

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
7:30 P.M., COMMISSION CHAMBERS
SEPTEMBER 11, 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, PLEDGE OF ALLEGIANCE AND
MOMENT OF SILENCE**

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 Pastor Justin Crispin, and the Pledge of Allegiance was led by Commissioner Brockett. Mayor Carroll asked for a moment of silence in remembrance of September 11, 2001, and Al Marchand from the Alamogordo DPS, as well as the victims and families of the September 11th tragedy.

PRESENTATIONS:

1. Presentation by Mr. Steve Finch of Shomaker and Associates concerning the analysis of Dr. November's paper.

Mr. Steve Finch addressed the Commission and thanked them for the opportunity to make his presentation. He provided a 13 page handout with illustrations and a letter with review comments of Dr. November's paper. In the review of the paper, Mr. Finch set aside the mathematical component and concentrated just on the concept that Dr. November had presented, to see if the data they have at hand validates his conceptualization of the system.

Mr. Finch guided the Commission through the handout, including a detailed illustration of the La Luz watershed, while going through the assumptions of Dr. November's paper one by one. The first assumption was that Alamogordo substantially repaired and moved its collection system between 1982 and 1997 to capture nearly all the stream flow at the mountain stream sources. The results of Mr. Finch's technical review show that the collection system has been in place for quite some time. He explained that the city bought the water rights in the 1950s and the spring boxes were put into place directly after that, and some may have been there even prior to that. The statement saying the spring sources were captured between 1982 and 1997 is not true. Mr. Finch provided a map from 1982, drawn up by an engineering firm working for the city at that time, and the map shows the evidence of the pipeline, the springs, and the diversions that were in place prior to 1992.

The second assumption made by Dr. November is that the La Luz-Fresnal stream flow dropped 77 percent, from 11 million gallons per day, to 2.5 million gallons per day, between the mid-1980s and present time. Dr. November is comparing the stream flow to spring flow. Several graphs were provided in Mr. Finch's handout, which demonstrated measurements of stream flow. There was a brief period of time, from 1983 to approximately 1988, in which the geological survey measured the flow in the stream at the bottom of the watershed. There were no other points on the graph that represent that type of measurement. There were two other lines of data on the graph corresponding to inches per year of precipitation at Cloudcroft, and also snow pack at Cloudcroft. Snow pack influences the spring flow. In the mid-80s when the U.S. Geological Survey was measuring the stream flow at the bottom of the watershed, the mid-80s to 1995 was the wettest period in New Mexico on record for precipitation and snow pack. Dr. November's assumption is not valid because his interpretation in comparison of stream flow to spring flow is like comparing apples to oranges.

The third and fourth assumptions made by Dr. November describe the hydro-geologic portion of his conceptual model, claiming that the spring flow is lost to ground absorption, and that moisture percolates into a soil layer that is 130 feet thick, which flows horizontally. The underlying limestone is impervious. The results of the technical review are that results from numerous geologic studies and data going back almost 100 years ago show the stream gains from ground water flowing out of the limestone aquifer. Mr. Finch presented several sets of figures and conceptual models to further demonstrate that Dr. November's assumptions here are not valid.

Finally, Mr. Finch concluded that Dr. November's interpretation of existing data is misleading and not supportive of established hydrologic concepts, and that most all of Dr. November's assumptions are not supported by existing data or observations. Dr. November's analysis conflicts with observed hydrologic processes governing spring flow, ground water flow, and soil moisture distributions.

Mayor Carroll asked if the Commission had any questions, and went on to state that Dr. November has indicated that his hypothesis is something new and has not been considered before, and there is obviously a conflict between conventional wisdom or current thinking and this new theory. There are two differing opinions about what is going on in the hydrology of the La Luz-Fresnal Canyon.

Commissioner Brockett asked Dr. November if he could sum up in about three minutes what might be considered to be the points that he takes issue with.

Dr. November explained that he prepared a written statement which goes through the specific comments that Mr. Finch made earlier, and sought permission to share it with the committee. Mayor Carroll gave permission, and added that it would be made part of the record. Dr. November went on to explain his conceptual model, a one-dimensional model, which is breaking new ground, showing a basic physical effect, retention of mountain moisture due to backing up in lower saturated zones. The idea has not been described or shown in scientific literature and is in review, but Dr. November believes that it stands of its own merit. It is essentially a mathematical model that is an idealization. It does not intend to take into account all of the details about the system. The one-dimensional physics simply shows that the saturated block prevents moisture from coming out of the mountains and produces a backing up, an issue described in scientific literature since the 1980s, the idea of hydraulic jump, or backing up of moisture percolation. Dr. November explained that the scientific community has a discussion going on regarding this, and his paper is a contribution to the ongoing discussion. . He agreed that it is hard to compare downstream measurements with upstream spring output, but in fact the downstream measurements are many times larger than what Alamogordo is getting out of the top, suggesting clear evidence in the data that something remarkable and drastic is happening. Dr. November estimates, at a minimum, a 70 percent decline in the output of the system between 1986 and 2002. He feels the case for Alamogordo is quite severe and the city needs to consider it seriously.

Mayor Carroll expressed his appreciation to Dr. November for speaking, and perhaps helping everyone better understand the hydrology of the Sacramento Mountains.

CALL OF THE CONSENT CALENDAR: Items # 2, 7, 8, 9, 10, 12, 13, & 14.

Roll call vote not required for any items.

MINUTES:

2. Minutes of August 27, 2007 Regular Meeting.

Recommendation: Approve the minutes.

CONTRACTS AND AGREEMENTS:

7. Approval of contract extension with Zia Therapy Center for public transportation services.

Recommendation: Approve the contract.

8. Approval of agreement with Otero County for Library Services.

Recommendation: Approve the agreement.

9. Approval of agreement with Otero County for Retired and Senior Volunteer Programs (RSVP).

Recommendation: Approve the agreement.

10. Approval of agreements with Otero County for transportation of seniors and La Luz home delivered meals.

Recommendation: Approve the agreements.

OTHER BUSINESS:

12. IFB 2007-10, Miscellaneous Foods, Dairy Products, and Items for ASC

Recommendation: Award to Prices Creameries, five (5) items for an estimated total of \$13,839.54. Award to U.S. Foods, one hundred twenty-six (126) items for an estimated total of \$40,534.83. Award to Ben E. Keith, one hundred three (103) items for an estimated total of \$30,061.00. Award to Shamrock Foods, eighty-two (82) items for an estimated total of \$17,553.23.

13. IFB 2007-11, Base Course/Miscellaneous Departments

Recommendation: Award CEMEX for an estimated amount of \$47,770.25.

14. IFB 2007-14, Meter Cans/Central Receiving Stock.

Recommendation: Award to Morrison Supply, of Alamogordo, for a total of \$24,605.50.

Commissioner Ledford moved to approve items #2, 7, 8, 9, 10, 12, 13, & 14 of the consent calendar. Commissioner Brockett seconded the motion. Motion carried with a vote of 7-0-0.

PLANNING ITEMS:

3. Consider ordinance #1305 consenting to the annexation of 97.37 acres requested by Sedona Development, Inc. [Case #A-07-0069(A)]

Recommendation: Deny the Ordinance for final publication. [Roll call vote required.]

Mayor Carroll stated that this item came before the commission and was discussed in fairly extensive detail at the last meeting, and prior to the discussion the developer wanted to change his request from the 97.37 acres based on concerns about not being able to adequately furnish water and water pressure to part of the land, and he has revised his request for annexation to 44.147 acres and that is the item that will be considered. The recommendation is to deny this ordinance for final publication. Mayor Carroll asked if the developer was present, and Mr. Mark Bolin, of Sedona Development came forward. He affirmed that action would be taken on the 97 acres, moving on to the consideration of 44 acres since revised.

Commissioner Brockett moved to deny Ordinance No. 1305. Commissioner Cole seconded the motion. Roll call vote was taken. Motion carried with a vote of 7-0-0.

4. Consider Ordinance No. 1311, consenting to the annexation of 44.147 acres, requested by Sedona Development, Inc., [Case #A-07-0069(A)]

Recommendation: Approve the Ordinance for first publication.

Mayor Carroll explained that the corrected ordinance was to change and clarify that it is 44.147 acres and also to correct part of the legal description. Mr. Bolin had no comments and there were no questions or comments from the commission.

Commissioner Brockett moved to approve Ordinance No. 1311 for first publication. Mayor Pro-Tem Griggs seconded the motion. Motion carried with a vote of 7-0-0.

5. Public hearing to consider a backyard setback variance for Robert P. Smith. [Case #B-07-0514(A), 404 Santa Fe Drive].

Recommendation: Deny the backyard setback variance.

Mayor Carroll called Mr. Smith forward. Mr. Smith stated he would like to do a covered porch on the two houses to increase the value of the home, to create a nicer look and provide shade. Mayor Carroll then pointed out that it does in fact encroach into the required rear yard setback on the property and planning and zoning recommended denial of the request.

Mayor Pro-Tem Griggs asked Mr. Smith if when he submitted plans initially, if the plans indicated an uncovered patio, and Mr. Smith answered that covering the patio was an option. It was going to be a selling point for the potential homeowner.

Commissioner Lujan wanted to know how much it would be violating and encroaching, and Mayor Carroll explained there were two instances, and they would be encroaching by 4 feet 10 inches, and 4 feet 8 inches, respectively. If the patio was covered, it would encroach into the rear yard setback by five feet on both. Suggestion was made to shorten the patio, but Mr. Smith said it would be defeating the purpose of the covered patio.

Mayor Pro-Tem Griggs stated that this was one of the first instances where Planning and Zoning has recommended a denial. There had been a variety of cases with encroachment in back yards with buildings, but this particular instance still gives a 15 foot rear yard, and Mayor Griggs was not clear why Planning and Zoning was against this when in most other cases they were supportive.

Mr. Levi Williamson, of New Mexico Building Company, urged the commission to allow the porches because the contractor is improving an older community. He didn't feel the surrounding neighbors would have a problem because they are bringing in brand new houses and appreciating the value of the area.

Commissioner Moncada had a question regarding whether the property had an alley, and if the fire trucks could get to the back yards with plenty of space and room. It was determined that as long the alley was clear, they could get through. Commissioner Moncada inquired as to why this request was being denied by Planning and Zoning.

Mr. Arthur Alterson, Community Development Director, stated that the Planning and Zoning Commission can only make a judgment based on the evidence and testimony presented to them, and Mr. Smith did not attend the hearing. The Planning and Zoning commission continued from the July meeting to the August meeting, and Mr. Smith did not show up at that meeting either. The commission then felt like it had no other choice but to deny it, because it had no evidence presented to them. Mr. Alterson felt the City Commission should make the judgment based on the best information they have, but in defense of Planning and Zoning, he didn't feel their rejection was so

much an outright opposition to the proposal, but more of an absence of evidence as to why the variance should be granted.

Commissioner Ledford agreed that Planning and Zoning went with what the rule was, but that it seemed that 15 feet would be adequate. He inquired as to why Mr. Smith missed the Planning and Zoning meetings, and Mr. Smith stated it was a scheduling conflict. Commissioner Ledford didn't see any technical reason to deny the variance, nor did Mr. Jim Bird.

Commissioner Ledford moved to approve the backyard setback variance for Robert P. Smith, case V-07-0514(A), for 404 Santa Fe Drive. Commissioner Moncada seconded the motion. Mayor Carroll commented that there are other houses under construction on the street and there may be further requests. Motion carried with a vote of 7-0-0.

6. Public hearing to consider a backyard setback variance for Robert P. Smith. [Case #B-07-0515(A), 405 Santa Fe Drive].

Recommendation: Deny the backyard setback variance.

Commissioner Ledford moved to approve the backyard setback variance for Robert P. Smith, case V-07-0515(A), for 405 Santa Fe Drive. Commissioner Moncada seconded the motion. Motion carried with a vote of 7-0-0.

Mayor Pro-Tem Griggs asked Mr. Alterson, the Community Development Director, about the things they are working with regarding zoning. He wondered if setback variances were part of zoning or if they would be addressed separately at another time, and Mr. Alterson stated that they are looking at changes regarding setbacks.

Commissioner Brockett also asked Mr. Alterson if this was something that would stop and be decided with the Planning and Zoning under the proposal, or if this would still come to the commission. Mr. Alterson responded that it would be a final decision with Planning and Zoning.

ORDINANCES AND RESOLUTIONS:

11. Consider Ordinance No. 1313 authorizing the issuance and sale of hospital improvement and refunding revenue bonds for Gerald Champion Regional Medical Center.

Recommendation: Approve the ordinance for first publication.

Mayor Carroll explained that there was a presentation regarding this at the last meeting. Mr. McCourt suggested that the commission move forward with the item.

Mayor Pro-Tem Griggs commented that the Griggs Family Trust owns property adjacent to the hospital and due to this fact he would abstain from voting on this particular item.

Commissioner Ledford moved to approve Ordinance No. 1313 authorizing issuance and sale of hospital improvement and refunding bonds for the Gerald Champion Regional Medical Center for first publication. Commissioner Moncada seconded the motion. Motion carried with a 6-0-1 vote.

Recessed at 8:26 p.m. and reconvened at 8:35 p.m.

OTHER BUSINESS:

15. Request for an update on the abatement of weeds at Mountain View Trailer Park.

Recommendation: Direct staff to proceed with weed abatement.

City Manager McCourt explained that City Attorney Bill Brogan would give an update on this matter, but that the last update was that he had been contacted by some of the lien holders and they were anticipating moving forward quickly on taking possession of the property. For whatever reason that has not yet occurred.

Mr. Brogan gave an update that at approximately 5 o'clock this afternoon, the Federal District Court has issued an order dismissing all of the claims in the civil rights case. Mr. Won can re-file in State Court, but he cannot re-file in federal court. The State District Court case, which is the appeal from the unsafe building conditions and unsafe living conditions at the park is currently in State District Court. It is set for trial in mid-November. This is the second part. The first part was held last month.

The third matter against Mr. Won is the weed abatement issue, and Mr. Brogan explained that the Municipal Court found Mr. Won guilty of three counts of violating city ordinance on weed abatement matters. He was supposed to have responded by September 2nd. Mr. Brogan spoke with Judge Lee about that, and Mr. Won has failed to present any of the required items to the Municipal Court, and the 15-day period for appeal passed about a month ago. Judge Lee will take the steps necessary to find Mr. Won in contempt of court.

Mr. McCourt stated that they held off doing abatement action in anticipation of the lien holders taking over, and at this point they have not been able to do that. Mr. McCourt suggested that they move forward with this matter.

Commissioner Brockett added that the brother-in-law of the first lien holder set up a meeting with the second lien holders attorney and they apparently have talked.

Mr. McCourt stated that staff is prepared to move forward with abatement and placing of liens.

Commissioner Brockett moved to direct staff to proceed with weed abatement for the Mountain View Trailer Park. Commissioner Moncada seconded the motion. The motion carried with a vote of 7-0-0.

Mr. Brogan, City Attorney, commented on the mortgage foreclosure issue. There is a first mortgage and a second mortgage. The second mortgagee is proposing to foreclose and to buy out the first mortgagee and that is currently in progress.

Mr. McCourt stated that there is an opportunity that the lien will get wiped out, and Mayor Pro-Tem wasn't quite sure if that was correct with municipal liens. Mr. Brogan asserted that the state statute provides that as long as it is filed, they become a senior lien, subject only to property taxes and income taxes. The second lien holder would have to pay them off in order to get the property free and clear.

16. Appointments to Boards and Committees.

Mayor Carroll appointed Gisela Coleman and George Fish to the Airport Advisory Board. The Clerk will notify them of the appointment. Mayor Carroll announced the vacancies remaining on the Community Development Advisory Committee and the Housing Authority Board and asked if anyone is interested in one of those boards to please contact the City Clerk's office.

SCHEDULED COMMUNICATIONS FROM THE CITY COMMISSION:

17. Request from Commissioner Brockett for an update from Community Development on items discussed at the special meeting with the Otero Contractors' Association.

Mr. Arthur Alterson, Community Development Director, addressed the Commission on this topic. Per a previous work session regarding procedural modifications to ease the process of issuing building

permits, procedural guidelines and check lists were designed to review the building permits when they come in. Unfortunately those check lists have not been completed. They are working on them and there is a draft version of them. The meeting with the Contractors' Association has been delayed but they are working on that matter, and hopefully this can take place by the end of October.

Commissioner Brockett stated that he contacted Senator Duran last week and it is her understanding that the State of New Mexico has a new law or guideline that a municipality either uses the state for inspections or uses the municipality's inspection department. It is an all or nothing thing, according to Senator Duran. Furthermore, in the next year or two, there may be a requirement that municipalities that are small can use the state, but the municipalities that are the size of Alamogordo, a little bit smaller, and larger, are going to be required to have a Community Development Department similar to Alamogordo. Commissioner Brockett stated that the business segment in Alamogordo seems shackled and something needs to be done because it is broke and something needs to be done. The checklist has been put off. The contractors all agree that the work is being done and yet this thing still isn't right. Commissioner Brockett stressed that they need to start the process of getting this fixed.

Mayor Carroll commented that there was some legislation proposed at the last session by Construction Industries Division to give CID more of the control that they were looking for over municipalities for building and codes and that sort of thing. The language did not come out in the final legislation how they wanted it. It becomes effective July 1, 2009. The municipal league has started conversation and negotiation with CID on exactly the idea of how these inspections are going to work. They were proposing that municipalities could elect to be full service building departments or they could partner with and rely on the state to provide the primary inspection. There are several communities throughout the state that have adopted codes that are not 100 percent in agreement with the codes adopted by the State CID, so there has become some question as to how those will work. The more pressing matter is that Alamogordo no longer has an electrical inspector and can no longer do electrical inspections on projects in the City of Alamogordo. They have sent a Joint Powers Agreement with some conditions in there which are not necessarily in the best interest of the city. There is a telephone conference scheduled for 11:30 in the morning. It has been requested that the state provide the electrical permitting and inspecting here in the community and at this point they have said that they are willing to talk about it, but they are putting conditions on it that are felt to be unreasonable. Mayor Carroll stated that it is his intention to call an emergency meeting tomorrow afternoon or early evening to take some action based on either authorizing a letter of understanding or memorandum of understanding, or Joint Powers agreement, but at this point in time there is no answer.

Last Thursday or Friday was the last day of employment for the electrical inspector, so Alamogordo has no ability to issue electrical permits or do inspection on electrical permitting jobs at this point in time. It has been requested to the state, CID, to provide state inspectors and they have not been overly willing to accept the request.

Mr. McCourt commented that the state has essentially refused to do their responsibility. The state has the primary responsibility to provide this service and it was pointed out to them, and it was pointed out that they are providing this service in other communities who do not have electrical inspectors, and they are just absolutely refusing to do that here. It is their responsibility to do that.

Mayor Carroll pointed out that the City of Alamogordo was the first, followed by Clovis, Las Cruces, and Silver City, to adopt the international building code for plumbing and mechanical and some parts of it for the electrical as well, and this is not in keeping with the state code or blended code and they are very upset with those communities that have done that, and feel that now this is their opportunity to force Alamogordo to come back and do what they want the way they want it. These codes were adopted in 2000 and it hasn't been a problem in the past because the city had primary inspectors who could inspect and now without someone to do the electrical, this is an opportunity to force Alamogordo to abandon all of the current codes and totally adopt their way of doing business.

Representing the construction industry, Mr. Williamson commented that they would appreciate the new checklist as soon as possible. The loss of the electrical inspector really puts them in a bind. They are unable to get electricity for new projects because it has to be inspected first, so if there is a contractor in that position, just pouring concrete, he won't be able to frame unless he drags out a generator. There is a big bind in the construction industry, and people are being laid off, no longer working until this is resolved. He asked if the emergency meeting with CID doesn't pan out, what would be the next step to take, and what kind of time frame that would entail.

Mayor Carroll expressed that until a 'yes' or definite 'no' is received, he is not sure which way to go. It is not an acceptable situation. They certainly have the authority to come in and do new permits to the state code. There are two problems; new construction and ones with permits issued but inspections to be done in progress. There should be absolutely no reason that they can't come in for new construction. If CID won't agree to help the community and building industry, Mayor Carroll said they would go higher on the food chain than the people they have been dealing with.

Mr. McCourt mentioned that in the discussions earlier today, they acknowledged that apparently if an electrical contractor would apply to the state on their website for a permit, it would probably go through right now. There are two problems; new permits and existing permits.

Mr. Williamson raised the concern about contractors building without permits. If it doesn't get resolved soon, they will go forward, and that is not something anyone wants.

Commissioner Ledford inquired as to if someone could be contracted from another community, and the mayor confirmed there has been some discussion with Las Cruces and it may be an option.

Mr. Glenn Mainz, of Mainz Electric, stated he had a state permit already set up with the state and he had spoken with the state inspector for the area. Everything was done by the book, it was run through, paid for, within the city jurisdiction and the state won't touch it. Mr. Mainz stated that the outgoing electrical inspector gave six weeks' notice, and he felt that with that amount of time something could have been worked out. He further inquired if the job has been posted, and Mr. McCourt confirmed that it will be in the paper on Sunday. Mr. Mainz expressed concern for a gentleman whose house burned down and has been repaired, but cannot get back into his house due to this electric holdup. Furthermore, Mr. Mainz has also laid people off and it is very frustrating.

Mr. McCourt had been under the impression that the state was going to step up, and he misunderstood, and apologized. He explained that they were in immediate communications with Lisa Martinez to work it out, and they were assured they would know by 5 o'clock Thursday, but it didn't happen. She did contact the mayor Thursday evening and assured it would be resolved by 5 o'clock on Friday. It is still not resolved as of 9:10 Tuesday night. There are contingency plans being developed if the state will not step up and do their job. The state uses the NEC 2005. Alamogordo uses the NEC 2002 with the updates that the state requires. There is no reason that the inspections couldn't go forward right now, smoothly, without any interruption.

Mr. Mainz expressed concern regarding the scenario of the state taking over, and whether or not they will be reimbursed for partial payments made. Mr. McCourt suggested that the contractors would be held harmless, so there would be no additional cost to the contractors.

Mr. Ronnie Rardin commented that the authority in this situation will allow the head inspectors to go around the code. The code isn't always something that you have to follow, it is more of a guideline. In the authority of the commission, an emergency can be declared to allow pictures to be taken to close the walls, with licensed contractors with CID. When it is an emergency economically, health wise, or when you start bringing children into it, there is a lot of authority to override any code that was set up to protect when the protecting is doing more harm than good.

Mayor Pro-Tem Griggs clarified what the state is proposing. The City of Alamogordo has adopted some mechanical or plumbing codes that are somewhat different than the state code, and the state is

attempting to make the city change the codes adopted on mechanical, plumbing, and other things, to comply or to agree exactly with the code that the state has, and so they are exploiting this electrical inspector issue to make the city conform. This stuff will not happen tomorrow if an ordinance must be changed. The fact that the state is willing to hold the city hostage is almost unbelievable, but they are in a way.

Mr. Allen Gorby, a construction contractor, addressed the commission. He stated that back in June he met with the commission in order to discuss what could be done to prevent this situation and it kept going back to manpower, with them saying "it's not in the budget, we can't afford it". The question is can this be afforded? If, heaven forbid, something happens to Lora, would it be the same standstill because there isn't enough education, experience, and cross-training, and this situation would keep occurring? What about in two months when the mechanical person is gone? Will there be more people being laid people off, worrying about paying bills, keeping a business open? Mr. Gorby stated that there needs to be a Plan B.

Mayor Carroll responded by saying there are two problems; the immediate, electrical inspection, and the other is as discussed, the other codes and what is in the best long-term interest of the community. At this point the state does not seem to be interested in wanting to sit down and talk about anything. They want to force it as a condition of providing electrical inspectors by the state until another certified electrical inspector is hired. The long-term issue definitely needs to be resolved, but the short-term one needs to be resolved first.

Mr. Gorby agreed, but he stated that being a third generation contractor, he has seen these things go on. Here is this major problem, when in the past, the contractors, the people being bothered by this problem more than anything, had been trying to tell for quite a while that this was going to happen.

Mr. Brockett wanted to know if there was any merit to the suggestion of calling a state of economic emergency if the negotiations don't work out. City Attorney, Bill Brogan, was not aware of it, but he would get on it first thing in the morning.

Mr. Pro-Tem Griggs pointed out that Alamogordo needs some input from the builders about what to do with these codes. If the entire United States has gone to the one particular building code, and New Mexico is by itself, is it the right thing for Alamogordo to stay with New Mexico or go with the rest of the country? The state has got to figure out a way to help in this instance, and if not, Alamogordo needs to go up the ladder, straight to the Governor's office.

Mark Bolin, Building and Contractors Association, commented that if the other states have adopted the codes, for a temporary fix the city may want to call Las Cruces. It would be costly but if you add up all the pulled jobs or people sitting stagnant, paying interest and deadlines, a liability problem could arise with the state or city or partial, but when push comes to shove, that is the recourse that must be taken. The immediate problem may need to be solved with a temporary inspector to inspect with our international code at present.

Mayor Carroll stated that this issue has been continually reiterated to the CID and they are fully aware of it, and at this point in time they don't seem near as concerned as everyone else, but it will hopefully get worked out.

Lora Nelson, Building & Zoning Manager, confirmed that as far as she knew, it was up to 48 or possibly 49 states that have adopted this code.

Commissioner Lujan was inquiring as to the decisions coming down, and emergency meetings regarding regular commission meetings, and Mayor Carroll confirmed that they could certainly meet as often as they need to resolve this. The immediate issue needs to be resolved, them providing electrical inspection in the City of Alamogordo, and for them to agree to that, as a minimum it is going to take a letter signed by the Mayor and authorized by the commission to enter into that agreement. They are saying a Joint Powers Agreement, the commission is saying a memorandum of

understanding is what they should have, but the meeting tomorrow is important in that if they work it out, the Mayor will lay out the proposals and ask for authorization to sign the letter and do it. Commissioner Lujan wanted to know what would happen if it doesn't get resolved tomorrow. He expressed concern for the laid off workers, who have families and bills that need to be paid. If it is not settled, can something be done as soon as possible to take care of it? If the state doesn't help tomorrow, and we are depending on the state, it will be a big bind. Can a state of emergency be declared to take care of this?

Mayor Carroll said that if a positive resolution cannot be brought to the commission, they will be discussing other options, but hopefully the city and the state will agree on an understanding of how to move forward.

Mr. Brockett posed a question to Mr. Williamson, regarding where he was at right now, without having an inspector. Mr. Williamson responded that he has a house framed with the electrical completely done, the HVAC and plumbing was inspected, and the next step is the electrical inspection. The computer system won't allow him to call in a framing inspection, and he is awaiting an electrical inspection, and then a framing inspection. This could be a huge delay for some contractors. There is one contractor in particular who has a house finished who can't get a building final, waiting for an electrical final. He could lose a sale, because he can't go any further without electrical inspection.

Commissioner Brockett asked Lora Nelson if this was delaying building permits, and Lora replied that they attempt to do a two week turnaround, but in light of the situation and the things that have come up, her time is being spent elsewhere dealing with other matters. Clinton is no longer around to do plan review when she can't do plan review. This is what happens. It will put them behind. If the city contracts to have someone come in and do this, they have to be certified by the State of New Mexico. If they pass the test, then they can come and work, but if you contract with someone who cannot pass the state exam, it doesn't do any good.

Mr. Bill Brogan, City Attorney, stated that they cannot contract with an outside inspector. The state statute requires that they be an employee of the municipality, so contracting is out. Commissioner Brockett asked about other communities and what they did with similar problems. Mr. Brogan stated that so far CID has picked on Alamogordo first. Las Cruces is expecting it. They have received a different type of letter dealing with how CID is going to respond to complaints against contractors in Las Cruces. Clovis is gearing up for a full blast assault. The attorney in Silver City, which is a partial service city, is very concerned that they are going to lose all of their ability to do inspections. It is quiet for Los Alamos who is expecting to hear any day.

Commissioner Brockett restated that people being out of work is definitely a big problem and they need to get to work on resolving this.

Mayor Carroll brought this particular discussion to a close by telling everyone that Ms. Nelson will let the Building Contractors Association know as soon as they know whether they have reached an agreement with them or not and then they will proceed from there.

UNSCHEDULED COMMUNICATIONS:

A. Mr. McCourt, City Manager, commented on the following:

1. Pat will distribute the paper that Dr. November submitted.
2. Wednesday, September 19th, we have a Town Hall meeting.
3. He is scheduled off on the 17th. Mr. McNeile will be in charge.

B. Mayor Carroll commented on the following:

1. Need to schedule emergency meeting for 5:30 p.m. tomorrow in the Commission Chambers to consider entering an agreement to the CID to solve the immediate problem of lack of an electrical inspector for the City of Alamogordo.

C. Bill Black commented on the following:

1. His house was the one that caught on fire. All he needs is an electrical inspection to complete the house and pay the contractor.

ADJOURNMENT.

Commissioner Brockett made a motion to adjourn at 9:47 p.m. Commissioner Lujan seconded the motion. A vote was taken, and all voted "aye". The motion carried with 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 25, 2007.