be issued with Bank of America's letter of credit. They will be marketed with an "AA" rating so they are highly marketable and secured by that letter of credit.

Mayor Carroll asked if this is in essence the refunding of existing debt and acquiring of additional capital for expansion of the hospital and their facilities, and Mr. Powers confirmed that is correct.

Mr. Dwayne Brown explained that he has been retained to represent the interests of the City as the bond transaction goes forward. Principally, what that involves is to read a stack of documents, a copy of which he gave to Mr. Bill Brogan, and they will be going through those documents to make sure that they comply with New Mexico law and that all of the appropriate protections provided by New Mexico law are included. Mr. Brown also had prepared a handout for the Commission.

Basically, Mr. Brown explained, under the New Mexico Industrial Revenue Bond Act, which was originally structured for economic development types of projects but which is also used frequently for hospitals and healthcare facilities, a lot of protection is provided in and of itself. It provides specifically that when a municipality does industrial revenue bonds such as those being proposed, it may not obligate itself to incur any pecuniary liability or invoke general obligation or taxing powers to repay the bonds. In addition, any agreements that are associated, and in this case there are various agreements that the City will become a party to, that the City may not in the event of a breach of one of those agreements invoke its taxing power or incur any general obligation debt. It is truly structured under statute as a conduit, pass-through, transaction.

Mr. Brown said that they may be asking why in fact the City has to be a party if in fact it is just a pass through, and the reason for it is that under Section 103 of the Internal Revenue Code, only political subdivisions of a State are authorized to issue tax-free bonds. There is a whole elaborate structure that allows tax-free bonds to be issued on behalf of a qualifying entity such as a hospital as a 501(c)3 corporation. The hospital could not access the tax-exempt market without the City's involvement, and that will allow them to save as much as 35% on their interest rates. The City helps them by going through this process and adopting an ordinance. They will come back on September 11th for the first reading of the Ordinance to get the whole process started, and then on September 25th, the final Ordinance will be adopted. As a part of that final Ordinance, the City will be approving the underlying documents, the Trust Indenture, a lease, an Underwriting Agreement, which is the Bond Purchase Agreement, a Tax Regulatory Agreement, which sets forth all of the federal tax rules, an Escrow Agreement for deposit of a portion of the bond proceeds until the old 1997 bonds are paid off, and then an official statement, which is the Bond Offering Document itself. That document the City won't actually be approving. The City will just be authorizing it to be used. Mr. Brown said they didn't want to get into the municipal securities rule-making board and the requirements with regard to the adequacy of the disclosure to investors in the bond, as they are looking at the hospital credit to repay those. Mr. Brown will be going through things carefully to make sure that there are no inappropriate representations or approvals being requested from the City Commission as the process goes forward.

Mr. Brown went on to say that there is also an indemnification provision included in the lease agreement that says the hospital will indemnify the City in the event there is something that goes wrong with the exception of something that the City might do constituting willful misconduct or gross negligence, which is a standard provision that is used in other cities with regard to other transactions

such as this. Mr. Brown said from a legal standpoint he thinks they are on good ground going forward with the transaction, and they will make sure that there aren't any slip-ups along the way.

City Manager McCourt said that as he understands it, based on the information the City has now, these are good candidates for bonds as far as financial stability. They are "A" rated and will be "AAA" once the letter of credit is issued. City Manager McCourt asked in a worst-case scenario what happens with the City. Mr. Brown stated that because there is the letter of credit and the City is not a party to the letter of credit, in the event that something went terribly wrong and they were not able to make their payments, the bondholders would go to Bank of America as the issuer of the letter of credit and say pay up. Bank of America would then honor its agreement and pay the bondholders, and then they would go back against the hospital with a separate mortgage from the hospital to Bank of America backing up the reimbursement obligation. That is how the bondholders would be taken care of. It would all be done away from the City. If everything goes bad, it would be handled there, and the City wouldn't be obligated to make any of those payments. The City might have to sign a document here or there or something like that, but it wouldn't be a repayment obligation.

City Manager McCourt asked Kevin how it would show up on the City's books in terms particularly of indebtedness. Mr. Powers explained that it does not show up on the City's books, as it is not part of the City's financial obligation. They are just using the City's tax-exempt issuing authority. There is no financial responsibility that the City has, and it does not impact the City's bonding capacity in any way. Commissioner Lujan asked if everything went wrong if there would be any affect on the City whatsoever. Mr. Brown said there would not be any affect on the City other than someone that the City doesn't know would come in to take over the hospital In terms of financial obligations, there would be nothing for the City to do.

Commissioner Ledford asked if there is a limitation as to what revenue bonds can be used for as it relates to new construction versus paying off old debt, and Mr. Brown said that there is not. They could do a bond issue entirely for the purpose of repaying outstanding debt if they wanted to, or it could be all new money. It just depends on the financial capability of the borrower. Mr. Brown went on to elaborate on the Bank of America taxable piece, and he expects that they borrowed money from Bank of America to build some physicians' offices or other things that are not qualified uses under the Internal Revenue Code for tax-free borrowing, as the IRS is very concerned about doctors being able to practice out of low-cost space passing really a private benefit to the doctors. He expects that's what the issue was about, but it is just a financial and legal requirement that they are complying with. Mayor Carroll pointed out that there is a considerable amount of new money that is being raised with the issuance, and that money will obviously go to build new or enhance existing facilities, which certainly has an economic benefit to not only the City of Alamogordo but all of Otero County and the area. Since the building will go on within the City limits of Alamogordo, the City would recognize significant benefit from the gross receipts tax on the construction. There is some real economic benefit to the City in facilitating the bond offering, and as has been said, it can be done with no financial risk or obligation on the part of the City. Mayor Carroll said that he would hope that when it comes forward at the next meeting that the Commission would feel comfortable in approving and moving on with it, which was the main purpose of the presentation, as some of the Commissioners have not been through the industrial revenue process before. It's important that they have some comfort level in being asked to sign on to anything having to do with financial obligations, whether they be the City's or someone else's.

CALL OF THE CONSENT CALENDAR:

MINUTES:

4. Minutes of August 14, 2007 Regular Meeting and August 7, 2007 Special Meeting.

Recommendation: Approve the minutes.

PLANNING ITEMS:

5. Update regarding comprehensive re-draft of Municipal Code Chapter 29, Zoning – Draft Home Occupation Sections.

Recommendation: None.

CONTRACTS AND AGREEMENTS:

8. Approval of stipulation agreement with Jeffrey & Judy Rabon, and Timothy & Deborah Rabon.

Recommendation: Approve the stipulation agreement.

9. Approval of agreement with New Mexico State University – Alamogordo for providing safety and security at the New Mexico State University Alamogordo Campus.

Recommendation: Approve the agreement.

10. Approval of professional services agreement with the Tularosa Municipal Schools

Recommendation: Approve the agreement.

OTHER BUSINESS:

14. Public Works Bid No. 2007-005, 2007 Street Maintenance Project One.

Recommendation: Award to General Hydronics, Inc. in the amount of \$578,853.74, including NMGRT.

15. RFP 2007-011, Engineering Services for Landfill and Asbestos Cell Construction.

Recommendation: Award to Ideals, Inc.

16. Investment Report for the quarter ended June 30, 2007, in accordance with the City of Alamogordo Investment Ordinance.

Recommendation: Accept the report.

Commissioner Marion Ledford made a motion to approve the Consent Calendar, Items 4, 5, 8, 9, 10, 14, 15, and 16. Seconded by Mayor Pro-Tem Ron Griggs. A vote was taken, and all voted “aye.” The motion carried with a vote of 7-0-0.

PLANNING ITEMS:

6. Approval of the final plat for the Bella Vista Subdivision [Case S-05-0903 (A)].

Recommendation: Approve the final plat and deny the waiver request.

Mr. Arthur Alterson provided background information regarding this item. This subdivision, in a plat very similar to the one being considered, was reviewed and approved by the City Commission on June 27, 2006. The plat came back about a month ago when staff looked at it and realized that not only had the 90-day period the developer had to get the plat recorded expired but there was also a dedication of some right-of-way along the south edge of the subdivision that Mr. Alterson felt created a situation where it needed to go back through the process. The additional dedication along the south edge of the Bella Vista Subdivision is for drainage and was at the recommendation of the city engineer. Mr. Alterson also provided maps to the Commission members.

The subdivision plat went back through the Planning and Zoning Commission on August the 1st, and the Planning and Zoning Commission recommended approval with an additional six feet along the south edge. An outstanding issue was referred to as the public land donation, and the recommendation from the Planning and Zoning Commission was to credit the six-foot dedication along the south end as at least part of the public land donation. It is a similar request to what was made when the plat was before the Commission a year ago with other dedications at which time the City Commission rejected the idea. Staff does not support the idea.

City Manager McCourt asked if there was a name change also recommended on one of the streets, and there was, which happened at the suggestion of the Public Safety Department. City Manager McCourt then explained the handout exhibits that were included in the Commission packets.

Commissioner Cole asked for an explanation of the public sites and open space at 3%. Mr. Alterson said that Municipal Code Chapter 22 are the subdivision regulations, and the petitioner is requesting that the six-foot land dedication along the south end of the subdivision be credited for their public land donation instead of dollars. Commissioner Cole said he would not go with that, and that the 3% dedication should be above and beyond, for example, some type of park for that area.

Mr. Klad Zimmerle stated that one of the last staff meetings was on May 11th, 2006, and according to some of the notes that were kept from that meeting, there was a lot of engineering negotiation that went on in the process between staff and Bella Vista's engineer. A lot of things were worked out. In that meeting, Bella Vista had given an additional 20 feet of property on both the north and east sides of the subdivision, which had been done prior to coming to the Commission for final approval. Ms. Few then asked that the application be modified, but he doesn't think it ever went past her. Mr. Zimmerle stated that the modified application that should have been approved gives them credit for 1.4 acres.

Mayor Carroll said that in going back and looking at the plat that was approved back in 2006, the only difference that he sees is the additional six feet of drainage easement along the side. As the Mayor recalled, they approved that with the condition that all of the other issues would be worked out. His question was since they approved it the last time requiring fees in lieu of land dedication why this would be any different. Mr. Zimmerle said that the application that was approved was the one that gave them credit for 1.4 acres of land to satisfy the public land requirement.

Mr. Alterson said that is what was on the application, but the action that took place on June 27th, 2006, was that a motion was made by Commissioner Brockett to approve the plat with the condition of requiring fees in lieu of land dedication. While a year ago the Planning and Zoning Commission sided with the developer and was willing to accept the developer's argument, the City Commission was not. Mr. Zimmerle reiterated that he was asked by staff on May 11th to modify the application for the packets for approval.

Commissioner Cole asked if Mr. Zimmerle was saying that would affect the 3%, and Mr. Alterson said that it is still the City Commission's call. Commissioner Cole went on to say that the City has always requested "X" percent for open space of some type, and he doesn't know how that could work as a drainage ditch. He thinks the 3% dedication of "public sites and open spaces" is not a drainage ditch and it needs to be there one way or another, as it is required of all subdivisions. Mr. Zimmerle said it was over and above that, as was negotiated with staff. Commissioner Cole replied that it is a trade-off, but it is not one that he would like to support.

City Manager McCourt said that he believes that the applicant is requesting that the area for the drainage ditches be included as part of the public dedication thereby reducing the 3% fee. From what he understood Mr. Alterson to be saying, that was the same request that was made a year ago at which time the City Commission said no to it. The application is asking that it be considered in that way, and Mr. Zimmerle seems to be saying that they understood that staff was supporting that request. Mr. Zimmerle agreed that was what he was saying, but City Manager McCourt pointed out that the Commission action a year ago did not support the request.

Mayor Pro-Tem Griggs said that the additional six feet is now and not a year ago, which is the only difference. City staff was saying they needed six more feet to handle the drainage issues that might occur, and that has been complied with, but Mayor Pro-Tem Griggs asked how many square feet that would be, as the area is 1,320 feet long.

Mayor Carroll explained that the reason this is back before the Commission is that staff had said to go ahead and approve it and they would work out the details. In working out those details, for whatever reason the time frame did not meet the requirements for filing the plat. If the details had been what were initially approved, they would be talking about re-approving the same thing with the same conditions that were approved a year ago. The mistake may have been that the Commission approved it without all of the issues worked out, which was likely an attempt by City staff to accommodate the developer.

Mr. Zimmerle said that if they could over the next one to two weeks prior to the next Commission meeting work with somebody from staff, they have given a lot of land that is above and beyond and if they could work out the value of that mutually, he feels they should get credit for some of it.

Mayor Carroll said as one Commissioner, he doesn't have any problem if Mr. Zimmerle wants to table the item to the next meeting and engage in more discussions with staff in hopes of them changing their recommendation. Mr. Zimmerle wanted a little assurance, however, as they already paid the 1.5%, which was \$14,000, in January. Rather than the developer paying \$28,000, since a lot is similar in value, Mr. Zimmerle wanted to know if the Commissioners would consider that in lieu if they could work it out and get a staff recommendation.

Commissioner Ledford asked if Mr. Zimmerle was saying that the six-foot credit would come in as somewhat less than what the public land dedication would be, and he was. That is where the lot comes in. Mr. Zimmerle would like to table the item and work with staff to see if they could change the recommendation. Commissioner Cole asked if the Commission approves it if they would go back and look for a 3% public site open space area. Mr. Zimmerle said that what they are possibly considering is in lieu of the money donating land. Commissioner Cole said that it was fine with him.

City Manager Pat McCourt stated that Mr. Zimmerle had a good point in that two weeks may not be sufficient time to complete the discussion, particularly as Mr. Alterson has a couple of other high-priority tasks that he is working on, specifically the re-write of the zoning code. They could make it no later than the second Commission meeting in September.

Commissioner Ledford asked Mr. Zimmerle if he was anticipating negotiating with Mr. Alterson and then coming before the Commission with a staff recommendation that they anticipate the Commission would approve. Mr. Zimmerle said he is anticipating handing a deed to the Commission for a lot with the understanding that the Commission would probably accept it if the issue is worked out. Mayor Carroll said that is what he would anticipate. If staff's recommendation is that it would be a better benefit to the City to acquire whatever the developer is proposing over the cash in lieu, then he would think that is what the Commission would do. City Manager McCourt said his understanding is that the Commission is directing them to go back and meet with the developer to try and work out an agreement. As always, the final decision is the Commission's, and the Commission doesn't always agree with staff recommendations.

Commissioner Cole wanted to make it clear that at times they have approved money in lieu of land, but most know that he has been very strong in wanting some type of park or other type of area as a quality of life area within subdivisions. Mayor Carroll said that what he understands Mr. Zimmerle to be proposing is rather than cash to give them a parcel of land. That said, Commissioner Cole said that he wanted Commissioner Ledford to understand that the reason he is supporting tabling the item is that he would like to see something like that. Commissioner Ledford said he thinks they have the option to do cash in lieu of, but in fact, it is the Commission that has that option.

Mayor Pro-Tem Griggs stated that when the Subdivision Ordinance was reworked, it was designed to do certain things. Public land dedications are sometimes a very feasible thing, but in subdivisions that are smaller, it isn't. The obvious approach then is to take cash in lieu. If Mr. Zimmerle and the developers can come up with an amount of land that makes an appropriately sized park, it becomes something that ought to be considered. If the park is just a lot, that may not be sufficient.

Mayor Carroll reiterated that what Mr. Zimmerle is asking for is the opportunity to sit down and try to convince staff that the City would be better off accepting some parcel of land rather than the cash. Mr. Zimmerle clarified that what they are requesting is that they deed to the City a lot in the subdivision that is under construction right now. The utilities are being put in, and the subdivision is right across from the ball fields. Sale of the lot would generate \$30,000 to \$37,000, and that could be used at the park to build a recreational area or purchase playground equipment.

Commissioner Lujan reiterated that the lot might not be big enough for the purpose of having a park, and that should be kept in mind. Mr. Zimmerle said that the minimum park size is one acre, but, again, the revenue generated by the sale of the lot may exceed the 3% required. Mayor Pro-Tem Griggs asked if the Ordinance as written allows what Mr. Zimmerle was proposing, and Mr. Alterson would have to discuss it with the City Attorney. It was stated that this kind of agreement has been done, but it may have been prior to the re-writing of the Ordinance. Mayor Pro-Tem Griggs said that in Mr. Zimmerle's and the developer's defense, this has been an interestingly done subdivision. If there is any room or any reason for the City to look at being more accommodating in this instance and in others, that might be the case in this situation. There may, however, not be a way around the Ordinance. Mayor Carroll said if there is not, they could come back at the next meeting and say that it can't be done. All they are asking for is the opportunity to sit down and talk about it. Commissioner Lujan asked if this would be under the old or new Subdivision Ordinance, and it would be under the new Ordinance.

Commissioner Cole made a motion to table this Item to no later than the second meeting in September to allow the developer to work with staff on the public land dedication. The motion was seconded by Mayor Pro-Tem Ron Griggs. A vote was taken, and all voted "aye." The motion carried by a vote of 7-0-0.

Mayor Carroll recessed the meeting at 8:45 p.m., and the meeting reconvened at 8:57 p.m.

7. Consider Ordinance No. 1305 consenting to the annexation of 97.37 acres requested by Sedona Development Inc. [Case # A-07-0069(A)].

Recommendation: Staff recommends against improving the ordinance for final publication.

Mayor Carroll said that the developer had met with staff and the Commissioners, and he would basically like to back up a little bit and take another look at the whole project. The request is not to take any action tonight but to give the developer and staff an opportunity to see if a new proposal would meet with a favorable reaction by staff.

City Manager McCourt suggested a similar action in terms of not leaving it open-ended but setting a time certain to encourage both the staff and the developer to get together, work out the details and bring a proposal back to the Commission.

Robert M. Doughty, II, represents Sedona Development in matters relating to its request for annexation and approval of the proposed subdivision. He knows that it is the City's policy that when property is annexed water and sewer services are not guaranteed. They are two entirely distinct issues, and Sedona is not asking for a commitment from the City to provide either. The subdivision in some form is going to go forward, and they will work with the City engineer and staff in designing utilities and do that before it comes back before the Commission. Mr. Doughty went on to explain that this came before the Commission on a Petition for Annexation of 97.34 acres, and the original subdivision would have included 70 to 80 lots. In a joint memorandum of July 19th, 2007, from Arthur

Alterson and Rocio Dominguez, they made the following statement, "The City Commission and the developer could consider annexation of only the West most rectangle of the subject property." For multiple reasons, the developers are making a formal request to amend the Ordinance to provide for annexation of the West-most portion of the property. It is not really a rectangle, but it is the Western-most portion of the subdivision. It would include 32 lots and approximately 36 acres as opposed to 97.3 acres and 70 to 80 lots. The balance of that his clients are not ready to develop, but they know that some of the staff have indicated that based on this request, Sedona needs to re-commence the process of annexation. If they were increasing the scope of land to be annexed by the City, he would agree as a matter of law, but they are reducing it to 36 acres and would ask the Commission to consider whether they can under an amended Ordinance annex the 36 acres.

Mayor Carroll said that he is not sure if they have a choice but to go back and start the process again rather than approving an annexation where they don't even have a legal description of what they would be approving. He thinks it would be in everyone's best interest to be sure that everyone is clear on what is being asked and what the City would be agreeing to do.

Mayor Pro-Tem Griggs asked if they tried to go back through the process what that would entail in terms of re-publication of the annexation. He wanted to know when the timeline would start, as he would like to see the Commission come to a decision regarding the annexation as quickly as possible. City Manager McCourt said that a new Ordinance would have to be published indicating the area that is proposed for annexation. They would need the legal description so that it could be put in the Ordinance, and that could then be put on the next City Commission agenda. City Manager McCourt suggested that it be brought forward at the next meeting to discuss other issues also to get them resolved.

Mr. Doughty said that the issue is do they go back to the point of filing a Petition for Annexation or do they just amend the Ordinance, one of which wouldn't take a lengthy period of time and one of which wouldn't? City Manager McCourt said that what they need to get the process started one way or another is the legal description. Mayor Pro-Tem Griggs asked if they amended the Ordinance if they would be amending it finally the next time or if they would only be approving for the first time next time. City Attorney Bill Brogan said that he believes that they have to start over, and he doesn't know if they could be ready by the next Commission meeting or not. By the Commission meeting after that they should be. Mr. Alterson said that starting over might entail another presentation before the Planning and Zoning Commission. City Manager McCourt asked when they could have an answer to that, and City Attorney Brogan said that he would get City Manager McCourt an answer to the question of whether they would have to start over.

Mark Bolin from Sedona Development asked if there were any negative responses to the first publication, and Mayor Carroll was not aware that there had been any public comments. Mr. Alterson said that he didn't believe they had gotten any comments at all. Mr. Bolin said that he couldn't see how making the property in question smaller would require them to start over at the beginning. He believed they were talking about the same subdivision, and it gets down to comments by staff. They are still at just annexation. Mayor Carroll said that it is always a good practice to defer to one's attorney, and they would have to publish the Ordinance for first publication again. He wouldn't, however, see why it would have to go through the Planning and Zoning process. If they were comfortable in recommending 90 acres, he didn't see any reason why there would be a problem in recommending less than 90 acres. City Manager McCourt pointed out that actually staff recommended against the annexation the first time. Some of the proposals that have been presented make it much more palatable, and City Manager suggested that he thought they could work something out. He was thinking that what they might want to do is have a proposal presented that is palatable.

Commissioner Moncada said that she could understand if they were adding on to the original annexation, but as they are downgrading it, she doesn't see why people would object to a smaller area versus a larger one. Mayor Carroll agreed, and that is why he was saying that it wouldn't have to go back through Planning and Zoning. That said, it would need to be published for the first time

again. Mayor Pro-Tem Griggs made the point that they are talking about pushing it back at best four weeks. City Manager McCourt said that he would have to get with City Attorney Brogan to determine the appropriate timeline, but his recommendation was to move it forward as quickly as they could. There were concerns about being able to provide City services to the parcel, and those are the items that need to be worked out. He asked Mr. Bolin if he would be able to commit some time to working with staff so they could try to make sure the issues are resolved as quickly as possible. Mr. Bolin said they could commit time to staff to work on that.

Commissioner Lujan asked if they would need to re-publish it in the paper to see if there were any protests because it is different than the first one. Mayor Carroll said that has to be done not so much because they are looking for protests but just to notify the public.

Mr. Bolin stated that the way he understands it is they will know tomorrow whether they have to go back to first publication or not, and though staff recommends against the approval, they have discussed it and left a package for the Commission outlining options that do make it much more favorable. Mayor Carroll said that both staff and the Commission are interested in expediting the new proposal, and they will work to do that as best as they legally can. Mayor Carroll asked City Attorney Brogan if they needed to take action on this particular Ordinance, and City Attorney Brogan said that they have to take some sort of action on it. City Attorney Brogan said that it is his understanding that Ordinance 1305 is no longer being requested by the developer, and he suggested that either the developer withdraw the request for annexation of 97.37 acres or that the Commission as it pleases denies the consideration of Ordinance 1305 as it has been presented.

City Manager McCourt said that it was his understanding that the developer was asking that Ordinance 1305 be amended to change the description. They however don't know what to amend it to because they don't have the legal description, and then the question is even if it is amended if it needs to be re-published because it is substantially different. City Attorney Bill Brogan said that he doesn't see any way to amend the Ordinance without a legal description. Mr. Alterson suggested that perhaps the Item should be tabled. Mr. Zimmerle offered to go to the office, type the legal description and have it back in 15 minutes. Mayor Carroll said that the Item before them is the final adoption of the Ordinance, and they can't amend it for final adoption. They have to publish for first publication the new description.

Mr. Doughty said that they would prefer that the Item be tabled rather than defeated. Mayor Carroll said that the other option would be to withdraw this Item and start with a new one. Mr. Doughty still said they would prefer to table it as opposed to it being withdrawn or voted down. Mayor Pro-Tem Griggs said that the Ordinance calls for the final adoption of the annexation of 97 acres. He asked if with the Ordinance amended to 30-some acres per the map that is provided they could or could not approve that with the understanding that there was no guarantee of City water. Mayor Carroll said that the concern was that the City has said one thing to the public in the first publication, but then final action would be taken on something different. At some point in the process, a first notice of the new annexation proposal has to be given to the public.

Mr. Bolin pointed out that in the Agenda Report it would be published a second time if it were to go through, and the summary would be published a second time on Sunday, September 2nd with the Ordinance becoming effective September 7th. It would be published one more time with the change. Mayor Pro-Tem Griggs said that he knows in the past they have amended Ordinances for the second publication though it may not have been for an annexation. City Attorney Bill Brogan reiterated that it is his legal opinion that to approve it as amended would not constitute due notice under the Ordinance and would conceivably subject the Ordinance to successful challenge in Court. He would recommend against attempting to amend the Ordinance prior to the second publication.

Commissioner Lujan asked if the Item is tabled it would allow them to even take action on it because it is a different request. City Manager McCourt said that he just heard the City Attorney, who is the City's legal advisor, say that they could not adopt the Ordinance in its current form unless the annexation is for the 97 acres. Mr. Doughty said that with a bigger subdivision a developer generally

could spend more money on infrastructure because it is recouped through lot sales. There have been some suggestions by staff that his client build some infrastructure. The only reason he is asking that the Ordinance not die is in case they are not able to work out to the Commission's satisfaction a 32-lot subdivision. Then they could come back to this Ordinance as a back up.

Commissioner Lujan made a motion to table this Item until the next scheduled Commission meeting. The motion was seconded by Mayor Carroll. A vote was taken, and the motion passed with a vote of 4-3-0. Commissioners Brockett, Moncada, & Mayor Pro-tem Griggs voted nay.

OTHER BUSINESS

11. Stephen Morgan requesting enforcement of the Florida Avenue Development Contract.

Recommendation: None.

Mr. Stephen Morgan explained that he was at the City Commission meeting a couple of months ago and asked some of the same questions. He went on to say that he lives on Dessert Bloom Court, which is right off the end of South Florida where there is a 500 to 600-foot section of road that is not paved. He has asked why it is not paved, but he keeps getting different answers. A couple of months ago at the Commission meeting, he was told there was an agreement between the City and the developer and they were not required to pave it. Mr. Morgan said that according to the Florida Avenue Development Contract that stretch of street is to be paved. Then, however, there was an amendment to the Florida Avenue Contract that changed the requirement for it to be paved stipulating certain circumstances one of which was to allow them five years to pave it and another of which would be when Sedona Ridge Phase II/III reaches 70% occupancy. Mr. Morgan stated that they are currently at 84% capacity, and in light of that, the road should be paved. In addition to that, between the time of the five years or the 70% the road was supposed to have been chip sealed, and that hasn't been done either. He would like to see the contract enforced.

Mayor Carroll said that Mr. Morgan was correct in that there were some conditions that triggered the revised agreement, and that was perhaps something that the City had not pursued as diligently as it should have as far as notifying the developer that the trigger point had been reached. They have recently notified him of the requirements under the contract. City Manager McCourt said that he understands that a letter was hand-delivered to the developer telling him that he was in violation of not keeping the road chip-sealed, and it had hit and passed the trigger point and they needed to construct a road.

Mr. Morgan thanked them for doing that but expressed that he has been trying to get it resolved for a year and there has been a roadblock every step of the way. Mr. Morgan said that there is even a sign saying that City maintenance ends and it is a private road. Mr. Morgan's contention was that it is not a private road but has been signed over to the City. City Manager McCourt said it is still a private road. It has not been accepted by the City as a roadway, and before the City would accept it, the road would need to be built to City standards, which is what the contract is designed to do.

Ms. Michelle Heally, a resident in the area, asked why if it is not City property there is stop sign at the corner of Florida and Oakmont. City Manager McCourt said that Oakmont is a City road, but Ms. Heally went on to say that the stop sign is on Oakmont facing the gravel road. There is nothing going into Oakmont from Florida so to her it doesn't make any sense. City Manager McCourt said there could be stop signs even in the middle of parking lots. It is there to stop people before entering the private stretch of road. Mayor Carroll said that the stop sign is there as a safety issue for the people who are going east off of Oakmont. Commissioner Lujan then pointed out that the issue is protecting the people who are driving on the City road and making them aware. Mayor Carroll agreed in that the stop signs are there for safety, and they do not designate ownership. Mayor Pro-Tem Griggs said that they put some stop signs up a while back, and though he didn't really necessarily understand why any of them were put there, the only reason he can think of is that at some point in time South Florida

is actually going to be a road. Otherwise, there is not enough traffic to make a difference to anybody at any time. Ms. Heally said she could understand it if that would happen in the near future, and Mayor Pro-Tem Griggs then went on to explain that South Florida is part of what is called GRIP 2. The plan is for it to continue as a three-lane road going around to tie into the highway. Some of that has been funded, but the City is not exactly sure how all of it has been funded. It has been set up such that the City has a 30% match requirement on it so South Florida and North Scenic will cost the City a lot of money, and that may not occur for an extended period of time. It might be foolish for the developer to begin the road until the City knows where the grades for the main road would be and how that would work.

The other part of the disagreement in terms of "chip-seal and maintain," should be enforced to make the road passable. Mayor Pro-Tem Griggs stated that while he appreciates some of the frustration, there are a lot of things that they are trying to get done simultaneously. Commissioner Cole asked if the letter to the developer included a timeline by which the things needed to be addressed.

Mr. John Husty, who lives on the corner of Oakmont and Dessert Bloom Court, said that he doesn't mind the stop sign, as it slows the traffic down. He has been told, however, that it is not City property so they cannot put speed limit signs up. City Manager McCourt agreed but pointed out that the property owner could do it. Twice, people have driven through Mr. Husty's yard because they go very, very fast. There are also four-wheelers that drive through, and at ten o'clock at night all kinds of people go through that area. Mr. Husty stated that he has talked to Sharon about it before, but nothing has really happened. City Manager McCourt said in response to Commissioner Cole's question about time frame that the letter demands that Sedona Development, Inc. comply with the terms of the contract immediately in order to avoid enforcement action by the City of Alamogordo.

12. Essential Air Service for Alamogordo (EAS).

Recommendation: Award the Essential Air Service to New Mexico Air.

City Manager McCourt explained that Essential Air Service is a program sponsored by the U.S. Department of Transportation that provides for scheduled airline service to remote communities. Alamogordo is considered one of those, and so a subsidy is provided to support scheduled airline service. The City has been through a variety of carriers over the last few years, and the most recent carrier, Mesa Airlines, delivered a letter indicating that they wished to stop delivering services under their essential air contract with the Department of Transportation. The City filed a protest, and the Department of Transportation told Mesa that they could not discontinue until a new carrier was selected. An RFP for Essential Air Service was then issued, and three responses were received, one from Mesa Airlines, one from Great Lakes Aviation, and one from New Mexico Air.

As part of the review process, staff did have an opportunity to meet with Holloman representatives from their travel office to show them the proposals. The U.S. Department of Transportation would like a response by September 7th, and so there was not time to put it on the next agenda. The City also asked the Airport Advisory Board to review the proposals, which they did last week, and their recommendation is to recommend to the Department of Transportation that the essential air service be awarded to New Mexico Airlines waiving the requirement for a dual-engine, pressurized aircraft. Holloman would independently make their recommendation to the Department of Transportation. It was requested that representatives from the three airlines be present to discuss their proposals, but only one appeared to be present at the meeting.

City Manager McCourt went on to explain that the Mesa proposal contained a lot of contingencies. For instance, they are proposing service to Phoenix, but it is contingent on them receiving a whole variety of other contracts. There is no assurance even if it were recommended that Mesa would agree to the contract later. City Manager McCourt does not believe their proposal is a strong consideration by either the staff or the Airport Advisory Board.

Mr. Jim Talbert, chairman of the Airport Advisory Board, stated that they took a look at the three proposals, and it boils down to about seven when they considered the different options. They looked at each one independent of the others. The first was to completely forget EAS and tell the DOT that Alamogordo doesn't need that anymore. Their feeling on that, however, was that the government is going to spend the money somehow so why not in Alamogordo. Another was to maintain what Mesa is doing now, which with them not being willing to continue the service is really not a valid position. Looking at the new proposals, Mesa made three bids. The first one was Alamogordo to Phoenix, which in their opinion is totally unrealistic because they would have to put TSA security in Alamogordo. The second was to maintain the status quo for an increase of about \$250,000, and they did not feel that was sensible. The third from Mesa was to make a run back and forth to Albuquerque directly, which would be an increase of about \$400,000. Again, if Mesa is not happy doing what they are doing now, the Airport Advisory Board did not think they would be happy with that either.

The next proposal they looked at was from Great Lakes, and they are flying the same Beach 1900B that Mesa is flying. The Airport Advisory Board did not feel that airplane is necessarily the most appropriate one, as it is old and inefficient. In fact, most places are getting rid of them because of their associated cost of operation. In the event that EAS were to go to a cost-share basis, it would start costing the City money. Great Lakes is also pulling out of some cities in New Mexico that the Airport Advisory Board would be interested in having service to. As a side note, the Airport Advisory Board is going to work to maintain 139 status; that will not affect the discussion.

Getting down to New Mexico Airlines, their proposal was bigger than the other two. First of all, flying the Caravan, although Mr. Talbert is prejudice to a pressurized airplane, is more economically feasible for the routes that are being considered. It is a nine-seat airplane, and in the last year the ridership has dropped from 4.5 to 3.5 a day. New Mexico Airlines has been operating from Albuquerque to Carlsbad and Hobbs starting in June or July, and whenever they have needed more than nine seats, they send a second airplane, which is a more economical way to handle the situation. They are currently serving Santa Fe, and their interest is in selling through tickets so one could buy a ticket from Albuquerque to Taos or Santa Fe without having to buy a ticket from Alamogordo, to Albuquerque, and then to Santa Fe as two separate tickets. New Mexico Airlines is also in the major ticketing agency on-line so that travel agencies would be able to book tickets through that. They are also on Orbitz and some of the other ones on-line in addition to their own website. They are flying full airplanes right now out of Carlsbad and Hobbs, and they are also starting to really pick up in Santa Fe. It is an airline that is growing and wants to be in Alamogordo.

Commissioner Ledford asked if the committee looked into the financial stability of the airlines, and Mr. Talbert said that New Mexico Airlines has been in business 34 years and they have taken EAS routes and then dropped the ESA by making the route profitable, which is something that none of the other airlines have done. Commissioner Ledford also asked if New Mexico Airlines showed the scheduling that they are proposing and talked about the service that would be provided to different routes. Mr. Talbert said that those things are being developed. The majority of the people that come into Alamogordo are businessmen, doctors and such that come from Albuquerque. A morning run is the most important run, but it is also important to be able to go from Alamogordo to somewhere else in New Mexico without having to change airplanes, which will be a convenience. They just started servicing Santa Fe a week ago, and they are starting Taos and Roswell early in September. Commissioner Ledford said Albuquerque to Alamogordo is great, but he doesn't live in Albuquerque. He asked if they would have an early flight from Alamogordo to Albuquerque. Mr. Talbert said that they might station an airplane in Alamogordo, which would allow for an early morning departure from Alamogordo. At present, however, they are hubbing out of Albuquerque.

Mr. Greg Kahlstorf, CEO of New Mexico Airlines, stated that on the subject of schedules they are limited to Carlsbad and Hobbs. Earlier this year, the number one complaint they heard was the schedules were not convenient. The number two complaint was the airline was not reliable, and the number three complaint was that the fares were too high. They attacked reliability by adding factory-new planes. In addition, a certain fare level was guaranteed, and as far as schedules, it is kind of a no-brainer that most people want an early morning flight. The earlier the flight is into Albuquerque,

the more outbound connection options an individual has. They want an early morning flight in both directions, and because they have multiple airplanes, they can do that. One thing he really has tried not to do, however, is to set expectation levels such that they can't keep them. What he can say is that his gut tells him that people in Alamogordo are going to want an early morning flight that will put them in Albuquerque between 7:30 and 8:00 a.m. or 7:15 to 7:30 a.m. The schedules are largely a product of what the community wants, and the thing about EAS is it's an entitlement for the community. One of the nice things about New Mexico Airlines is it doesn't have destinations in ten other states to serve. All of their planes are in New Mexico serving New Mexico, and they want to do what's best for New Mexico. When it comes up for renewal, they want it to be a no-brainer.

Commissioner Lujan asked what the latest flight would be back to Alamogordo, and Mr. Kahlstorf said that in Carlsbad their last flight is at about 4:50. They had been hearing, however, that people were coming in on later flights so they moved it back to 8:00 p.m. Alamogordo would probably be the same because most would either be coming in on a connecting flight from Albuquerque or driving down to El Paso, which is another route that they want to introduce, which isn't subsidized by the government. They are also looking at doing some investing, which would allow them to do maintenance in Alamogordo. If the flights are coming out of Alamogordo, they would have to go fairly early to get to the other places they need to be, and this would also be the last place they would come back to. That would mean pretty early service out based on what the community would support. There would not be a flight yet directly from Santa Fe to Alamogordo. There wouldn't be a lay over, but it would be the same plane going from Santa Fe, to Albuquerque and then to Alamogordo. Mr. Kahlstorf explained the philosophy of New Mexico Airlines in terms of the use of EAS government subsidy with hopes of ending in a business model that utilizes free enterprise to sustain itself. Mr. Kahlstorf has also had some discussions with Mobility Air Command, as they manage all of the air transport for the United States' military. He was concerned about their ability to use the service, and there is not a problem with that. He feels that if they can offer seats out for \$30 at say 6:00 a.m. and a last flight from El Paso, as their plan is to go Albuquerque, Carlsbad, El Paso and then Alamogordo, then they may fill it with retirees and military people—those who may not fly at even a \$15 higher price point. The strategy to fill flights especially if New Mexico Airlines winds up basing in Alamogordo is really cheap and lots of frequency. As far as return times, if people feel pinched for time, they won't use the service. In Carlsbad, they surveyed people and started to see a trend towards individuals wanting earlier departures and later returns. Instead of departing at 7:05 a.m., they will depart at 6:00 a.m., and instead of returning at 4:50 p.m., the plane will leave at 7:50 p.m.

Mayor Pro-Tem Griggs made a motion to recommend to DOT that they award the Essential Air Service to New Mexico Airlines and waive the requirements for a pressurized cabin and a dual-engine aircraft. The motion was seconded by Commissioner Lujan. A vote was taken, and all voted "aye." The motion carried by a vote of 7-0-0.

Mr. Kahlstorf expressed his appreciation for their vote of confidence, and stated that they would not regret it.

Commissioner Ledford asked Mr. Kahlstorf what his opinion is of the business attitude of Alamogordo compared to other communities in New Mexico. Mr. Kahlstorf stated that as a whole, the State of New Mexico seems to be pro-business. The thing that sets Alamogordo apart is they like the idea that their employees could come to Alamogordo on the salaries that they pay, buy a home, work for a few years, sell it and have some equity, and there is a diversity of things to do in Alamogordo. Alamogordo has something to offer, and there is a business climate that supports development but doesn't just beat prospective businesses over the head with it. The only handout they take is the EAS funding, and their goal is to get out of that and develop a successful business model. They feel good about Alamogordo, and he is honored that they have been selected to be endorsed.

Mayor Carroll thanked them for their willingness to come to Alamogordo and stated that they are looking forward to a long and profitable relationship.

13. Accept a proposal for Dry Canyon Erosion Protection from 24th St. to Canal St.

Recommendation: Accept the proposal submitted by Mesa Verde Enterprises, in the amount of \$131,684.77, including NMGRT.

City Manager McCourt explained that this is a project that was started a couple of years ago by the old KOA between 24th Street and Canal Street where there was a lot of erosion into the property. The project got about half done with the money they had available, and so they then rolled it over into a new budget year. This will allow them to complete the west side of the ditch between Canal and 24th Street. They did not bid this project, but it is being done under the GSA contract that Mesa Verde has. They are under budget.

Commissioner Cole made a motion to accept the proposal submitted by Mesa Verde Enterprises in the amount of \$131,684.77, including NMGRT. The motion was seconded by Commissioner Lujan. A vote was taken, and all voted "aye." The motion carried with a vote of 7-0-0.

17. Appointments to Boards and Committees.

Mayor Carroll appointed Ms. Yannette Quintana to the Airport Zoning Board. The clerk will notify her of the appointment.

UNSCHEDULED COMMUNICATIONS:

1. Commissioner Inez Moncada

Commissioner Moncada thanked the City staff for moving the sign at the cemetery that said, "Dead End."

2. City Manager McCourt

City Manager McCourt reported that the water report is fine. The New Mexico Municipal League meeting is going on in Las Cruces, and he will be attending that on Wednesday, Thursday and part of Friday. He will be taking the remainder of Friday off, and Mr. McNeile will be acting city manager during that time.

City Manager McCourt reminded the Commission that the Cottonwood Festival is the upcoming weekend in Alameda Park, and Oktoberfest is coming up on September 22nd. He suggested that anyone interested in attending get their tickets because they usually sell out. Also, Team Holloman is September 21st, and the City Clerk's office has a sign-up sheet for people willing to work at that event.

Finally, City Manager McCourt indicated that he had sent out a couple of memos on the road improvement program for the City, which is different than the street maintenance program. It envisions using a new 0.25% gross receipts authority that has been granted by the State legislature. Before that could be imposed, there would need to be a City election. The next available ballot is the March election for City commissioners, and action would need to be started on that in early October. If they move forward on it and it is approved, it could potentially raise about \$1.4 million a year. What has been discussed is using that to make payments on a bond that would then be used to do a series of road improvements. City Manager McCourt has a town hall meeting scheduled on September 19th, and he would like to make this the topic of that meeting. In the October newsletter, they would then print up a story getting it to every address in the City. It would also be put on the website. If the Commission were to decide that they didn't want it on the March ballot, they could always pull back and void it out, but if the process is not started in October, the next opportunity for an election is in August of 2008. The suggestion has been made that the tax be set up with a sunset clause. The point was also made that the specific

projects could change that are covered by the tax, and the current list is only suggestions. It was, however, pointed out that they might gain broader community support if there are some definitive projects identified.

EXECUTIVE SESSION: There was no need to go into Executive Session

ADJOURNMENT

Commissioner Brockett made a motion to adjourn the meeting at 10:29 p.m. The motion was seconded by Commissioner Moncada. A vote was taken, and all voted "aye." The motion carried by a vote of 7-0-0.

/s/Donald E. Carroll

Mayor Donald E. Carroll

(SEAL)

ATTEST:

/s/Reneé L. Cantin

City Clerk Reneé L. Cantin

(Prepared by Ubiquis Reporting)

Approved at the Regular Meeting held on September 11, 2007.