

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
MUNICIPAL BUILDING, 1376 E. NINTH STREET
7:30 P.M., COMMISSION CHAMBERS
NOVEMBER 13, 2001**

MAYOR DON CARROLL COMMISSIONER DON COOPER

MAYOR PRO-TEM JOHN VAN DOREN COMMISSIONER ED COLE

COMMISSIONER INEZ MONCADA CITY MANAGER PAT McCOURT

COMMISSIONER RON GRIGGS CITY ATTORNEY REBECCA EHLER

COMMISSIONER STEPHEN EASLEY CITY CLERK ANGIE RAHN

Call Meeting to Order, Roll Call, Invocation, Presentation of Colors by the AHS Air Force Junior ROTC Color Guard, and Pledge of Allegiance.

The Meeting was called to order at 7:30 p.m. The Invocation was given by Rev. Leland Stephens, the Colors were led by members of the AHS Air Force Junior ROTC Color Guard, and the Pledge of Allegiance was led Mayor Pro-Tem John Van Doren.

PRESENTATIONS:

1. Presentation by Otero County Economic Development Council (OCEDC) with an update on 1-800-FLOWERS.com.

Mr. Ed Carr, Executive Director of OCEDC, said 1-800-FLOWERS was up and operational to a certain extent. They'd trained 180 people and were in the training of another 180, for a total of 360 which was about the mark they'd set for the first year. Their building on North Florida was not ready yet, but they planned opening it up about mid next week. They had some telecommunications problems, but the building was essentially done. He talked to 1-800-FLOWERS' Vice President of Operations and she'd told him there would be a community leader tour of the building. It really was a super building and one the community could be proud of. They'd not heard back yet on their contract with the City. They knew we were looking for it and were waiting on their legal review to finish that up.

2. Presentation by CAPPED (Cancer Awareness Prevalence Prevention & Early Detection).

Ms. Tresa Van Winkle, President of CAPPED, gave a PowerPoint presentation on the history, programs, and goals of their program. She noted that their vision was to open up the Otero County Health Education Cancer Prevention Center. (Note: A hard copy of the presentation is on file in the City Clerk's office with the backup information to this meeting).

Ms. Van Winkle said she'd come to ask for the Commission's political support on two issues. She'd spoken to the Otero County Commission on October 23rd and asked them if they would bridge the gap between what they had raised on December 31st this year and what they needed to access that matching funding from the Rio Grande Cancer Foundation. Someone at that meeting had mentioned that perhaps they'd discuss this with the City Commission. She was asking for the City's support. Second, they recently went before the Board of the local United Way and asked for their support as well. They had now been labeled as an undesignated, unaffiliated United Way agency. That meant basically they had the right to go out into the community under the United Way umbrella and talk to agencies and ask for funding. She would like the Commission's permission to speak with City employees, explain their project, and ask for their support through United Way contributions.

Mayor Carroll said as far as coming to speak to City employees, they currently allowed the United Way to make a presentation to those employees who cared to attend, but it was not required that they attend. He was sure that if she would coordinate something with the City Manager, that he would try to accommodate that request. He would be more than happy to visit with the County Commission and urge that they support CAPPED with some Grant money. Typically the County Commission was the level of government that had in the past funded social service activities in the County, as well as in the City. He expected any local government money would have to come from the County.

Commissioner Easley commended Ms. Van Winkle on her presentation, and the group in general for their very excellent efforts at trying to turn their vision into a reality by doing the work and pulling themselves up from nothing to get it done. He had no doubt they would succeed at this project. All too often groups came to the Commission and said, "Just do something" when they actually had no idea what it was that they could do for themselves. He commended the group for having the smarts to think of all the things they could do for themselves to make this a benefit for all of Otero County.

Mr. Larry Van Winkle asked how many in the room had been touched by cancer in some way. They needed this project badly.

Call of the Consent Calendar: (Item No. 4 withdrawn from the Agenda)

Items on the Consent Calendar are considered routine and should not require further discussion. A single motion will approve all items marked "CC" unless removed at the request of a Commissioner, City staff, or a member of the public. Items removed from the Consent Calendar will be heard in the numbered sequence.

3. Minutes of Regular Meeting of October 23, and Special Meeting of October 30, 2001.

Recommendation: Approve the minutes.

4. Permit Agreement with Gotcha Advertising for Courtesy Benches.

Note: This item was withdrawn by the petitioner.

5. Request of Otero Federal Credit Union (OFCU) for an air space encroachment over an alley.

Recommendation: Approve an airspace encroachment for OFCU over the east/west alley in Block 85, Alamo Blocks, with the height to be approved by the City and the respective overhead utility and solid waste companies.

8. Resolutions for Condemnation:

A. Resolution No. 2001-31 for condemnation of 102 Texas Avenue.

Recommendation: Approve the Resolution.

B. Resolution No. 2001-32 for condemnation of 508 Maryland Avenue.

Recommendation: Approve the Resolution.

12. City Commission Regular Meeting Schedule for 2002.

Recommendation: Approve the Meeting Schedule.

13. Investment Report for the Quarter ended September 30, 2001.

No recommendation.

14. RFP No. 2001-03, Engineering Services for 2001 CDBG.

Recommendation: Award to Wilson & Company.

Mayor Carroll said since item No. 4 had been withdrawn, it would not be acted on this evening.

Commissioner Cooper moved to approve items 3, 5, 8(A-B), 12, 13, and 14 on the Consent Calendar. Seconded by Commissioner Moncada. All voted "aye". The motion carried by a roll call vote of 7-0-0.

ORDINANCES AND RESOLUTIONS:

6. Ordinance No. 1127 adding a new section to the Code of Ordinances concerning late fees incurred by persons activated or deployed by the Armed Services.

Recommendation: Final adoption of the Ordinance.

Commissioner Cole moved to approve Ordinance No. 1127 (for final adoption). Seconded by Commissioner Cooper. All voted "aye". The motion carried by a roll call vote of 7-0-0.

7. Ordinances amending Chapter 28 of the Code of Ordinances.

Mr. McCourt said this was an annual presentation they went through. Last year they had a very dramatic change in the way they set up the rates in order to allow a tiered system. This year they didn't have that dramatic of a change in the method. They were successful in accomplishing the goals last year, those being to reduce consumption during the highest use periods of time and also to raise money that was used within the Water and Sewer Fund to do the necessary improvements and pay for operations within that fund. This year they had presented a proposal working off of the existing base which had been established. The goal would be over the course of the next year to increase the revenues into the Water and Sewer Fund by an annual amount of \$350,000. Of that amount, they would anticipate that approximately \$221,000 would then be able to be used for capital expenditures within the Water and Sewer Fund. The remaining portion would be used to pay increased operating costs they faced each year. Those figures were assuming a three percent inflation rate. Obviously at this point they didn't know what that rate would be, so they used that as a guide. If the inflation rate were lower, it would allow more money to be used for capital expenditures. They had a very extensive list of capital expenditures that had been laid out in the ICIP and they were a long ways from being able to fund those improvements necessary. The type of improvements he was talking about was replacement of existing water lines throughout the City. They had examples of some of the lines they replaced out in the front lobby, and they could see why the lines needed to be replaced. They were caked-in, collapsed, or rusted away pipes. They also had the same problems with the sewer pipes throughout the town. The sewer gases actually caused the concrete to dissolve and eventually the pipes just collapsed, at which time they had to call out the crews on overtime. Many times they worked on nights or weekends to repair these breaks which occurred in the system. The proposal also encompassed some changes to the sewer rates and it proposed a new charge be levied to try and cover the pumping costs for the reclaimed water system. Part of their conservation efforts in recent years had been to take out the parks system, and change them over from potable water to reclaimed. They cleaned the water up at the wastewater treatment plant and it was being used to keep our parks in shape. If they'd not had that, they literally would have run out of water this year because of the volume of water they used. The City had been very aggressive in other areas

and he wanted to commend the Commission on that. For example, in covering the reservoirs to reduce evaporation off of them. They been running a very aggressive program to replace pipes, and our own crews did a large portion of that. They had projects underway right now to replace waterline pipes throughout the town. They currently had two projects under contract on Hawaii Avenue and Rosalia Lane, and they had a third one scheduled to start later this year on Puerto Rico from Indian Wells to 25th Street for the replacement of waterlines. He wished he could tell them it was free to do all of these things, but it was not. They needed to raise money in order to accomplish those as well as to meet the new requirements which were coming down from the Federal level on improving the quality of our water to make sure it was safe and useable for our citizens. They had programs underway to search out new water sources to make sure they had a dependable supply of water. That was what this money was used for; it did not go to pay the police, the firemen, or the Parks Department. It was used for the Water and Sewer Department. He strongly urged the Commission to send these forward for the citizens to review under publication and for consideration at the next available meeting after publication.

Commissioner Cole said on the \$800,000 which they'd made as a reduction this year from the \$1,000,000... Mr. McCourt said actually the recommendation was that the system should be generating a sufficient amount of money where they could take \$1,000,000 per year to be doing capital improvements in the water and sewer system. They were not near that at this time, though the budget did have \$1,000,000 which was the result of some back years' accumulation of resources. Commissioner Cole said yet with the tier system they reduced that by \$200,000. Mr. McCourt said if they hadn't put in the tier system and raised the additional revenue, they would not have \$1 million to spend for capital. Commissioner Cole asked if he was looking for a \$350,000 increase? Mr. McCourt said that increase was based on the proposed rates and it did assume the same level of sales. As he mentioned, it was actually anticipated the amount would be somewhat less than that because there was likely to be additional conservation on the part of individuals. Commissioner Cole said he'd read that, yet this year there was an increase in revenue although they had the conservation of water. Mr. McCourt said yes; that was exactly as the program was designed. One of the reasons was that they'd started on a constant base where all the water was sold at \$.84 per 100 cubic feet last year. Then they signed the tiers at higher levels of that and so even though there was a reduction in sales of water, because of the price differential it increased the revenue into the system. This year they were working off the tiers and were making only minor adjustments in the tier rates. Commissioner Cole said, then, there were enough funds to do all the ICIP projects for this year. Mr. McCourt said yes, for the current fiscal year. Commissioner Cole said the water fund was going to be self-supporting this year, revenue-wise. Mr. McCourt said that was correct, though as the Commission may recall, when they took the year-end fund balances and did the ICIP, they did take some money from the General Fund to do Puerto Rico and the water line portion of that project was being paid for from the General

Fund. The other capital improvement projects which were in the budget relative to the Water and Sewer Fund were being paid for with water and sewer revenue. Commissioner Cole clarified that all the ICIP projects would be taking place this year. There was not any money coming from the General Fund to support water and sewer. Mr. McCourt said other than the money that was being used for Puerto Rico. Commissioner Cole asked about the \$34,000 which was transferred in. Mr. McCourt said in the budget book that did not reflect the actions the Commission took later when they did the ICIP. So that did not reflect the money which had been sent to Puerto Rico because the budget was adopted before they did the ICIP. Commissioner Cole asked if out of that fund they had transferred \$884,000? Mr. McCourt said yes, for various capital items for water and sewer. He believed the Bonito Pipeline replacement was one of the very large items. Commissioner Cole asked how much more money this year's conservation program had generated than was projected? Mr. McCourt said the year was not over, so they weren't certain. However, it appeared they ended up generating about \$220,000, through nine months, more than they had generated last year. Commissioner Cole said he didn't think there was a justification for this increase. This year they were even with our expenditures and revenues. Second, they had more money from the tier conservation program, and if it worked next year it should also do the same thing. Mr. McCourt said he understood that feeling, but he would remind him that especially as they looked at the ICIP water and sewer projects, they had a vast number of projects that they had been pushing off for years. While Commissioner Cole was correct that they were certainly paying for the projects which were budgeted this year, the reason they were the only projects budgeted was because they were the only ones there was money for. They had many more projects that were needed and were important to be done. For example, they had a couple sewer main replacements scheduled for next year's budget. They may last until next year, or they may last three or five more years, but they were well past the point where they should be replaced. That was true of virtually all of the projects that were in the infrastructure plan. They were generating sufficient revenue from water and sewer rates to cover the operating costs of the Water and Sewer Fund, and generating some money for capital improvements to the system. In his opinion, the level of capital improvements was far below where it should be in order to maintain a safe system.

Mayor Carroll said this year there was no transfer from the Water/Sewer Fund to the General Fund to compensate the General Fund for the administrative services which were provided to that fund from the other departments. Last year that figure was less than what the actual charges should have been. So from that standpoint while they didn't write a check directly to the Water/Sewer Fund, they also did not charge the Water/Sewer Fund for expenses they should have been charged for strictly accounting for what the Water/Sewer Fund cost to operate. Commissioner Cole said he was under the impression that was taken care of through the transfer of funds to general operations. Mr. McCourt said he hadn't

looked that up, so he was reluctant to answer it right now. In the past they'd done it through a transfer and he knew that the transfer was not there.

Commissioner Cole asked about the publication schedule. Mr. McCourt said if the Commission passed it for first publication, it would go out for publication so the public had notice, could read it, review it, and see what comments they may wish to ask about it. It would then return to the Commission, at which time they would have a public hearing on it and continue discussions. If the Commission did choose to pass it, staff recommended that they look for a February 1st implementation date, but that would be set by when the Commission would want it to be implemented after the final Ordinance was passed. Commissioner Cole said the three ICIP projects for next year were for large amounts of money, being \$900,000, \$124,000, and \$175,000. Based on his studying, at least the \$900,000 would have to come from some other source of revenue than Water/Sewer. Mr. McCourt said yes. One of the sources they were looking at for that particular project was the flood control bond money they'd raised. The reason for that was that \$900,000 was being forced because of the construction of the flood control project. Staff had inquired and they could use that as part of our matching towards the total project, so they were anticipating being able to use that bond money which was being raised separately. For the other two projects, if there was no rate increase but our operating costs went up, they would not have enough capital even to do those two projects.

Commissioner Cole said assuming this money would start being collected in February, would there be the possibility that the money would start to be spent this budget year? Mr. McCourt said that would depend on the Commission. The Commission could approve a budget modification, in which case they could look at the available funds, just as they'd done with the ICIP when they'd looked at it after year end. If they wished to do a budget modification in mid-year and they felt they had additional monies which hadn't been budgeted and they wanted to put them on some particular project, the Commission could make that decision. Staff could not make that decision. Commissioner Cole believed there were about \$4 million in revenue bonds for water and sewer, and they would mature in about fifteen years. Mr. McCourt said they did have some outstanding water and sewer revenue bonds. Commissioner Cole said they didn't mature very soon. Mr. McCourt said correct. They had actually been talking with our Bond Counsel because as the Commission was aware, interest rates had fallen rather dramatically in recent months. One of the tasks that the staff had been doing was to say they had this outstanding debt they were paying interest on, so if they could retire the bonds now and only pay the new rate of 4 percent, then they could save money for our ratepayers. So they had been exploring that issue. The bonds had call dates and they could not just retire them anytime they wished. They had been meeting with our bond advisors to see what they could do not only on these, but also on some of the other bonds the City had outstanding to see how they could save some money for our ratepayers and taxpayers. Commissioner Cole said if there was sufficient revenue, could they look at some

ICIP modifications and improvements in water and sewer and streets? Mr. McCourt said yes; this was water and sewer money. Our money was restricted by bond covenants, and we were unable to use water and sewer money to pay expenses that were not associated with the water and sewer operations. While they may be able to patch a section they dug up right over the top when they replaced a waterline, on these projects when they were doing a total street repave, that was not being paid for from the water and sewer; it was coming from a different source--either the General Fund or one of our capital improvement funds. Commissioner Cole clarified that the water and sewer lines would come from this fund, but the streets were from a different fund. Mr. McCourt said correct.

Commissioner Cooper said when they started this tier program, one of the leading projects the City Manager had mentioned was another step into the wastewater tertiary program. He believed at that time there was a figure of around \$500,000. Mr. McCourt said that was correct; that was for tertiary of the reclaimed water. They were investigating that now, and had used that \$500,000 figure because they had received information from what they felt was a reputable source of a different means of providing that tertiary treatment. That was presented and the City was ready to set up the system, when the firm felt they had underestimated that project. They'd been having meetings and had actually done a small consultation with another separate company to see if they had any suggestions, and they did not. So now they were still continuing with the tertiary treatment program, but at this time it appeared that the \$500,000 would not be sufficient to accomplish the goal of building the program. Commissioner Cooper said he understood they'd underestimated it by about 50 percent. Mr. McCourt said that was the information he'd received in late July. They were not using that firm to proceed. Commissioner Cole asked if that was in the ICIP? Mr. McCourt said yes. Commissioner Cole asked if that figure had now doubled? Mr. McCourt said no because they were still trying to figure out what they were going to do. They only had that amount of money to work with.

Mayor Carroll said on both water and sewer rates, no one liked to see anything they had to pay for go up in price. However, if they were ever going to get a handle on the needs in the Water/Sewer Department, then charging fees was the only way. On the base rates for the various waterline sizes, he saw they were all going up by 50 cents per month. While that represented a reasonable increase for most of the water meters, he felt the others should go up in a proportional amount also because by the time they got to the larger meters, it represented an increase of less than one-tenth percent which was not even enough to cover the CPI. He suggested as a minimum that the ones they didn't currently propose to go up by the CPI, at least go up by that amount. Mr. McCourt said when it came back for consideration, staff would be happy to prepare an amendment that would change those to increase all a constant percent.

Commissioner Cole said he wanted to explain why he was going to vote no. He thought there were sufficient funds in there to do what the City needed and he would not support this.

Mr. Jack Rathgeber, citizen, asked if they used the flood control bond money, whether that meant that the ponding reservoir up north of N. Florida would not be delayed? Mr. McCourt said the northern plan had not been finalized yet. The initial plan was to carry that water through channels out to the west of U.S. 70 and 54. There had been a lot of discussion concerning that northern plan, and one of them was to build large detention type ponds which would take the water and capture it so they could slow the flow so that there would not be a heavier flow than normal. That plan was under very active consideration. He believed the Corps had indicated that they would be back around January. They had not come back with a proposal. Whether that would be the main delay--they were not even close to working on the northern channel at this time. At this time they had a few years of work to complete the southern channel. The first phase was being worked on currently, and it went essentially from White Sands westward past LaVelle Road. The next phase would cross White Sands and come up to approximately S. Florida Avenue. He wasn't sure how far the next phase came, but he believed it included the detention basin at the new middle school. That was all in the southern portion of the project. Mr. Rathgeber said if they used up this flood control bond money for infrastructure, did that mean they had to have other bond money for the north diversion? Mr. McCourt said they actually had not raised all of the City's portion of this project at this time because they didn't want to borrow the money before they needed it. So they were borrowing it in increments over a couple of years. At this time they had an initial bond which they'd issued which they were using to pay for the project that was underway now. As they came to a point where they needed more money for our share of the project, they would then be looking at issuing another bond. These were revenue bonds and not property tax bonds.

Ms. Bernice McGray, citizen, asked about how much per month for a regular household this increase would be? Mr. McCourt said he could not tell on her bill tonight because everybody's bill would be different and where they hit in the tiers was different. What he could say was that if she could contact the City, we could run a report on a year's worth of usage on her house and show how the bill would change if she used the exact same amounts of water. Mayor Carroll said if both the water and sewer rate increases passed and she used no water, it would go up \$1 per month. If she used a minimum amount of water and stayed in the first tier, it would go up a penny per 100 cubic feet. So if she used 500 cubic feet, it would go up a nickel. But the base rate was a 50 cent proposed increase for water and a 50 cent base rate on sewer. So the two combined would go up a minimum of \$1, and if she was a minimal water/sewer user, she would see maybe \$1.02 to \$1.03 per month increase.

Commissioner Cooper said he'd voted against the original tier program and he was going to vote no on this one also. He felt if the City agreed to utilize the funds for certain projects, they should follow through. Because of the fact that there were erroneous figures and then all of a sudden they took that half million and used it elsewhere--if they'd held onto that, they had a million dollars where they should be able to go along with that next step. However, it seemed they got the money for one project and it was diverted into another. Mayor Carroll said it had not been diverted; it hadn't been spent. Mr. McCourt said they weren't proposing to divert that money at all. Mayor Carroll said it had not been spent because it was not a sufficient amount of money to do the project they anticipated doing with it. So the money was still there; it hadn't gone anywhere else. Mr. McCourt said they would have to do the tertiary treatment; they did not have a choice. Actually, the choice would be that they could stop using reclaimed water, but at that point they would not then have water to take care of our parks system unless we used our precious potable water in which case we would not have enough water. We were not proposing in any way, shape, or fashion using that money for any other purpose other than that tertiary treatment. Commissioner Cooper asked who used the charge for the effluent water? Mr. McCourt said the City itself was the biggest user of that source of water. It was used at the Golf Course and throughout our parks system. The next largest user would be the school system, and the next largest user was between the Catholic cemetery and private contractors. The City required private contractors to use reclaimed water when they used water on construction projects for dust control and settlement and compaction. Of course, our own cemetery also used reclaimed water.

A. Ordinance No. 1129 amending water rates.

Recommendation: Approve the Ordinance for first publication.

Mayor Carroll said as the City Manager had explained, for Ordinance No. 1129 the basic customer charge for residential with under a 1 inch line would go up 50 cents per month. The commodity charge for water in the first tier would go up a penny, in the second tier would go up a nickel, and in the third tier would go up a dime. Then there were some adjustments to some of the ancillary charges for non-routine services that basically were very small, and in most cases under a dollar.

Commissioner Easley moved that we approve Ordinance 1129 for first publication. Seconded by Mayor Pro-Tem Van Doren.

Mayor Carroll said if they passed this as written tonight and the final one came back with adjusted rates for some of the larger size meters, would that be a sufficient enough change to make us have to start over? Ms. Ehler said we would just publish it as an increase in base rates and not publish a specific rate, so it will give adequate notice without having to be republished.

Mayor Carroll called for the vote on the motion. Mayor Carroll, Mayor Pro-Tem Van Doren, Commissioner Moncada, Commissioner Griggs, and Commissioner Easley voted "aye". Commissioner Cooper and Commissioner Cole voted "nay". The motion carried by a vote of 5-2-0.

B. Ordinance No. 1130 amending sewer rates.

Recommendation: Approve the Ordinance for first publication.

Mr. McCourt said this followed the current fee structure. For residential customers, they took the water use for the months of December and January, added those numbers together, divided them in half, and then took 90 percent of that. That then set the sewer usage which was used as a constant figure throughout the year. The sewer usage rate was currently 36 cents per 100 cubic feet, and each cubic foot was 7.48 gallons, so 100 cubic feet was 748 gallons. That charge was proposed to be increased to 38 cents, a 2 cent increase per 100 cubic feet. As in the water system, they had also proposed a 50 cent increase in each of the base fees. He was assuming Mayor Carroll's concern was the same, and they would be happy to prepare a proposal which would allow the Commission to modify that if they chose.

Mr. McCourt said they were also proposing an increase on the septic charges as well. Septic charges were essentially where pumpers pumped out septic systems or port-a-potties, and they took that sewage to our wastewater treatment plant. They were proposing a change there from 6 cents to 10 cents per gallon.

Commissioner Easley moved to approve Ordinance No. 1130 for first publication. Seconded by Mayor Pro-Tem Van Doren. Mayor Carroll, Mayor Pro-Tem Van Doren, Commissioner Moncada, Commissioner Griggs, and Commissioner Easley voted "aye". Commissioner Cooper and Commissioner Cole voted "nay". The motion carried by a vote of 5-2-0.

C. Ordinance No. 1132 creating charges for reclaimed water.

Recommendation: Approve the Ordinance for first publication.

Mr. McCourt said at the current time they did not have charges for reclaimed water. There were several reasons for that. The City was the biggest user, and it was water they essentially had to dispose of in some manner. They had to clean it up regardless, so getting it cleaned up was a cost that had to be paid. Once they had it cleaned up, they then had a product they could use but they still had to do something with it. They had some disposal sites out near the Airport that they used and in the wintertime because they didn't have much storage, they did more disposal of the reclaimed water out in that area. The sewer plant was actually at one of the lower points of the community so they could gravity flow the sewer to it. In the summertime in order to get it back into the community where

they could use it at the Golf Course, the cemeteries, the parks, and to the contractors, they had to pump it. That was an additional cost of distribution. What they were proposing to do was to raise a sufficient amount of money to pay for the electricity for those pumping costs. That was how this rate was proposed. This would have the largest impact on the City itself, for our parks, cemetery, and Golf Course areas. It would be a large additional expense in each of those areas.

Commissioner Moncada asked who else was on this system besides ourselves? Mr. McCourt said the Alamogordo Public School system which had many of their athletic fields on reclaimed water. Even at 23 cents, this was much cheaper than using potable water, and of course we wanted them to use this source of water so we could preserve our potable water for our domestic uses. The Catholic Cemetery was also on this source of water, as well as contractors that worked throughout the community. Commissioner Moncada said once they started billing, would this money go into the General Fund? Mr. McCourt said no; this would go into the Water/Sewer Fund. Commissioner Moncada said when the City paid its portion, out of what line item did it get that money to pay ourselves back? Mr. McCourt said the Parks Department came from the General Fund, the cemetery was heavily subsidized so that would also come from the General Fund, and the Golf Course was also partially subsidized so it would probably come from a combination of Golf Course revenues and subsidy from the General Fund. Commissioner Moncada said we already took money out of the General Fund to support the Golf Course. Mr. McCourt said yes, and the cemetery and the Parks also. Commissioner Moncada said it seemed like the City was just going to be transferring its own money from one budget to another since the Golf Course didn't really generate enough money itself. We right now supported the Golf Course, so we're just taking our same money and putting it into a different line item. Mr. McCourt said the cost of doing this pumping was having to be paid now, so it was not a cost that wasn't being incurred. It was being incurred now and was being paid for by the rate users in the water and sewer. The City also paid water rates and sewer fees just like everybody else did. So when they made changes like this, it affected all of our operations also. These were costs that were out there now. There were some folks that might feel that there were areas that were getting something for free and that they should be paying. It would be difficult for us to pay these additional costs for the parks and the cemetery and the Golf Course. That money would end up in the Water and Sewer Fund, which was a restricted source of money and could only be used for the operations of the Water and Sewer Fund.

Mayor Pro-Tem Van Doren asked if the City was sufficient in using the reclaimed water; did the City need anymore places to put it? Mr. McCourt said in the summer the City used virtually all of it in distributing it to the parks and other places. In the wintertime because we watered much less, we used our Airport areas to dispose of quite a bit of the reclaimed water. But in the summertime we used virtually all of it for watering our parks and our green areas in the City.

Commissioner Griggs asked if there was a requirement with the bonds that we had to charge ourselves, because it appeared if that were so, then the City would be faced with a reduction in services at those facilities or an increase in fees for a round of golf or for some of the activities provided through those programs. If there was a requirement, that was one thing; if there was not, then he was concerned that they were taking revenue and putting it in a restricted fund which right now they were able to utilize for a variety of programs. He didn't really like that much. Mr. McCourt said the Bond Ordinances didn't specifically mention income or charges for reclaimed water sales. So from the standpoint of them specifically saying any revenue received from this source you charge everybody, that was one of the reasons we had to charge ourselves. There was no specific language which said that for reclaimed water. This was not a new idea; it had been around a long time. When we did the revenue bond issues that were secured by water and sewer revenue, it had been discussed, and what was discussed was that if there was ever a charge put in for reclaimed water then it would be within the Water and Sewer Fund and it would come under the same requirements as other revenue in the Water and Sewer Fund. So certainly that verbal pledge had been made, but he was not aware that there was anything in the Bond Ordinances that specifically said "charges for reclaimed water will fall under those bond covenants". Commissioner Griggs said it was his preference that if they were to approve an Ordinance such as this, he could understand us selling water to an entity outside or any inside the City, but not the City itself. That was his preference because he felt they would move the money to one place where they had to move it one way, where the other places gave them a much broader usage of the money. Mr. McCourt said that was a correct observation. The General Fund was the money with the least amount of restrictions on it; they could use it for the most types of services and so on. As he'd said repeatedly this evening, once it was in the Water/Sewer Fund then it was locked into only that type of service.

Commissioner Easley said he had some of the same concerns. On the other hand, the other compelling argument was that they'd really made some progress in the last several years at rationalizing our budgeting so we could see what services really and actually cost. That was the motivation behind setting it up this way; we needed to know what the Golf Course cost, what the parks cost, and what the cemetery cost. Part of the real cost of those operations was the reclaimed water. Right now they could truly make the argument that the water and sewer system was subsidizing parks because we didn't charge them for the cost of their reclaimed water; the water system was subsidizing the cemetery because we didn't charge that account for the reclaimed water; it was subsidizing the Golf Course, etc., etc. So they didn't actually know the real cost of parks, the Golf Course, cemetery, or the other users until they actually put those costs in. They knew they were short in money in every category and they were never having too much money in the water and sewer accounts which was why they had just passed the Ordinances for first publication that they just did to try and catch up on the ICIP projects. So having thought about it and studied it for a

while, it did make some sense to do it this way. He could appreciate Commissioner Griggs' argument that they take it out of a less restrictive fund, the General Fund, and put it into a much more restrictive fund, which was the water fund. That would be true; he didn't know a good way around that. But he did believe they should account for in the budgets of the entities that used that water, the cost of providing them that water which of course which was still way less than providing potable water. It may be possible that if they were not required to put that money back into the water fund that they in fact consider putting that into a different fund--the reclaimed water fund which was a less restrictive fund. That hadn't been discussed with him yet, so maybe that was a possibility. Therefore they won't have lost their flexibility, while at the same time they had come to our accounting principles we were looking for to find the true costs of our operations in the City.

Commissioner Cooper said if they did it this way, then when they looked at Parks and Recreation, the Golf Course and the others that would be affected by it, that meant the Parks and Recreation Manager would have to look back to the Commission to adjust the rates in order to offset this. Also, the Golf Course would have to do the very same thing in order to compensate for it. So basically if they were going to go along with this program, then they would affect two or three other programs. He didn't think it was fair. He thought to charge these groups, they would have to adjust their rates and the result would be that the citizens would have to pay more for everything.

Mayor Carroll said when the City Manager talked about the water and sewer rates, they needed to remember that this reclaimed water was a part of that same system. What the City Manager did not mention when they talked about the ICIP and whether they had enough money for this year, was the \$4 million it was going to take to totally bring the reclaimed water system up to the standard it was going to have to be in the near future. So this was some way to recover some of that cost. Commissioner Cooper said he understood, but he'd like to have the City Manager explain it. Mr. McCourt said what they had to do was the tertiary treatment. To get the system to work properly, they had to do some items such as looping the system because there were a lot of pressure problems now. If they had a looped system, they could address those problems. In addition, there were problems now because the production of reclaimed water didn't coincide with when they needed to use the reclaimed water. So they needed a way to match those, and the way they matched them was with storage facilities. They needed some large holding ponds so that when they were producing quite a bit of reclaimed water they could store it up until they needed to then pull it out and reuse it. They also needed some pressure zones because now they had a great deal of differential within the system. The City itself was built on an alluvial plain and the sewer plant was at the bottom; when they started pumping there was very little pressure when it was at the top of the system and very high pressure at the bottom. So they needed a way to establish some pressure zones within there to make this water system work. To do that they also needed some

properly sized pumps which could pump the water around. The ponds needed to be covered because they got an algae development within the holding ponds, which then went into the system. That was why they occasionally got a very earthy aroma when they turned on some of the reclaimed water systems. One of their goals was to reduce that or eliminate it if they could possibly. So the ponds had to be covered in order to prohibit sunlight from getting to them. That was what allowed the growth of this bacteria. It wasn't harmful bacteria, but some people found it somewhat unpleasant. Staff had also been studying these improvements and asked what they needed to do to accomplish these goals--to get this system set up so that they could distribute this reclaimed water and have a system which worked properly throughout the community. That was the figure which the Mayor cited. It was not in the ICIP, and the reason it wasn't was because they'd just gotten that report within the last month which was after they'd looked at the ICIP. What was in the ICIP was one portion of that, which was the tertiary treatment, which was a State requirement. We would be forced to do that regardless.

Commissioner Moncada said she was still not completely satisfied with this. She understood where they could bill the schools and the Catholic Cemetery and the other entities that used this water, but wasn't there a way that the City could, in lieu of a payment, say that our employees were going to do the work to keep this flowing and going instead of us having to actually pay ourselves into another line item? Was there some way they could do that? Mr. McCourt said he'd be happy to explore that issue and see if they could accomplish that. Mayor Carroll said if that was the desire of the Commission. As he'd stated earlier, he did not believe that the Water/Sewer Fund currently reimbursed the other funds within the City for the administrative services that were provided. The reason for that was because there was not enough money in the Water/Sewer Fund to do the things that needed to be done. So if in fact the City paid for the effluent water it used into the Water/Sewer Fund, then they had some money we could charge them for the administrative services and it basically became a wash as far as the effluent water was concerned. We will have provided them enough money for them to write a check back to the General Fund. So as he saw it, there really was not necessarily a diminution of funds in the General Fund because they were getting it back from the Water/Sewer Fund because now they had the money to pay us where in the past they hadn't.

Commissioner Easley said it was worthwhile to keep reminding ourselves, too, that this money was now being spent. It was not money that was not being spent that they were going to spend; every nickel of this was already being spent. This proposal was not revenue neutral, but was a positive cash flow because the money that now was being spent was going to be paper-chased around by the City, but they would be generating approximately \$30,000 of new revenue by charging those outside the City users to pass this proposition. He felt it was a worthwhile thing because they collected \$30,000 to help with the cost of developing our reclaimed water system. They found a way, perhaps the way the

Mayor suggested, to transfer the money around so the net effect on all the funds came out to be the same, but they actually knew the true cost of running our operations, much in the same way that we now charged all the departments for their administrative and MIS costs. That was a burden the first year they did that so they could actually understand what it cost to run all the departments, so they allocated those costs to those entities. This was one more way of allocating the costs. If they could do that without making a painful dent in the General Fund, he was all for it.

Commissioner Griggs said he appreciated the need to know the accounting side of it; the costs. Also like Commissioner Cooper had discussed, unless there was a mechanism to move this money back, then the cost to the parks and Golf Course would be substantial. So the only way those things could recover that was an increase in fees, or a reduction in services. What he would like to see before they just blessed this, was how else they could do that be it as the Mayor suggested through an administrative fee, or be it through just a separate fund for reclaimed water, which then that fund could move revenue around from here to there. Something where they knew what it was costing them, but then so that some of the major users of the water did not have to suffer to a great extent. The Golf Course had the ability to raise the fees and recover some of it, if not all of it. He wasn't necessarily sure that the Parks Department had that ability with the amount of parks we had. Mr. McCourt said the Parks Department virtually had no income; that was 99 percent supported by general taxation. We frequently mixed the Parks and the Recreation Departments because they were so co-mingled with their activity levels. The Recreation Department used a lot of the grounds which the Parks Department took care of. The Recreation Department did have many fees which they charged for users of the recreation system, but the Parks Department essentially did not have any income.

Commissioner Easley said they were estimating that the cost to the City would be approximately \$125,000 per year if we billed the City for this water. Did they have an idea what the breakdown would be to Parks and to the Golf Course and to the cemetery? Mr. McCourt said yes, but he did not bring it with him this evening.

Mayor Carroll said this Ordinance did not say what fund the proceeds needed to go into, so he would recommend that they approve it for first publication and ask the City Manager to examine the points which were raised as to how they might offset the cost to some of those departments. If they were not satisfied with it when it came up for final adoption, then they didn't need to adopt it. But at least they will have moved the process along.

Commissioner Cole said two City Commission meetings ago it was said they needed to look at some type of charge for reclaimed water with it going back into the Water/Sewer Fund, and the point was brought up that it would generate some type of new revenue for the City. The way he looked at it then, they were

giving it away just to get rid of it, to certain entities within the community, and therefore it would be some revenue. It was then and is now a cost to the City to take the water and bring it up to a stage where it could be used for such things as parks and recreation or construction firms. The reason he favored this was that it would be something that was costing the City now that they would be making some money off of to at least break even. The way he saw it with Commissioner Moncada and Griggs and the Mayor was that it was just a shuffle of the money within the total budget, but it would be a trail of cost to different departments who did use it. So consequently he would like to see this passed tonight.

Commissioner Griggs said that was, however, if it did not go into the Water/Sewer Fund. If it went into the Water/Sewer Fund, then it became restrictive. Commissioner Cole said he knew, but when they did the street repairs and things, they had to go in and replace water lines, etc., and that would come out of there. Commissioner Griggs said he supposed it could be used for street repairs and such, but the issue to him was the charges that came to these other services which we provided now which they were not anticipating and which they didn't have currently, which they would have to figure out a mechanism to recover. Commissioner Cole said they did it for MIS and other types of services. Commissioner Griggs wasn't sure they did that dollar amount which the Golf Course and Parks and Recreation would have to come up with. Commissioner Cole felt the advantages did outweigh the disadvantages.

Commissioner Easley said he would also point out in lieu of that or in relationship to that, that the charge didn't take effect until July 1, 2002, which was in the next budget year. So the first 23 cents per hundred cubic feet didn't happen until July; that did give them a fair amount of time to plan for budgets for both Parks and the Golf Course and the Cemetery to anticipate whatever their costs were going to be.

Commissioner Moncada said she would vote on this for first publication, although she was still not quite convinced this was what they wanted to do. In the process of this, she would like to see the opinion of the Golf Course and Parks and Recreation on how it was going to affect them for future use.

Commissioner Cooper said maybe he misunderstood the Mayor when he stated that he wanted them to vote on this even though they didn't know what they were voting on. Mayor Carroll thought it was pretty plain what they were voting on. Commissioner Cooper said not the way he'd phrased it. He still thought it was going to have a dire effect on the Golf Course and on Parks and Recreation, and he just couldn't buy it. Commissioner Moncada said by voting on it now, it was just giving them the opportunity to voice their opinion, and they weren't voting exactly on this. Commissioner Cooper said he understood that, but it seemed whenever they put one out for first publication, it usually wound up as an Ordinance. Commissioner Moncada said not unless they agreed with it; they

could always vote against it. Commissioner Cooper said he didn't agree with it now.

Commissioner Easley moved to approve Ordinance 1132 for first publication. Seconded by Mayor Pro-Tem Van Doren. Mayor Carroll, Mayor Pro-Tem Van Doren, Commissioner Moncada, Commissioner Griggs, Commissioner Easley, and Commissioner Cole voted "aye". Commissioner Cooper voted "nay". The motion carried by a vote of 6-1-0.

The Commission recessed at 9:10 p.m., and reconvened at 9:25 p.m.

OTHER BUSINESS:

9. Policy Governing Library Displays.

Recommendation: Approve the policy.

Mr. McCourt said he would turn this over to the City Librarian who was much more familiar with the issue and had been involved with the Library Board's deliberation. Library Director Jim Preston said he'd like to preface his comments by reviewing very briefly the process surrounding how this policy was formulated. The Library Board went through a series of two meetings during which time they solicited input from the public. As a part of solicitation of input from the public, they received and reviewed over 50 pages worth of commentary and input. A subcommittee was formed of three individuals from the Library Board who then generated a policy. As a part of formulating this policy, the Library Board quickly came to the determination that there were three different kinds of policies that could potentially be created. One type of policy that could be created would be a policy that would be open-ended in the sense that public displays could be solicited by the public and all individuals from the public would have the right and opportunity to set up public displays within the Library. A second kind of policy that the Library Board realized could be created was a policy that would be limited to restricting public displays being set up by a nonpublic entity, such as the Library staff. A third kind of policy that the Library Board realized could be established was having no public displays at all. The Library Board attempted to strike a balance by formulating a policy that in their determination would be a middle of the road policy, whereby there would be some control established through a series of checks and balances by the Library staff being principally responsible for setting up displays. There were advantages and disadvantages to each of the three different kinds of policies, and he was quite certain within the community there were people who would like to speak to them. He would prefer to reserve his comments until the end contingent upon what may or may not be said in light of this policy. However, he stood behind the recommendation of the Library Board and he did endorse this policy as was written. There were merits to it which he would attempt to defend, but rather than speak to the merits of the

current policy, he would simply at this point in time open it up to any questions that the Commission might have.

Commissioner Cooper said this stated "in accordance with the American Library Association's guidelines concerning library display areas". He felt if there was going to be any guidelines or any policy, that he would have looked to Mr. Preston and his staff, the Library Board and Friends of the Library to establish a policy without utilizing the American Library Association's policy. Or was this done for expedience sake? Mr. Preston said it was simply a matter of interpretation, and he could respond by saying it had been done for a matter of expediency sake. The American Library Association had set up standard guidelines for what was appropriate under the guise of First Amendment rights for setting forth a policy. He himself believed it was important to follow the import and intent of the First Amendment rights in setting up displays. Commissioner Cooper asked if there was any other input from outside entities into this policy? Mr. Preston said there was over 50 pages of input which he supplied the Library Board with. The input ran the gamut from having no displays at all to setting up displays by anybody and everybody within the community, to having a form of limited display policy. The opinion ran the gamut. He believed they could not please or appease all the people here. There was no real wisdom that could be applied in the sense that they were going to be able to appease the entire community. Decisions had to be made, they were hard decisions, and individuals would disagree with the decisions that were being made. Commissioner Cooper said his bone of contention was that we are Alamogordo, New Mexico, and this is our Library. He felt that if any input was going to be done or the adoption of any policy, that they would have come from the general public and not from the American Library Association. Mr. Preston said it had come from both; from the public as well as the American Library Association. They did have statements in this policy to the effect that they were looking to the community, wherein it stated, "Consistent with its Mission Statement, the Alamogordo Public Library is responsible for setting up displays for the public providing educational, informational and recreational resources to all residents of all ages and socio/economic backgrounds in order that they might have equal access to information representing all points of view". That was what a Public Library was for and it pertained to the local constituency. So they were appealing to the local constituency inasmuch as they were also appealing to the American Library Association guidelines, which incidentally were in compliance with Federal Law. Commissioner Cooper said the bottom line would be the Library Director's decision to either approve or disapprove the display. Mr. Preston said yes. Commissioner Cooper asked if there would be any appeal if they disagreed with him on his decision? Mr. Preston said yes. The appeal could be proclaimed publicly at a Commission Meeting, but it would be the standard operating procedure, which was that appeals would be made first at the Library Board level. The Library Board would hear the appeals and hopefully it could be resolved at that level. Commissioner Cooper said he was led to believe that if there was any decision to appeal, that it would go next to the City Manager and

he would have the final decision. Mr. Preston asked how he was led to believe that? Commissioner Cooper asked the City Manager if that was right? Mr. McCourt said he suspected what would happen from a practical standpoint was probably it would be concurrently appealed to both himself and to the Library Board. If they were not satisfied at those levels, it would probably then show up before the City Commission and appealed. Ultimately the individuals would probably use up their administrative appeal rights and could go to court if they wished. Mr. Preston concurred. Commissioner Cooper thought maybe the appeal would come before the Commission and then go back to the Manager to go back to Mr. Preston. Mr. McCourt said certainly if the Commission heard an appeal and felt the decision needed to be revised, they would send that back through the City Manager.

Commissioner Cooper said he'd heard people mention that there would be a decision made not to have any display at all. Mr. Preston said Commissioner Cooper was at that meeting where that was discussed. It was reviewed and the determination and recommendation of the Board was not to employ that kind of a policy.

Mayor Pro-Tem Van Doren said he wouldn't make comment on this because he realized that his own personal attitude about the whole issue could be taken as hostile. He would say in reading this policy, he felt like it spoke out of both sides of the mouth and left open loopholes for anything to happen and for anybody that wanted to, to approve or disapprove. It wasn't concrete enough and it didn't tell him squat, so he would just forget it. Mayor Carroll felt it was attempting to walk a very fine line and he wasn't sure how successful it would be.

Commissioner Cole said based on a phone call he'd received, he wanted to state that he in no way wanted to censor the material in the Library. He felt the material in the Library should be available to all people for research, for information, and for enjoyment reading. Also he recalled at the birth of our nation when John Hancock signed the Declaration of Independence, that he made the statement that he was going to write his name in a large signature so it would be very clear to the British where he stood on the Declaration of Independence. (See Attachment "A" for a prepared statement from Commissioner Cole).

Mr. McCourt said as he understood what they were looking at this evening, they basically had three choices. One was the policy as recommended by the Library Board which was maybe trying to walk a fine line. One of the options was a policy that just said there wasn't going to be any public displays, period. The City Commission could opt for that option which would eliminate any type of public displays. The other option was the other end of the spectrum which was basically that any display could be put up without any regulation. As he understood the options this evening, they had two ends and then they had what he believed the Library Board had tried to craft as a middle of the road policy. Certainly the Commission had the ability to go either way on this issue as far as making it

more liberal or to shut off all displays. Mayor Carroll said they could also do nothing and have the argument every time something came up.

Ms. Betty Haydu felt it was a good policy. The Library displays they were talking about were generally a number of books put out on a shelf with some kind of label indicating what they were. That was to show what they had on whatever topic it was. They could choose not to do that anymore, but where shall they draw the line? She felt the reaction to the displays were overkill. She did have one problem with the display policy as it stood now and that was the fact that there was no mention made of public input. All decisions were made by the Library staff and the ultimate decision was made by the Library Director. While she supposed on the side somebody could give input, officially as this stood there was no opportunity for that, and in effect our public Library was not a public forum. She felt the Library should be a public forum because they should be able to hear all points of view. It was an excellent place for it because they had the resources to access information, and opportunities for interchange and dialogue could be brought out that way. Her objection was that there was no clause in there stating that they were interested in public input. She was going to address some of Commissioner Cole's comments. They did not put up a display for Gay and Lesbian Pride Month in order to offend Ed Cole. They did not do it to offend anybody. Their purpose was and is to educate and inform those people who needed or wanted the materials that they were available. People could have all the beliefs they wanted. The fact was that there was gay youth here in our community. They were here and all the beliefs of "let's shove it under the rug stuff" they wanted to do was not going to change the fact that the gay youth were here, they were discriminated against, and that anybody who looked remotely queer was also going to be discriminated against no matter how heterosexual they may or may not be. They could watch our teenagers destroy themselves with drugs and kill themselves because they were not worthy of their upbringing based on what their parents, mentors, and people they respected in the community said, or they could say, "Listen, it is possible to be a good person even if you don't fully fit in with every single thing that we believe". To that end, the Library provided books with information and books with positive information, because they didn't want the people that were going to be surviving all of us dead on the streets, homeless, hustling, or whatever else. They wanted them to be valuable members of the community. To that end, our community needed to, if not condone, at least accept. She personally didn't feel any desire to run around and parade her sexuality any which way. She felt if they would all just accept each other as individuals, there would be no need for things like Gay Pride Month. The reason they existed was because there was still so much persecution and hate and killing.

Mr. McCourt said he recognized the issue which had brought this policy discussion to the forefront had been the display on Gay Pride Month. But that was not the issue before them this evening. The issue this evening was if they wanted a policy at all on displays at the Library. He did understand there were

very strong feelings among parts of the community, but the issue before them was a display policy and not a question of whether gay rights were right, wrong, or indifferent.

Ms. Maude Rathgeber said she was speaking as a person who had spent 40 years in volunteer support and work for this Public Library, as well as other libraries in New Mexico. She'd visited with Mr. Preston twice over the past three months and she'd told him that she felt the smartest thing would be for him to put a moratorium on displays at the Library for at least two years. If they didn't take that into consideration, they had no opportunity for passage of a bond issue in this community. She had the feeling of the people in Alamogordo about this issue. She was quoted in the paper tonight for saying that they needed to consider family values and community standards. She brought forward a couple of words in the policy. One was "obscene". How was anyone going to define obscene? Someone brought her three publications they'd picked up on the free table at the Library, and they were all on homosexuality. In looking at them, she would say some of that material was obscene. Someone else would say it was lifestyle. Someone else would say the pictures in there were art. So obscene was one word in that policy that she shied away from. Another word was "contemporary". How were they going to define contemporary issues now or the issues they considered fifty years ago that were quite different from today? She felt there were some words and language in the policy that made loopholes that could be difficult to interpret. Second, she did not support all of the issues of the Library Association, particularly the American Library Association. She did not support the Bill of Rights statement of the American Library Association because she had seen that come from above and interfere with some policies in libraries where the community itself should have the say in the Library and not be dictated by them. Although she appreciated the American Library Association for some materials it presented and for its publications that helped libraries on issues, she considered them to have become a Union. Third, Alamogordo was Home Rule and should be going by its Charter to govern the City. If Alamogordo was Home Rule, then she felt the Library fell under that, that we who served and supported that Library should be the ones who had the say about the Library. Those in Otero County and the City of Alamogordo were the ones who funded the Library. They couldn't find the money anywhere else to run the Library. Very little other money came through the State Library on a per capita basis. When she saw the American Library Association or the ACLU coming in with money to help fund the Library, she would say let's listen to them. But now this was a Home Rule City and Home Rule Library, and it was those who funded it who should have the say. They'd tried to bring a lot into the policy and in so doing, there was too much language. They should look at family values and community standards and go from there in providing for our public what was needed.

Commissioner Cooper said when the change of command occurred in Washington, D.C., didn't the Bush administration disavow or say they did not recognize June as Gay Pride Month? Ms. Haydu said June was still understood

as Gay Pride Month. The difference was that in previous years, President Clinton did sign a Presidential Proclamation to that effect, and Bush did not this year. Commissioner Cooper said that Ms. Haydu brought up a good point that there was not enough public input into this policy. Ms. Haydu said her point was that she was advocating more public input in the policy than was addressed in the policy. Regarding the Library Association guidelines, this was kind of a professional issue. They looked at the various issues dealing with public librarianship. The guidelines they developed were developed by people in the field that had worked long and hard to develop them. Basically if they were hiring librarians, they hired ones with professional library ethics.

Mr. Rudy Clark read the City's Mission Statement: "The City of Alamogordo is a municipal corporation that exists solely for the purpose of providing the best possible service to its customers, the citizens of Alamogordo. We are committed to providing these services with honesty, integrity, compassion, fairness, and a commitment to excellence". He would assume that if he was a homeowner, that he would be considered one of the City's customers. He was a part of all of the customers. Mr. Clark passed out copies of an account of the Declaration of Independence. Probably the most famous words from it were, "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with inherent and unalienable Rights, that among these are Life, Liberty, & the Pursuit of Happiness". We, the People, we know this. These guys always talked about how Christian they were and how the government was formed on Christian intent. Further, he read from the account as written by Thomas Jefferson, "He (the King of England) has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating & carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of INFIDEL powers, is the warfare of the CHRISTIAN king of Great Britain". We declare war on him because he is enforcing his Christian principles on us, a nation. "CHRISTIAN" was in large print. We, the People. He was part of the people and the Library was part of the service that provided him and was part of the service which provided the information on which they could learn about We, the People. The displays gave the Library the opportunity to teach you about me, the people. These guys saw the danger involved when you forget who "We, the People" are, when you forget that your idea takes precedence over my idea because of your belief. Are we not in a war with people who believed that their idea suppressed ours and had primacy over ours? Some of those present were wearing black because if the Commission passed policy that denied them the opportunity of asking you to service We, the People in the Library that we fund, then he would submit that maybe you don't care about who We, the People are and what you really care about is who you think the people really are which may be very different than who We, the People are. In their deliberations, they needed to remember that We, the People was inclusive. It was not a term that was meant to be exclusive. The City Charter stipulated non-exclusivity in the services the City rendered to its

customers. He was the City's customer no matter how he dressed and no matter what his sexual orientation was. He was the City's customer and they had not the right to decide what they would service him with. What they provided to one part of this society had to be given to all of them. Then to go to the other extreme and make a rule that said they wouldn't have any displays, was depriving them of knowledge. Mr. Clark related a story of the last Librarian of the Library of Alexander who actually wrote the first book on mathematics. People were upset at her because they considered mathematics part of the Dark Ages and part of dark arts, so she was skinned alive and they burned the Library of Alexander. We then became part of the Dark Ages. The first major fight over knowledge. The Library had the opportunity to present us with information on stem cell research, cloning, sexually transmitted diseases, etc. These things had to come out; hiding in the corner wouldn't make them go away. Wasn't it time to step up and address the issues at hand. They were all human beings and were all We, the People. The issue here was the free-flow of every kind of information to the public so that they were intelligent enough to make the decisions they were going to be facing in the future. He would love to see a policy change which would allow some input from the public for what needed to be presented, because sometimes they may know better than the Librarian what they wanted to know about. They may even know as much about what they needed as the Commission did, and he felt that was why they sought input for most of their decisions. They would find no commonality on the Commission because they were a diverse group of people who came from diverse areas, but denying the opportunity for them to learn about the rest of society would never let them know who the people were. Make sure that they served We, the People, and not who they thought the people should be.

Mr. Jack Rathgeber said they put a lot of time, money, and promotion into our Public Library. They didn't have any real trouble until they started on this display. He didn't think it behooved them to turn our Library into a battleground over a bunch of displays. The City Manager had it correctly when he said they could either have displays or not have displays. If they did away with the displays, they probably did away with 90 or 99 percent of the trouble at hand. There was no point in turning out Public Library into a battleground. Just do away with the displays and they wouldn't have any problems.

Ms. Pat Troutman said she heard on the radio about a problem with a library in Boulder, Colorado. One of the problems there was they'd been told they could not display flags, but on the other hand they had an art student who brought in ceramic male sex organs that were hanging from the ceiling in the library because that was not considered obscene in their viewpoint. That upset her about this policy; how did they define obscene. They did not have any benchmarks that defined what obscenity was. If they didn't have that, they shouldn't have any displays because who was going to set the standard? About ten years ago the Public Schools had reviewed the curriculum for AIDS education. In reviewing the standards to be set for that curriculum, Santa Fe had

written that they needed to find out what the community standards were; they needed to look at the community and find out what they wanted. They had the community involved in this. They had a good policy which was still in effect today. So she would ask that they allow no public displays unless they defined obscenity.

Ms. Elise Haley said she was concerned with the statement in the policy which read, "a group of staff appointed by the Director". She wished they could say "a group of staff and Friends of the Library members" or something where it wasn't just staff. If she understood right, the original display was set up by a staff member. Were they back to the possibility where they promoted their own agenda? The wording on "obscene" would be interesting to watch over the next few months. She wished the committee of three would have been here tonight to talk about some of their decisions.

Mr. Phil Gold asked if there was presently an adult section in the Library, and what determined what went into an adult section? Where would it be located? Mr. Preston said yes there was an adult section. Approximately 18,000 square feet of their 24,000 square foot building was dedicated to adult services. Historically libraries had been divided into three different sections; a section dedicated principally to materials for children, a section dedicated principally to materials for adults, and a section dedicated principally to reference resources.

Ms. Alice Feagin said at one of the Board meetings she'd made a suggestion on no policy for any displays. She still stood on that because they did not need a display to let them know what kind of book they wanted to read. That was what the reference desk was for.

Commissioner Moncada remembered when she was small living in El Paso. She was about five, and she remembered that about three blocks from her house was a school strictly for blacks, and then they had the other school which was for Mexicans and whites. She always thought how neat it was that the black people had their own school. Then she moved to Alamogordo and started going to the Public Library here. At the Library she found out why there was a black school here and another school over here. Amazing that she learned at the Public Library that they were segregating blacks from whites. What better place for her to find out this information. Just like anything else--what better place than the Library to go and find out about Jews, gays, blacks, or anything in this universe. That was the place to go--the Public Library. So what if she went into the Public Library with not a clue of what she wanted to read. She just wanted to go in there and grab a book, but if there was a display and it appealed to her and she saw something that she didn't know about but they had a display, it might draw her attention to learn about that little subject. What better place than the Library? And here they as Commissioners were going to deny our Library from having these displays. If they didn't want to see a display, walk away and go to another corner. So what? They needed the displays; it was very important and was education.

That was the bottom line to all of this. Were they going to try and deny our general public from not learning? Someone as small as she was, five years old that didn't know the difference. Her parents didn't want to really tell her why there was a black school, but then she went to the Library and learned and asked her mother if she knew why there was a black school. Of course she knew why. Just think if she hadn't gone to the Library and read about that. How many people were they going to deny that right here in our own City of Alamogordo. It was very sad if they denied not having displays. She thought they could all be very mature about what they decided what was obscene. All of them had that right if they wanted to consider something being obscene, and then they could turn around. She felt they had to have a policy which would allow them to have displays, but perhaps not with the Librarian having the complete power because they didn't want the Librarian to be swayed by one group of people because they didn't like a certain thing, and then those displays wouldn't be allowed. By saying that, perhaps they needed to write a different kind of policy stating who all had the bottom line and the bottom authority of what was going to be displayed in our Library. Maybe it needed to be the City Commission; she didn't know. Perhaps that was something they needed to research.

Mr. Mark Valdez said he'd been in a lot of bigger cities and he'd never felt prejudices before until he moved here. Just walking in the parking lot and being called names by young children, teenagers, and adults. He'd read books about segregation and that was how he felt Alamogordo was. The adults here made him feel he was bad for living his life the way he wanted to live it. They didn't pay his bills; it was his life and he had to live it the way he wanted to. If he wanted to learn more about the Commission, he had resources to do that, but those other people needed to find those resources also.

Ms. Faye Lee said she was dressed in black because she was afraid she was going to lose some rights she had. She'd discovered that a person who was a minority and who wanted to get any attention might have to set his hair on fire and run down the street naked. She might be making a fool of herself dressing in black as though she were in mourning, but she noticed that people had paid attention to her tonight because she was dressed different. It would be very sad for them to implement a policy which would deny their future generations information on which they were going to have to make decisions. When they talked about something being obscene, the most obscene word they could call a person in Nazi German was a "Jew". She lived in the time of McCarthy when the most obscene thing they could call anybody in the United States was a "communist". They had another obscene word being born right now, and that was a terrorist. She was terrified at the idea that they had a popularity contest going on here over freedom of information. There were some things that did not come up for popular vote. It was popular to have slavery in the south. When Abraham Lincoln thought it was the hand of God that got rid of it, he decided that we were punished by a terrible Civil War by our Maker to get rid of slavery. There were some things which did not come up for popular vote, and that had been

determined as our basic rights. She couldn't imagine being able to inspire children to learn something if her classroom was bare of all displays. Think about a room that had no beautiful displays to attract a child's or anybody's attention to subject matter that they needed to know. So for somebody to suggest that they wanted to get rid of all the displays which was the very source of information, was just ludicrous. She would use sound, smell, touch, every sense they had to appeal to a person to gain knowledge. It might not be accurate, but if they kept breathing they would find out that it was not accurate. But if they eliminated everything in there except one point of view, they'd still be in the caves. She was for freedom of information, accurate information. And for anybody to hang over the heads of the people of Alamogordo a threat to keep us from expanding a public library just because they disagreed with a lifestyle, was shameful. To threaten the community that they couldn't have an expanded Library if you don't go along with our viewpoint... She wanted them to consider what their policy was going to do. She felt sorry for the Director; if anybody was going to be chewed on, it was going to be him. But she had faith in the City hiring a Director that knew our Constitution and principles well enough that he would apply them well if he was qualified. She had taught most of the people in Alamogordo, and she was still fighting for the kids. It was up to the Commission to see that they had accurate information from all points of view. It was only up to the parents to censor what their children read. If the children wanted to read more on freedom of choice, they would have to go somewhere other than the High School library to find that information because it just seemed to disappear into the walls. They certainly needed displays in the Library to stimulate information.

Ms. Marsha Stirman said they had a plethora of information. The fact of the matter was that this was very simple. The very word "library" was equal to the connotation of information. When they went to the Library they were going to get information. It was there and they all agreed books were great things. All a person had to do was access them. It had nothing to do with being denied rights or with We, the People; it had to do with "it's already there--go read it". If they wanted that information, it was already there. This had nothing to do with displays, or with whether she was a Christian and they were a cross-dresser. This was a black and white situation. Their decision was pretty simple; they either did it or they didn't. There was no half-ways about it.

Ms. Lucille Kinney really felt they needed to re-write the policy. It didn't feel like the policy fit the needs of Alamogordo. She grew up in a Library that had no displays, but she'd gotten all the information she needed.

Ms. Ann Bagby said she didn't believe in censorship. By having no displays and by having a limited display policy, in a way they did censor. All of the information should be available to all of the public. If one individual made a decision that one category of information shouldn't be there, then they were denying her of that. She felt the Library staff and Librarian had been hired because they were professionals. They should be allowed to run the Library as they saw fit. If they

took out all displays in the Library, then they took out displays of some of their most favorite and cherished institutions. Veteran's Day was a good example. No displays about Veteran's Day? How were children going to learn that. Yes they could go to books, but the fastest way to get something was seeing the hint of where to get more information. She was for open-ended displays and for letting the Librarian make the decisions.

Commissioner Moncada said she was in the Library about a week ago, not knowing what she wanted to read. Because she saw a poster there at the Library which had a lot of Hispanic authors, she researched and looked at the poster. The name of the book was "Women Corn", but because she saw the poster she wanted to read that particular book. If she hadn't seen it, she would never have known about it. Of course the Library didn't have it at the time, so they did say that she could order it or they could bring it in. Because of that poster she was going to get this particular book which she was sure she was going to enjoy. It was actually tales of Mexican women from the northern part of our State. The poster helped her find that book. Just by sight, the Library helped in having displays.

Mayor Carroll said the policy itself seemed reasonable to him. His concern was on the procedures. He understood what they were trying to do, but he was not sure the procedures as laid out were really going to get them there. He didn't know if he had a better suggestion. It was pointed out that they should define obscenity. He thought it was Justice Potter Stewart that said he couldn't define it, but he knew it when he saw it. The procedures again became very subjective and he didn't know that it got them any further along than where they were with no policy at all. There were some comments made about more public input into who got to decide what was acceptable for a display and what wasn't. He didn't know whether that would get them there. Who got to provide the public input? Did they have a Town Hall Meeting for every display? He didn't know if they had enough room in the Library, but it would seem to him that if displays were going to be encouraged, it would be nice to have a place where displays could be set up where no one who did not want to see a display would be forced to go buy it; that it would be in some out of the way place in the Library. If you were interested in seeing what the current display was, you would go. If it offended you, it was because you chose to go look at it. He didn't know whether that was workable in the Library. He had some concerns over the procedures. He didn't know that he had a better answer, but he thought he'd like to see them work on the procedures some on how they went about the displays. To just do away with displays was the simple, short term answer but he didn't know if that was necessarily in the best interest of the community either. It was a difficult situation they were faced with and he was not comfortable at this point with the recommended procedures. Displays were basically good and they needed to have them and there needed to be some guidelines, but he was not comfortable with the procedures which had been suggested.

Commissioner Easley said he had some reservations about the policy and procedures. He did not feel that the elimination of all displays was the appropriate way to go for the citizens of Alamogordo. It struck him that was letting the fears of darkness of a few individuals keep everybody else from finding the bright, white light of freedom. If that was an overstatement, so be it. He didn't think that was the way to go. The current policy as written was too vague and too idiosyncratic. Idiosyncratic, being that essentially pretty much at the whim and whimsy of the current Library Director, whoever he or she may be. When an issue came up, they got to decide what went in. As long as the current Library Director was a person I or you thought was a good person, then that was great and as soon as you didn't think that, then that was bad and they knew that was a problematic issue. He personally liked our current Director and this was no reflection on him, but institutionally and structurally that made for a problem. He would like to see a less restrictive policy. He discussed earlier with the Mayor the idea of having a place in the Library where they could put public displays up that were initiated by the public, because the Library did have a function and he'd discussed the fact that the Library legally was known as a limited public forum. You had a legal right to express yourself at the Library. They could determine what was appropriate manner, time and place for your legal expression of yourself at the Library, according to the City Attorney. So it may well be if they had a place at the Library where they could make displays, they would have displays of a given size and you could take one of those displays out for a limited period of time. You would be able to put something up there and if it was extremely offensive to community standards, they would help to solve that problem because your name and phone number would be on every display that you put up. So if you put up something that the community didn't like, he supposed they would be calling you and not him. Whether that was the perfect solution, he didn't know, but it was a possible way to go about it. He didn't believe that they currently in our Library right now had a facility or space to implement that program. He wished they did, but they didn't. He knew Mrs. Rathgeber said they should have a moratorium for two years on displays in order to pass a Bond for the Library. He didn't agree with that. He believed they would pass a Bond for the Library. He knew she was not in favor of that Bond, but he hoped she would change her mind and work with them on it. He talked to the community too and he had a different sense of community. So he would bet her a chocolate donut tonight that they passed it. Be that as it may, he hoped she would work with them to pass it but he didn't believe that was a reason for determining what our Library display policy ought to be. The Library issue should stand on its own merits. The Bond should stand on its own merits. Perhaps when they moved into a new Library facility when they passed that Bond, some portion of it could be dedicated in fact to a display room, and only those who wanted to see what the current displays were would go to that room and the rest would not be bothered by it at all. They could have a dual policy where they would have what you might call innocuous displays--displays put up by Library personnel to advertise Veteran's Day, 4th of July, Library Week, Veterinarians Week, and all the controversial displays would go in the display room. It might be one of the most popular places

in town to go see what was in the display room. Did he want obnoxious, obscene things in there--no. Did he want displays from the Ku Klux Klan in there--no? Did he know a good way to keep all of those things out--he was willing to work on that and give it a shot. He didn't see how they could get there right now because they didn't have a room in our Library to do that, but he was not quite satisfied with the current policy because it was too vague and too idiosyncratic. What to do? He proposed that they actually table this and not take any action on it tonight and they give the Library Board a chance to work on it again. Listen to all the input they had from the citizens here in the room and see if they could find something that may be able to go for a second pass. Maybe the Commission would rather defeat it outright tonight, or maybe they'd rather pass it outright tonight. He suspected there probably were not enough votes to pass it, so either it would be defeated outright or it shall be tabled until a further discussion.

Commissioner Griggs said after listening to everyone tonight, it was certainly apparent that this policy wasn't going to make it as far as being all things to all people. There had been a lot of comments made tonight. He believed that people had the right to go to the Library to obtain information. He was not necessarily sure that they had the right to go to the Library to see displays. He wasn't sure those were the same thing. Did he think displays were helpful? Sure, they were. All of them had seen things that helped them and drove them to go find out more about that particular issue. When he looked at this particular policy, he did think it put a lot of pressure on the Library Director because he would catch a lot of heat from people who couldn't display or a display they favored was not put up in the Library. He agreed with Commissioner Easley that they needed to go back and look at it and revisit it some more. He also believed that the simplest, easiest thing was of course to eliminate displays and then they wouldn't fight about it. But he didn't think that was the right answer. He thought there was an answer, but they just hadn't found it yet. They needed to look at it a little deeper and a little longer and see what they could come up with.

Mr. Preston said he didn't know necessarily if the Library Board would be able to find that answer. At this juncture it could be referred back to the Board, but he suspected that the Board may offer for the Commission's consideration that a working committee be formed perhaps from the Commission itself. They had a difference of opinion here amongst the Commissioners and amongst the community, and there had also been a difference of opinion amongst the Library Board. It was difficult for them to come to a collective decision on this issue, but they did. It could be taken back to them for further consideration, but he suspected at the very least that they needed input and direction from the Commission and they needed specific input and direction from this Commission.

Commissioner Easley said he fully understood that and he actually appreciated the many hours the Board had put in trying to devise the policy and solve this clearly very difficult problem. He understood why they would not want to do it again, but if he would ask them on the Commission's behalf and take up their

pencils one more time, he would recommend and take an opportunity to agree with Commissioner Cooper that perhaps additional public input into the process might help. He didn't know if more heads were better than three, but it probably couldn't hurt at this time. It would be a sharing of the load and perhaps they might come to a broader consensus with more people involved, and then that would be a consensus that would be easier to get to. He'd be happy to work with them and he was sure other Commissioners would be as well. He knew this was going to be extremely difficult and they would never get to an answer that either pleased or appeased everybody in town. They just had to come to the best answer that they humanly could do right now.

Commissioner Moncada said she would like the Board to send a letter to other libraries and the School Library to get an opinion from the Librarians themselves. They might have a different opinion or some other ideas. She would also like to see their responses.

Commissioner Easley moved that we table item No. 9 to some later Commission Meeting date as yet unspecified in order to give the Director and the Library Board and whoever else they choose to get an opportunity to rework this and work with the Commission on it. Seconded by Commissioner Moncada. All voted "aye". The motion carried by a vote of 7-0-0.

Mayor Carroll echoed Commissioner Easley's comments of thanks to the Library Board. It was a difficult job that they were tasked to do. He also wanted to thank everyone who took the time to come tonight and to speak. He thought everyone expressed what their feelings were and obviously there was a difference of opinion as to what they should or should not do and everyone was honest and forthright in the statements they made. They would work with the Library Board and the community to see if there was a way to come up with a policy that was acceptable to the vast majority of the community.

10. Christ Community Church water tap (outside the City on North Scenic).

Recommendation: Pull the meter.

Mr. Gene Brock, Business Manager of Christ Community Church, said in March 1994 he'd appeared before this Commission to make the request for a water meter tap. A lot of things had transpired since their request, one of them being they had built the building which had cost \$3.7 million. They were also proud that they had a water tap because they'd planted Afghan Pines along the western boundary of the transmission line the City had and used a drip system from their meter. He drove by there this afternoon, and the tallest pine was 8 feet tall and the shortest one was 1 foot tall because the deer and rabbits had fed off of it. They needed that water tap. They'd drilled a well which furnished water to their facilities. They had a 22,000 gallon water tank, but it was at the north end of the property. They had 40 acres, so the south end of the property was roughly 1,320

feet from where their well was. To run a waterline that distance to hook up a drip system would be foolhardy since they already had the water tap there. He looked at their water bills for the last year and ten months and they were using an average of 200 cubic feet per month. Since January 1 of this year, they'd used 2,100 cubic feet of water, through October. They only used it for irrigation. He understood one of their Board members had approached the Commission to use the water tap for residential purposes, and his idea was to service the house that his son-in-law was building at the south end of their property. He was advised that the water tap was granted just for irrigating purposes, and that was what they were using it for. He asked the Commission to reconsider. He couldn't see anything worthwhile in pulling the meter after they'd paid to have it installed and they were only using it for the purpose they requested.

Commissioner Easley said they took this action a little while ago originally and they'd voted seven to zero to terminate the tap. They'd looked at the paperwork from 1994 up through the more recent request, and it was pretty clear that Mr. Brock and his entity had entered into a contractual agreement with the City. Normally the City was under a water moratorium and didn't provide water to outside the City users, but as a special case for the Church they had agreed to provide them for very limited purposes and limited time water service to grow those pines. The continuation of that tap was contingent upon once the property was developed and a well was dug, because they were outside City water service that they would then change that over and supply their own water needs as all County residents outside the City were supposed to do. The City had only found out that wasn't the case when Mr. Herrell had come and asked for this other purpose to use the tap. It became clear to the Commission that something was amiss here because they had long since established the Church and the little chapel and the well, yet they had not made any effort to comply with their end of the bargain. In fact, the City hadn't made any effort to comply with their end of the bargain because we didn't realize it. Unfortunately, we didn't know it either. So we voted to terminate the tap under the principles of the agreement they had all signed back in 1994. The original move was to terminate the tap right away, and then they essentially decided in fairness they would give the Church 90 days' notice so they could run their plumbing from the well down. That way they wouldn't lose their trees and so forth; they didn't want to give them any undo hardships, so they did give a 90-day notice. As he looked at his book tonight, he found that they didn't respond to the letter of the 90-day notice until literally the very last day when the City sent them another notification saying that on or about the 25th of October their water tap was going to be stopped, and then they actually responded. What did they do in the period between when the City sent the original letter and October 25th when they had 90 days to talk this over and figure it out or run their pipe from their wells down to the trees? Mr. Brock said it wasn't just that they'd totally ignored the letter. They were told in the business office that it would be taken care of. He thought it had been until he received a call from Mr. Miramontes that he was going to pull the meter. That was when he contacted the City Manager's office. On the aspect of them signing agreements,

he didn't ever recall signing an agreement, and he felt he would have been the one that would have done it. After discussing the issue back and forth among the Commissioners and the prior City Manager, former Commissioner Griggs moved to grant the water tap with no contingent stipulations. He was reading from the minutes of the meeting that night. It said, "Commissioner Griggs moved to grant the water tap. Seconded by Mayor Pro-Tem Carroll. All voted "aye". The motion carried by a vote of 6-0-0". So he was not aware there was a written agreement. If the City could produce one, he'd like to have a copy of it. Commissioner Easley thought the agreement was the fact that the City offered the water and the Church accepted based on the discussion they had in the meeting minutes. It was pretty clear that the previous discussion included all these terms and contingencies. As the Commission did every two weeks, they discussed the contingencies and then when they made the motion, it included those contingencies unless somebody objected to the contingencies that were proposed. In the previous paragraphs of those minutes were all the contingencies that were discussed. He wasn't on the Commission then, but that was the full extent of his knowledge at that point on that night because he'd read the document and it became clear to him that these contingencies were in place when they passed a motion. Presumably Mr. Brock accepted those at least implicitly and certainly explicitly by accepting the water, that those were the contingencies of that offer of water. Mr. Brock said he was sure that was probably the procedure, but he was not told that was the procedure. He assumed Commissioner Griggs' motion was the basis he would proceed on.

Commissioner Easley said one of the other services the City also provided was a fire hydrant for the Church so they'd be able to get through the fire inspection. As he'd noticed, they had not taken action to remove the fire hydrant. They were leaving the fire hydrant in place and they specifically at their last meeting when they voted seven to zero on this, exempted the fire hydrant. The City was not trying to put them in a bind. They could take their fire hydrant tap out as well and he presumed it would put them in a bind. The hydrant was not something they used everyday; it was not a continuing water source. It would be an emergency or catastrophic water source. It was a beautiful building up there and they had no desire to see it burn to the ground because the City removed the hydrant. So the City was doing that service to leave the hydrant there even though technically it should probably go as well. But he didn't think that seemed a prudent move. However, it was pretty clear to the Commission on that night, and so far nothing had changed, that that was the basis of the agreement; that the agreement was then completed. The City should have at some point three years ago given them notice now that they'd developed their buildings and their well. They didn't, but had given 90 days' notice to be able to do that.

Commissioner Easley asked how long would the pipe be from the well down to where the Afghan Pines were? Mr. Brock said from border to border it was 1,320 feet. The well was on their north boundary. They would have to go east from the well probably to the arroyo because the sanctuary was between the well and the

drip system. They also had near the entryway the three full grown Palm Trees which they irrigated off of the drip system. Commissioner Easley asked if they'd obtained any estimates on how much it would cost them to do that? Mr. Brock said no.

Commissioner Cooper said he was reading from the minutes when this 90 day decision was made: "Commissioner Easley said they had a well to feed the Church, so did they actually still need our tap? What size meter was it? Public Works Director Jose Miramontes said it was a 1 inch tap. Commissioner Easley assumed they were still using that tap to irrigate the pine trees." There was no mention of the Palm Trees. Continuing, "Mayor Carroll said in keeping with the arrangement the City had with them, we probably should disconnect them from that tap. Mayor Pro-Tem Van Doren moved that we refuse to allow the water tap for Christ Community Church outside the City on North Scenic. Seconded by Commissioner Cooper."

Commissioner Cooper said regarding the 90 days, his proposal was 30 days. That would have given them ample time to appeal. He noticed that the letter which City Manager McCourt got was dated November 6th. Mr. Brock said he'd written the letter, and he said Mr. Herrell had addressed the Commission and the City had advised the Church, but the word had never got back to him.

Commissioner Easley said one of the things that surprised him was that there was no one from the Church here representing them that night; Mr. Herrell was not here. On several occasions over the last 90 days he'd spoken to the City Manager and asked if we'd heard anything back from Christ Community because he thought surely they would call us or write back and ask for clarification, and none of that happened. He did know that from the City Commission Meeting of July 24th they had an agenda item disposition form where they catalogued what happened on various agenda items and what needed to be done. That particular item specified that staff notify Mr. Gene Brock, Business Manager, Christ Community Church, in writing of the Commission's decision giving notice when the tap would be disconnected. That was a letter done by Jose Miramontes dated July 25th. So they did have 90 days. Commissioner Cooper was correct; he had proposed 30 days. However, Commissioner Easley said he thought 90 would be more civil to give them a little more time to take care of it. They hadn't responded, then, until essentially the 90 days were up. It put the City in kind of a bind because they weren't trying to do the Church a disservice. Mr. Brock said he was sorry that he didn't get the word. He was told that it would be handled.

Commissioner Cooper read more from the July 24th minutes: "Commissioner Easley said hypothetically the water tap ought to be terminated. Mayor Carroll said it should be, and it was his understanding that the Church did in fact drill a well and they were supplying the building with well water and that they had only utilized the tap from the City for irrigation purposes." Mr. Brock said they did not use the tap for any other reason; it was just for the irrigation.

Mayor Carroll said the discussion and what led up to the Commission approving the tap in 1994 was that the Commission was under the impression when the property was developed, it would be annexed into the City. That was our understanding. Subsequently it appeared that might not have been possible since it was apparently not contiguous to existing City land. But the understanding at the time they granted this tap was that it would be a temporary thing and that the property would either be annexed into the City or the water tap would be disconnected. The City did have a water moratorium on then, and that was an attempt to accommodate the short term needs of Christ Community Church and also to encourage annexation into the City. In some respects, the City was basically making an exception to the existing moratorium. That was why they put that limitation on it with the anticipation that the property would come into the City. At the time they were trying to encourage development and have it in the City, and not to provide water for outside the City uses. Had they known back then that the property was not going to be annexed into the City, he did not believe that particular water tap would have been granted. He knew he would have not been able to vote for it. That was the essence of why he had felt he was able to support it; with the understanding that they were going to annex that property into the City or the City would disconnect the water tap.

Commissioner Griggs said when he looked at the recommendation from those minutes, the Mayor was absolutely right. The staff had said there would be certain restrictions, and one of them was that it was going to be used only for irrigation. Others were that there would be no structures which needed water, sewer would be constructed, and when the property was developed it would either be annexed into the City or the connection terminated. He didn't know if there was a means right now to where they could be annexed. He'd discussed that with the City Manager, and the Manager felt there might be a way to do it. Frankly, he'd like to see them in the City. He didn't see what benefit they got from being outside the City. They didn't get taxed, so the property tax wasn't an issue. He would prefer that part of the country to be in town instead of being out there on the edge of town. There was nothing which would keep them from using their well. That satisfied the requirement that they either be annexed or they be terminated. He was willing to recommend that they be given sufficient time to determine whether or not they could be annexed, if they were willing to be. Mr. Brock said he personally had no qualms about being annexed into the City. However, he couldn't speak entirely for the Church. They did have a Board of Directors who would make that decision. Commissioner Griggs asked when that decision could be made? Mr. Brock said they had a meeting scheduled for November 29th. Commissioner Griggs said if the City Manager was correct and there was a way to annex them, he would like to see that. He was willing to give them sufficient time to determine whether they wanted to be annexed or not, and then if the deal was that they didn't want to be annexed, then they were looking at the other deal which said they had to terminate the water tap.

Commissioner Easley said to keep in mind that their water rates would go down by half if they were annexed into the City because right now they were paying double out-of-City rates. Mr. Brock said with the small amount they used, they could afford that double. Mayor Carroll thought it would be beneficial to the Church. Right now the equation was kind of backwards; they were drinking well water and watering trees with treated water. He thought that was just backwards of the way most people would prefer to do it. Mr. McCourt pointed out that there were quite a few costs involved in annexation also.

Commissioner Cole said if it was not contiguous, how could they annex it? Mr. McCourt said the possible solution, and he wasn't very familiar with annexation laws, would be to bring in some strip annexation. The County would love to give the City all of Scenic out there for the City to take care of for them. In fact, they'd made that suggestion to him in the past. So that would be how they would get the extension, by bringing in the right-of-way out to the Church property.

Commissioner Easley said in light of this discussion, his proposal would be that they approve an extension until December 15th, which would give Christ Community the chance to see whether they wanted to be annexed and whether the City wanted to annex them or if there was a possible mechanism. The City may look at it and see they didn't want to annex them because the costs far outweighed the benefits, but that would give them all a little bit of time here, about 30 days or so to work it over. They could extend the period of the cut-off of the tap until approximately December 15th while these issues were looked at. If they couldn't be resolved or at least on the road to resolution by the 15th, then the tap got cut off.

Commissioner Cooper asked if the City would have to absorb the costs of being annexed? Mr. McCourt said no; the Church would pay it. Commissioner Cooper said being a nontaxable entity, of what benefit would the City derive by having them in the City limits? Mr. McCourt said the benefit of having our City limits extended out there, which gave the potential of annexing the surrounding areas because they then became contiguous. The City of course then picked up the service delivery out to those areas for police and fire protection also. Mr. Brock said they were developing their subdivision, Mission Santa Fe, which was across the street. It was just across Scenic from the Church.

Mayor Carroll said in 1994 when they discussed it, they were not necessarily looking for some type of a property tax bonanza because they understood the Church was tax exempt. However, what they were looking for was some orderly development and growth of the City out in that direction to where they didn't have pockets of the County inside the City because the City had subsequently grown on the other side of Christ Community Church, and now basically they had sections of the County within the City limits. That was one of the things they were trying to avoid.

The Minister from the Alamogordo Church was present, and he commented that they were tax exempt but they did pay property taxes. Being exempt did not mean that they were exempt from property taxes; they were only exempt from taxes on goods and services. Mr. Brock said they had to pay tax on the vacant property, but not on the Church itself. Mayor Carroll said, again, that was not the driving force behind the City's desire to have the facility annexed in.

Commissioner Easley moved that we grant an extension until December 15th; that gives both parties an opportunity to look at this more fully, and we would ask that if they (Christ Community) determines at their next meeting that they did not wish to be annexed, that you advise us in a timely fashion and the tap will be cut off on the 15th if you are not going to be annexed. Seconded by Mayor Pro-Tem Van Doren.

Mayor Carroll asked Mr. Brock if he understood the motion and if he was comfortable with it as presented? Mr. Brock said yes.

Mayor Carroll called for the vote on the motion. All voted "aye". The motion carried by a vote of 7-0-0.

11. Water Conservation Program - Low flow toilets.

Recommendation: Permit trial program.

Mr. McCourt said this was an attempt to address the City's concerns about our supply of water. As previously reported, our surface water supplies did seem to be shrinking and had been consistently for a couple of years. They felt conservation was one of the methods to try and address our needs. They were, of course, researching additional water sources that may be available. This particular program was proposed for a short period of time, from January 1 to April 30, 2002. It would allow a credit for people that switched out existing, in-use high flow toilets for low flow toilets. It would allow them a credit on their water bill spread over the next twelve months of \$72.00. In addition, they would receive the benefit of lower water use, and therefore their water bill itself would be reduced permanently as long as they were in the residence. They would be required to up front the money for the purchase of the low flow unit and any installation costs that might be involved. Our plan would be that they would apply for the program. Staff was limiting it by the time frame and the first 200 applications. They were doing that from a revenue standpoint. Staff was concerned that we not over-commit ourselves and have a substantial negative impact on the revenue within the Water and Sewer Fund. They estimated that it would amount to approximately 100 cubic feet per month for each unit that was traded out.

Commissioner Easley said he was generally in favor of water conservation devices, but he noticed this program would require two trips to each home participating in the program. One trip was by Code Enforcement to verify that the

old toilet was actually a functioning toilet in place, and a subsequent trip to verify the new 1.5 gallon toilet was put in there. Did they have any idea how much it cost the City to send somebody from Code Enforcement out to the house twice? Mr. McCourt said he didn't know. Commissioner Easley said that would be interesting to find out. In addition to the \$72 they were going to give them, there was an actual real administrative cost to doing this.

Commissioner Cooper said he had one of these toilets, and it only took him two to three times before it would flush down. Mr. McCourt said he had heard that concern expressed by some people. He did not have that particular problem in his home.

Mayor Pro-Tem Van Doren said when he discussed this with the City Manager, his concern was 200 units. However, in here it didn't limit it to just 200 units. Commissioner Easley said it read, "limited to the first 200 units". Mayor Pro-Tem Van Doren said he still had a problem limiting it to 200 people. What would they say to the 201st person that came in? Mr. McCourt said if the program was that successful, then staff would certainly be willing to discuss it with the Commission and see if they wanted to broaden the program for additional units. He thought this was a good opportunity for us to offer our rate users and our water users an opportunity to lower their consumption. They were also interested in trying to put this in place before our heavy use water season came. He understood 200 units didn't seem like much, but if it did work and was 100 cubic feet per unit, that was 20,000 cubic feet per month that we would potentially be saving. Staff was concerned about our supply of water.

Mayor Carroll said he was supportive of the idea. Each of them had received a copy of their water bill history for the past year as background for the issue on the water rates. He did in fact change out one toilet to a low flow toilet last September, and subsequent to that there had been at least 100 cubic feet per month less usage on a historical, so he had in fact saved some water. He understood what Commissioner Cooper was saying, but he had not had to experience multiple flushes. He did understand that some of the earlier versions of the low flow toilets did in fact have that problem and that supposedly they had done some redesign and that problem was not as prevalent. The concern he did have was along the lines Commissioner Easley raised about what it would cost us in addition to the rebate. Would there be some way that the City could put the requirement on the homeowner to do the traveling and not our people, be it with a copy of a receipt for the toilet or a receipt from a licensed plumber to install it indicating that it had actually been installed? Mr. McCourt said staff was actually trying to keep the cost down for the homeowner. There were many people that had the skill to be able to do the work themselves. They envisioned that many of these units would be in the older homes throughout the community. That was another reason actually for the time frame--that they didn't want to overburden staff, and they felt during this time frame they could absorb that workload. Mayor Carroll said somewhere along the line there was a requirement that they bring in

or surrender the old toilet, so they could bring that in with a receipt for a low flow toilet or a receipt from a plumber. Mr. McCourt said perhaps staff was just suspicious, but they weren't interested in purchasing the units out there on N. Florida. Mayor Carroll said again, if there was a way to make it work where they weren't tying up an inordinate amount of staff time to do that, then that was fine. He was just looking for some way to simplify it from a manpower standpoint for our people.

Commissioner Griggs said maybe there was a compromise. First of all, not everybody was going to install their own. There would be several that would use some of the plumbing companies in the area, so maybe there was a way where they would bring in their toilet and receipt for the installation, or City staff went out there and looked at it, depending on what the method of installation was. He thought this program was something they should do. It was better than the City mandating something, to provide people the opportunity to save something on the deal.

Commissioner Cooper felt they should go ahead and try it. They didn't know if it was going to work if they didn't try it.

Mr. Doug Moore, Lane Plumbing, applauded the Commission for joining in the partnership for an incentive kind of program to conserve water. He felt this was an excellent move. For the most part, the early low flow type designs would not properly flush when the Federal mandate first came on line. The newer ones did flush better. This was not a boondoggle where they could make money; the toilet itself was going to cost more than the \$72, but the rebate would offset a large portion of it by probably over half. As far as Code Enforcement going out there, any place the people bought a toilet, they should be able to provide a receipt which stated that it was a 1.5 gallon toilet. He didn't know what the City's application process was going to be for this, but maybe the format for them to recoup the money could be laid out on that form. He applauded the Commission on this; he felt it was a good step.

Commissioner Easley moved to instruct the City Manager to proceed with this pilot program. Seconded by Commissioner Cooper.

Mayor Carroll said hopefully this was with the understanding that they be able to figure out some way to minimize staff time in implementing this. Mr. McCourt said staff would certainly look for ways to do it as low cost as possible.

Mayor Carroll called for the vote on the motion. All voted "aye". The motion carried by a vote of 7-0-0.

15. Appointments to Boards and Committees.

Community Development Advisory Committee. Two vacancies.

Senior Volunteer Programs Advisory Council. Three vacancies (3 At-Large positions available).

Airport Zoning Board. One vacancy.

Parks and Recreation Board. Two vacancies.

Mayor's Committee on Aging. One vacancy. Mayor Carroll appointed Ms. Gisela T. Coleman to fill the vacancy.

Otero County Planning Commission - City Representative. One vacancy. Mayor Carroll appointed Mr. Jack M. Glahn to fill the vacancy.

All remaining vacancies were rescheduled.

UNSCHEDULED COMMUNICATIONS:

A. Commissioners praised the ROTC program at the High School.

Commissioner Cooper said he had the highest regard and praise for the young people in the ROTC program at the Alamogordo High School. They did an excellent job at the Veteran's Day Parade. He also wanted to mention VFW 7686 for having a dinner for all the Korean Veterans. That was also a great program. All of the veterans in and around Alamogordo were recognized over the last couple of days. He applauded everybody that participated in it.

Commissioner Easley thanked those in the audience for their attendance. Commissioner Griggs agreed. Also, the parade and the ROTC presentation were excellent.

B. Comments by City Manager regarding Relief from Water Leaks Policy; water situation; Puerto Rico Avenue improvements; temporary use of IGA building by the Salvation Army; annexation west of the City; and leave time.

Mr. McCourt said there was an attachment to their water item tonight which had to do with the Relief from Water Leaks Policy. They didn't take any action on it tonight, but it did change the existing policy. It increased the dollar amount of relief which would be available to people. The former policy was put in in 1984 and staff felt that due to changing rates, it was appropriate to look at it again. Also, the method of calculation and the periods they would use to compare it to had changed under this particular policy. He did bring that to their attention. Staff would like to see about implementing that particular policy in the future.

Mr. McCourt said the water levels at the reservoir were at 43 percent. They'd actually gained a little bit. They anticipated as the weather cooled off that they

would make a little more headway. They still had three wells pumping at this time. Normally our wells were shut off by mid-October. Last year was not a good year, but they were ahead of where they were now and they had shut off all the wells by mid-October. He didn't think they were on the brink of a disaster, but he did think they needed to be concerned and watching the situation. He'd had some calls from individuals who wanted him to further change the hours of watering because they felt it got dark too early and was too cold. He was reluctant to do that. If it was too dark and too cold, then perhaps they should just not water.

Mr. McCourt said he'd sent out a memo on the improvements to Puerto Rico Avenue. He had recommended that we delay the going out to bid on that because of the school located on Puerto Rico. They did have a calendar scheduled now and under that particular calendar they would be going out to bid in April. So they would start the project while school was in session, but what would not happen was the repaving of the street until school would actually let out. They knew it was going to be inconvenient for the residents when it happened and also for the Senior Center, but they couldn't change that. The only people they could try and work with a little bit was the school and the parents who dropped their kids off at that school.

Mr. McCourt said he had sent out a memo about the IGA building being used for a temporary period of about six weeks, and they were proceeding with that.

Mr. McCourt said he had a gentleman coming in to meet with him regarding annexation around First Street immediately west of the current City limits. He was scheduled to meet with him on Friday of this week.

Mr. McCourt said he would be absent from next Wednesday afternoon until Sunday evening. He was driving back to Oklahoma for the holiday, and he would be back to work on Monday following Thanksgiving.

C. Comments by Mayor Carroll regarding the ROTC program and Veteran's Day Parade; and Highway Department Regional Organizational Meeting.

Mayor Carroll echoed the comments on the Air Force Junior ROTC. They were a sharp looking outfit for the parade, and they were already the second largest Junior ROTC program in the State, and probably by next semester they would be No. 1.

Mayor Carroll said last week he went to Roswell to a Highway Department Regional Planning Organization Meeting where they reviewed and rated the applications for 5310 and 5311 funding which was basically elderly and disabled funding and small and urban transit systems. The folks from Zia made two good presentations; one to continue funding for what they had and also funding for an additional bus for the system that was scheduled to start the end of November.

He thought the biggest obstacle at this point was waiting for the signs for the bus stops which were on order. When they were up and in place, they should be pretty close to starting the system. Mr. McCourt said actually the signs were in now and were being put up. They should appear very shortly. Mayor Carroll believed they were planning to start the system the week after Thanksgiving, so it would be a welcome addition to our community.

Mayor Pro-Tem Van Doren moved to adjourn. Seconded by Commissioner Cooper. All voted "aye". The motion carried by a vote of 7-0-0. The Meeting was adjourned at 11:48 p.m.

Mayor Donald E. Carroll

ATTEST:

City Clerk Angie J. Rahn

(SEAL)

(Prepared by Chief Deputy Clerk Teresa Y. Gutierrez)

Approved at the City Commission Regular Meeting of November 27, 2001.



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