

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
7:00 P.M., COMMISSION CHAMBERS
MAY 27, 2014**

**SUSIE GALEA, MAYOR
JASON BALDWIN, COMMISSIONER
NADIA SIKES, COMMISSIONER
JENNY TURNBULL, COMMISSIONER
AL HERNANDEZ, COMMISSIONER**

**ROBERT RENTSCHLER, MAYOR PRO-TEM
DR. GEORGE STRAFACE, COMMISSIONER
JIM STAHLER, CITY MANAGER
STEPHEN THIES, CITY ATTORNEY
RENEE CANTIN, CITY CLERK**

CALL TO ORDER, ROLL CALL, INVOCATION & PLEDGE OF ALLEGIANCE

Mayor Galea called the meeting to order at 7:00 p.m. Roll Call was taken by the City Clerk. Clerk Cantin announced there was a quorum present. Invocation given by Pastor Justin Crispin and the Pledge of Allegiance was led by Commissioner Straface.

APPROVAL OF AGENDA

Commissioner Hernandez moved to approve adding the Addendum items to the agenda. Commissioner Sikes seconded the motion.

Mayor Pro-Tem Rentschler said there are a lot of people here who would like to see us go through the USFS presentation followed by the Resolution. He would like to move item A-2 to item number 4.

Mayor Pro-Tem Rentschler moved to approve the agenda as amended. Commissioner Straface seconded the motion. Motion carried with a vote of 7-0-0.

Mayor Galea presented a Proclamation to HAFB 49th Wing Commander Colonel Andrew Croft proclaiming Friday, May 30, 2014, as '49th Wing Commander Colonel Croft Day'. She thanked him for his many endeavors for the City of Alamogordo and Otero County. The audience gave him and his family a standing ovation.

PRESENTATIONS

A-1. Presentation by the U.S. Forest Service related to the issue of fencing in Otero County.
(Lincoln NF Supervisor Travis Moseley, Presenter)

James Duran, District Ranger on the Sacramento Ranger District in Cloudcroft presented. He introduced Travis Moseley, Forest Supervisor who oversees the Lincoln National Forest. He showed a Power Point presentation and referred to it as he spoke. He said their goal was to work with the public and keep them informed of all they do. He said this was their first presentation for the City of Alamogordo and hoped it would not be their last. He remarked he would be speaking on the Agua Chiquita Allotment/Agua Chiquita Riparian Management Area/Agua Chiquita Canyon. He has had a lot of questions and concerns on this area and welcomed any and all inquiries.

Mr. Duran showed the map of the Agua Chiquita Allotment in the National Forest. People have asked him why they are on private land, but he told the Commission the USFS is managing the Lincoln National Forest. There are approximately 28,000-29,000 acres in this allotment and he pointed out the riparian area. There are approximately 30 allotments and 28 permittees. There is a total of about 24 acres in this riparian area that cannot be grazed. There are other riparian areas on the allotment that can be grazed, and other riparian areas throughout the forest on other allotments that can and cannot be grazed. He noted he had been here about three and a half years, but said the records for this forest go back quite a few years. He showed pictures and stated they enjoy a partnership with the NM Game & Fish Department (NMGFD) that sets aside some monies from the sale of hunting permits

for habitat improvement. In 1997 this project was identified and supported by a lot of sportsmen groups and local folks, and quite a bit of fencing was built throughout the National Forest. He apologized for not having some video he intended to show but invited anyone to come and view them if they wished. He can take anyone on a tour or draw a map if they need it. He showed a picture of the upper end of the riparian fence near Barrel Springs. It is dry but hopefully will recharge if rain continues. Last year was a very dry year and so this spring is not currently flowing. This was a habitat improvement project and has a long history. They meet with the permittees annually to validate their permits and go over some of the specifics of the permit and any management needs for that year; it is an ongoing conversation. Many are year round allotments but this one tends to be an on/off; grazing on and off the National Forest around May 1st. There are some gates that are locked to public access but the permittee has a code in order to have administrative access to get livestock out if need be. This fence is effective and calves can get in and out. This was completed in 2011 and was upgraded to a pipe and cable fence to keep cattle out. The barbed wire fences were very high maintenance and since the pipe and cable fences were installed there have only been one or two cows get in and no breaks. There are a lot of elk up there, too.

He has been asked why they are taking water from cattle and said the USFS is not in the business of shutting down ranching or grazing. Grazing is an important part of the National Forest and is actually an important part of our multiple use mission. There is a program that administers grazing permits, works with permittees and insures grazing on the National Forest is done in a sustainable manner. There are two watering lanes in this area which were put in there in 1997, and they still exist. The definition of a watering lane is an area where the fence jogs into the riparian area and allows for cattle to drink. It is about a 20'-30' span, is open to both sides and cattle can cross. He pointed out the areas on the picture by Sand Springs and another down the drainage, so there are two watering lanes still there. 2013 was the driest year for New Mexico and this water spring dried up. It was saturated but water never reached the lane; this has happened before where Mother Nature throws a curve and it gets very dry. Sand Spring was dry to the point it wasn't really producing. The soil was saturated, but not to the point it was pooling. We got a high monsoon flow last spring that recharged things and helped this situation. We started talking to the permittees about drought mitigation and what we call adaptive management and how we work together to plan for the worst, and every permittee has a different business operation, different resources, different styles of ranching and different goals and objectives. We urge our permittees to give us some recommendations and we have people who will do things like hauling water, building new infrastructure and partnering with the NMGFD; there are some creative ranchers out there who do a good job. The other concern is the Agua Chiquita Road, which is a county road but labeled as Forest Rd. 64, is that it has some areas in a narrow canyon with a slope, a road, a drainage and then a slope. There was a concern about cattle getting hit on the road and that is a risk all over the National Forest since it is open range. We've worked with the County and they have put in some Open Range caution signs as well as an agreement with the Otero County Road Department to widen one of the narrow portions of the road. There are risks but this fence follows the historic line where the barbed wire fence has always been. The only difference is that the contractor used a mechanical driver and in some places here and there wasn't able to get to that exact point, so you'll see a shift of the fence by a couple of feet here and there.

Mr. Duran said another question was why are they doing this; why is management doing this to the riparian area. Some even argue riparian doesn't exist, but we manage natural resources for sustainable long-term existence; making sure we use them in a way where they are going to be around and productive in our lifetime and for future generations. Riparian has been in place and is definitely a part of the National Forest. In 2004, there was a grazing Environmental Assessment (EA) completed that called for those 24 acres with the barbed wire and pipe fencing to be removed from the allotment. That was a pretty serious decision and at that time Mr. Holcomb was involved in that process. We went through what we call National Environmental Policy Act (NEPA) – an Environmental Assessment (EA). It requires all federal agencies to analyze the environmental effects of any federal action. It also is a tool for insuring the public has the opportunity to comment and be involved in the process. We do this quite regularly and are now doing it on another allotment. You'll see us go out for Scoping our Notice of Comment and that's asking the public for their feedback on what is proposed. The grazing permittee has a different status in that they have appeal rights. Mr.

Duran had not met Mr. Holcomb but some on his staff had. He also noted riparian, wherever you are in New Mexico, is not something ideal for a lot of ranchers because it is removing lower vegetation and water areas from grazing. The aforementioned process was not appealed and was a decision that was signed and went forward as of 2004. The goals of that project have always been increased riparian qualities including better water, increased diversity of riparian species and proper hydrologic function of the system while protecting the spring source. It is having those species meant to be there whether animals or plants. You'll see vegetation that differs from anywhere else in those areas because they have water. It is pretty unique in our area especially with the drought we have been seeing.

There is talk about the New Mexico Meadow Jumping Mouse which is a separate issue. We've been notified by the Fish and Wildlife Service that it is scheduled to be listed, and was posted in the Federal Register as of June 2013 and is out for public comment. It is scheduled for federal protection in 2014. That species is federally protected, so when the Fish and Wildlife Service, the agency with delegated authority over threatened and endangered species makes the decision that land management agencies are obligated to protect that species and its habitat. Through that process they will define critical habitat which is habitat important to that species and that we will have to protect. There have been certain situations where species were listed, the Forest Service could not prove it was protected and therefore the action was put on hold. Our goal is to stay ahead of this and be able to continue with grazing and other things. These fences may help us in that situation but we don't know because it isn't listed yet and critical habitat has to be defined with a lot of discussion with the Fish & Wildlife Service.

James Duran went on to say the cattle were on the allotment on May 1st and there are a couple of areas. The area removed from grazing is the upper end of the riparian drainage. The lower end is the riparian pasture that is an area within the EA authorized to graze within specific criteria. One of the permittees needed to pair up cattle for shipment and on the weekend of the 17th they were released from that riparian pasture to the general pasture where they would need to access that lane. There is a voluntary reduction. Usually when conditions start looking bad and it starts looking dry, May and June, our permittees are pro-active and manage that without intervention from us. The lower lane flows and goes under ground in some areas; a very interesting hydrologic area. There is a spring producing a little and as you go lower there is more and more water pooling up. When the pipe fencing was installed we actually put in gates, while the wire fences did not have gates. The concern was how to get cattle out and these new fences accomplish that. The lower pipe fence that was completed on the 24th was funded in partnership with the National Wild Turkey Federation. This is a major sportsman's group that supports habitat improvement projects on the National Forest. In 2013, the project began and there were some concerns as we got into fire restrictions, so the Game Department decided to re-route their contractor and come back another day. The Turkey Federation wanted to get this done and had the funds, so it was finished. He then showed a picture of wire fencing and explained how much maintenance was involved to keep it up. The new fence meets the intent of the NEPA, meets the management that has been in place since 1997 and 2004, and is something we know everyone doesn't agree on but has been the agency decision since 2004 and what we have to uphold. In order to change the decision you have to go through the same process. We do this on grazing allotments about every ten years.

Many have asked about reducing elk and fencing. The Game Department is the agency with the authority to manage that species and reduce their populations. We work with them and give input, but we only manage the habitat. He realized there is a lot of frustration over that, but he cannot issue any permits for elk. Feral hogs are a risk to a lot of things because they are an invasive species; they are not good for any environment. We have partnered since 2011 with APHIS and Otero County and others for feral hog eradication through trapping, aerial gunning and other treatments, and have been pretty successful. APHIS are experts in invasive species and they say that in New Mexico we are about five years away from full removal.

Mr. Duran said he has been asked what is next on the National Forest. Sacramento Lake is one we plan to fence and an EA has already been done. We involved the permittees as required and that

group is the Sacramento Grazing Association. One of the keys in that process is to understand their needs and goals and then find some middle ground. We have a signed decision and are preparing for implementation. He hoped this information had been helpful in answering some questions. He was interested in any concerns from the City of Alamogordo, specifically the City Commission.

Mayor Pro-Tem Rentschler asked Mr. Duran if he came today at the invitation of the City, and James Duran said that was correct. Mayor Pro-Tem Rentschler asked who asked him and Mr. Duran said their Public Affairs Officer received the request so he did not know specifically. He said he coordinated with City Clerk Cantin to set up tonight's program. Mayor Pro-Tem Rentschler said we didn't have a dog in the fight until now.

Mayor Pro-Tem Rentschler asked him about the size of the 24 acres and Mr. Duran said it is a ribbon, plus or minus 1.2-1.5 miles of distance fenced off. It is a very narrow drainage. Mayor Pro-Tem Rentschler asked if the gate is locked and James Duran said it was. Mayor Pro-Tem Rentschler asked if they were fencing off the spring head itself and was told Sand Spring and Barrel Spring were the two springs that were fenced. Sand Spring is about 100 feet away from the lane and its flow reaches the watering lane.

Mayor Pro-Tem Rentschler asked if USFS owns the land that is being fenced and Mr. Duran responded that the USFS is charged with managing the land. Mayor Pro-Tem Rentschler said anyone else here with land in Otero County gets a bill from Otero County, and he asked if they pay taxes on this land. James Duran said the land is federal reserve and the USFS has been charged with managing that land for the United States. Mayor Pro-Tem Rentschler said he understood, so you actually don't.

Mayor Pro-Tem Rentschler said in New Mexico water rights are owned by people who put the water to beneficial use. If there is a spring coming out of the ground and someone puts it to beneficial use, they end up with the water rights for that. His question was when you own the water rights to that spring and the water continues to go down for a mile or two, what happens to the water down there. It can become somebody else's rights, but the person owning the spring rights doesn't necessarily own the rights down stream. When you are talking about piping the water out to water cattle.....

Mr. Duran said that wasn't part of the presentation. That is an option and typically on National Forest there are a lot of developments. Range improvement developments are put forward through partnership with the permittee where we identify the needs for management. Most often when you go into the National Forest, the only way water will be developed or controlled will be for some use. Historically, recreation was a major one like having watering stations, but due to water quality testing that is no longer out there. We do have livestock developments and developments in the State Engineer's files. He said he is not a water rights expert and doesn't plan to be; we defer to the State Engineer for that. Any water management done in the National Forest is required to go through the State Engineer's office. That's an option, but there is a long process that goes with that and we have identified it as a long term option. He again referenced Sacramento Lake and noted they had gone through that process to get authorization from the State Engineer, completed the EA, have the decision and have implemented those improvements on the National Forest. The key is where we need water.

Mayor Pro-Tem Rentschler said there is an old saying in New Mexico, 'Whiskey's made for drinking and water's made for fighting'. There are a lot of people in this room who aren't very happy about that and he asked Mr. Duran if he could address why they aren't happy and if he understood what they think. Mr. Duran said he understood their general concerns and was willing to sit down to understand the specific concerns in order to find opportunities to work together to put water to beneficial use. Management of National Forest is something the agency is charged with and something we have to do. We have a legal framework to do that in.

Mayor Pro-Tem Rentschler didn't think he had the legal framework to fence out the water rights. Mr. Duran said he understood his disagreement with that. Mayor Pro-Tem Rentschler said there were a

lot of people afraid of the USFS. Look at what has happened in the Gila, and he knew the State Engineer has been deeply involved there putting together rules to protect the cattle. He felt we would end up in the same situation here. Mr. Duran asked him about what was happening in the Gila. Mayor Pro-Tem Rentschler said the Gila National Forest has been going through this for a couple of years. He didn't have specific areas now, but his understanding was the State Engineer's office has been involved over there. When you look at this kind of thing, you look at the local land owners, the USFS who is part of the Department of Agriculture and part of the Department of the Interior, is that right? James Duran said it is the Secretary of Agriculture. Mayor Pro-Tem Rentschler said when they look at what they can get away with, one of the first concerns is this, and there are some commissioners with this concern, what are the repercussions. If the City, County, State or anybody opposes you on this, one of the first things is what repercussions come down to the little guy – the guy who owns the water rights. Do you see repercussions as something the USFS would do for opposition to this?

James Duran knew there were a lot of concerns over national policy over the Department and USFS, but unfortunately he couldn't speak to that. He could speak to what they are trying to achieve at the local level to find practical solutions to work with the local ranchers. In situations where people bring forth documentation of a water right we aren't going to judge that right, the State Engineer's office will tell us that. It is something we fight regularly, working with those water right holders to provide reasonable access to that right, whether it is a water right or a land right. We work with you to get access and a road in there if landlocked. We issue permits all the time for that.

Forest Supervisor Travis Moseley addressed the questions about repercussions. He said Mayor Pro-Tem Rentschler was suggesting there might be reprisal and Mr. Moseley said no. That would be arbitrary, capricious and illegal, and grounds for all kinds of measures with unknown outcomes. There are terms and conditions to the permit for grazing those National Forest lands, and we try to work with those permittees to implement practical management measures and balance various resource uses that occur on the National Forest. As long as we are staying within the terms and conditions of the permit and the plan is laid out under that permit, then there's no good reason, you can't take action based on good management laid out under those terms and conditions. In this situation concerning water availability, we feel we are trying to make every reasonable accommodation to enjoy any water right that may exist there. Right now we are unaware of anything filed with the State Engineer; there may be grounds for perfecting that right, but at that point we do not know of any that exist for these two springs. In fact, the one we have done the research on, the upper end of Barrel Spring, has a USFS filed water right dating back to the 1930's; that is in the State Engineer's records. We've done a little research at this point at least in that area, and that is what is filed in the office of the State Engineer. There are some arguments that water rights pre-dating 1907 may exist and don't necessarily need to be filed for. He noted he wasn't a lawyer, he was a land manager so he wouldn't venture a guess as to whether that was true or not.

Mayor Pro-Tem Rentschler said water rights go to the person who puts the water to beneficial use, and it could be argued that the cattle and economic development in Otero County are beneficial use. The people who don't actively manage that resource, lose that resource; that is the way it works. If you went to the old dairy out here, and they were trying to sell us water rights and the fact was they hadn't used them in 20 years, with aerial photography to show that, so they could not sell them to us at that rate because the State Engineers office would not allow it. There has to be a lot more to it and he was hoping to hear the other side of it. When you talk about for a mile and a half the cattle get in and a locked gate that can be opened up to let them out, he didn't know why they just didn't leave it open. That would seem to be the easy thing to do. He hunts elk and said we both know they are more damaging to barbed wire than cattle. He felt the cattlemen know it is not the cattle but the elk who will take a fence out.

James Duran said that is one of the main drivers for changing them out. Mayor Pro-Tem Rentschler said it's not cattle, it's elk? Mr. Moseley said it is the maintenance required to keep the barbed wire fence up; it is a more durable fence that would withstand elk jumping it and tearing it down. Mayor Pro-Tem Rentschler remarked they will still do as much damage as a cow would because of their

smaller hoof and weight of 800 pounds for a bull. Seems they would be punching holes in it all day long, and he knew from some who run cattle up there that they lament the elk running in their fields. We've also watched NMGFD build fences to keep the elk out of their fields. This seems to have an awful lot of people upset and maybe for a good reason. We have to understand and protect the water rights for people who have developed them. That's where he would come down on this.

Mr. Duran said they understand some folks are upset, and the USFS wants to work with them. He said we work hard to understand cattle management and work with these folks.

Mr. Moseley said there are two parts to this issue. There is the practical side of the issues with water being available for livestock, well distributed throughout that landscape. There are 28,000 acres up there that have water in different locations throughout and we felt we were providing for water in that Agua Chiquita area by having these watering lanes. In most normal years there has never been an issue with water being available there. The practicalities of water availability to livestock, well distributed so cows can utilize foraging in an effective way, is a fundamental part of our range management scheme. The other thing is about rights, who owns them and who has these jurisdictional issues and authorities to do what is much broader. It is interpretation of various laws that exist in terms of authority to manage National Forest and water and to split estate situations, and it becomes very complex very quickly. That's another part of this, from the practical stand point, we are about managing for the practical land uses that exist up there and the issues of whether or not the laws are in place or being interpreted in the right way that is an important question, but in some ways separate from our authorities to manage those lands. We are managing them under the Code of Federal Regulations as they are currently interpreted by the Department of Agriculture. That's where we find ourselves as the local land manager.

Mayor Pro-Tem Rentschler said but as you said it's a very complicated situation. He thought they might have been better off to wait until some of these water issues were settled before moving forward. He said they have the head of the spring and pipe it off about 1.5 miles to the bottom of this area. They may no longer have a right to the water at that end. It is confusing to him that the whole water right issue wasn't settled before we simply started fencing, and he realized it had been fenced before but not to the extent it is now. It has so many people in Otero County so riled up.

Commissioner Straface asked what the motivation was to fence these 24 acres. Mr. Moseley said in 1997 there was a fishery up there and Game & Fish would stock it with rainbow trout. He thought that was the original impetus to protect that recreational fishery around that stream. In our environmental documentation it talks about fish and riparian associated species. In 2001, a second portion down stream was put in place and similarly that was the objective, for wildlife and riparian dependent species.

Commissioner Straface said the reason you did this was because you believed there were species in jeopardy. Mr. Moseley said at the time there wasn't anything listed under the Endangered Species Act or the Meadow Jumping Mouse..... Commissioner Straface interrupted to ask, "Why do it?" Why open it up?

Commissioner Straface next question was when you say you consult with or work collaboratively with the users, the permittees, is that sincere? Do you really work with them and listen and take into consideration their issues or is it courtesy; to say I have a statement in law that says I have to meet with people so I do it, but it really doesn't matter what they say. Mr. Moseley said that could be argued in lots of different ways. We have a process we work through and there isn't any doubt about it. Commissioner Straface interrupted to say you already have a goal in mind, so can you be deterred in your goal. Travis Moseley said that's the nature of the need for process. We put forward a proposed action when issues are identified through public comment, alternative actions are developed to address those or otherwise mitigate them in hopes you find a sweet spot that meets mutual objectives. Commissioner Straface stated that in this case you have not met mutual objectives. Mr. Moseley said in 2004, we went through that process.

James Duran said we've met those objectives in mind. Commissioner Straface said if that's true then why fence it? (Could not hear James Duran's response)

Commissioner Straface said if it's available to the cattle and it's open, why fence it. It seems like nonsense. Mr. Duran said it has to do with emphasizing (couldn't hear the rest).

Commissioner Sikes thanked Mr. Moseley and Mr. Duran for their presentation. She felt they were in an interesting situation here and she wanted them to know there are people who support what they are doing. She felt the people needed to be reminded of a couple of things; they are caretakers of the Lincoln National Forest and we are fortunate to have a multi-use forest. It is used for grazing, hunting, recreation and hiking. We are fortunate to have a place so close by to enjoy a forest. The USFS is designated as the caretaker of the forest and they are the ones who take care of the land, the surface. They don't take care of the wildlife; they are taking care of the land. She felt it was difficult to conceive of the fact there is an ecosystem that has to be protected. A forest is an ecosystem and everything in it is important. The mouse is important, the poppies are important, the soil is important, the trees are important; this is pretty basic. She felt the Forest Service was being attacked unnecessarily when they just stated that they have the water rights since 1908. Why are we arguing water rights? She didn't understand the controversy. There is one permittee on the acreage we are talking about. Who are the other people here if there is only one permittee with 187 cattle. They have reduced the number of cattle from 275 because of the drought, so why is everyone up in arms. She felt, and noted she was on the other side of this and not a rancher, once Mr. Bundy got started it got a lot of other people inspired. She believed we were being unnecessarily rude to the Forest Service. They have come here to tell us what they do and have indicated they have the water rights, and we've made this into a controversy that does not need to be a controversy.

Commissioner Hernandez said a forest is not a forest without trees, and the Forest Service is tasked with managing our forest. I've seen our forest decay with the overabundance of trees. All of this we are talking about here isn't even considered. Commissioner Sikes interrupted to say that in the past couple of weeks she has had the opportunity to learn about the particular forest we have, and it is a little different from the Mescalero and Ruidoso forests. We have a forest with different trees that require a root system that intermingles. When we as a county went up there over a year ago and chopped down trees, the root system for a lot of trees was compromised. As a consequence, the trees are falling over. Yes, our forest is thick but it is the kind of trees we have that require the forest to be thick and it will take care of itself naturally. Commissioner Hernandez said it's not working. Remember Bonito Lake? We still own what's left of it.

Mr. Duran said that to address your concerns, there are a lot of concerns over trees and resource management. It is a challenge for everybody and something we are working on. He said we are open to partnerships and suggestions. (He spoke further to this issue but it wasn't discernable.)

Travis Moseley clarified one thing. Through their own research they have discovered there was a water right that existed for one spring. That beneficial use is for livestock purposes. Most of what James talked about is that when we do have a water right that is properly perfected and filed with the office of the State Engineer, the vast majority of the time it is for wildlife and livestock purposes. We don't manage water for domestic uses except if others have those water rights. The City of Alamogordo has those on forest lands and we manage the surface and transmission area, that corridor for the pipeline or however the water is transmitted to the beneficial user. In this situation, where he knew Ms. Maderez was trying to perfect her water right on those areas, we are not going to stand in the way of that. We are all for piping water to a location that is dependable using those springs. It's about working through the due process to do that. That is why it becomes a little more than just sticking a pipe in a spring and piping it down to a trough. Then the environmental documentation needs to go along with that. We've discovered we have one water right out there perfected in 1930 and there isn't a diversion there. He understood that is also a requirement for developing a water right; diversion, beneficial use and proper filing. The office of the State Engineer has told us that, and if there are other modes and methods of perfecting a water right, they need to come in and describe what those are. There is room up there for water users and there are

processes for protesting those. Downstream users may have an interest in those waters that are on private lands and he understood there was something along those lines for irrigation purposes. There is a process by which people get an opportunity to say and demonstrate their interests in perfecting those water rights. At this point, if there needs to be water piped out for a more dependable source other than it just trickling 100 feet into that water lane, then we will entertain that.

Mayor Pro-Tem Rentschler said you had the cart before the horse because you fenced it off before you got to the solution, and the solution should have come before then so that all these people sitting in the audience wouldn't have been here tonight. Whenever you show up to the County Chambers, they wouldn't be there to listen and have the County Commission blue in the face about this. He agreed there was a solution, but the solution isn't just fence it off and see what happens.

Mayor Galea understood that all of the permittees who want access to the water don't have grazing rights. She understood you can have a water right but not rights to the land. She knew they were working with those who have permitted water rights to obtain access there. Mayor Galea said she had invited the USFS to make tonight's presentation, and she understood there was a fundamental difference of opinion of what the philosophy of the USFS's management plan should be with the ranchers. She understood the USFS grows timber for the purpose of logging, preserves our water resources and protects the integrity of our spring heads, and she understood the purpose of the riparian area is to preserve the integrity of the stream heads and the land around it. Her question was whether it was too late for Mr. Holcomb to appeal the 2004 EA decision.

Mr. Moseley said that appeal process is over relative to the NEPA decision. Periodically, we go back through that NEPA process for grazing allotments, usually on a 10-15 year cycle. As conditions change on the land or in policy we have to freshen up those decisions and get a new, fresh look at the environmental consequences of continuing that action.

Mayor Galea understood the conditions of the land have changed with the drought and the watering lanes are a little drier or dry. She wondered if there was a way to provide greater access to improve range management with a different opening so cattle can access the water.

Mr. Moseley said there were ways of providing other water sources either there or piping it out to a location outside of that fence line, or even in other areas of the allotment elk can get to. We are often looking at those long and short term options. It may range from very short term of actually hauling water to deal with a given drought situation where water is scarce, to long term like a well and pipeline system with a storage tank. Those are very common and take a little longer.

Mr. Duran said it might rain like it did this weekend and that helps a lot of our water distribution struggles. There are a lot of natural-type systems such as dirt tanks and springs. He thought there were some good conversations about practical solutions, goals and how we support that.

Mayor Galea understood in regards to the riparian area you looked at long and short term goals for the permittees having access to their water right. She also understood you filed with the State Engineer's office the option to redirect water to a trough, but that was blocked. She asked them to tell her more about this, because Mayor Pro-Tem Rentschler stated we should have insured that the permittees to the water had access to water long before the fence was completed. When did you file the request with the State Engineer's office.

Mr. Moseley said there was a similar situation with a lane designed in the riparian area, and the lane did not work out because of the severity of the drought. We went forward with a proposal to divert water from a stream source and another on a pipeline, actually the City of Alamogordo's pipeline. We went through that process with the State Engineer's office. The Agency is not interested in acquiring water; what we are interested in is supporting management of livestock and distributing water which often requires getting authorization to use that water. The reason the Forest Service typically does that is because permittees can switch while permits can't be sold. There isn't any value in a permit and the livestock can be sold and transferred to a new operator. The system is designed for that

exchange to happen and for the watering structure to be in place. We went through that process on Sacramento Lake and we ended up using a private right recognized by the State Engineer and brought that right onto the National Forest. On the National Forest in a federally owned drinker and water development on the record, and with that right there isn't any right to water and there aren't any grazing rights to the permit. It is a privilege and at the end of the day permits can be cancelled or transferred. Obviously there are some folks that have concerns over the Forest Service working for the State Engineer's office to get any kind of authorization whether an authorization for use or perfected right. We understand that and aren't here to change the rules of the State Engineer's office; we are here to follow their process.

James Duran said that specifically in this situation, when we applied for a change in the point of diversion and took a portion of a pre-existing water right the Forest Service had, moved it to another location better suited for the livestock operator around Sacramento Lake area as an alternative water source, through that due process that the State Engineer has, it was protested and we worked through a settlement with the livestock operator. That's how we got that private property water right from another source and he perfected the private property water right in one of our facilities. There was a basic belief the Forest Service should not have that water right and the ability to change that point of diversion. We all wanted to work on the common interest of providing water at that alternative location.

Mayor Galea thought that in many ways it was the state legislators issue. She asked if the State Engineer's office had been cooperative. There were a number of ranchers who wanted use of the water but did not have adjudicated water rights. Has the State Engineer's office been helpful in determining who has that right to the water?

Travis Moseley told her we have learned how to use their system to look up water rights and particular parcels. If you provide them a given proposal, they will respond to it according to their processes. In terms of the broader interpretation of the discussions going on relative to pre-1907 water rights, what constitutes a perfected water right. Is it a cow sucking water from a stream that constitutes the diversion and beneficial use all in one; they have not clarified that. We've had some conversations, and in those proceedings in the other situation we just described where they did clarify, he didn't think it was a common understanding of what they said. There is this underlying question of what it takes to perfect a water right and what is reasonable access to that water right. There are a number of court cases that the Forest Service has been in and this is not a new issue relative to managing the surface and having a water right that exists and is owned by someone else; what is reasonable to access that water right. In most cases the Forest Service has prevailed in those lawsuits very similar to others in which they are saying the jurisdiction to manage that surface does not infringe upon the right to use that water. The water is transferable and can be bought and sold, and it can be moved to a different point where it can be reasonably enjoyed. In this case, we want them both to be enjoyed in the same place because we have a mutual, common goal of good livestock distribution, and water is part of it.

Mayor Galea said for that same reason, the City of Alamogordo has a mutual and common goal. We have 113 water springs in the Sacramentos and we need the cooperation of the USFS. We enjoy beef and our ranchers so we need to work with them as well to ensure their water rights are intact just as ours are. She knew they were working with the ranchers to ensure they have water for their livestock and opportunities for grazing permits. She wondered how they are working with the City of Alamogordo to ensure we can improve and maintain our watersheds.

James Duran mentioned the Cooperative Force Restoration Project that one of the City's grant writers his staff prepare to get funding for a planning grant. That will allow for the restoration treatment of the National Forest. There are some areas where the timber is of low value. You got a planning project funded that we are hopeful will be implemented next year for a five year restoration project. That will allow for quite a bit of treatment on the City of Alamogordo's watershed to improve and protect it. The other thing is we already had some infrastructure in place. We've had conversation for a lot of years about that; how do we provide reasonable access for maintenance and special use permit process.

We have a lot of special use permits on file whether it is the City or other municipalities. A lot of the residential areas and subdivisions have a water right and we work with them concerning infrastructure whether it is a line or spring box. Many are having to upgrade their systems to the new Environmental Department standards because they are outdated. We are mainly working with the City on that major infrastructure.

Mr. Moseley said he described the physical attributes of things needing to be done through the NEPA in establishing the legal premise for the infrastructure that exists. It is about managing the surface and not so much about managing the water right and availability. It is how it gets here and securing that while trying to find that balance and other environmental considerations whether concerns for endangered species or others. Part of that is implementing all of those laws and applying them so they are legal and so you and we are not vulnerable to litigation. There are a lot of folks out there who believe that land could be and should be put to a different use, and they will sue you on that. A good legal foundation proves it is solid, the infrastructure is solid, we've considered all the impacts to the land base, this is the decision that was made and we can provide for transmission lines for the users.

James Duran said the important part of any proposal is the City's vision. When we plan, it is a lengthy process. There are some short term options and one of them is hauling water which works well for some ranchers. We need to know what the vision is for the City of Alamogordo and what is reasonable. Those are the discussions happening in the field between himself and Public Works Director Cesar to understand what the needs are. We are not there to limit; we need to know how we can meet your needs. It is a challenge and not easy.

Mayor Galea thanked them for their time and for the presentation. She said we certainly experience the same frustrations with drought and providing water to the citizens of Alamogordo. The flows are 20% less this year than last year. She said it was evident they are still trying to work with those permittees who have adjudicated water rights there, and hoped they would continue that dialogue.

Public Comment concerning this issue:

Mayor Galea asked those who would be commenting to limit their comments to three minutes so everyone could be heard.

State Representative Yvette Herrell also thanked Mr. Moseley and Mr. Duran for their comments. She wanted to address what Mayor Pro-Tem Rentschler and Commissioner Straface had said when she asked these two gentlemen whether they are really using the water for the same beneficial use as the permittees and why are they fencing it off. She said Mayor Pro-Tem Rentschler was right in saying you do not own the land, it is a property right that these permittees own and you don't have any jurisdiction over the land. In fact, the only one with jurisdiction over the land is sitting in the audience, our sheriff. She asked them to show her in the constitution where you have constitutional authority and ownership of that land. Mr. Moseley spoke from the audience about the Enabling Act. Representative Herrell agreed and said the land was held in trust until such a time that the rights and title be extinguished to the state so that we would be on equal footing with the other states that became part of the Union. At the end of the day, we can talk water permits and water fencing, but this is really all about the ownership of the land which needs to be transferred back to the State of New Mexico and all the western states. The western states have over 50% of their land managed by the federal government, and she expressed her appreciation for what the USFS representatives do. She did not think everything happening was from these two sitting here. She told Mayor Galea that with all due respect, they are not trying to grow the trees so they can have a timber industry, because we have the Endangered Species Act that has killed our forest industry and 17,000 jobs with it. While she understood how important the forest is, it isn't healthy and it is way beyond that. We are talking about personal property rights and that is what is at the core of this issue. This is a federal overreach and is infringing on what we Americans and patriots have coming to us. This is not about a fence; it is about our liberties and freedoms. She appreciated what the USFS representatives are doing, but she appreciated more those who came down here today to understand what our rights are. The Enabling Act is great but this is about our freedoms. The fight didn't start just last week or last month when Bundy's issue happened. The commission has been hearing these arguments about this fence for

years. She felt the Bundy incident brought more awareness to what is going on, and it isn't just about the water rights. It is about not being able to tap into our natural resources, not educating our children and not paying for education. She said Dr. Straface can tell you we don't have enough money to adequately fund education in the State of New Mexico because of lack of land to tax. There is so much more to this and we need to look at the bigger picture; not put up fences, not fence cattle from water. We need to get our lands back and do a better job of managing them on a local and state level.

Ted Eldridge wanted to make a comment about the fence that Mr. Duran had pictures of. Mr. Eldridge said they were very deceiving. Mr. Duran had said it was open range and there were cattle on the roads, but the fence they built is right on the county road and the cows have nowhere else to go. The USFS has made it a hazard by building the fence so close to the road; it can't even be bladed by the county because they can't push the dirt back off the road. That's not the big issue; water is the issue. He addressed Commissioner Sikes' comment about why everyone was here tonight. He said this isn't the only enclosure they are going to fence; the next scheduled fence this summer will be built at Sacramento Lake, and that is my water right. It has been adjudicated and they are going to fence it anyway. A federal judge has ruled in the Goss' favor that they own the water rights and it will get fenced anyway. In July of last year, the USFS had a meeting with the City and the City gave them a letter so they could move a tap up the line that they say they already have, and they do have. In 1947, there was a special use permit issued on the pipeline that gave them several taps, but in that permit it also said if those taps were ever abandoned for more than a year they would be no more. The taps they are claiming have been abandoned for more than 25 years on that line, yet they have the line hooked up in order to fence Sacramento Lake and fence the Goss' off of their water line. That is my dog in this fight. He addressed Mayor Pro-Tem Rentschler concerning his previous question of how long the enclosure was on that fence; it isn't 1.5 miles long, it is nearly three miles long with all the enclosures in Agua Chiquita. He told Mayor Galea he had a conversation with her last Friday. Her article in the paper said she had been told those fences were temporary, and he wanted to know who said that and when they are coming out.

Mayor Galea said the barbed wire fences were temporary and got knocked down and then they put up a proper fence that wouldn't be knocked down. Mr. Eldridge said the only thing they fenced out were the cattle.

The next three people who had signed up to speak said their concerns had already been addressed and so they chose not to speak.

Gary Stone is the President of the Otero County Cattleman's Association and noted he was very passionate about this subject. He said he could talk to the commission about many things he thought were in error with the presentation, but he would yield his time to G.B. Oliver who is an expert in these situations. He has been involved as president of the Paragon Foundation for years and he had a lot of confidence in him.

G.B. Oliver reminded the commissioners they had sworn an oath to uphold and protect the Constitution. This is about law and he believed we had the finest water attorney this side of the 100th Meridian, Mr. Jim Brockmann. He asked them to take this to Mr. Brockmann. There was a Supreme Court case, New Mexico vs. US, and his foundation has used that case all over the western part of the United States in these kinds of battles. In this case, the US Supreme Court was extremely clear when they said the Federal government could not own or control any water rights within the boundaries of the state. When you start fencing that off, it is controlling. As for the water right that goes back to the 1930's, he is interested in that because the Supreme Court said you couldn't own or control a water right, because they simply could not put it to beneficial use. As for the eloquent talk about the cases they prevailed in, he named the most recent case he could remember coming out against the USFS as far as water was concerned and asked them to read that case and understand what Judge Lawrence Smith said about diversion of water. He says a cow diverts the water in whatever path that cow uses to go to the water and it then becomes an easement. You have to remember everything this side of the 100th Meridian fell under the Prior Appropriations Doctrine and

the water controls the land. That's what it is here in the west where we have a lack of water. Everything on the east side of the 100th Meridian falls under the Riparian Area Doctrine. Every time you hear the USFS or any of these federal agencies talk they will refer to it as if it were the Riparian Doctrine. We live under the Prior Appropriations Doctrine.

Sheriff Benny House had a couple of questions for Commissioner Sikes regarding the thinning of trees and how it damages the root systems for other trees, and how it is bad for our forest. He questioned Commissioner Sikes' statement concerning the Forest Service owning a water right. The Forest Service themselves said they had obtained the right in the 1930's. He said that when you own a water right you have to put it to beneficial use, so he asked the USFS how they have put that to beneficial use since the 1930's when they indicated it was for cattle. He didn't know they were in the cattle business. How have they put it to beneficial use and how have they maintained that right since? There have been some comments made about himself, cooperation with the City and how he does business. He has been trying to work things out with the Forest Service and the ranchers since he took office and he will continue to do so. Everyone here needs to understand he will follow New Mexico law; he is a law enforcement officer and doesn't base anything on his personal opinion. He bases it according to what the state statute says, and that is how he will conduct business. He wanted to reassure the commission that his actions would be based off the law and the law alone as the elected sheriff in Otero County. He looked forward to working with the City of Alamogordo, the Forest Service and definitely the ranchers and citizens of Otero County.

John Bell said there were several things he took strong offense to in what was said and we need to correct a bunch of issues. You got a whitewashed version of this; it's not true, not accurate and does not follow the law. We have been working very hard with the ranching group and there are a lot of hot people out there who would like to do nothing better than tear things up. We've asked them not to and are asking them to stay within the confines of the law. The Forest Service has violated the law. He appreciated them and noted he used to work for the Forest Service as well as his wife being a forester. First, he asked how much of an increase in water has that fence caused. It doesn't do anything and might contaminate it. Secondly, concerning the Jumping Mouse, that fence does not prevent spotted owls, eagles, hawks, feral hogs, foxes or bobcats that all eat those mice. A cow does not eat a mouse. His family came here over 100 years ago and he then asked the mayor for a little extra time because the Forest Service had over an hour to present. Part of his family went to Blue Water Canyon in the 1890's, and part went to Oro Grande and Brice in the 1890's. We've been here a long time and understand this. He realized the forest is trees but too many trees do not create a healthy forest. This is a sick forest and it does apply to the Indian reservation; it is very similar. He had been a part of thinning, burning and putting out fires for many years. The Forest Service has a job to manage the watershed and they have not done so because they have allowed too many trees. He remembered when James Abbot came here about 40 years ago and they stopped logging pretty much over the spotted owl. The spotted owl was a fake issue just like this mouse is; they are not real. If it was a real issue, why don't they start catching the bird, the hawk and the eagles. Trees are like straws so if you have too many trees, it is like straws sucking water out of the ground. The Forest Service should be managing that property so that it can endure a drought. When his parents, grandparents and great-grandparents came here, there weren't this many trees and you could see from the bottom to the top of the hill. It was all open and a beautiful forest. The Forest Service has been managing it for 100 years and it has been going down hill ever since. They have not made improvements; they have allowed too many trees and instead of building fences they should be out thinning. A healthy forest included a logging program, a thinning program and he had done both. If you have too many radishes in your garden none will develop into a big radish. He can take you to Hay Canyon where his father has been taking care of some property for 50 years. He logs it and it is healthy. He has asked Mr. Duran to come look at it but he hasn't bothered to come. If you look on the Forest Service side, all the fencing problems come from either too many elk or too many trees falling off the Forest Service side onto the fences. He has spent a lot of dollars repairing fences. Our trees are thinned and healthy and are not dying off like those on the Forest Service side. They have violated our private property rights under the laws of the state and they should be held accountable for it. These people are not permittees and he wanted that word changed to allotment owners. They own a private property right that is a split estate and just like in the oil and gas business, that he used

to be in, if one gets an oil and gas lease then they have the right to drill a well and take care of it. The ranchers have the same right because they own an allotment and are not simply permittees. That's why they can be bought and sold and you can borrow money on it. New Mexico is not a riparian state; water rights prior to 1907 were adjudicated to the homesteaders and the water was put to beneficial use, and that did not include game. Let's quite playing games and telling people we are doing a good thing because we allow all the deer, elk and all critters to jump in there. A feral hog is the nastiest thing you can put in water; did we stop the feral hog? Why aren't we fencing out the hog and other things that attack the mouse? He wanted the Forest Service to go back and look at what their original mission was and go back to what they should be doing such as taking care of the watershed. They have allowed too many trees and they should change their approach and not build fences.

Bill Dennis told the commission he lived in the middle of the city and was irritated by the federal government stepping in to control what should be controlled by the state, county and city governments. This should be a state forest because the state would not have allowed it to come to what it has now. Animals have more rights than human beings. Animals have the right to exist but how many paychecks do these animals sign. The federal government should step out and let us take care of our own. This forest is in my county and my county should take care of the forest within its bounds.

County Commissioner Susan Flores thanked them for having this presentation. She said the county commission has been working on this for several years. She does not blame Mr. Moseley or Mr. Duran for any of this; they are simply fulfilling their jobs. We have an issue going on at the federal level which has been going on for many years. Two years ago, she was at a National Association of Counties meeting in Pittsburgh, PA. The USDA Secretary was there and he was bragging about all he has been doing in the mid-west with the dairy men and other things. He bragged about spending \$9 billion dollars to fight forest fires. He asked for questions and I told him we had suffered a fire in Lincoln County where 254 homes were lost because our forests were not thinned and we have no watershed. She asked him to put boots on the ground to be loggers to thin our forest in order to restore our watershed in New Mexico; use \$9 billion dollars to prevent the fires. We have to defend our property rights and our water rights. She said there was a difference between an allotment owner and a permittee; these people are private property allotment owners and not permittees. She asked how many feet across were the 1.5 mile, or some say 3 mile, lengths of fence. She remarked it looked to be about 100 feet across in the pictures. This little spring was probably about three feet and everything she had studied concerning riparian areas said that the water goes to where it dries out on the banks. If it's a maximum of three feet, why do we have 100 foot wide fencing? We wouldn't be disturbing the mouse and we wouldn't be disturbing the banks, and the cows would get water. There are so many things we should be looking at to do and it isn't happening. When we asked to meet with them and they went to Albuquerque to meet there, it went nowhere. They stuck their feet in the ground and said we aren't moving. Now we have to push a little harder to make them understand we are going by the Constitution of the United States, and we are going to protect and defend those. There will be a rally on Saturday at 10:00 a.m. and the Cattlemen's Association will be out there. We want to show them this will be peaceful and talk about what's going on. She was thankful for this presentation tonight because the more we get information out there and questions are asked, the more we can answer those questions correctly.

Commissioner Hernandez spoke to something Sheriff Benny House said. Commissioner Hernandez said that about four years ago, and he said you might remember 'Fast and the Furious', he got caught up in that at a gun show where he bought a couple of firearms. Had it not been for Benny House stepping up against the federal government, he might not be here today. He appreciated what Sheriff House does to protect and serve.

Commissioner Straface asked when they would consider the resolution and Mayor Galea told him it would be considered after Item 3.

Mayor Galea asked for a 10 minute recess at 8:48 p.m. and the meeting reconvened at 8:57 p.m.

Mayor Pro-Tem Rentschler moved to approve moving item A-2 to our next item of business. Commissioner Baldwin seconded the motion. Motion carried by a vote of 7-0-0.

A-2. Consider, and act upon, Resolution No. 2014-27 to Support Cooperative Efforts Between Local Governments. [Roll call vote required] (R. Rentschler)

Mayor Pro-Tem Rentschler said he felt what we were talking about was water rights, private water rights, and we've watched our fellow County Commissioners take a firm stance on this. He believed as fellow elected officials we should respond and support them in this endeavor. This resolution goes a long ways towards supporting them and insuring the City, and we'll see how many members of the commission are willing to support this. He believed it is something Alamogordo is required to do to show we stand in unison with our fellow citizens in Alamogordo and the citizens of Otero County and our commissioners in supporting what the County Commissioners have already done.

Mayor Galea wanted to discuss the language of the resolution, the last two paragraphs:

Be it Further Resolved that the City Commission adopts the policy that the governing body and its individual members should not interfere directly or indirectly with the actions of the Otero County Board of Commissioners in a manner that fails to recognize the importance of working cooperatively and being supportive of the actions of the Otero County Board of Commissioners.

And, Be It Further Resolved, that the City Commission hereby encourages staff to continue to develop a cooperative and productive working relationship with various federal agencies in a manner that is beneficial for the residents of this community while being cognizant of the need for the City Commission to maintain a cooperative and supportive relationship with the Otero County Board of Commissioners.

She agreed it was important to be cooperative, but to be supportive of all the actions of one board of commissioners, it was important to include language where it is they are acting within the realm of the law. There have been some things we have found unfavorable that would not be in good representation of the citizens of Alamogordo.

Mayor Pro-Tem Rentschler thought that was inherent. We wouldn't, of course, support anything that was illegal.

Mayor Galea said your language says 'supportive of the actions of the Otero County Board of Commissioners. Mayor Pro-Tem Rentschler said sure. It is inherent that what they are doing is legal and we would not support them if they were doing something that was not legal.

Mayor Galea felt the language was lackluster and loose. What would be more productive would be a memorandum of understanding with the Cattlemen's Association. Memorandum of understanding where we'll work together in a resolve so that when there are mutual opportunities to improve the water shed and other sources of water, the source water within the Sacramentos, we'll continue to work together so we can improve the water rights and be able to provide water for our citizens as well as for cattle and for beneficial uses of the US Forest Service.

Mayor Pro-Tem Rentschler said that could be added to this very nicely as another 'Let it be further resolved'.

Mayor Galea asked Mayor Pro-Tem Rentschler how this would be more binding than a memorandum of understanding. Mayor Pro-Tem Rentschler told her this is not; what this is, is showing support for the County and for the citizens and for the cattlemen of Otero County.

Mayor Galea thought it important to show support but to do something that has true....she guessed what she was trying to say was this seems like a kum-bi-ya, and she didn't think it had any true merit where we'll be able to really work together in the future.

Mayor Pro-Tem Rentschler believed the Otero County Board of Commissioners, we really had to have an understanding with them; we really need them to work with us. We have a lot of stuff going on with

them right now, from PSAP to the re-establishment of the Library money, to the Convenience Centers; there is a lot we need to do with them right now. He believed it shows us standing shoulder to shoulder with them and shows us in camaraderie, and if you want to call it kum-bi-ya, then so be it. He believed it shows us and shows them that we are willing to stand with them when they need this. So, I am willing to do that; I believe it is the reasonable thing to do. Again, he believed they had taken the proper action and this, again, says

'Whereas, the City Commission recognizes the importance of private property rights and endorses the concept that landowners be provided the maximum right of self determination'.

He thought that was inherent and protected by the Constitution, and it is nothing more than constitutional language at this point.

Mayor Galea thought that tonight in all the political speech there was a discussion about private property rights being maintained and protected, and the Forest Service did talk about the allotment. There is only one permitted water user grazer on that allotment there. So, we are not talking about protecting private land rights, we are talking about an allotment and only one person having actually the adjudicated water rights on that allotment. Everyone wants access to water.

Mayor Pro-Tem Rentschler said here is exactly what happens. Whether it is gun rights, abortion, or whatever it is and no matter how you believe in it, it is the incremental taking of rights. What we see is time after time particularly the Federal government will come and get just a little bit and just a little bit more. It is something they do over the decades and eventually we start to lose these rights. You have to take a stance before you've gone too far to where you cannot recover. Once they take that, once they take that first allotment, Mr. Eldridge's allotment will be next, Sacramento Lake will be next. We'll continue to see them domino, if you will, and it is happening now throughout the country. It's just a matter of standing up for what's right in Otero County.

Mayor Galea said she agreed with standing up for private property rights. We are talking about 48,000 acres of an allotment and 24 acres being made a riparian area. Mayor Pro-Tem Rentschler said if those cattle do not have any water they might as well not have any of the allotment, either. It's as simple as that; the cattle aren't going to live without water.

Commissioner Baldwin would like to re-task this back to focusing on the resolution. Mayor Galea said she was focused on the resolution and the language therein. Commissioner Baldwin had a few things to say on that. He wasn't totally opposed to this idea; showing support for our Otero County Commissioners is part of what we are supposed to do every single day. He reads this and he thinks this is basically part of our job description, making sure we are active and stay active in our county issues, as well. He kind of had an issue with the 'Be It Further Resolved' paragraph. You read it first and his issue with that is it kind of reads that we agree with all the actions of Otero County. If there isn't one thing that's being exercised right now, it is the ability of one government to agree with another government. Isn't that right? So, we are going to have our disagreements with the County and they will have with our decisions, as well. That one needs to be worded differently or stricken altogether, one of the two.

Mayor Pro-Tem Rentschler asked him to make a suggestion. Commissioner Baldwin said he just did. He said we need to discuss the wording of it first. If we can't come to agreement on the wording, he didn't know if he wanted to go in this direction or unless that is stricken from the actual resolution, one of the two. Mayor Galea asked if he meant the entire paragraph and he said yes and read; 'the City adopts the policies that the governing body and its individual members should not interfere directly or indirectly with the actions of the Otero County Board of Commissioners in a manner that fails to recognize the importance of working cooperatively and being supportive of the actions of the Otero County Board of Commissioners.

He felt it read like a complete support of almost everything or everything they do. Am I wrong? Mayor Galea said that is how it reads. Commissioner Baldwin said, no offense, County Commissioners, but we are going to disagree on some things and he doesn't necessarily want a resolution that says I can't disagree with you on things. He thought that was fair.

Commissioner Sikes had two questions. Number one is why are we doing this? As Commissioner Baldwin said this is something you just assume you are going to be doing every single day, to work cooperatively with the other governing bodies within the County. She didn't understand why we are doing this. Number two, if we are going to do it is the County going to do the same thing for us? She said it would only be fair to have a reciprocal agreement if we are going to go through this. She knew that, as Commissioner Baldwin said, there are numerous points where we will disagree and she didn't want to feel bound by a resolution. What inspired us to do this?

Mayor Pro-Tem Rentschler countered what inspired us to bring the Forest Service here tonight? Commissioner Sikes answered it was education; we need to learn more about what is going on, learn more about the issues.

Mayor Pro-Tem Rentschler said that is right and there are two sides to every story, and the second side of the story is this, do we or do we not support what is going on in the County. Commissioner Sikes said if we don't support what's going on than we don't vote for the resolution, and Mayor Pro-Tem Rentschler said that is right.

Commissioner Baldwin disagreed whole-heartedly with that.

Mayor Galea said we can support what the County is doing without agreeing entirely with them.

Commissioner Baldwin said this resolution does not bind me as a City Commissioner to say I'm an advocate for or against private property rights. That's a tough pigeon hole to put me in as a City Commissioner. Isn't that what you said, if I don't vote for this than I'm not for private property rights?

Mayor Pro-Tem Rentschler said he didn't say that exactly, no. That was not the intent of his statement. He said his intent was to really understand what was going on in the County and we had that opportunity, and then to support our fellow citizens in the County and Alamogordo, for that matter. Commissioner Baldwin said he whole-heartedly and absolutely does.

Mayor Pro-Tem Rentschler said if this part 'adopts the policy that the governing body and its individual members should not interfere directly or indirectly with the actions of the Otero County Board of Commissioners', he didn't know if that, and generally speaking we don't interfere with them; he couldn't think of a place we have interfered with them. We have certainly had our problems and it will happen again.

Commissioner Baldwin said when he reads that, the 'directly or indirectly', affects us going to their meetings and we were just down there a couple of months ago in reference to gross receipts tax. That is directly interfering with what they are doing, saying our piece at their meetings. Indirectly, he sees County Commissioners quite often and gets to jawing with them about various things within the community, and that could be termed as indirectly. That's the language I kind of have an issue with. He likes the ability to disagree with some of our government entities in the community.

Mayor Pro-Tem Rentschler asked Commissioner Baldwin that if you took that paragraph out, would that be satisfactory. Commissioner Baldwin told him he would be more inclined to look at this, too. He went on to say that the other thing is that this is brought to us five days ago and he didn't know about it. He had only had three days to look at it. Something this important that is going on, and he agreed with Mayor Pro-Tem Rentschler there, he was ok with pumping the brakes on it a little bit and taking more time to make sure it is correct.

Commissioner Straface wanted to look at this from a 20,000 foot view. It allows us an opportunity to clarify some values we have as a commission; to not think specifically about water rights or that. He felt there were three or four things in here that were pretty important to us that we need to recognize and honor. For example, he thought the concept of cooperative collaboration whenever possible is important. It doesn't mean you do every time, but you try to work towards collaboration and cooperation as a goal. The second thing is he thought we need to stand for private property; it is a

right we cannot afford to dismiss, no matter what the issue. That is critical in his mind. A third thing, and he said he liked that language, 'Be it resolved' with some limit. He would support the commission as a whole, and commissioners as individuals should not direct or indirectly interfere with other political agencies, not necessarily the County. He knew of incidences in the last two or three weeks where there have been commissioners trying to interfere in some County business. He did not think that was appropriate; we are non-partisan. There are times when we need to say, 'It's not our business. We're not going to take this stance; we are going to step back and see what happens.' He really believes this and feels sometimes we are inserting ourselves where we shouldn't be. We should really remember that as Commissioners we act as a whole and not individually. He really respects that. He would encourage our staff to continue always to develop cooperative relationships, not necessarily focused on this particular issue, but as an overall value that we clarify today. He probably as this is worded would not support it because of some of the reasons Commissioner Baldwin says, but he would support the clarification of those four values; they are really important.

Commissioner Turnbull agreed with Commissioner Baldwin and Commissioner Straface on that. She had a problem with a lot of the language in here. She knows what side she is on but she doesn't think she needs to put that in a resolution; it is a personal side she is on. She didn't think she needed to do it this way, based on the wording. It is a given we should support the County, but not interfere. What we are doing is kind of interfering; that's how it came across to her. She liked having both parties come to address us, but she didn't think we needed to put our oar in the water. It isn't any of our business. The County decided and we need to respect that and step back.

Commissioner Hernandez agreed with the two commissioners. He pointed out it is 9:15 at night and we are on the second item that is totally none of our business.

Mayor Galea said the reason why she brought the Forest Service here was for more clarification. She was reading what was in the newspaper and it wasn't the whole story as she had been told through the Forest Service. We continue to work with them because it is in our vested interest that we provide water to the citizens of Alamogordo. It is important that we continue to also work with the cattle ranchers because water rights are important to us in the City of Alamogordo. She didn't understand the language in the first part of the resolution and thought we had to agree to disagree that this is in regards to private property rights. She understood in discussion with the Forest Service that this is in regards to an allotment owner and rights to a stream head. That is the State Engineers job to work with the Forest Service and the allotment owners. Having water rights is a State issue and the fact it is on a Federal reserve is a federal issue. It isn't the City of Alamogordo's business but it is the business of our community when we vilify a working group of people when they go into an eating establishment in uniform and are treated like a lesser customer. She didn't think that was appropriate and was not in good taste for our community to treat someone in a Forest Service uniform as a lesser person or customer because they had been vilified in the newspaper as being someone who trampled on private property rights. This has nothing to do with private property rights and it has everything to do with water rights. That is the State Engineer's job and a state issue; that's why I asked for our state legislators to get involved and why I asked for the Forest Service to come and make this presentation so we would have further clarification. She couldn't support this resolution as worded.

Mayor Pro-Tem Rentschler said this is all about showing support for what's been happening here in Otero County and the truth is we wouldn't be here if the Forest Service hadn't been invited to make this appeal to us over something that, as you say, is none of our business. As soon as it becomes our business, and it has with the presentation here tonight and the folks who show up to support this, at that point in time we don't have any choice but to take a stand one way or the other on it.

Commissioner Turnbull reiterated she knows where she stands on it, and each individual citizen should be able to make their own stance on this without us coming together as the commission to make a point. She doesn't think it necessary to come here, especially when she knew they didn't all agree on it, and didn't think we'd come together with the way this is written. It is a given to support the County on what they do and we do not interfere with that. She agreed with Commissioner Baldwin in not agreeing with everything they do, and that is how this is coming across on this.

Mayor Pro-Tem Rentschler agreed with that. If taking out that paragraph would make the commission more supportive at this point in time, or to change it in some way he would be willing to entertain that. Once it is brought to us as a commission, he thought we have an obligation to react as a commission. Once it was brought to us as a commission; that's what happened. That's why all the people you see in the audience tonight are here.

Mayor Galea said she brought the Forest Service here to maintain a healthy dialog with them as the City provides water to all water users in the City of Alamogordo. She didn't think the Otero County Commission represents the City Commission when they use strong language in a way that would not be beneficial, or in many ways be burning bridges of conversation. She felt it important to maintain a healthy dialog with the Forest Service and with the ranchers so we could continue to improve our water sheds and water systems for the use of the citizens of Alamogordo and for the cattle.

Mayor Pro-Tem Rentschler asked why the Forest Service was here at this point in time; why didn't we have them here two months ago or two months from now. It is tonight, in the middle of this controversy that they show up here. As Commissioner Hernandez pointed out, was it any of our business; did we need to be in the middle of it.

Mayor Galea said yes. The Otero County Commission in their strong language and attitude toward the Forest Service is our business because we provide water to the citizens of Alamogordo through the 113 springs in the Sacramento forest. It is important we work together with the US Forest Service.

Mayor Pro-Tem Rentschler asked her if she thinks that by passing this resolution the repercussions would be significant or negative. Mayor Galea said she did not say there would be repercussions.

Commissioner Baldwin said it was time out and called the question.

Mayor Pro-Tem Rentschler moved to approve Resolution No. 2014-27 to Support Cooperative Efforts Between Local Governments. Commissioner Hernandez seconded the motion.

Commissioner Baldwin moved to amend the motion by removing the language from the first paragraph 'Be It Further Resolved' from the resolution.

Commissioner Straface didn't think it should be taken out, it should be reworded. There are issues there where we should not get involved, nor should we take active stances. When you block the whole paragraph out you limit that. He felt we should understand there are some things we should not get involved in.

Mayor Galea said she had a motion and second by Commissioner Baldwin and Mayor Pro-Tem Rentschler to remove the paragraph. She asked Commissioner Straface how he would reword that paragraph.

Commissioner Straface said the four values he had talked about are what he would like to see. The language in here that says 'in a manner that fails to recognize the importance of working cooperatively and being supportive of the actions of the Otero County Board of Commissioners', he would like to say 'the appropriate actions or actions consistent with law' that you would support. The idea for him was that there are times we should interfere and times we shouldn't. We need to use that wisely. For example, we are really stretching it to say all of Alamogordo's water is in jeopardy over this issue; he didn't think it was.

Mayor Galea said we have to ask for permission to access the water pipelines. If they break, we have easements. Commissioner Straface said the Forest Service is not going to deny you access if your water breaks.

Commissioner Baldwin said that isn't what we are discussing right now.

Commissioner Turnbull said what if we put 'and being supportive of the constitutional actions'. I'm all for that.

Mayor Galea said to clarify on the first 'Be It Resolved', you would say 'in a manner that supports constitutional actions'. Commissioner Straface said that would be fine.

Commissioner Turnbull made the motion to amend the first paragraph 'Be It Further Resolved' by adding 'in a manner that supports constitutional actions'. Mayor Pro-Tem Rentschler seconded the motion.

City Clerk Cantin reminded the Mayor to vote on the first amendment first.

Mayor Galea called for the vote on the first motion to amend Resolution 2014-27 by removing the first paragraph, 'Be It Resolved'. Roll call vote was taken by the Clerk. Motion failed by a vote of 1-6-0. Commissioner Baldwin, Commissioner Turnbull, Commissioner Hernandez, Commissioner Straface, Mayor Pro-Tem Rentschler, Mayor Galea voted nay.

Mayor Galea called for the vote on the second motion to amend Resolution 2014-27, first paragraph, 'Be It Resolved', by striking the language 'in a manner that fails to recognize the importance' and substituting with the language 'in a manner that supports a constitutional action'. Roll call vote was taken by the Clerk. Motion passed by a vote of 6-1-0. Commissioner Sikes voted nay.

Mayor Galea called for the vote on the original motion to approve Resolution 2014-27. Roll call vote was taken by the Clerk. Motion passed by a vote of 6-1-0. Commissioner Sikes voted nay.

- 1. Presentation to the City of Alamogordo Recreation Center from the Tularosa Basin Wine & Music Fest held by the Alamogordo, Tularosa, and White Sands Rotary Clubs on September 21 & 22, 2013 to be used to help pay for some kids who may not be able to pay for the programs offered. (Renee Cantin, City Clerk)**

City Clerk Cantin told the commission that the three local Rotary Clubs hold a Wine Festival usually in September of each year. This is their main fundraiser for children's programs and they get help from the City of Alamogordo Parks crew to set up and help all day long. The Rotary Clubs give \$1.00 of every ticket sold or redeemed at the gate goes to the City of Alamogordo Recreation Center for children who may not be able to attend programs because of lack of money. She presented the check in the amount of \$1,464.00 to Shannon Petsche, Manager of the Rec. Center.

- 2. Presentation related to the Status & Timeline of Airport Projects. (Jim Talbert, Airport Manager)**

Airport Manager Talbert told the commission the status of Airport projects. He had a Power Point presentation to refer to during his talk. He said they hope to complete the Airport Master Plan, work on extending the runway, strengthening the runway, obtaining FAA Part 139 Certification, Transportation Security Administration (TSA), and finally Regional Jet Service (RJS). He said they had been working with URS to complete the Master Plan and there have been some delays in dealing with them. The City Attorney has gotten after them to get things going and Airport Manager Talbert talked to them today as to what needs to be done. They have agreed to complete the draft by the middle of June. Comments will begin, a Public Open House will be held by July 15, 2014, and it will go to the Airport Board and they have agreed to have a special meeting if necessary. Once the Airport Board has it, it will come before the City Commission on August 13, 2014, which he felt was a commission meeting day [actual meeting date is August 12]. After that, it will go to the FAA, depending upon comments or what may need to be re-written or re-accomplished. That is not tied to the runway extension. The extension is on schedule with 100% approval done and bid plan will go

out by Delta on June 15th. The bid release should go out on August 1st, provided everything is good on the bid plan and the IFE is being worked on. The bid award, depending on everything that's within criteria and the FAA, should be by September 1st and providing FAA funding is available, construction should begin by Nov. 1st, and it should happen before that. We have to keep the airport operating through fire season, so he would talk about why we can't start it before the fire season. If we get the FAA funding all at once, it should be done in six months; if the FAA funds in increments, the worst case scenario would be two years. He didn't believe the latter would happen, but he was never certain of what the FAA would do. Once the runway is lengthened, we have to look at the current existing runway because it is in poor condition. He thought it was interesting that the P-2, the heaviest concentration on the wheels we have, isn't having any problems on it and we aren't seeing any damage from that plane. There are cracks and other things wrong with the runway. The examination will begin while the runway is being extended and it may begin when the extension is complete, depending on FAA funding. It could take up to a year since it will be done a little at a time; we can not shut the whole runway down at once. Concerning the 139 Certification, there are many things that need to be completed. The Airport Certification Manual (ACM) had to be written and he has done this. We don't have part of the exhibits yet. The Airport Emergency Plan (AEP) is written and we are getting it approved by various agencies. The Airport Layout Plan is completed and the Sign and Marking Plan is our big issue. The estimate for writing the plan is \$12 million dollars and it must be done by a consultant. As we do the runway extension, they will change the orientation of the runway which is now 2103, because the magnetic pole continues to move. The runway will become 2204 which means all the signs and paperwork have to be redone. The FAA has also decided we have to rename all our taxiways because they can no longer be called Alpha Bravo Delta Charlie. We'll talk about why it is a better option to put this off for a little bit. We will be moving the approach end of the runway where the instant approach goes to, so we'll have to do an aviation survey to re-establish our instant approach. We'll also have to do a Wildlife Hazard Assessment which will cost about \$90,000 and take a year; the good news is it does not have to be complete in order to gain the 139 Certification. He referred to the handout concerning other repairs that needed to be done. They are working on upgrading the fire equipment and it will depend on what kind of airline comes in as to whether it needs to be done. All this is dependent on a Letter of Intent from an airline which we presently do not have. We've been talking to American Airlines and the gentleman we've been talking with, Mr. Dale Morris, has left American. Airport Manager Talbert said he had tried to contact someone with the similar position at American, but has been told that due to the joining of US Airways and American, nobody knows what they are doing right now. There isn't anyone in this position at this time. He talked to Mike Boyd of Boyd International Consultants who is working it and he has said that in 90 days American might be willing to talk to us about what is going on inside their own airline. We cannot hurry that up, so we have that delay as far as getting a letter of intent. The FAA does not want to issue the 139 Certificate until we have that letter of intent. That is simply a letter of intent and is not a commitment, but for us to go for the category we are looking for, Category 4 Airport, we need something; category 1 means we could be working. Transportation Security Administration (TSA) won't even look at us without a letter of intent. They won't even send someone out here to survey the airport. Someone has come out and surveyed, but then walked away after saying it would work; we need more than that. The biggest issue we are looking at is power availability that is just a matter of where power is entering the terminal building and where do we need to have it. A minor issue is there are not any restrooms in the secure areas, so passengers will have to leave the area in order to use the restroom and then come back through security again. They do this at Roswell and Hobbs, so it isn't an issue, it is an inconvenience.

Airport Manager Talbert next talked about Regional Jet Service (RJS). Again, we need that letter of intent. We are working on the new point of contact and some issues are that we don't have any instrument approaches in our runway extension, because the end of runway three can no longer be identified. That will eliminate all instrument approaches coming in. We have to work that out with the airline and they may not like that idea. The second thing that will happen is that the runway will be shortened to 6,150 feet during the construction. The reason is because they are constructing right off the end of the runway and you have to have stop ways, safety ways and a certain amount of distance between the construction site and the end of the runway in order to have enough over-run for emergency situations. He had looked at American jets and their takeoff roll is right there. These are

maximum gross weight take offs at sea level; they won't be taking off at max gross weight but we are at 4,000 feet and adds to the takeoff roll. That may be a consideration. He pointed out the takeoff rolls for various planes and the one they may be bringing in which has a 7,300 foot takeoff roll. That may make it prudent to delay the RJ until we get there. He noted the planes American Eagle flies into Roswell, and that the Embraers may be what we'll be seeing there.

Mr. Talbert had the commissioners note the information he had enclosed in their packets and said the first was the results of the 139 Survey done by the FAA and Mr. Mitchell in a letter to the city manager; nothing here is insurmountable and everything here costs money. They talk about repainting almost everything at the airport with reflective paint. He mentioned that when they redo the runway they will be painting the whole thing, so he felt we should wait until then to do the painting. It is already in the funding to be done with the extension and strengthening. There is some dirt work in there that is not a big issue; we simply have to move some drainage channels and smooth some areas. The pavement and painting are the big issues, all of which are being funded through the runway extension. The second letter is the actual agreement between American Eagle and Roswell and it shows what Eagle expects. Points of interest in the two year contract are on page 3 under Revenue Reconciliation show a guarantee of \$2.1 million per year and a total of \$4.2 million for both years. That is the amount the city is on the hook for if the airline does not make money; it is the maximum they can get from you. He had them look on the same page at Letter of Credit which would be for the amount of \$1.6 million, so they can grab money without any problems from the city. The city has to put up a letter of credit for that amount. On page 10 under Expenses he pointed out that Roswell waived all fees and paid all expenses, so the city will not make any money from the airline. Everything is free to the airline; no landing fees, no rent, nothing, and the city pays for the terminal, counters, de-icing equipment. There aren't any fuel flowage fees, there are no fees paid to the city.

Airport Manager Talbert said it makes sense to become a 139 airport even though we don't have an airline coming in on a scheduled basis, for economic reasons so we can attract more business flights to the Alamogordo airport. This would be a category four which is what we were in 2008 when we had the Beech 1900 coming in. Next, he recommended the city do as much paperwork as possible towards gaining the 139 as a category one that is for the 104' airplane. It is all based on the length of the airplane. After completion of the runway extension and strengthening, because we will be doing the painting, the new signs and everything will be changed. Everything will be paid for at one time and will already be in the budget for the extension. We'll still have to come up with the \$12,000 for the sign plan and he would like to delay that until the runway is completed. The limitations to the airport, the length of the runway and the no instrument approaches will be gone by that time. With that, we can get the airport up and running and have a much better opportunity to provide American with an airport that is very useable and without any delays or other problems. He guessed this would be six to seven months after the start of construction, providing the FAA comes through with all the money

Mayor Pro-Tem Rentschler didn't hear him mention anything about Neptune. Airport Manager Talbert said they are working on bringing in four to five Sherpa airplanes for maintenance purposes. We are looking at using Economic Development funds to repair the section of ramp in front of their hanger, but haven't gotten too far with that issue. We have found out we cannot use FAA funds because it is within their lease area, so we are looking at other alternatives. Mayor Pro-Tem Rentschler asked him if he thought the Economic Development funds could be used for the sign plan, as well. Airport Manager Talbert said he did not know that.

City Attorney Thies said we would have to have a project agreement with an eligible entity that uses Economic Development funds for anything that has to do with the airport. He said we are currently working on developing a project participation agreement with Neptune for improvements to the parking area.

Mayor Pro-Tem Rentschler said we look to Neptune to be our partner, and City Attorney Thies said we haven't discussed stripping or other painting issues with them, just the improvements to the front of the building.

Mayor Pro-Tem Rentschler asked Airport Manager Talbert about shutting down the runway. Airport Manager Talbert told him the runway would be shortened to 6,000' for a minimum of three days when the whole runway would be closed for painting and other things. It would not be during fire season and it is in phase three so should be right at the end of the extension.

Mayor Pro-Tem Rentschler asked about runway strengthening happening immediately after the extension and Airport Manager Talbert said that providing the FAA funds it that will be the plan.

Mayor Pro-Tem Rentschler said he hated the word delay when it comes to this. He asked that if we got a letter of intent in six months, when can we expect to achieve 139. Airport Manager Talbert said it would depend on how fast we can get stuff to the FAA. That is why we are working on the paperwork now so we can have it ready to go. It will affect the kind of airplane they are bringing in. One of the things we are working on is if there are only four departures a day, we can drop down the fire protection required and wouldn't need the two big fire trucks; we could do with what we have and that will save a bunch of money and our existing fire station out there would work. We are also working with HAFB to try and get a fire truck from them, but there are not any guarantees on that. Our Assistant Fire Chief, Jim LeClair is working on that right now.

Mayor Pro-Tem Rentschler said we can reasonably assume the 139 would be complete a year from now, and Mr. Talbert said it is a reasonable assumption providing the FAA funds everything as we get the runway done.

Mayor Pro-Tem Rentschler next said he had talked about the guaranteed minimum profit margin of \$2 million dollars. Mayor Pro-Tem Rentschler said we had started the grant application last year about this time and were denied. We probably weren't ready for it and if we had it now there wouldn't be anyone to guarantee it to. He wanted to know how much of an FAA grant we would apply for. Airport Manager Talbert said he had noticed those who got the grants were the ones who already had the air service. Once we get that started, we can apply the grant and generally half of it, \$50,000-\$500,000, is what would go towards the guarantee. Mayor Pro-Tem Rentschler was under the impression we would look for all of it this year for the guarantee. Airport Manager Talbert had not seen this happen in the past; only half of that grant goes towards the guarantee. Mayor Pro-Tem Rentschler said it was someone on the Airport Advisory Committee that told him that. Airport Manager Talbert said hopefully we will be successful when we get the promise of the airplane coming in, but we can't ever say who is going to give us the grant.

Mayor Pro-Tem Rentschler appreciated him bringing this all to the commission and was glad to see him hit the ground running out there. Airport Manager Talbert said we are going to try to make this thing happen for you.

Mayor Galea made a comment about Neptune and how it relates to 139. The Neptune, not to disclose too much, will be able to transfer their 145 certificate so they can do maintenance on planes up to 137's, so if we have that 139 certificate, Neptune will be able to do a lot of maintenance work out there for RJS. That is another opportunity for the City of Alamogordo to attract business to our airport.

City Manager Stahle asked if Roswell ever had to pay any of that revenue sharing. Airport Manager Talbert said yes, from what he understood, they did. City Manager Stahle asked if it was all or just a portion, and Mr. Talbert said it was a portion. City Manager Stahle said that was an important one for us. Mayor Galea said Roswell is now being repaved by the Jet Service. They have been receiving \$400,000 a year and expanded their service to Phoenix since it has been so successful. Airport Manager Talbert said that has been happening and Roswell has done very well. One thing he took out of the presentation was be careful when comparing Alamogordo to Roswell, Santa Fe and Hobbs. They have multiple runways, aren't living in the middle of restricted airspace, have full-time approach controls and have instrument approaches that go down to 00 where we are 500 feet or more. There are a lot of things different from our airport.

3. Presentation related to Fund 118 projects. (Jason Thomas, City Engineer)

City Engineer Thomas told the commission the 118 funds must be spent by December 2014. The commission awarded the last contract of the 118 projects a few meetings ago; the paving of Fairgrounds Road from White Sands Blvd. to Florida, Scenic from White Sands Blvd. to Florida and Washington Ave. from First to Tenth Street. Looking at the Budget Review, the projected, remaining balance for all the projects that contain 118 funds is \$1,063,974.00. In order to preserve these funds, we have been working with Finance to reimburse expenses that have been incurred for the Pecan/Indian Wells project and the Washington/First St. project. The Pecan/Indian Wells has been going on since 2012. Basically, the expenses for 44 and 109 will be reimbursed through a fund transfer. These funds will go into fund 44 and 109 balances, so then you will have basically \$957,952.00 which is the total of the two 109 lines going into fund balance for the future road projects. You will be able to use that for next year or the coming years.

Mayor Pro-Tem Rentschler said you are putting a million dollars back into 109, and City Engineer Thomas said yes. Mayor Pro-Tem Rentschler asked the current level of 109 and City Engineer Thomas asked if he meant the current fund balance, and was told yes. City Engineer Thomas did not know what it was.

Mayor Pro-Tem Rentschler asked if he had any plans at all for that \$1 million dollars or if it was something they would look at later on. City Engineer Thomas said you could apply it toward your SMP projects. You could double up or expand your SMP program to knock down a couple of different years. There is a restriction with those projects as you and I have discussed concerning water and sewer. Mayor Pro-Tem Rentschler said certain utilities getting under the street and enough utility and road money outrunning has always been a problem. City Engineer Thomas said there are some collectors that aren't on the SMP that would have very little utility work that we could look at and talk about at a later meeting to add to your SMP.

Commissioner Straface asked about the note on Washington Street at \$1.7 something. That covers the project with the schools? City Engineer Thomas said yes, sir. Commissioner Straface asked if he was counting in the additional \$500,000 from the schools.

City Manager Stahle said he wasn't sure it was in that amount. City Engineer Thomas said it was not in that amount because we get that money reimbursed as we expend it, so it would be money we would look at probably putting back in 109.

Commissioner Straface felt we ought to get a bill pretty quick before his tenure as APS Superintendent ended so as to keep some consistency and not have it get confused. City Manager Stahle agreed completely. Commissioner Straface said to let him know.

City Manager Stahle said we are absolutely going to talk about additional road projects in 109 and are hoping to have that in planning session the end of June. We have a target date now that we are hoping to stick with. We may have goofed up George's plans a little, but we will work that out.

Mayor Pro-Tem Rentschler had one more question for the city manager. We were just talking about the schools funds coming back, but wouldn't that add to the remaining 118 funds. City Manager Stahle said that transfer would be part of the Washington/First St. intersection and extension project. It will be spent on that; the \$1.7 million is the City's money. Mayor Pro-Tem Rentschler said that is right but is that the cost for the total project? City Manager Stahle said that is just the City's and not the School Districts as he understood it. Mayor Pro-Tem Rentschler said the total cost for the Washington/First Street is and City Engineer Thomas said the total price was \$2,936 million. Right before he commission awarded a contract for Washington/First Street, we realized a big savings from the Pecan Extension. So, with the budget revision, we moved \$353,000 from the Pecan Extension to the Washington/First St. project so we wouldn't encumber any 109 money with Mesa Verde's contract. Mesa Verde's contract is all 118 money. The actual budget for Washington/First St., including funds 109 and 118, is \$2,582,000.

PUBLIC COMMENT

None.

CONSENT AGENDA (Roll Call Vote Required for item No. 6)

4. **Approve Minutes of the May 13, 2014 Special Meeting and the May 13, 2014 Regular Meeting of the Alamogordo City Commission.** (*Renee Cantin, City Clerk*)
5. **Approve the Lodger's Tax Expenditures for Tourism & Travel.** (*Jan Wafful, CS Admin. Assistant*)
6. **Approve Resolution No. 2014-25 of the Governing Body of the City of Alamogordo, New Mexico declaring its official intent to reimburse itself with the proceeds of a future Tax-Exempt borrowing for certain capital expenditures undertaken or to be undertaken by the city; identifying the capital expenditures and the funds to be used for such payment; and providing certain other matters in connection therewith. [Roll call vote required]** (*Stephen Thies, City Attorney and LeeAnn Nichols, Contract Finance Operations Consultant*)
7. **Approve the award of IFB No. 2014-04 Miscellaneous Fire Department Uniforms to Neve's Uniforms & Equipment in the amount of \$32,414.00.** (*Mikel Ward, Fire Chief*)
8. **Approve a Weed Abatement Request for 1203 Puerto Rico.** (*Ms. Velma Morgan, Requestor*)

Commissioner Hernandez moved to approve items # 4, 5, 6, 7, 8 of the consent calendar. Commissioner Baldwin seconded the motion. Roll call was taken for items #6. Motion carried with a vote of 7-0-0.

ITEMS REMOVED FROM CONSENT AGENDA

None.

UNFINISHED BUSINESS

9. **Consider, and act upon, the dispensation of the contents retrieved from the Landfill related to the Atari Games.** (*Brian Cesar, Public Works Director*)

Public Works Director Cesar said this will be broken into three parts. The first part will be a video highlighting what went on with the project. He showed the video which was basically a trailer for the movie to be made.

Mr. Joe Lewandowski told the commissioners that they did find the game after four years. He said there would be a full length documentary movie being produced that will be out in July showing all that took place to get to this point. The interesting part was finding that location which was only about the size of a big double-wide trailer, about 100' long by 40' wide at the max in an area of over 300 acres. There are no records of that landfill like we keep today, so we got lucky and hit it on the first try. That video didn't show how many people were involved. There were over 5,000 people who showed up and they came and went all day long. The wind and dirt weren't good for us but we re-adjusted the operation to move all the people up wind of the excavation. The movie producers loved the affects of the dust storm and were very pleased with the sand and wind. The Environmental Department (ED) has signed off with the plan so it is officially complete and everything has been restored back where it needs to be. The ED says everything is fine and a 'go' as far as they are concerned. You are holding

a \$25,000 deposit from the film company, Fuel Industries, plus they also get a portion of the games. One of the stipulations was getting this confirmation of completion from the ED; it has been provided to City Staff. The other item is that I have required them to pay all local vendors before they get the deposit back or are given any of the games. To dig that hole cost over \$50,000, engineering was over \$12,000 and the landfill was \$8,000 because none of that garbage could go back into that hole, it was sent to Otero/Greentree. Hauling costs for the three haulers, Nelson, Southwest and Greentree, were over \$10,000. Mesa Verde cost over \$20,000 for digging and equipment. We have a complete list of local vendors and his main goal was to make sure they all got paid before the deposit was returned. Tonight was to get approval to refund their deposit and distribute the percentage of games coming to them, contingent upon Mr. Lewandowski receiving a certification from all the local vendors involved stating they have been paid. When he receives all certifications he will let City Staff know so they can reimburse the deposit and distribute the games to the film company. That is what he is asking the commission to vote on this evening.

He continued by saying it all went well and couldn't have gone better. A distribution plan of the games found had been sent to the commissioners via email and there were over 1,300 games in storage at the City Yard. On EBay a game is worth \$8.00 - \$9.00; he doesn't know what these are worth because of the legend. If you don't know the legend or thousands of stories that go with it, it touched a lot of different people. This documentary will talk about that and not just the burying of the games; why they got buried, how they got buried, who was involved, what happened here in Alamogordo. You have over 1,300 games in the warehouse that are being called 'Survivors of the Atari Tomb'. (There was a display of framed artifacts from the dig in the room for all to see). Mr. Lewandowski noted some of them had concrete on them and that he had pictures of the concrete they were enclosed in. He had also been there when it happened. He didn't know what these artifacts were worth but knew people all over the world are asking about how to obtain one. That will have to be determined in the near future. We have completed inventory and there are over 60 game titles with over 1,300 games that came out of the dig; it is a historical situation for Alamogordo. The distribution plan recommendation is that museum boxes be made up similar to what he had on display tonight. He pointed out the newspaper dated September 23, 1983, when all this happened. After all the test holes we dug, that newspaper told us we were in the right place. There have been discussions with the Smithsonian Museum and it is quite clear through the film company and the City that they would like to have a set of these items for display. Our Space Hall is also interested as well as the Tularosa Basin Historical Museum. He also recommended two more boxes be put together because other museums have asked for them as loaner displays that you would get back. He reminded the commission that their agreement with the film company was 10% of the 'ET' games and he wasn't sure why they limited themselves to that game only. There were 171 'ET' games out of the 1,300 games found so that would be 17 games for the company. The film company spent \$50,000 to get 17 'ET' games, and he recommended they consider giving additional games to the film company above that 10%. He felt it would be a good gesture since we have received so much publicity over this. Microsoft funded this and it wasn't a small time operation. The director you saw in the video was from the movies 'Avengers', 'Thor' and 'Behind Enemy Lines'; the producer is Jonathon Chin who is an Emmy winner; they are Oscar winning producers. Microsoft has been paying the bills for all of this and is getting a lot of publicity that they never expected from this. Again, some might wonder why that trash is so important; it is all the stories, the time and the industry. He noted some of the games were very rare, such as 'Pelé Soccer' which would have been the first time a professional athlete was used to sponsor a game, as well as being a black athlete which at that time was rare. There were only two of those games found. He had initially requested you give them 52 games but now was requesting 100 games. They will use them for publicity items and give some to Microsoft and other officials including the inventor of the game who flew in from Washington State for the dig. Some of the remaining games he recommended the City use for awards. He said Roswell has the little green men and we could have the Atari games to give to dignitaries or others for whatever the reason. The balance of the ones left could be used for some sort of limited sale along with a letter of authenticity from the City. We have some old property ID tags with serial numbers the City no longer uses that could be put on these items to mark what they are calling the 'Survivors of the Atari Tomb'. There would be 600-700 of these. He said we'll talk more in detail about that later if you are willing to move forward with what we have recommended. A certain number could be guaranteed to people in

Alamogordo and then you would go out from there. Microsoft would buy them all in one shot, but he thought it would be nicer to see them go to locals and other people. They do have value because of the legend and they will always have value. He has had some gamers come to him who were upset because we have now dispelled the legend that it never happened. If you look on the Internet you'll see the legend continues because some are saying this dig was a big conspiracy; the film company and he snuck in the night before and planted the games. That is the new legend. \$32.99 is what the game sold for back in 1983 and some of the games still have those price stickers. They also threw out the game system and there are some of those.

Mayor Galea asked hear from Mr. Orwoll from the New Mexico Museum of Space History (NMMSH).

Mr. Chris Orwoll addressed the commission and offered the museum's services for curating these articles. He said this area is one in which they have some expertise. He came from a museum that had brought the Liberty Bell VII Spacecraft from the bottom of the ocean and restored it. That was Gus Grissom's flight and the second manned U.S. flight. There are still 26 boxes of items from that spacecraft that are being preserved in Kansas. A number of items were taken off because they could not be put back in the restoration and were then sold afterwards; things as small as nuts and bolts sold for as much as \$150 - \$600 dollars. He used that as a cautionary tale to the City to be very careful as you go through and price for potential sale. He said you should go through a real appraisal from the local community and the museum world to see how they would be distributed out and presented; in some situations they need to be incased. He said this museum would like some small portion to put on display in what we would call 'Popular Culture'. In the case of the Smithsonian, Dr. Margaret Wisecamp is the curator and they are quite interested. He said he could help arrange any transfer and contacts with her; he will be there within the month and could talk to them at that time. In his situation, 'Popular Culture' means things like Lego's, Star Wars toys, science fiction and Saturn V rocket-shaped dog chew toys that were created in the 1960's. Those things were considered popular culture and this is a big piece of the Science Fiction popular culture. The association with Alamogordo and the Tularosa Basin is significant to our museum as well as the Tularosa Basin Historical Society (TBHS) and the Smithsonian on the national level. He cautioned the items in the framed boxes were already deteriorating and he offered the museum's services for curating this collection. It would require a memorandum of understanding (MOU) and memorandum of agreement, but we could provide the 'care and feeding' of the artifacts which is what they became. As they came out of the ground they moved from trash to artifacts. You need to be careful in gluing them to panels, etc., because that does damage the artifact. If you are selling them as an artifact you have to go through the American Association of Museums, and we could advise you on that. He said we have plans and would love to put some of these items on display at the Museum for people to see. The TBHS is another place where they need to be displayed to tell the local story for those interested in history and especially space history.

Joe Lewandowski said that he was the vice-president of the TBHS and said he would visit with Mr. Orwoll afterwards. He again said the whole thing couldn't have gone any better out there. ET showed up and a DeLorean vehicle showed up as well as a big party at both the Game Stop and Mini Golf. It is the talk of the whole world on the Internet.

Commissioner Baldwin asked Mr. Lewandowski to clarify the amount of games in his final recommendation. Mr. Lewandowski said his recommendation was to give nine to Light Box, nine to Fuel Industries, and the balance would be the games we have numerous amounts of.

Commissioner Baldwin asked about working and non-working games, boxed and non-boxed games, and Mr. Lewandowski said we would go into classifying and categorizing these. It's not about whether they work or not because you can get a working one on EBay for \$9.00. It is the idea these are now artifacts of this tomb and a legend. Some may work, but it is more the condition of the box, the wrapping; some are cartridges by themselves, some have plastic wrap, some have 'Target' on them. There are different ways to categorize them and make a determination of the value; they could sky rocket.

Commissioner Baldwin said we can do all that at a later date. We just need to decide yes or no on your recommendation. Mr. Lewandowski said it was to simply move forward with museums and to keep some for the City for artifacts. If they are worth thousands of dollars you won't use them as a commemorative gift and you would have to make a different decision. There might be a limited sale of the 1,400 games because collectors will want them.

Commissioner Baldwin said he was willing to move forward to the people we are committed to, but as far as the museums, he wanted to take more time before committing.

Mr. Lewandowski said this is our first presentation and there is a lot more information to be discussed as to how these are to be distributed. Tonight, he wanted to make sure the \$50,000 was paid to the vendors so the City can release the \$25,000 deposit and give 100 games to the film companies. Then we would be done with that part. You could take time with the balance of the artifacts. If we run out, there are 790,000 more still out there in that hole. The less there are, the more they are worth.

Mayor Pro-Tem Rentschler said the Internet was ablaze with this information about these games. He wondered if they would continue to be worth that much, or if they would diminish in value the further we got from the event. Mr. Lewandowski said they would have diminishing value. It will slow down, but timing is important. The film will release in late July. This is the first archeological dig ever done for something like this, so there isn't a precedent to say what they are worth. There are experts out there who would know what to do. It could be interesting to have an auction and see what one gets. You might sell them off and balance your budget with them or build some more roads.

Film Liaison, Jan Wafful addressed the commission. She said it was very important to disburse the ones to the film companies in time for the premier and release of the movie in July. That will be when it has it's greatest impact worldwide and if they have those games in hand it will be a real help for when you decide what to do with the rest of them.

Commissioner Hernandez moved to approve that staff refund the \$25,000 deposit and distribute the games to Light Box and Fuel Industries dependent on the local contractors being paid. 100 games would also be distributed to the film companies as proposed. Commissioner Straface seconded the motion. Motion carried with a vote of 7-0-0.

Public Works Director Cesar said clarification for the remainder of the games needed to be made. Once we have met our obligations with Fuel Industries and Light Box, what action would the commission wish them to take and what information would you like us to bring back to you concerning the remaining items.

Mayor Galea would like to entertain the discussion about what Mr. Orwoll presented concerning an MOU with the NMSHM to do the curation of the artifacts.

Commissioner Baldwin said we need to do whatever needs to be done to preserve these. Maybe bring a list to the commission of the people who express an interest in the artifacts, and we'll go from there.

Mr. Chris Orwell reiterated what Jan Wafful had said about interest when the film comes out. There should be a display here in the community of these items by the time the film comes out. It will hopefully draw more people in the summer if they know they can see these objects on display at City Hall, NMMSH, TBHS or a combination of all three. It isn't an ownership issue as much as a loaning issue between the City and those entities.

Mayor Galea asked if the commission would like to discuss where to put a display. Mr. Lewandowski said we were looking at all three locations. There is a variety of items and it would be more effective if they were at all three.

Mayor Galea agreed all three locations were great but was concerned with the City's timing an MOU with the Space Museum for curation and if they would have time to get all those exhibits done.

Public Works Director Cesar said they will work that out and bring it back to you.

Mayor Galea said the commission's consensus is to move forward and have City Staff work with NMMSH on an MOU concerning curation. Also, to move forward to do exhibits in up to three places within the City of Alamogordo.

NEW BUSINESS

10. **Consider, and act upon, the first publication of Ordinance No. 1468 amending the Alamogordo Code of Ordinances to add a new section in Chapter 24 concerning vehicle forfeiture. (Stephen Thies, City Attorney) WITHDRAWN BY STAFF**
11. **Consider, and act upon, the first publication of Ordinance No. 1469 amending the official zoning map of the City of Alamogordo, changing the classification of a certain area consisting of Alamo Blocks Block 84 Lot 12, the South half of Lot 13, and Lot 14 (commonly known as 1121 and 1115 North Florida Avenue) from their present designation and zoning district of R-4, Multiple Family Dwelling District to C-3, Business District. (Case # Z-2014-0001(A)) (Marc South, City Planner)**

City Planner South explained to the commission that the situation with this property was Ms. Holguin has for some time operated a crafts store where she sells crafts she has made. They came to us some time ago with a proposal to expand the business to allow other craft vendors to come in and rent space in the building. The R-4 category allows for galleries and we were comfortable with one person as a gallery. We were not comfortable going to multiple vendors even though nothing else was changing. We proposed rezoning to C-3 which we would support them in and Ms. Holguin has decided to do that. There won't be any change of the structures on the lots; it will simply be more intensively used. He pointed out the area on the map. There are only five total landowners within the 200 square feet, five letters went out and no complaints were received. We recommend approval for first review.

Mayor Galea asked him if changing the zoning in the neighborhood would affect the local residents. Would it make it easier for them to become commercial? City Planner South said the block on which this is located has only one residence on the corner. Behind it is the Masonic Lodge and the others are the First Assembly of God and Alamotero Survey.

Mayor Galea said it was part of downgrade zoning. What happens if the tenants move out and the next person wants to purchase the property for residential? City Planner South told her you can live in a C-3 already; you can build single family housing in a C-3. The Comprehensive Plan for this part of Florida envisions it becoming retail over time.

Commissioner Hernandez moved to approve the first publication of Ordinance No. 1469 amending the official zoning map of the City of Alamogordo, changing the classification of a certain area consisting of Alamo Blocks Block 84 Lot 12, the South half of Lot 13, and Lot 14 (commonly known as 1121 and 1115 North Florida Avenue) from their present designation and zoning district of R-4, Multiple Family Dwelling District to C-3, Business District. (Case # Z-2014-0001(A)). Mayor Pro-Tem Rentschler seconded the motion.

Commissioner Hernandez had some discussion. He said to the city planner he had said there wasn't a problem prior to this with them running their business out of there, and City Planner South said that was correct. City Planner South said it was a question of when does it move from a gallery to a retail business. R-4 clearly allows for galleries. Commissioner Hernandez said he had noticed a few businesses pop up in his neighborhood that he wasn't sure the zoning was correct or not. He asked

for the Code Enforcement and Fire Department to check on these when they did their inspections. City Planner South told him they verify this as business registrations come through, but if they don't register..... Commissioner Hernandez said that was his concern and that's why he brought it up. He wasn't going to point them out, he simply wanted them checked out. One has been there for a long time and he knew it was residential. He said some people pay taxes and some don't, so let's make it fair for everyone.

Motion carried with a vote of 7-0-0.

- 12. Consider, and act upon, the first publication of Ordinance No. 1470 amending the official zoning map of the City of Alamogordo, changing the classification of a certain area consisting of Quail Hollow Subdivision Lots 7-11, and Quail Hollow 2 Subdivision Replat A Lots 2A-8A (commonly known as 1150, 1200, 1210, 1220, 1230, 1240, 1250, 1300, 1310, 1320, 1330, and 1340 San Carlos Street) from their present designation and zoning district of R-1, Single Family Dwelling District to R-2, Townhouse Dwelling District, within the corporate boundaries of the City of Alamogordo, Otero County, New Mexico. (Case # Z-2014-0002(A)) (Marc South, City Planner)**

City Planner South said the crucial thing you need to be aware of is if you look at the map, the red line on the north and the red line on the south end is the area covered by this rezoning. The proposal came from Quail Hollow; they have a developer interested in building on these lots, however they are not interested in building on 60' lots. They are interested in building on 55' lots, 50' lots. The proposal is to rezone from R-1 to R-2 which will allow for a narrower lot. This is analogous with what the commission has previously approved at the Hermoso el Sol and Valencia subdivisions. If this rezoning is approved and comes back for the second reading, you will be presented at that time with a subdivision case that will result in splitting the 12 lots that exist now into 15 lots.

Mayor Pro-Tem Rentschler asked how wide the lots would be, and City Planner South told him 50'. Mayor Pro-Tem Rentschler said part of the concern was that when you approve the subdivision on N. Florida next to C.O.P.E., we are watching the first house go up there and it is a two story house. When we approved those lots, part of what we believed at the time was that there would always be a single car garage associated with this. This first two story house doesn't have a garage at all. He was told by one of the commissioners that it was a show house. Mayor Pro-Tem Rentschler said as narrow as that lot is, he didn't know how they put the house in. Commissioner Straface told him he had talked to Jim French about this. Mayor Pro-Tem Rentschler said that his concern was he wanted to be sure we don't have a bunch of houses built so close together that they either have to park on the street or on their front lawns. He thought this would happen in this subdivision we are talking about.

City Planner South said all he could say was that at the time this subdivision he is talking about came in, the French's who own this subdivision said some houses would have two door garages and some have one door garages, but all would have a garage. Mayor Pro-Tem Rentschler asked if that was the same with this – will they all have a garage. City Planner South deferred to Mr. Drunzer for this.

Michael Drunzer introduced himself as the owner of Quail Hollow. He told Mayor Pro-Tem Rentschler they would be 55' lots and all have a double car garage. The footage will be around 1,200 – 1,500 square feet. We are trying to have a lower priced house for first time homebuyers. Several builders have asked him to do this, so this is why he has come before the city commission tonight.

Mayor Pro-Tem Rentschler asked if he understood his concern and Mr. Drunzer said he did. He reiterated there has to be a minimum of a two car garage.

Commissioner Hernandez moved to approve the first publication of Ordinance No. 1470 amending the official zoning map of the City of Alamogordo, changing the classification of a certain area consisting of Quail Hollow Subdivision Lots 7-11, and Quail Hollow 2 Subdivision Replat A Lots 2A-8A (commonly known as 1150, 1200, 1210, 1220, 1230, 1240, 1250, 1300, 1310, 1320, 1330, and 1340 San Carlos Street) from their present designation and zoning district of

R-1, Single Family Dwelling District to R-2, Townhouse Dwelling District, within the corporate boundaries of the City of Alamogordo, Otero County, New Mexico. (Case # Z-2014-0002(A). Commissioner Straface seconded the motion. Motion carried with a vote of 7-0-0.

13. Consider, and act upon, the first publication of Ordinance No. 1471 modifying the composition of the Airport Advisory Board. (Robert Rentschler, Mayor Pro-Tem)

Mayor Pro-Tem Rentschler said what we've had is a problem filling all of the seats of the Airport Advisory Board. We do not have enough people applying for membership who are city residents. The idea is to allow the Board to have membership from the County while giving preference to the City. We have qualified people from the County who would be willing to sit on this board. There has been a vacancy for some period of time now, and all this would do is open it up in order to fill the Board. There is a lot going on at the airport and we really need the Advisory Board in place and adequately staffed.

Mayor Galea thought it would be helpful since there are two vacancies at this time that have been there for a while, one for almost a year. It would be helpful to look to the County for those who have property within the city limits.

Mayor Pro-Tem Rentschler said it would give preference to city residents. He thought it was a reasonable thing to do.

City Manager Stahle said it's important to recognize that the new language would require that you either reside in or own property in the city, like we do for bond questions. You still have a serious tie to the city but you don't have to live in the city.

Commissioner Straface moved to approve the first publication of Ordinance No. 1471 modifying the composition of the Airport Advisory Board. Commissioner Hernandez seconded the motion. Motion carried with a vote of 7-0-0.

14. Consider, and act upon, approval to proceed with applications for Governmental Liquor Licenses for the Ed Brabson Balloon Park and Hoosier Field B Complex. (Matt McNeile, Assistant City Manager)

Assistant City Manager McNeile told the commission they were asking for approval to go through the process of applying for these municipal licenses. In their packet, it showed each of the facilities and how it would work.

Commissioner Hernandez asked why he only wanted to use the B Complex on Hoosier Field. Assistant City Manager McNeile told him it was the adult side of the Hoosier Field complex and would be used for tournaments and some adult league play. Commissioner Hernandez asked if we use them both sometimes, and Assistant City Manager McNeile told him they don't for adult league tournaments because the A side is too small.

Commissioner Hernandez asked if it would be a benefit to have it in case we used it for some other function at some point. Assistant City Manager McNeile said it wouldn't hurt and it would probably be used very sparingly.

City Manager Stahle encouraged him to apply it to the whole thing. It does give us maximum flexibility and he has wondered why it isn't that way on Griggs Field. He agreed with Assistant City Manager McNeile that it wouldn't be used very often, but when you need it you don't want to go through this again. Commissioner Hernandez agreed, and maybe up-grade Griggs Field; do it all at once.

Mayor Pro-Tem Rentschler asked if we needed to have a Public Hearing before doing this. Assistant

City Manager McNeile said the Public Hearing would come during the permitting process, after we apply for it. We just wanted to make sure everyone was on board before making the application.

Commissioner Hernandez moved to approve the request to proceed with applications for Governmental Liquor Licenses for the Ed Brabson Balloon Park and for the entire Hoosier Field and the entire Griggs Field. Commissioner Sikes seconded the motion. Motion carried with a vote of 7-0-0.

At this point, City Manager Stahle introduced Jason Richards in the audience as our new Special Events Manager. He has done a bang-up job so far and his world will change as of Friday when Civic Center Specialist Raul Ruiz retires. He has done a terrific job and he had great confidence he will continue doing an excellent job for us.

15. Discussion and possible direction to the Street and Facility Naming Committee to prepare a list of possible city properties that would benefit the community by renaming them in honor of some residents for their legacy of service. (Susie Galea, Mayor)

Mayor Galea requested this item be placed on the agenda after the prior commission meeting where we named the Ed Brabson Balloon Park. She asked the commission if they would agree to allow the Staff to bring them recommendations for future city property naming.

Commissioner Hernandez thought that would not be a good idea only because the areas that have been named have been brought to us by family members or people interested in that area being named after their family members. If we do that, it will open a can of worms; you limit yourself to that being all you have until you build something else. For instance, the Charlie Lee Memorial Road and the Willie Estrada Civic Center were brought to us by family members. When you do something like this you are saying this is all we have, let's just pick somebody. He told the mayor that in the minutes she had stated we didn't name the library room after a woman, because it was a woman, and that was not the case. Mayor Galea said that wasn't what she said. Commissioner Hernandez replied that is what the minutes said and you did not correct the minutes. Mayor Galea said ok. Commissioner Hernandez said it had nothing to do with it being a woman. He didn't have a problem with naming something for a woman if they fit the title and project. It doesn't matter whether it is a child or a woman; it didn't matter to him. He thought these things are brought up when they are asked for. He said to go back and read the minutes; there was strong, strong opposition to the Library issue. The commission as a whole voted on that issue and it wasn't supported.

Mayor Galea said she didn't want to bring that up specifically, but recounting that issue, she remembered in those minutes it was because in our ordinance it is by policy the city commission doesn't name a memorial after someone living. That was the justification we gave to Ms. Vaughan for not naming the children's room after her. Mr. Brabson is indeed alive and well, thank the Lord, and we've named the Balloon Park after him. There isn't a justification for not naming the children's room after Ms. Vaughan.

Commissioner Hernandez said the policy allows for it and if they want to try again they can. To bring all available properties would be a disservice to the community. Everyone would come in and say their family member deserves this and that and you'll have to tell a lot of people no. That's just my opinion. Even though that person thinks it should be named after a family member, not everyone will say the same thing. You'll have some very disappointed people.

Commissioner Straface supported Commissioner Hernandez on this. The criteria for this under Roman numeral V-A3 says, 'Naming a public street or facility after a living person or organization is not recommended. However, there are times when the community believes it to be the proper and necessary thing to do.' So there is room within our policy to do that and I would support it on a case by case basis.

Commissioner Hernandez said if you go back to what happened in the past, there were several

issues with that. Whenever you have someone in a government body like that, we won't always agree on what does or doesn't happen. You can say that person did a lot and I can say that person didn't do anything; it is just opinions and he did not want to get into that. In the case where we named the Balloon Park, it was all there. He was the one who started the balloon festivals, he is the one that did all this, and his family came to me and asked me to do this. That's why I brought it forward. It wasn't my idea and I do not take any credit for it other than bringing it to the commission. Mr. Brabson's granddaughter asked him to do this.

Mayor Pro-Tem Rentschler said you know how I feel since I was the only one who voted against renaming the Balloon Park. He thought we should look at this stuff and judiciously decide on it. We don't do it readily or easily; there are times it should happen and the majority of the time we need to sit back and see how history judges these people we would name things after.

Mayor Galea said the reason she brought this up was because of the infrastructure currently being built, for instance the Desalination Unit. There are a number of former elected officials who had a hand in that coming to be, so that was something she hoped they would consider naming after a former mayor.

Commissioner Hernandez remarked that in the past on all new city buildings there has been a plaque with the past, present and future commission who were involved in the project and anyone else involved like the city manager and any of the main staff.

Mayor Galea said she sees there is no interest in this item so no action will be taken.

16. Notification of Boards & Committees Vacancies. *(Susie Galea, Mayor)*

Mayor Galea announced there were no applications for any of the vacancies. No one was appointed. She hoped to find nominees for Airport Board, Airport Zoning Board, Alamogordo Disability Council, Community Development Advisory Committee, the Housing Authority Board, the Mayor's Committee on Aging and Senior Volunteer Program. Volunteerism is what helps make the city go round and we need input from those boards and committees.

PUBLIC COMMENT

A. Sharon Hodges commented on the following:

1) Ms. Hodges said since this is the first time since her residency in Alamogordo that we've had an elected mayor, she felt she had to come before them to make a comment. She remarked she has been very vocal about the relationship between the Alamogordo Police Department and the Otero County Sheriff's Office, and she was very troubled when she heard the mayor of Alamogordo took it upon herself to endorse a specific sheriff's candidate in the upcoming primary, discounting the fact we had another candidate in the general election. The unintentional consequences of your actions are many: what message does this send to the Sheriff's Office, the citizens, the Sheriff's deputies and the APD officers. Does this say the city is supporting this one candidate over the other? She had asked Mayor Pro-Tem Rentschler if this had been voted on since she had missed a meeting. Suppose this candidate gets elected? The Sheriff's office is called many times to investigate APD. How could the public ever be sure this is an ethical investigation? Is the sheriff just paying back the mayor? Would the sheriff work for the citizens, for the mayor, for the city or the chief of police? She told Mayor Galea her actions had the potential to do much damage not only to the relationship but to the public perceptions about our local law enforcement. Ms. Hodges had spent a lot of her time talking to the sheriff and police and many of you commissioners about her concerns about relationships. She will always believe that in order for us to have a community that is safe and protected, the relationship we have with the Otero County Sheriff's Office and the APD is crucial and vital. Egos cannot exist between the sheriff and the police chief, nor between the County and City commissioners or the mayor. She didn't get the email but she got lots of copies because people know this is her issue. She talked to Police Chief Duncan and Sheriff Benny House and had many meetings with them on regular occasions in order to know how the relationship was going. She made it an issue in the 2010 election and is making it an issue now. She muscled her way in when you were interviewing your

candidates and she invited herself to the meetings so she could meet the candidates. She talked to them about this relationship because she thought it so important. She told Mayor Galea she had read her letter and you got your facts wrong. Ms. Hodges said she knows about HIDTA and she knows what the sheriff's office has been doing, so at the very least you owe the sheriff's office an apology. You did a disservice to the candidate you endorsed. Whoever wins, there will be a cloud there. She remembered when Commissioner Straface talked about building partnerships and as a citizen she expects that of each and every one of the commissioners. We have to build partnerships whether you like the commissioners or not. You do us a disservice when you are fighting amongst each other and working against what they are trying to do. Your own opinions don't matter when you are up there; you have to take our concerns first. Ms. Hodges said she wasn't getting any delight out of this because it has undone a lot of work a lot of us have put into this, and we know the value of the relationships we are trying to build between our law enforcement officers. We know what it did to our communities when this relationship was not there.

Mayor Galea thanked her for her comments and said she respected her feelings. To Ms. Hodges and all citizens, she urged them to request a transcript from the last HIDTA meeting two weeks ago. The sheriff protested when HIDTA asked him to include his new charter to work with the City of Alamogordo, Cloudcroft and Tularosa after it was noted he was not working beneficially with federal agencies while receiving federal money. She said everything she had stated in her letter was true. She was sorry if this was offensive to anyone, and the City was not supporting any one candidate. As mayor, she chose to make an endorsement as many mayors have done in the past.

CITY MANAGER'S REPORT

1) City Manager Stahle said for this fiscal year which we are about to complete, the City has received the Distinguished Budget Presentation Award from the Government Finance Officers Association (GFOA). This is a big deal and reflects quite well on the city. It also reflects quite well on our Budget Analyst, Kathy Gilsdorf, who was principal behind putting together the current year's budget. She is being recognized with a Certificate of Recognition for the budget presentation. He thanked her for that.

2) He said another is from the Area Agency on Aging given to the City of Alamogordo Senior Program for outstanding submission of budget, in particular Senior Center Manager Ronny Ortega's work. He wanted them to remember the budget is not just theirs, it is the communities and is a lot of hard work from dedicated individuals. He recognized and thanked everyone involved.

Commissioner Hernandez asked the city manager about his trip. City Manager Stahle said it was wonderful and his granddaughter is gorgeous, and he is biased.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Mayor Galea commented on the following:

1) She said 150 rose bushes were planted today at Alameda Park. She thanked the Parks Department and the Keep Alamogordo Beautiful grant. Colonel Croft had noted that citizens said there once were rose bushes all along the Alameda Park fence, so she worked with Assistant City Manager McNeile, City Staff and Boy Scout Troops 147, 127 and 239 to get them planted.

2) She remarked that May 30th would be Civic Center Specialist Raul Ruiz's last day after 25 years and the Gus Macker was a great event.

3) City Clerk Renee Cantin recently took the oath of office as a Region VIII director for the International Institute of Municipal Clerks (IIMC). She is one of only 24 in the whole world.

4) The mayor said that on May 15th she and the city manager met with Neptune about improving the parking apron by this fall, so they can work to bring more economic impact to the community. Laurie with OCEDC met with Neptune to discuss their incentives.

5) Also on May 15th, she met with General Bingham though an event the Committee of 50 had hosted for her farewell. She presented a Mayor's Commendation to the general.

6) On May 16th, the United Way presented the City with a Silver Award. Many contributions to UW through city staff come through the Senior Center staff. This award marks more donations than in

years past.

7) On the same day she welcomed participants to the Annual State Square Dance Festival. This is the first time it has been held in the City since 1991.

8) She attended the ceremony at HAFB closing off Law Enforcement Memorial Week. Our Police Chief Duncan was a keynote speaker and did a wonderful job.

9) May 17th & 18th was the Gus Macker, and Special Events Manager Jason Richards and many community volunteers did a great job. She received a lot of positive feed back about the organization of the event and the positive level of law enforcement. Many of the law enforcement personnel worked on their day off with the city staff. The only negative comment she received was the lack of amusement park rides.

10) On May 20th we celebrated one year with City Manager Stahle. We are glad to have him here.

11) The Forum is where we learned that the Inn of the Mountain Gods is building new tourist attractions to improve tourism to our area.

12) Dr. George Straface had a Farewell reception to recognize his time as Superintendent of the Alamogordo Public Schools. She gave him a Mayor's Commendation at the event.

13) The mayor asked for a consensus to move forward with NMED Source Water Planning on May 21st. That is where the state will do all the preparation and cost of the planning to identify all our sources of water and how we can improve them. She asked the commission for permission to move forward with this. The state will also look at other sources in our region and how they all tie together. Mayor Pro-Tem Rentschler asked for more information on this and if it would commit us to anything.

Mayor Galea told him it would not commit us to anything. Ruidoso recently completed one within a two to three month period and now they know the total of all their assets in water. We do too, but they look at all the challenges that might come with having just one source of water, and opportunities for other sources of water.

Mayor Pro-Tem Rentschler asked if it would commit us to supplying Tularosa or Cloudcroft with water, and Mayor Galea said it would not. Mayor Pro-Tem Rentschler said he did not understand the reason. Mayor Galea said she would go back to her notes to explain it to him as it was explained to her.

Commissioner Baldwin asked her to simply send them an email and she said she would, but she asked for consensus to move forward with this. Source water plans will need public funding for sustainability in the future. She said there are 66 public water systems in Otero County and 11 were invited, but only four to five were represented at this meeting. She said the fact is the water table is down ten feet below the ground with ground water depletion and it is important to identify other ways we can improve our source of water. They talk about ways we can work with the acequias and the Forest Service to facilitate meetings in order to improve our ground water flows where we see depletion with the wells.

Commissioner Hernandez said he believes this is the one that is, for instance, Boyles has their own water source, Duncan has their own water source and even Freeman's Trailer Park has their own water source. They are actually a water service company like Boyles Acres. What it does is put all of them together to find out who is pulling what, how much they are pulling, how they monitor it, how much they are losing and whether it would benefit us to buy that system to do this or that with it.

Mayor Pro-Tem Rentschler asked what it would cost. Mayor Galea said it would cost nothing; NMED pays the entire cost. The result for Ruidoso was that they have a shortage of supply and so it has given their city the ability to work together as a whole to locate another supply of water. They are working now on Alto Lake.

Mayor Pro-Tem Rentschler asked again if it commits us to anything and the mayor said it does not. She told the commission they were welcome to attend the next meeting, and Mayor Pro-Tem Rentschler said if he was available he would do so. Mayor Galea thanked them for the consensus to move forward.

13) She said nine out of twelve at-risk youth graduated from the Border Patrol REAL program and our

Lt. Corbett worked with the Border Patrol for this six week program. It is not an easy program but one that is positive for at-risk youth.

14) On May 23rd she met with Governor Martinez at the airport. The mayor presented the governor with a Ft. Stanton lapel pin since she would be giving that address the following day. She thanked the governor for the \$4 million in capital funding we received, and expressed what funding would soon be needed to make that state match in order to extend our airport runway. The MVD event was not well attended but the governor recognized their successful government initiative. Commissioner Straface was also there as the governor presented the City of Alamogordo with a Certificate of Appreciation for our work with the NMMVD.

15) May 24th was Memorial Day at Fort Stanton Day and she attended with Governor Martinez and Col. Daly from Ft. Bliss.

16) Mayor Galea is looking forward to working with the city commission on June 26th for strategic planning. If anyone is available sooner, it would be better for some commissioners.

Commissioner Straface commented on the following:

1) He said he would be remiss if, for the record, he didn't say that he supported what Ms. Hodges had said earlier concerning what was appropriate in terms of building relationships.

Mayor Galea asked if he was saying he objected to her not ever giving any kind of endorsement. Commissioner Straface thought because of the role we play as commissioners, it was very important to be neutral in elections. You never know who will win and when you make a statement of support of one or the other, you really erode a possible relationship. His recommendation was we never endorse a candidate and we remain neutral. We can do that privately and he has certainly done that by giving money privately, but as a superintendent he never stepped forward to say what he supports; it causes harm in the community. He understood why she said what she said but he just wanted to go on record as saying he does not support it.

EXECUTIVE SESSION (Roll Call Vote Required)

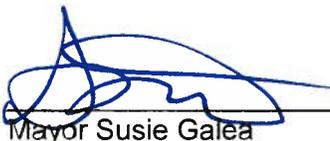
Adjourn into Closed Session in compliance with Section 10-15-1.H, NMSA 1978 (2010 Cumulative Supplement), to discuss:

- **A-3. Threatened and Pending Litigation (Marietta Biscuits Co. PPA Default)**
- **A-4. Sale, Acquisition, or Disposal of Real Property (Lot 12, Block 14, Alamo Blocks – Ninth St. & White Sands Blvd.)**
- **Sale, Acquisition, or Disposal of Real Property (W 1/2 of the SW 1/4 Section 29, T16S, R10E - Land north of Ocotillo Dr. & east of Sendero Dr.)**
- **Discussion of Purchase or Acquisition of Water Rights (BLT Farms & Martinez)**

Mayor Pro-Tem Rentschler moved to adjourn into Executive Session to discuss Threatened and Pending Litigation (Marietta Biscuits Co. PPA Default); Sale, Acquisition, or Disposal of Real Property (Lot 12, Block 14, Alamo Blocks – Ninth St. & White Sands Blvd./ W 1/2 of the SW 1/4 Section 29, T16S, R10E - Land north of Ocotillo Dr. & east of Sendero Dr.); and Purchase or Acquisition of Water Rights (BLT Farms & Martinez) at 11:21 p.m. Commissioner Turnbull seconded the motion. Roll call vote was taken. Motion carried with a vote of 7-0-0.

ADJOURNMENT




Mayor Susie Galea

(Prepared by Nancy Jacobs, Deputy Clerk)

Approved at the Regular Meeting held on June 10, 2014.