

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
MUNICIPAL BUILDING, 1376 E. NINTH STREET
7:30 P.M., COMMISSION CHAMBERS
DECEMBER 20, 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, and Pledge of Allegiance.

The Meeting was called to order at 7:30 p.m. The Invocation was given by Rev. David Rorabaugh, and the Pledge of Allegiance was led by Commissioner Ed Cole.

PRESENTATIONS:

1. Presentation by Ms. Becky Lane, Zia Therapy Center, Inc., on the progress of Public Transportation and the Para-transit Services.

Ms. Becky Lane, Director of Development for Zia Therapy Center, expressed Zia's appreciation to the City for the public transportation system they had running in Alamogordo now. She thanked the Commission for the time they had spent on the planning, funding, and routing of the system, and especially for the unanimous vote of support they had given and the funding made possible. Zia could not have done this without the City's support and funding. As of week three, they'd had steady ridership. During week one they had 55 riders; week two they had 65; and week three they had 72 riders. Santa Fe was very pleased with that progress. They encouraged everyone to ride the bus and help them to evaluate all of the stopping points on the route.

Mayor Carroll asked how successful Zia was in their application? Ms. Lane said the hearing was earlier, but they'd not gotten any letter in writing yet. However, they were optimistic that they would be approved for the second vehicle.

Mayor Carroll said he'd like to deviate from the agenda and put in an unscheduled item. Ms. Susan Flores, Keep Alamogordo Beautiful, presented the Commission with a silver bowl for Second Place, and a plaque for the First Place National Award. Mayor Carroll thanked Ms. Flores for her enthusiasm and

dedication to the program. Ms. Flores said the program had also received a Versatiller from Troy-Bilt, who was one of the sponsors for the Keep America Beautiful program. Mayor Carroll said the German Training Center personnel had agreed to adopt the landscaping in front of the Public Housing Authority on First Street for maintenance and upkeep. They originally installed the garden there, and they now had agreed to take it as an ongoing maintenance and upkeep project. We appreciated their efforts on this project.

2. Presentation by Major Armondo Quinones, President of the Alamogordo Airborne Veterans Association, with an update on the Alamogordo Airborne Veterans Monument.

Major Armondo Quinones, President of the Alamogordo Airborne Veterans Association, presented the Commission with a print of the proposed monument which would be at the corner of White Sands and Tenth Street. This monument came about because it was believed that the total number of men who came out of a one-half mile by one-half mile area of Alamogordo comprised the highest per capita concentration of Airborne Veterans to come out of any community in the United States. They chose to commemorate that by having this monument placed in the park. Construction would begin during the next six months; they were waiting for the final plans. Major Quinones described the various details on the monument. They had raised 50 percent of their funding and had enough money to do the initial heavy construction, including the steel, concrete, block, and grid. A construction company had agreed to give them the block masons and people who would do all the initial engineering and construction. Hopefully they would be able to raise enough funding to hire them to complete the project.

Commissioner Cooper expressed concern about access to this part of the park. Mr. McCourt said there was never direct access into this particular area off of White Sands; it was always planned to come in from where that circular drive came into the Zoo off of Tenth Street, and that was still the plan on how they would access this.

Mayor Carroll said the one concern he had was the hope that whenever this project started, that there was enough funding and resources to complete the project so that they wound up with a finished product and not a work in progress. Major Quinones said they'd had donations of concrete, as well as a materials company agreeing to give them all their materials at cost. That was his point exactly; they would not put the City in a position where they had a half-completed monument out there in the park. Mayor Carroll felt it would be a nice addition to our City.

3. Presentation by Mr. Tommie Herrell regarding:

A. Drainage Ordinance No. 1085.

Mr. Herrell said he was a developer here, and it so happened that his subdivision just kind of met the criteria of this particular Ordinance. Every lot in his subdivision had over 10,000 square feet which affected him directly on every lot. There were several gentlemen present tonight from the Building Contractors Association. With this Ordinance, to get a Building Permit now it required a drainage plan for any lot over 10,000 square feet, including the extraterritorial jurisdiction which the City took over from the State of New Mexico within the County. He didn't think that was the intent of this Ordinance. He felt staff was implementing it in some areas, and not in others. There were loopholes in it, and he didn't think it was workable at all.

Mr. Klad Zimmerle, Burke and Associates, said they had subdivisions which were designed to meet the City's criteria. They had subdivisions built to normal FHA standards, which really didn't apply anymore. Now they had to pond on lots, and the soils in Alamogordo were not conducive to holding water. For the extraterritorial subdivisions, it had been imposed on these lots that a written Engineer's drainage report be presented with the subdivision. In some instances they'd received a waiver on that, but there had been cases where one wasn't granted. He was requesting the City repeal this Ordinance. There was no enforcement to this Ordinance; it needed some work.

Mr. McCourt said the problem with the water not being contained was that it went down and flooded the property at lower elevations. Mr. Zimmerle said they needed to work together as developers with the City to try and accommodate where the water went. Mr. McCourt concurred; they looked forward to doing that. In the meantime they had a situation that had grown over the years where continued development up hill had exasperated the flooding situation at lower elevations. They could do nothing or they could continue to let it get worse. There was nothing magical about the 10,000 square foot size listed in the Ordinance, but it was intended to capture large undeveloped areas within the City that currently had no requirements and which could be developed now with no drainage considerations. There certainly were areas in the Ordinance that needed improvement and clarification, and he felt it needed to be worked on.

Mr. Herrell disagreed that prior to this Ordinance nothing was being done in the City. He didn't know of anything that had been done in the last 20 years which didn't have a drainage plan submitted to the City. With this Ordinance, if they submitted a drainage plan to the City, the City had no plan to take the water out of there. Mr. McCourt said this Ordinance attempted to address the downstream impacts. Mr. Herrell said the City should address these problems prior to land being annexed into the City. This Ordinance was unenforceable.

Mr. Herrell said he'd like the City Commission to go on record to repeal this Ordinance, and then hopefully they will have some new Subdivision Ordinances which would address this issue properly. Ms. Ehler said this Ordinance did not just address drainage. It amended two sections of the Code. One had all the

requirements for the application of a Building Permit, and the other one had all the requirements for the submission of a final plat. If they were simply to repeal this Ordinance, those requirements would also go away. She recommended that they not just repeal the Ordinance but that if there was anything done that it be in the nature of an amendment rather than a repeal.

Mayor Carroll didn't know that an outright repeal at this point in time was the answer. He was not opposed to going back and looking at it or to waivers on existing approved subdivisions. If in fact this new Subdivision Ordinance could address the problem in a better way, then that was something the City would appreciate. If there was a way in the short term to make this more workable until they came up with a final solution, then he was willing to explore that.

Commissioner Cole asked what options the City had to work with the developers until something came out of the Subdivision Ordinance to handle this type of problem? Mr. McCourt said there were provisions that the contractor's plans could utilize existing drainage systems, structures, and detention ponds that the City had currently. There was nothing sacred about the 10,000 square feet, but there was some need to establish a base line because there were very large parcels of property available for development which could have very adverse impacts on land owners downstream.

Mr. Herrell said the easiest thing they could do other than repealing the whole Ordinance, was to amend the Ordinance that any existing recognized subdivision in the City be grandfathered in. If they required developers to build detention ponds, then the City was opening itself up to liability. Mr. McCourt said the question was if the ponds had been built correctly. If a detention pond was properly designed, the flows would not absorb into the ground. There should be a barrier to prevent that exact action.

Mayor Carroll felt they all agreed that they needed to look at this Ordinance again. Commissioner Griggs felt it was important to rework this Ordinance. With the group working on the Subdivision Ordinance, hopefully they could come back with a workable solution.

Mr. Charles Herrell, developer, felt a good share of the problems were that some of the ditches needed cleaning out. Commissioner Griggs disagreed. Mr. McCourt said the City had an aggressive ditch cleaning crew, and he felt that was not the problem here. Mr. Herrell said he'd like to see this Ordinance repealed. Mayor Carroll felt it could be addressed without just an outright repeal. Existing subdivisions should probably be grandfathered in or exempted from these requirements. But for the new subdivisions coming in, they needed to have something in place to offer some protection.

Chief Engineer Kevin Heberle said the reason a 10,000 square foot lot was chosen was because staff believed that was the smallest size lot they thought

would be feasible to have a detention pond and to where it could be far enough from the structure to be safe. He hoped they wouldn't repeal this Ordinance as it was better than nothing. They just needed to work on it further.

B. Effluent Water Quality.

Mr. Herrell complained about the stench of the effluent water. Mr. McCourt said the City was working right now on upgrading the treatment at the wastewater treatment plant. They had a project underway to get it done and they hoped to get it in place by this summer. The current aerator system was not sufficient, so the Golf Course Maintenance Superintendent had suggested a new bubbler type of system which would inject the air from the bottom of the lakes which they hoped would keep all of the water oxidized within the lakes. Mr. Herrell said he would still make an offer to the City to provide an easement which would allow for the electricity to get over to those lakes on the back nine so they could get those new aerators in.

C. Golf Course Fees and Dues.

Mr. Ron Whitely said the committee had worked quite hard to get this proposed rate schedule together. By his calculations, the new rate increases would bring in about \$33,000 additional next year to the City. In addition to that, there would be about another \$3,000 which the City would make on the surcharge. In that case, the Pro would only get about \$1,300 of that and the City would get the rest. He didn't quite figure that out, but perhaps it was in his contract. Recently there was a drop off in play, and it was felt there was an accumulation of reasons. Perhaps it was the rates, the condition of the course because of the lack of manpower, and/or weather. At the beginning of the year the City would bring in approximately \$110,000 because of annual membership dues. One recommendation was for the City to appoint a member of the City staff to explore with other cities of like size or representation, to find out how those communities perceived their course; as a positive thing or a drain on the community. His counterparts saw it as a definite asset, but perhaps a City representative could explore that also. If the Commission implemented these or any other rates, they could be given enough personnel out there to bring the course up at least to design standards. It didn't even meet design standards now. They also asked that this committee be kept in place as an advisory committee to the Commission because they had many ideas which they wished to formulate and present to the Commission. He felt it was paramount that the City promote its own course. The tax base which came out of that Golf Course was very important. They may want to cut rates to increase golf play. They may want to look at having annual weekend passes. There were many ideas the committee would like to explore if the City would allow it. Mr. McCourt said staff would certainly analyze the proposed rates from the committee, and bring it back for Commission consideration at the next available meeting. The staffing was something they wanted to increase for next year and it was to be funded under the proposed

rates which he had previously suggested. He was glad to see there was a joint recognition on that.

Mr. Whitely said to also keep in mind that the course could price itself out of business out there. The City had too much invested in the course to let it slide backwards.

Mr. McCourt clarified that the proposal did away with senior rates and the family rates. Mr. Whitely said that was correct. There were many ideas they would like to further present, but they needed time to see how they would impact the Pro and the Superintendent. If the Commission would allow it, this committee would like to start meeting at least monthly. They would also encourage the Commission to attend those meetings. Mr. McCourt said staff was also working on a multi-year budgeting on the expense side because they were concerned about upgrading the services, what equipment needed to be replaced, increased staffing, etc.

Commissioner Easley clarified that the City's original proposal would increase the revenue per year by \$14,000, and Mr. Whitely's proposed plan would generate \$36,000 per year. How did they come up with that figure? Mr. Whitely said they plugged it into current structures and came up with that figure. Mr. McCourt asked if they were proposing that the corporate rates be retained under this? Mr. Whitely said they didn't have a great deal of heartburn over it one way or the other, especially since they only had three corporations signed up for it now. Commissioner Easley clarified that the non-resident rates still existed, and that they were bumped up slightly higher than resident rates, which were actually reduced slightly. Also, he was surprised to see the senior rates go away since they had spent quite a bit of discussion time on the hardship the seniors would have with increased rates. Mr. Whitely said they had tried to propose what they felt was needed to help bring the course up. They were fully cognizant of the fact that they were going to have to give something if they were going to get something. If the money they proposed was put back into the Golf Course, they would see the improvements in the course. He felt that was a reasonable request. The annual rates were something they knew they could count on. They needed to look at them in positive terms rather than negative terms. Also, he felt the monies used to promote the course should come out of the City's budget, and not out of the Golf Pro's budget, especially because it was a City entity.

Mr. Whitely said one improvement they needed was a lightning shelter on the back nine holes, which would help to reduce the City's liability factor. Commissioner Cole clarified that this budget included not only the Golf Pro, but also whoever was responsible for the maintenance of the course. Mr. McCourt said yes. It included all funds which the City received a share of. Commissioner Cooper agreed that they needed an aggressive promotion of the course. As well, they needed to advertise the 19th Hole restaurant.

Commissioner Easley asked the ratio of resident rounds to non-resident rounds? Golf Pro Grant Dalpes said it was approximately 75/25. Mr. Whitely said the County put nothing into the course. The resident vs. non-resident issue was an extremely controversial one, but their goal was the County residents might start talking to their County Commissioners to see why the County didn't start putting in at least in-kind services.

Mayor Carroll said if the committee would continue to work and come up with suggestions, the City was more than willing to consider them, and if possible, to implement them. He wasn't sure he could make all of their meetings, but he would try to make some of them. Mr. Whitely said they'd try to set a regular meeting schedule. Commissioner Griggs said he'd like to see the committee work with the City Manager on the proposed wording in the Resolution. They might be able to assist with using the appropriate definitions.

Mr. John Brown said if they looked at cart rentals and greens fees in the current budget, the expected increase in cart rentals was \$23,000 for 2002, and \$6,000 for greens fees. What was the difference? Mr. McCourt said the cart rental fees were set by the Pro. The greens fees had to be affected by either the Commission approving an increase, or there had to be a change in the volume of the number of rounds of golf. Mr. Dalpes said he had set those fees based on historical data. Mr. Brown said this budget would show that the Pro got an extra \$17,000 more than the City as far as greens fees and cart rentals. If this was an actual budget, he didn't see how someone couldn't figure out that there was a \$17,000 difference between greens fees and cart rentals, and put it in the budget. It made it look like Mr. Dalpes was making more money against his budget than the City was. Mr. McCourt said the fact that the budget was set there did not mean that was how much would be paid out on the contract. The contract was paid out on actual rentals. If either of those fees wound up being higher, than Mr. Dalpes got a percent on them. So the amount he received increased and the budget would be modified accordingly. If the fees came in lower, than the amount he received was less than what had been projected and they under-expended the budget. If the cart fees had been over-projected, then Mr. Dalpes got less money than what had been projected in the budget. Commissioner Easley pointed out that those figures totally left out the number of people who had memberships but who still rented a cart. Mr. Dalpes explained the method used to arrive at these figures (inaudible).

The Commission recessed at 9:35 p.m., and reconvened at 9:45 p.m.

D. Poles and Netting on Driving Range.

Mr. Herrell said when he bought his subdivision from the City in 1990 and started developing in 1991, at that time he paid Texas-New Mexico Power Company \$49,995 to remove a power line on Hamilton Road to get rid of some power poles and the unsightliness of the power lines to where it would better enhance his

subdivision as far as salability. That was the reason several of his customers had bought out there. That piece of property was very unique. He knew there were no houses which could ever be built behind it on the back side of the nine holes where holes 12, 13, and 14 were. That was BLM property, and the City had a lease to use it for a certain number of years as long as it was used for a Golf Course. On the front side they had the protection of fairway No. 10, which gave some latitude to look across the mountains. That was one of the most gorgeous views in the country. If it wasn't for that view, he wouldn't live in Alamogordo. There may be other places in this country that might have something comparable, but they didn't match it. Going back to the fact that he was out the money to do this, he and his neighbors were upset about this. He knew they were looking at a possible safety issue. He drove around the country and he could name town after town after town that had Golf Courses on City rights-of-way which did not have netting or ugly poles stuck up around their course. He could show them one town in Colorado which had one course completely designed with a corn field in the middle of it and the course was bordered on four streets. It completely played around the streets. Their driving range was right next to a street and a parking lot. They didn't see any poles, netting, or even chain link fence. He was told there was a safety issue, and there possibly might be. In 1992 the City Commission came up with the idea of putting up netting at that time. The cost was going to be over \$10,000, and the reason it was known to the residents of the area was because they could express an opinion. After they'd talked to the Commission, instead of putting up a net, the Commission said they would put up trees. He didn't care if they put in trees that grew up to 50 feet tall; they still wouldn't be as ugly as poles. This situation now was one that they were very upset about, and he was very personally upset. He didn't know any alternative situation. As he'd mentioned to the Commissioners--give him back his \$49,995. He might be pacified and might still grumble, but that was what he felt he'd been jeopardized by when the City put up the poles. He knew Commissioner Griggs was concerned with the safety and the cost to the City as far as repairing cars or somebody getting hurt. It was an average of maybe one vehicle per month that went in and complained to the Golf Course. According to the City Manager's letter, it would lead one to believe it quite a bit more than that, but that was what he'd been able to find out. He didn't know of anyone that had been physically hurt that bad; it was no different than going out on the Golf Course and taking the responsibility yourself to go out and play and possibly getting hit with a golf ball. There were some homes there that had their own netting put up, but he was sure if they had their druthers, they would not have put it up. He realized there was a safety issue, but if the City would put up signage instructing vehicles to take an alternate route because of the driving range by signs stating that golfers were responsible for hitting their own golf balls and people really stepping up to the plate to enforce that, then he felt there was an alternative to the netting.

Mr. Michael Yon said they were disappointed as homeowners and as City residents to see this action going on without any prior notice to them. He'd talked to different people about the problems and he heard different numbers from one

per month to only two over the past three or four years. How many really had been assessed a damage area out there, and was \$10,000 worth a \$100 window that had been broken? In a time of constraints and budgets, they couldn't fix aerators because they didn't have the money, yet they could find \$10,000 to put up a fence. It had certainly destroyed a view which if he sat in his living room or den, the netting and top of the poles completely covered the mountains. He didn't mean to distort the view of what he saw, he was being honest--they could not see the mountains for the top of the poles from his living room anymore. It would be the same as someone parking an RV on the back of any of their lots and completely destroying whatever view they had out of their favorite window. He paid a premium for his lot and as they came up higher on Tres Lagos towards the Clubhouse, they paid a premium for those lots. Certainly because of the view, it was destroying the value of his lot. Regarding Keep Alamogordo Beautiful and what they could do to enhance our community, they were now destroying a very vital part of that community. The Golf Course was vital to our community and did provide income and a draw to us. Now they were trying to put up big telephone poles that were ugly. That was not in keeping with "Keep Alamogordo Beautiful".

Commissioner Cole said if an aluminum pole was put up which could handle the wind stress, was the net still a problem? Mr. Yon said he'd not been able to look at the netting, and he wouldn't be able to tell them until it went up. A thinner pole certainly would be preferable. There were a whole bunch of issues like their height. If a ball was going to go across and hit somebody, projectory would tell them that one-third of the length of the pole which was up there right now should keep any ball from hitting the car that was there. All they had to do was to stop that projectory. These poles were 65 feet tall, and in his view the poles could be twice as tall and it still wouldn't stop somebody that would shank it and bring it way up and back down. What they were worried about was line drive, and all they had to do was to get a pole that was maybe 20 feet tall to be able to stop that line drive that would hit a car. If it was going across the road and hit somebody that was supposed to be not walking on the golf path, that was their problem because they shouldn't be there to begin with. If it was another golfer, then that was part of understanding about playing on a Golf Course. So all the City was trying to do was to stop that ball from being a line drive into a car that was driving on there. The poles did not need to be as tall as they were to stop that line drive that was going across. He didn't want this to happen, but if it was, then certainly a metal pole which was a lot thinner would be preferred. He was going to have a house full of people over Christmas, and he was not looking forward to this. They were going to sit there and laugh at this because it looked terrible and ugly.

Commissioner Cooper said when they put those trees in, they were about 12 inch seedlings and looked like slow growth trees. Mr. Yon said they weren't watered. The ones on his property were now about 60 feet tall. Trees were preferred because they were a natural cover. But if Alamogordo was truly serious about keeping Alamogordo beautiful, then everything they did had to be brought

into that context. This was not beautiful so they should wait until they could do it correctly or they shouldn't do it all. Once they started down the slippery slope of just putting things out there, it would just stay out there that way. Commissioner Cooper said he had yet to see any signage out there warning people about the Golf Course. It should be there. In the past 18 to 20 months they'd had two cases come before them due to glass breakage on vehicles. People needed to be aware that they were in a Golf Course area and there would be golf balls flying around. Drivers could go up Eagle Drive and circumvent that area, or they could come on through fully realizing it was up to them as to whether they were going to get hit or not. Someone living on the back nine could say that the City put up a fence along Hamilton Road but they weren't fencing their yard. Was the City going to be obligated to fence in the whole Golf Course all the way around because they did it in one area? Commissioner Cooper said there were nine poles up right now. He would like to see them taken down and signage put up alerting the people. If they did so, then that would relieve the City of the responsibility. He would just as soon not see any netting over there. He suggested that even some of the trees should be removed because they were ugly. Those 65 foot poles and the netting were an overkill in his opinion.

Commissioner Moncada said if they were to put signs up, did that mean the City was taking complete responsibility? Ms. Ehler said no.

Mr. Yon said there was an Ordinance that they couldn't build houses past certain heights. Did the poles exceed the heights of the Ordinance for a house? Mr. McCourt said the height of the poles was 40 feet, and they were put 8 feet into the ground, so they wound up being 32 feet high. The height restriction in the area was 50 feet, and according to his letter to Mr. Herrell, he actually indicated a much lower number of documented incidences. Mr. Dalpes' number was probably a more realistic one.

Commissioner Cole suggested that they take those poles down and look at some other option. He agreed that they were a liability.

Mayor Carroll said when they discussed the netting out there, he did not envision that they were going to use telephone poles. He envisioned that they would be metal ones similar to ones that property owners on the other parts of the Golf Course had used. It was also his understanding that they could replace the telephone poles with metal ones and that it would increase the cost \$1,000 to \$1,500 to do the project. Mr. McCourt said based on the estimates he got back from staff, for this first phase the direct material costs would be approximately \$1,000 over what it would be using the telephone poles. There were some additional problems in that they didn't have the necessary equipment to put up the steel poles so that there would be some more costs involved there.

Mr. Herrell said he and Mr. Yon had a very selfish reason for wanting this. When they started netting this area with no more incidences than they'd had, especially

since there was an alternative route which anybody could take, with the proper signage he didn't understand why there was such a necessity to have the poles and the netting up. Last Tuesday when he was playing, a guy teed off from No. 10 and it hit a car. If they were going to try and make this a fool-proof safe thing-- they were only going to stop one per month. The same thing happened on Desert Lakes Drive off of No. 18. If he owned a house on the other side of the Golf Course, then why wouldn't the City come by with netting and protect all the houses. There'd been a lot more damage to houses out there than there had been vehicles. Just the roof repairs on the houses further down his street averaged 15 to 20 tiles per year. There was no sure cure for the whole thing.

Ms. Mary Yon said metal poles and netting would not be acceptable to her; ugly was still ugly and it would block the view.

Mayor Pro-Tem Van Doren said he was under the understanding that they had not yet come to the conclusion this was what they were going to do. He thought they'd asked around to get different ideas. When an individual called him on this, he was embarrassed and ashamed that we had such an idea. He would support going out there and yanking them out quick as they could.

Commissioner Griggs said they needed to talk about a couple other things just to be sure they were clear on all of that stuff. When they talked about houses that were elective and they built their houses at the Golf Course and knew what they were getting into, individuals driving down a public street was a little different situation. He didn't think they could look at it the same way, nor did he think they should. He personally had his car hit once. He'd driven down that street six and a half years and his car had been hit once, but it didn't mean that somebody else hadn't had their car hit several times. It only took one incident for somebody to get hurt seriously by their swerving their car in front of a truck and somebody getting killed. If the homeowners wanted to indemnify the City against that sort of incident, then he thought the City would certainly be willing to look at that. The poles were not pretty. They'd talked about the netting on No. 9, and no one had gone out there to look at it. The netting on No. 9 did not particularly block anyone from seeing through it. Was it going to be pretty? Not necessarily, but he believed they did have things they could do out there that could maybe fix the whole situation. He talked to Mr. Herrell about it and they'd looked into it with our Attorney. Maybe there were things they could look into which would involve selling the driving range and the land the Club House was on, and moving the Club House. There were options we could consider which would eliminate the problem for most everybody's perspective. However, what that would do was to allow people to put a house on what was now the driving range. That could be zoned or built into where they could only put a single story home, but it did have an impact on the view as well. There were some things he wanted to talk about too because every single one of the people on this Commission understood there was going to be netting put up there. Nobody complained about it when it happened; not a single one of them. So it all came to pass that they allowed the

City Manager to pursue putting the netting up and it was happening. There was no question the poles weren't pretty and whatever poles that were put out there wouldn't be acceptable to the homeowners that were there. As long as there was something there, it was going to be a problem. The issue was the view to everybody. Those trees out there would someday block the view. To say the netting and poles was a bad deal and ugly, but we would like trees--they wouldn't like trees because the trees were going to block the view. Let's not kid ourselves about that. The solution he proposed was that they look into every possible way to sell that property and make sufficient money for the City to move the driving range and the Club House. That impacted the Golf Pro who would have to play a big part in some of that. The City had property to the south which was not the best exact place to have a Club House, because they didn't come back to the Club House after nine holes. The property to the north might be able to be traded for some of the property the City had, which would make it work. They needed to look into this to see if it could be an ultimate solution, because they didn't have an ultimate solution. The net wasn't going to catch every single golf ball, and not having the net up wasn't necessarily going to create an issue where somebody got killed. So they had a problem and they needed to look at it and see what they could come up with. They came up with putting the net up to take care of the problem, for right or for wrong. It was not thoughtless or mean spirited, but something they'd come up with in an attempt to keep the public safe. No ifs, ands, or buts about it.

Commissioner Moncada felt they weren't quite looking at the whole picture. Right now they were just keying into the people that lived at the Golf Course, and the City was being mean because it was taking their view away. By the same token, for the people that lived south of the Golf Course and who used Hamilton Road every single day to get to and from their houses, it was not fair for the City to put up a sign telling them to take a different route. Why should they? That was the route they'd use all their lives. So now the City was putting a demand on them to take a different route if they didn't want to get hit with a golf ball, and if you do get hit, so what? Sorry. Who was going to be the blame for that? It was going to come back to the people who had the deepest pockets, which was the City. That was a big concern.

Mr. Herrell said he'd been here since 1952 and the Golf Course was built in 1953 or 1954. Nothing was out there at the time but the course and the driving range. Those people had known for 40 years there was a Golf Course there, and they chose to build back there and they'd been driving back and forth because they chose to. There had never been a fence up there, not even a chain link one until a few years ago. Take it a step further and it was like closing the gate after the horses got out. The City had spent \$3 million since 1985 to have the course re-engineered, etc. Why wasn't this taken into consideration with the driving range and engineered into the plan when they had the opportunity? He wasn't sitting on the Commission, nor was he even part of the Golf Course committee. They could blame somebody all the way around, and they could stop maybe 25 percent of

the balls, but was it still going to stop an accident from happening? No. He'd seen signage all over the country. When they drove into a golf range, like New Mexico State University, they had signs right along University Drive. He'd seen it all over the country. It was no different than putting up a highway sign that there was a cattle guard or a curve. Signage was a way to warn people. Commissioner Moncada said nevertheless, if a golf ball was to hit somebody and kill them, the City would be totally liable. If they didn't take every measure they could, they would be neglectful for not trying. This way at least the City had something to come back on and say they knew the problem existed and this was what they had done about it to try and prevent it from happening. Otherwise, if they knew this was the problem and they'd done absolutely nothing, then yes, they were all at fault. Mr. Herrell said with the signage, the City was warning the people and they'd taken on its responsibility. To build a cage around the Golf Course, the City couldn't afford it and nobody expected it. Every time he played golf, he ran the risk of getting hit with the golf ball and getting killed. Commissioner Moncada said that was his choice, but for people that were driving, it wasn't their choice. Mr. Herrell said they had a different route and with the signage they could do it. Commissioner Moncada said why should they? Mr. Herrell said why shouldn't they? He had just as good of an argument if they didn't want to be hit or take on the risk. You didn't drive through a tunnel with your lights off when it said "Turn Lights On". It was very simple; they had a brain they were supposed to use every once in a while.

Commissioner Easley said there were a whole lot of issues here. As appealing as Mr. Herrell's argument may be, signs did not prevent incidents or accidents and did not reduce the liability. Leaving aside the issue of liability and money, he just found dead citizens unacceptable. If they had dead citizens, it was going to be a bad deal. To look at the liability issue, Mr. Herrell was arguing that if the City put up a sign and someone then chose to drive through the area and got hit, damaged, hurt, or whatever, then too bad. It was a risk they assumed and they should go away. All of us went out and drove our cars in the street everyday knowing full well it was dangerous to drive a car on the street. When we had an accident, whether someone else's fault or our own fault, did we in fact sue those people or take them to court and make insurance claims? Of course we did. Everybody in this room did or would file an insurance claim or go to court to be made whole, even though we knew it was dangerous out there. Mr. Yon was having visitors come over for Christmas, and they were probably going to park their cars on the street right there on Tres Lagos. If some kid came cruising down the street and lost control and whacked his company's car, were they going to make an insurance claim or file a suit? Of course they were. Even though we all knew that parking on a public street was potentially dangerous, we didn't even need signs to tell us that. But of course we were going to file that claim. Signs would not resolve the problem, would not prevent accidents, and signs would not help if someone was seriously injured or killed on Hamilton Road. People had a right to use the public streets. There was a certain amount of risk on public streets, but they didn't have to augment that risk in ways that were unreasonable

and unnecessary. They claimed and argued, and some Commissioners had supported them, that the poles were ugly. He would submit that the poles may be ugly, but they were just poles. They could be made less ugly, but there they were. They were a fair distance off. If they had been put in their back yard, they'd be somewhat more unattractive than they were at 200 yards away from the house. Whether they had ugly poles wasn't the issue, Ms. Yon had said they would be unacceptable whether they were metal or wood. He didn't believe the City had an agreement with the property owners about the property they bought. They were all very nice houses out there, but he didn't believe the City Golf Course had any agreement with Tres Lagos concerning the view of the mountains. As far as he knew, they had no covenants or anything like that. Mr. Herrell had argued that he'd been playing golf out there since 1952 long before the houses were built down south on Hamilton Road. He would wager that the Golf Course complex had changed considerably over the last 50 or so years. In fact it had changed considerably long before any of the houses on Tres Lagos were built. So if they were going to argue by the fact that first priority got determined by who was there first, then certainly the Golf Course was there longer than Tres Lagos. So the Golf Course had a right to put those things up, he supposed. The City as the owner of the Golf Course had a right to make development and make improvements to its property on the Golf Course. This all pained him greatly because everybody who was involved in this who lived on Tres Lagos was a friend of his. He'd been to most of their houses and he liked them all and he had no desire to make his friends mad, unhappy, or to receive testy letters from his friends. He didn't care for dead citizens. He viewed the poles and the mesh as an interim solution to a pretty difficult problem. He wanted to echo Commissioner Griggs' comments that they had been working with some diligence to think of ways to make that interim solution as short as possible. If they could help the City do that by working with them and helping them figure out how to relocate or do things differently so that they then could take the mesh down without endangering the lives of otherwise innocent citizens, he would be more than delighted to hear it. He would much rather still have his friends on Tres Lagos than have them write him letters and be unhappy with him. He believed it was something they did need to do; they needed to put something up there to keep the balls from flying out. Would it keep all the balls from flying out? Probably not. Were there other locations where balls may fly out? Probably so. Was doing nothing preferable to doing something just because they couldn't do everything? No. Was the only action they could take perfection; should they never move because what they did to solve a problem was not the perfect solution, but just a solution thought of by imperfect people? If he knew the perfect solution, they would just do it and go. But he didn't know what it was. But he did feel they couldn't wait on the perfect before they took up at least expeditious. At this point until failing a better idea, he thought they should proceed with the project they had now in putting the mesh up. If it turned out that the homeowners would be satisfied to, for the interim, go with metal poles and if the City could find the extra \$1,000 to \$2,000 to go with the metal poles and the Commission agreed, then he had no problem with that. If metal poles wouldn't really help, then

they didn't need them. But he did believe they needed to take some action. He would be happy to see that action be as short as possible until they could eliminate the specific threat to citizens who were driving up and down Hamilton Road. Everybody on Tres Lagos could get back to enjoying life and enjoying their view. He could sympathize with their issue about the view. He too really enjoyed the view, and what he did to ensure his view was to also buy the lot behind him. So he was not unsympathetic to the idea of a view and how valuable it was. He realized that purchasing the Golf Course was not an option, but working with the City on how to make that which they found so repellant and ugly and which he found to be rather practical, be there for the shortest time period possible may be the best way to go.

Mr. Ed Kimber said he lived on Desert Lakes Road, and he had one of them big ugly nets they were talking about. His net was 25 foot high. It was 15 foot from the edge of his house, and he had windows broken. The net was not going to stop cars from getting hit. His house did not move, but the cars did. His windows were a little easier to break than a car's window, but that car was moving. He guaranteed they would break car windows even with the net up there. He had hit a car with a golf ball when he lived in St. Louis. It was very scary. It broke the headlight on the car. He gave his name to the driver, she went to the Pro Shop, and they paid for it because they had insurance. He could show them some poles that were not very offensive to him. In Cloudcroft behind the green at No. 8, there was a net up there with several large poles and they were colored like the trees.

Mayor Pro-Tem Van Doren said he was learning that as a result of different comments from different individuals on the Commission, what it really boiled down to regarding the poles was that what may be one man's junk was another man's treasure.

Commissioner Cooper said regarding Commissioner Easley's comment that signage didn't prevent anything, then he would suggest they remove stop signs, speed zone signs, school zone signs, etc. If he was going to use that logic, then signage would have no effect, and so why did they have all of those signs up? Mayor Carroll said those signs were up and effective because for those particular signs they had passed laws to enforce obeying the signs. Commissioner Easley said routinely here in Alamogordo they gave out tickets because people did not obey the speed limits or stop signs. So signage did not prevent even breaking of the law for which penalties and fines were available. This particular signage was of a different kind. This signage did not propose a penalty to the driver, but was a warning sign and a warning sign had the same effect as advertising donuts. It may get their attention and may be informational, but there was no penalty. The reason the warning signage would not prevent incidents was because the incidents were caused by people on the driving range who were not looking at the signs. They didn't do it intentionally; they just hit the balls out of there. And that was what would not be affected by warning signs on the road. Commissioner

Cooper said he'd seen a lot of signs which said "Icy Bridge" which warned the people to use a little common sense, and he thought the signage would introduce a little common sense for a change.

Mayor Carroll thought they understood the concerns of the property owners that would be affected by any kind of netting they put up. He would like to see them explore different poles. He did not envision telephone poles when they talked about the netting. He would like to see them pursue seeing going with a metal pole. The netting would still be there, but a metal pole may not be as objectionable as the telephone poles. There was no way to make a telephone pole attractive, but metal poles may be less offensive than the telephone poles and he would like to see them pursue that before they went much further with this project.

Commissioner Easley said one of the things he proposed to make the telephone poles, if not more attractive, less obtrusive was if they were to paint the poles black or dark or creosote them darker or a combination of the two. The reason was when they looked at them because the poles were relatively light colored, the poles were reflective. They reflected the sunshine in the daylight and at night they didn't see them at all obviously. But because they were reflective, they saw them more. If they were to take the poles and darken them and make them black, they would see them less and they would be less obtrusive. They may not be beautiful by some people's standards, but they would show less. That combined with the color of the netting would tend to make the whole thing disappear into the background that was behind it rather than stand out against it. Right now if they went anytime past noon when the sun was up above or to the west, the sun directly shone on the poles and reflected off and they were quite visible. So one of the things which would be less expensive was to darken and try to make the wooden poles less obvious. If that turned out not to work out, it was certainly a cheap experiment to try before they moved onto ripping those poles out and putting in metal poles. Mayor Carroll said he didn't know he necessarily had a problem in exploring that option either.

Mayor Pro-Tem Van Doren said there were Golf Courses all over the country, and he didn't recall poles and nets along the side of the streets. So they had to have some way of coping with the problem. Had they checked out how other Golf Courses were handling this situation? He knew there were tons of Golf Courses that had City streets run right by them and somehow they were coping with it. Either they were charging extra for the golf balls and had a little fund that would take care of broken windshields, or something. Mayor Carroll felt Commissioner Griggs had touched on that by suggesting they move the driving range to where it was not adjacent to a street. Mayor Pro-Tem Van Doren said that was not the same as what he was talking about. Mayor Carroll said he knew, but in a lot of cases a lot of Golf Courses did not have the driving range adjacent to a street. He was sure there were some that did, but he suspected the majority of them did not so they eliminated that problem. They didn't necessarily eliminate the

problem of golf balls coming off of the course, but that was why they may not see as much netting around other courses.

Commissioner Moncada thought they'd lost the concept of why this was even brought before the City Commission, and that was because it was a safety issue. She really did feel sorry for the people that lived there and they had taken away their gorgeous view, but when they weighed the two, in her view safety of an individual in our community weighed far more. Mayor Carroll agreed, but if there was a less obtrusive way to do it, then they ought to explore it. Commissioner Moncada said by all means. She liked the idea of trying to sell the property and moving it somewhere else. But until they could get to that point, right now our main focus was the safety.

Commissioner Griggs said there had been substantial growth in the Golf Course area and south of it. They would kidding themselves if they thought some of that was not going to continue. So the traffic on either Hamilton Road, Tres Lagos, or Eagle Drive was going to get more and more. Even if they didn't increase the number of people on the driving range, they had more opportunities for someone to get hit or hurt because they would have more people out there using the street. Whether people would go around if they put a sign up, he didn't know. It had taken about ten minutes for somebody to call him the minute those trucks were down south loading up the gravel and coming down Hamilton and then started going down Tres Lagos because of road work being done. It took about ten minutes for people to call him and complain that the trucks were going down Tres Lagos. He thought they needed to look at different solutions and they needed to make this a temporary fix. So let's do something else which took care of it and eliminated it so it was not an issue for the property owners and was not a safety issue for the City. Let's see what we can accomplish and what designs could be thought up. He believed they could do some things which came across and made it a safer deal for everybody. It may not be right today, but if they could get after it then maybe they could have it next year.

Mr. Sam Estep said there had been an incident at White Sands Golf Course when those same posts were put up with netting and the winds blew heavily, they blew down. In the last six or seven months they'd had high winds and one of the trees fell over in the park. He felt the same thing would happen with this. He also felt they needed to move on with the most efficient way and least expensive way to do it. If they were worried about the safety factor, they needed to think about the poles being blown down with the nets because they would be extremely heavy. Second, if it was such an extreme issue, then they had to look at the 600 yards on the opposite side of the road where No. 10 was. That was even more likely for balls to cross the road because there was absolutely nothing. There was no chain link fence or bushes, which he would suggest they plant. So now they would have to have 600 yards worth of poles and netting. Then if it was that extreme and the safety factor was paramount, they would have to go down to No. 18 and do that entire length of probably 450 yards before they got to Hamilton

Road and then go south and add some more poles because balls flew over No. 18 and into the parking lot. So before they decided to start putting huge poles up, which they'd already calculated the cost on, multiply that by 100 and that was how many more poles they would need and how much more yardage of net they would need. Then they would need to calculate the danger of all of them being blown down also. He challenged the City to plant trees. That was why at other Golf Courses they didn't see golf balls flying all over the place. They had bushes at strategic locations and they had watered trees that grew to protect passers by.

Commissioner Cooper asked how many accidents had been reported in the Golf Course area along Hamilton Road involving golf balls? DPS Chief Trujillo said he was not aware of any.

Commissioner Cole asked for clarification on what direction the City Manager could take from this discussion. Commissioner Easley said obviously they were all fairly evenly split about how they could proceed on this issue, but they couldn't take a vote because it was not an action item. Commissioner Cole thought the sense was that nothing else ought to take place until they came to some type of conclusion. They'd listened for three hours tonight to people who had concerns from a certain area, and this was a major concern and they were just going to go onto the next item on the agenda and leave it hanging. At least the City Manager ought to have some understanding as to whether he was going to proceed with the poles or not do anything. Mayor Carroll said he gathered that the Commission wished to at least explore some of the other options discussed tonight, like the metal poles.

Mayor Carroll said for item A), they indicated that they would work on drainage Ordinance No. 1085; for item B), they'd explained what was being done in the effluent water quality area; for item C), they'd said they would work with them on the Golf Course fees and dues; and for item D), he would like to see them investigate some of the options they'd talked about tonight. Commissioner Cole agreed that before anything else was done, the City Manager would investigate and come back for some type of action. Commissioner Easley said his preference was that they move forward with the project. Mayor Pro-Tem Van Doren agreed with Commissioner Cole. Commissioner Moncada agreed with Commissioner Easley. It was still a safety issue. Mayor Carroll said they would put this on the next agenda as an action item.

4. Presentation by the New Mexico State Armory Board regarding rezoning requirements.

Col. Cecil Lynn, New Mexico State Armory Board, said they were present as the result of a previous session before the Commission back in September where they gave temporary approval of a change in the zoning for the Armory located on Florida Avenue. They took that documentation to their State Armory Board meeting on the 5th of December, and they ultimately approved the Waiver of

Protest and the Standard Avigation and Hazard Easement. However, they directed that he come back to the Commission and say that, under the advice and consent of the Attorney Generals, that they could not pass on paragraph 3 of the Avigation and Hazard Easement. They were facing a deadline of the 31st of December and they were requesting the City extend that time frame until the two legal departments could get together and resolve that issue. He understood from City Planner Sharon Few that this had been an ongoing process and it was a standard form which had been signed for a number of years because of Federal requirements. He was sort of in the middle and would like to wind up getting a solution to this as soon as possible.

Mayor Carroll said in conversations with the City Attorney and City Manager, neither saw a problem in extending that deadline and allowing the Armory Board's legal department to work with our City Attorney to see if there was language which could be mutually agreed on. He understood the Armory Board would not meet again until mid-March, so he didn't see the harm in allowing an extension of time to sign the documents. Mr. McCourt said he saw no problem either. He'd given the City Attorney the name of the individual to contact on this which he hoped would expedite clearing this up.

Commissioner Easley asked for clarification on which was considered the third paragraph. Mayor Carroll said the wording started with "The Grantor waives...". Commissioner Easley asked for a ballpark idea of what the part was which they objected to? Col. Lynn said the indemnification. Commissioner Easley said any claims, essentially? Col. Lynn said that was correct. They'd had these problems for the last couple of years with the Attorney General's office. This was not the first time they'd had a dealing with them where they would not let us do something unless it was changed. Commissioner Easley said he had no objection to the extension of time.

Mr. McCourt said the City would do the necessary paperwork to get it done. Did they need at least until after March 31st? Col. Lynn said yes. What he would like to have was a resolution prior to the first of March so that when they prepared the agenda for the State Armory Board they would have a talking paper which went to the issue. Then they could get the two legalese to arm wrestle the situation before then and they'd have an answer.

Ms. Ehler said if she read their memo correctly, if they could reach language that was acceptable, they didn't have a problem with it being signed as already passed by the Board. Col. Lynn said if she and the legal counsel for the State Armory Board could reach an agreement, he felt it would be fine. The thing that was pressing them was this date of December 31st which would make it null and void. They wanted to continue to rent the Armory and that date was a problem.

Mr. McCourt said they would place this item on the next agenda for action. Ms. Ehler said it would involve an amendment to the Ordinance, which would need to

go through the normal Ordinance procedures. For that small amendment of the date, she doubted representatives from the Armory Board would need to be present for that.

Call of the Consent Calendar:

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.

5. Minutes of Regular Meeting of December 11, 2001.

Recommendation: Approve the minutes.

6. Consideration of a nine foot (9') rear yard setback variance for Travis C. Hooser. [Case V-01-0453(A); 2408 Stapp Avenue]

Recommendation: Approve the nine foot (9') rear yard variance for Case V-01-0453(A).

7. Ordinance No. 1133 amending Chapter 24 of the Code of Ordinances adopting the 1997 Uniform Traffic Ordinance with updates through 2001.

Recommendation: Final adoption of the Ordinance.

8. Ordinance No. 1134 amending Chapter 19 of the Code of Ordinances relating to the Golf Course.

Recommendation: Final adoption of the Ordinance.

9. Statement regarding the Executive Session of December 11, 2001.

Recommendation: Approve the following statement and authorize it to be included in the minutes of December 11, 2001: "The Governing Body of the City of Alamogordo, New Mexico, hereby states that its regularly scheduled meeting of December 11, 2001 was adjourned into executive session and the matters discussed in the closed meeting were limited only to those specified in the motion for closure."

13. Final Change Order and Close-out of PW Bid No. 2000-015, First Street Waterline.

Recommendation: Approve the final adjusting Change Order No. 4, and close out the project.

Mayor Pro-Tem Van Doren moved to approve Consent Calendar items 5, 6, 7, 8, 9, and 13. Seconded by Commissioner Cooper. All voted "aye". The motion carried by a roll call vote of 7-0-0.

OTHER BUSINESS:

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

Recommendation: Extend the permit for the water tap.

Mr. McCourt said the most recent time this item was before the Commission, staff was instructed to pursue the option of annexation if the Church would be interested. They had done that and the Church had been quite cooperative. They just hadn't had sufficient time to do all the necessary steps. He recommended an extension of the time necessary. They were proceeding in an orderly fashion to secure the annexation.

Mayor Pro-Tem Van Doren moved that we extend the permit for the water tap at Christ Community Church. Seconded by Commissioner Moncada.

Commissioner Easley asked if there was a time frame on that? Mr. McCourt said he did not suggest a time frame, but it was perhaps a good suggestion. Staff indicated that they would bring back regular progress reports. Of course, if they mandated that a report be brought back, there was an additional assurance that would occur. He didn't think 60 days was enough time to get it done. Commissioner Easley asked if 90 days would be enough? Mr. McCourt said 90 days was probably a minimum time frame.

Commissioner Moncada clarified that the City was suggesting an annexation, and not the Church. Mr. McCourt said they were working to accomplish the goals as suggested by the Commission. The Church and staff were doing that, but there were just steps which needed to take place and which consumed time.

Mayor Pro-Tem Van Doren amended his motion that we extend the permit for the water tap at Christ Community Church, to include a caveat of 90 days. Seconded by Commissioner Moncada.

Commissioner Griggs asked if everything was to be completed within 90 days, or was it just to get the approval? What they were really trying to do was to get the approval from the County to annex the road so the City could proceed with the annexation of the Church. It seemed like once they got the approval from the County, then all they did was go through the steps to annex the Church and there shouldn't be a problem whether it took six months or a year and a half. Mayor Carroll said this report also talked about the subdivision across the road from the Church. That was an outside the City subdivision which the Commission had

approved with variances to a lot of City standards. They needed to understand what that might entail should the property be annexed in.

Commissioner Easley felt they could always extend the extension based on contingencies, and if it took a year to do it, then fine. He would just like to keep up with it in 90 days so they knew where they stood. Then if they needed to do another 90 or 120 days, they could.

Mayor Carroll said staff was very reluctant to bring this next issue up, because the last time the Commission directed staff to do it, they burned them pretty bad after everything was done. Was there any interest on the part of the Commission to possibly use this particular action as a way to annex additional property between the existing City limits and the Church? Commissioner Easley thought it was certainly worth looking at. Mayor Carroll said the first step would be to find out who owned those various pieces of property, were they interested in coming in, and if not, was the City interested in forcing annexation. Staff was not going to do anything unless they got a clear indication because the Commission burned them real bad the last time.

Commissioner Griggs said if the Church came in, could they force the property owners between the Hospital and the Church to come in? Mr. McCourt said it was an area question. Ms. Few said the Statutes allowed annexation when the City had a petition on 51 percent of the area proposed to come in. So they could leverage an additional 49 percent of the acreage which the Church would represent. Commissioner Griggs said theoretically they could come closer to the existing City limits, but probably not get all the way. Ms. Few said they wouldn't necessarily fill in the area between the Church and the Hospital. Commissioner Griggs said he knew there was one track that would probably be willing to come in the City in addition to the Church. Ms. Few said if they were willing to sign a petition, then that would up the ante again. Commissioner Griggs said he wasn't sure he was really excited or willing yet to try and bring everybody else in. Once they got the Church in, they could look at it at a different time. Ms. Few said no; it had to be in the same action. It was a unified action which had to be done to utilize the leveraging of the Church. She could have that information ready for the next meeting.

Chief Trujillo said from his department's perspective, it was much easier just to annex and extend the City limits out.

Commissioner Cooper clarified that basically it would be better to annex everything all the way down to Florida. Ms. Few said they could go any direction and they would be limited on the acreage that they could ultimately bring in by the acreage they had on petition. Commissioner Cooper asked if they would be looking at the pueblo houses on the north side of Scenic Drive also? Ms. Few said that would be the choice of the City Commission. But, for example, when the Hospital area was annexed in, they proposed to also bring in a very small

subdivision which was going to end up being surrounded and they proceeded on that, and two of the property owners complained and the City left them out. And now there was a little triangle of a 12 to 15 acre subdivision in the middle of the City surrounded by the City, which was outside the limits. Mayor Carroll said his intention of suggesting it was not with the idea of annexing already existing development; his was more looking at the undeveloped land adjacent to the current City limits and not to force people who had already built houses out there into the City. Commissioner Cooper said the extension on that water tap seemed to be the hinge they were using to either annex or not annex. By extending that water tap constantly, didn't that push them a little further down the road? Ms. Few thought that was an entirely separate issue because of the existing moratoriums and such.

Commissioner Griggs asked Mr. Brock if he'd talked to any of the landowners between the Church and the Hospital? Mr. Gene Brock, Christ Community Church, said they'd not talked to them. Through the City Planner and Public Works Department, they were pursuing the aspect of their total cost to bring water into Mission Santa Fe Subdivision. They were almost ready to make the application for annexation. Ms. Few had met with their Board of Directors on the 29th of November and made a really good presentation on the pros and cons of annexation. The Board had essentially asked to develop what the total cost would be working with their engineer, the Public Works Department, and Ms. Few. They had done that and were almost there. Mayor Carroll said the idea of the City possibly annexing additional property in no way affected the Church's. Whether they decided to or not to do it, it was not going to impact the decisions on the Church's property. They often got accused of not thinking very far ahead, so this was an opportunity to at least discuss and think about it. They may choose not to do anything at this time.

Commissioner Moncada said because they were looking into the future, were they going to send a letter to those landowners south of the Church to see if they would like to join in? How would they know this was a possibility? Ms. Few said whatever the Commission directed, staff would accomplish. Mayor Carroll suggested first before they started sending out letters, that they at least get something on paper which showed them exactly what property and land they might be talking about and whether there was enough leverage to make it really practical to do it at this time. Ms. Few said there was no requirement for notification. Commissioner Moncada said if they decided to do this, then as a courtesy from the City, they should let the property owners know what we were going to be doing. They might agree, or they might not.

Commissioner Easley said he was delighted that the Church had determined that they wanted to come into the City, and he wanted to be the first to welcome them to District 1.

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

11. Legislative Request List 2002.

Recommendation: Prioritize projects for request to the State Legislature.

Mayor Carroll said we would be meeting with our State Legislators on January 4th at 9:15 a.m. They had asked we keep our presentation short. The City Manager had put out an amended list of priorities. The items that were underlined were the items which the Commission requested at the last Legislative Session which were in fact approved and were part of House Bill 155, the Capital Outlay Bill, which the Governor vetoed. It was his understanding from some conversations he'd had with people who knew Santa Fe a whole lot better than he, that as recently as a couple of weeks ago there was some talk that the Legislature might just early in the Session take House Bill 155 as currently written, put a new number on it, and send it to the Governor. That talk had pretty much gone away because of the financial picture of the State. So there may not even be money for new projects or even enough money to fund what was previously authorized in House Bill 155. As a minimum, they should go back in and say their priorities were what the Legislators got for us the last time, cognizant of the fact that it was going to be a very fiscally dim session and not get too carried away with a list of things for them to try and get knowing that the likelihood of it happening was going to be slim.

Mr. McCourt said he'd handed out an amended list, and he did have some incorrect information in the first memo. The projects listed had not changed. What had changed was that they would find projects (A), (B), (E), (K), (L), and (M) underlined now. Those were projects that actually were in the Bill that was ultimately vetoed. Everything that was in bold print was initially requested, but some of it did not get into the Bill that was passed. Under item (E) they would note in particular that last year they did get into the Bill that was ultimately vetoed an amount of \$300,000. They would note that the amount listed in our capital improvements was \$470,000 to try and do that section of South Florida. That was because of other types of items they had to do such as curb cuts and so on to bring it totally into compliance. They had a fairly long list here. There were a couple items on page 2, specifically (V), (W), and (X) that were not in the capital improvement projects because the size of them just didn't fit. They were relatively small projects which the City didn't have funding for at this time. We would like to try to further improve the safety around the High School area. They had taken some steps with crosswalks in the area and some signage.

Mayor Carroll said there was one item on here not on the list which was funded through the Legislature, and that was \$180,000 for the Indian Wells connector route. Mr. McCourt said that was a County project. Mayor Carroll said in looking at the Bill, he was not able to ascertain who the funding was going to, and

whether it was going to the City or the County. There was \$180,000 earmarked for the Indian Wells connector, and it was by Senator Rawson. Mr. McCourt suggested they continue to work with the County for those connectors, but as he'd mentioned in his last paragraph on page 2, he would feel they would be better versed to put their priorities on the First Street improvements as opposed to Indian Wells. Mayor Carroll said if they could get the money, then they could talk about shifting it from one connector to the other. Mr. McCourt said or else they could get them to put it broad enough in the Bill.

Commissioner Cole asked where the R.O. money would come in? Mr. McCourt said the money the City presently had for the R.O. project was approved two years ago. There was nothing in here on it. The money they were looking at for the future R.O. development for the NEPA study and for the actual capital improvements, was not at the State level but was at the Federal level. They were working with Senator Domenici's office and Representative Skeen's office. Mayor Carroll said when they went to the State Legislature initially and asked for the \$300,000, we assured them that we would not be back for more money for that project from the State. We did in fact get that \$300,000.

Commissioner Easley said he was satisfied with the list as it stood now, the ones which were highlighted.

Commissioner Griggs said he was under the impression that the County had actually received some sort of funding to continue South Florida down to Desert Lakes and on around the South Scenic extension, but the City Manager had indicated that they did not get that funding. He'd be remiss in not bringing up the fact that they had a substantial concentration of City residents which lived down there who were not served by a very good road. These others could all be priorities before it, but he would like to see Florida on there as a continuation on down to Desert Lakes. Mr. McCourt said item (P) had the extension past the Armory, and then after item (Y) was the amount they estimated would move it from the end of item (P) down to Desert Lakes Road. Mayor Carroll said he hadn't spoken with the County Administrator, and he didn't know whether they had South Florida on their list or not. He understood that the County was going to pursue the connectors. The Chamber of Commerce Legislative Affairs Committee, as one of their action items, was also going to support the City's request for funding for the connector routes. Whether or not the County was back in for South Florida, he didn't know. But they could certainly add it. Commissioner Griggs said he knew they wouldn't get it if they didn't ask for it. When they looked at Alamogordo compared to other communities, we had numerous road needs. We were just faced with the fact that we would have to ask because we didn't have the money to do them. It cost a lot of money to do this thing, but we needed to start some place. Mayor Carroll said he didn't have a problem with putting it after the other items. For South Florida they still needed to ask for the additional \$170,000 to finish that under item (E). For South Florida from First Street to

Panorama, we'd only been funded \$300,000 for that, and actually needed \$470,000.

Mr. McCourt said they had asked that we try and prioritize these. These were not intended to be prioritized. He'd heard one Commissioner indicate that the items we actually got into the funding Bill should be the top items of priority that we requested again. Were we then interested in taking the items that were originally put in but didn't make it through the Bill, the items in bold that were not underlined, as additional items? Commissioner Easley said they knew the underlined and bold ones were attractive to the Legislators and that was why they got passed in the Bill, and the bold non-underlined ones were attractive enough to at least get consideration to them, and then the ones which were left were less attractive to them. Mr. McCourt said they hadn't even seen many of the others. They saw all the bold ones. Mayor Carroll said they needed to be consistent; if they needed it last year what had changed that they didn't need it this year? Commissioner Griggs said that would suit him just fine. He'd just like to see Florida added to the list. If it was at the bottom of the list, it was still added to the list. Mayor Carroll asked if anyone had any problem with adding at least some funding for South Florida? The Commission had no problem.

Mr. McCourt said his understanding was that the next tier would then be items (P) and the second from the last paragraph where they talked about the entire stretch of South Florida from where item (P) ended out to Desert Lakes Road. Mayor Carroll asked if he was talking about the \$1.2 million? Mr. McCourt said yes. Mayor Carroll said he didn't know that there was any sense in putting in another \$1.2 million. Commissioner Griggs said when they looked at all the numbers, that was nearly a \$2 million road. He knew it was going to be at the end of the list and they may not even look at it, but maybe this year they had a lot of road funds. Mayor Carroll said they could certainly put it on there, and maybe they'd get partial funding. Quite frankly he didn't think there was going to be enough money to where our Legislators would be bringing back that large a pot of money. Last year, which was a good year for funding, they brought back a total of \$5.1 million for all of Otero County. Commissioner Griggs said he recognized that, but he would just like to give them a chance to surprise us. Mr. McCourt suggested that item (U) needed to then be in that same tier, which was for the Public Housing Authority to make the necessary changes to the electrical system which served the two complexes. That again would be in that third tier.

Mayor Carroll said there was a project form which needed to go with each one of these requests called the Local Capital Improvement Request, and they wanted ten copies. Mr. McCourt said yes, and he was planning on assembling those next week.

Mr. McCourt said just so he got a sense, there were of course many projects left on this list which they did not put on the first, second, or third tier at this point. Was there a desire to include anymore of those in our list to the Legislators, or

did they want to restrict the list to those first three tiers they had just discussed? There were two sides to the argument. First, as Commissioner Griggs had suggested, if you don't ask for it you're not going to get it. Second, if they gave them too big of a thing they just threw up their hands and said they couldn't do anything. He would think they might want to try and include a couple of the smaller dollar items on their list just because it gave them an opportunity if funds were very tight, to do something. He suggested item (J), the trail system, which tended to be the type of item that was very visible, as well as the safety items under (V) and (W) also be included. That then gave some smaller projects which were relatively visible. Everything he'd heard coming out of Santa Fe echoed what the Mayor had indicated, that they were going to have a very tight budget, plus the Governor and the Legislature seemed to have no sign of having a breakthrough on their tax question. So it may be that nothing happened again.

Commissioner Cooper suggested including (X) which completed the safety package around the High School. Mr. McCourt said he had no problem and he happened to support that, but it did appear the people were using the crosswalks and staff was saying they wouldn't need the fencing. Commissioner Cooper thought putting it in would complete the package. Commissioner Griggs agreed that it would complete the package, but he looked at the fencing along Cuba where they'd just beat the heck out of it and it looked awful.

12. Otero County Funding Appropriation (Public Library).

Recommendation: Approve letter and documentation to be sent to the County Commissioners.

Mr. Jim Preston, Library Director, read a prepared statement:

"What I am proposing at the current time is that the City Commission grant me permission to send the enclosed memorandum and Summary Report to the County Commissioners.

You will note on page 2 of my Summary Report that I state that 89,000 items or 33% of the total annual circulation of 271,000 items checked out of the Library are by County residents.

Based upon a 33% County service level for a total operating cost of \$806,000, the County's share for Library services should be \$265,980.

You will also note on page 2 of my Summary Report that I state that 6,000 or 25% of 24,000 Library cards are held by County residents residing outside Alamogordo.

Based upon a 25% County card holder level for a total operating cost of \$806,000 the County's share for library services should be \$201,557.

Therefore, based upon the County's level of use, the County should be subsidizing Library services anywhere between \$201,557 to \$265,980.

As a part of the current budget year, the Library requested only \$46,000 in funding from the County. This is the same amount provided from the County for the prior fiscal budget year.

However, the County responded they would subsidize the Library at only \$40,540 for the current budget year. This is a difference of \$5,460 which is an 8% reduction from the original request of \$46,000.

Based upon the County's current payment of \$40,540, the County is subsidizing only 15% to 20% of their actual cost of \$201,557 - \$265,980. This means that the City is picking up 80 to 85% of the County cost.

It is up to you as City Commissioners to determine if we will continue to subsidize County costs for County residents to use the Library.

As already mentioned, the Library requested \$46,000 in funding for the current fiscal year and the County responded that due to budget cuts they could only fund the Library at \$40,540. The Library cannot absorb this \$5,460 cut in County funding and continue to operate at the same level of service.

Based upon the County Commission cut, I have little recourse but to make service reductions.

If the County is unable to provide the \$5,460 shortfall in funding by February 2002, I will be forced to cut the book budget as well as the Library hours of opening. Library hours will be reduced from their current level of 58 hours weekly to 53 or 54 hours weekly. There are two options for reducing hours:

One option for reducing hours would be to eliminate hours of opening on Sundays. The Library is currently open from 1 - 5 on Sundays. Under this option I am proposing the Library close on Sundays. A second option for reducing hours would be to close at 6 p.m. on Monday & Wednesday evenings instead of the usual 8 p.m. and to also open at 1 p.m. instead of the usual 11 a.m. on Saturdays.

You will note that I have listed these options on page 3 of my Summary Report.

You will also note on pages 4 & 5 of my Summary Report that I have listed 9 different formulas. Any one of these 9 formulas could be used for the purpose of either (1) charging County residents for purchasing a Library card or (2) charging the County for a lower subsidy fee than the actual amount of \$201,557 or \$265,980.

In closing I might also add, there are additional formulas which could possibly also be added to the list I have prepared for you.

For example, if the County decided not to subsidize Library service at all for the upcoming fiscal year, based upon the County subsidy level of \$201,557 one could charge an annual fee of \$33.58 to the 6,000 County residents currently holding Library cards.

Or, if the County decided not to subsidize Library service at all for the upcoming fiscal year, based upon the County subsidy level of \$265,980, one could charge an annual fee of \$44.33 to the 6,000 County residents currently holding Library cards."

Commissioner Cooper asked if what he was saying was that the Library users in Alamogordo ought to be penalized because of the County reduction and participation? Mr. Preston said there would be a reduction in service hours which would affect County residents as well as City residents.

Commissioner Cole felt it was a shotgun approach and he didn't like it whatsoever. He felt it was wrong. Mr. Preston asked what he would propose? Commissioner Cole said he wasn't sure of the solution, but he didn't think they needed to penalize the citizens of Alamogordo if the County could not give the money they were asking for. Several years ago the Library was closed on Sundays, and then later they opened it. How did that take place? Mr. McCourt said it was before his time. Ms. Ehler said if they were referring to what happened in 1993, when the water and sewer rates went up for referendum and while they were in court, they were not sure there was going to be enough funds available to run the Water and Sewer Fund, and they were required to make cuts City-wide. Part of the cuts that were made at the Library at that time was a cut in hours. Once that lawsuit was concluded and it was determined that water rates could be set at a level that could run the water and sewer system, funds were restored to the other budgets and the Library resumed having hours on Sunday and they also resumed some evening hours. Commissioner Cole clarified there was an increase in money to do that. Ms. Ehler said it was a restoration.

Commissioner Cole strongly felt that they may have to cut hours, but he felt they were sending a letter which was threatening to the County, and maybe the City should. He also felt it should come from the City Manager's desk and not from a Director. He did not feel this was the approach to take to make up approximately \$5,000. Mr. Preston said it was \$5,000 for the current funding year, which was only 15 to 20 percent of their actual service level. Commissioner Cole said he realized that, but to penalize the citizens of Alamogordo because of a lack of funds from the County because they didn't have the funds, was not the way to go about solving the Library problem. He didn't think the City needed to be penalized because of the County's insufficient funds. He didn't buy this type of solution.

Mayor Carroll felt the intent of the letter was to once again try and get the County's attention and explain to them the seriousness of the situation. Whether or not they would increase or restore the funding level remained to be seen. Based on what the County may or may not do, whether the City Commission chose to follow the Librarian's recommendation was another matter too. He didn't know whether one necessarily followed the other, but he thought the intent was to try as best they could to impress upon the County the seriousness of our request that they restore the funding.

Commissioner Cole pointed out that the letter stated that the Library hours of operation "may" be reduced. So he assumed they were saying there may be an option that they may not be reduced even if the County did not come up with the \$5,000. Mayor Carroll said yes; the City may choose to get the money from someplace else. Commissioner Cole said even if the County did not come up with the money, they still had left an option in there that it may not be closed. Mr. Preston said that was correct.

Commissioner Easley said at the Joint Meeting with the County Commission they had promised us a mid-year review of their budget. He believed this document was an attempt to be a submission prior to their mid-year budget review to sort of get their attention while they were reviewing the numbers and deciding if they did have any surplus funds and where they might actually apply those funds. Commissioner Cole said he did not like the letter because it was at the expense of the citizens of Alamogordo. However the letter would be worded, he didn't like that approach to the County that they were going to penalize everybody using the Library. Mr. Preston said it was already at the expense of the citizens of Alamogordo in a sense that the City was picking up the tab for the County. Commissioner Cole disagreed with that statement because so many of the people of the County came into Alamogordo to shop and they did a lot of business here and paid a lot of Gross Receipts Taxes into the City. He felt they did support the City a lot. He had disagreed with that from the beginning but he'd not really said it. He understood that the City was part of the County, but the County did support the City a lot. He knew Cloudcroft was getting their Library and probably expanding, and possibly Tularosa. So maybe the County would not be a part of using the Library here. He thought there was more to it than saying to the County "Put up or else!".

Mr. Preston said the County was funding the City in buying goods and services, but to what extent was that revenue being funneled into Library revenues? That was the specific issue which needed to be focused upon. Commissioner Cole said he knew the County residents did support the City a lot because they were buying here. Mayor Carroll said, though, that there was a limit to the services they could provide to someone who was not a resident. Just because they did spend money in your community, there was still a limit to the services they could provide to them. Commissioner Cole said he agreed with that, but he was saying this was not the way to go. He disagreed with it.

Mr. McCourt said he voiced his concurrence with Commissioner Cole that this letter probably should go out with his signature at a minimum.

Commissioner Moncada said it seemed like every year the County had a problem of helping us out. As years went by, they seemed to get a little more lax about it because we didn't show them that we were serious. It just didn't seem to get across to them how serious we were. Perhaps by pointing this out to them, they might realize that we were in need of this money.

Mayor Pro-Tem Van Doren said he had the same feeling about the Library as he did about Meals On Wheels, that if the City couldn't afford to provide that service then the County didn't get that service. You had to pay your own way. He shared Commissioner Cole's concern about jeopardizing the City's privileges, but on the other hand, he would be more inclined to be a little bit stronger in the language. When they had that Joint Meeting he had gotten kind of nasty. He was all for sending a letter to them. He wouldn't hesitate to be a little bit stronger only because this had been the case every year since he'd been on the Commission. Now it was going downhill and getting worse and the County didn't want to participate. That was well and good, but let's just not provide the service to the County and then the County residents will then go to the County Commission and say, "Look--this is what you're depriving us of", and maybe they will have just as much impact on that Commission as this letter.

Commissioner Easley thought it also worked out to be the case that in a letter like this we encouraged not only the 26,000 plus who lived in the County but not in the City to not only speak with their Commissioners, but because the pain would be distributed throughout the County including Alamogordo, that encouraged the 36,000 people who lived in Alamogordo to also contact their County Commissioners to make their voices known. He felt they would sort of up the ante and empower everyone in the County if they left Alamogordo out of the calculation. He totally agreed, he didn't see why we should punish ourselves for them not paying but at this point given the purposes of this letter as it stood tonight, perhaps they increased the pool of people who would bother to contact their County representative and urge them to do something.

Commissioner Easley moved that with the proviso that we send the letter out over the signature of the City Manager, we go ahead and approve the letter and documentation to be sent to the County Commissioners. Seconded by Mayor Pro-Tem Van Doren.

Commissioner Cole asked if it would be this letter, or would it be reworded from the City Manager? Mayor Carroll said there may have to be some rewording. Mr. McCourt said maybe some slight editorial change, but the tone would not be different. Mayor Carroll said the tone and information would be the same, but the letter as drafted was from the Librarian and not the City Manager. So some of the verbiage would have to be changed, but not the tone or the information

presented in it. Commissioner Cole asked if that would also eliminate the two members on the Library Board who were from the County? Mayor Carroll asked if what would eliminate them? Commissioner Cole said if the County did not come through with the money and if they were going to decrease the hours because of a lack of funding from the County, was that going to take the two members off the Library Board? Mayor Carroll said not automatically, but that was certainly something the Commission could look at for the amount of funding or lack of funding the County provided--how much representation should they have on the Library Board.

Mayor Pro-Tem Van Doren said there was nothing in the letter which indicated anything other than cutting down the hours. Why didn't they go a little bit further saying they may eliminate services? Mayor Carroll thought it was more of an attempt to impress upon them the seriousness of our request that they restore the funding. If they chose to do that then they would tackle the problem next year. If they chose not to, then there were other decisions which the Commission probably needed to make in regard to the County's access to the Library.

Mr. McCourt said there were two general alternatives discussed here. One was the reduction in the hours, and the other was the additional revenues and various possible formulas that could be used to affect a different charge for County residents to be able to receive a card to utilize the Library. Commissioner Easley said there was also a discussion on decreasing of the book budget as well. Commissioner Griggs said he didn't read that in the letter. The letter just stated that they would look at cutting hours. Commissioner Cooper said if they were reducing the hours, then they were automatically reducing the services. Mayor Carroll said the easy way out was that the County didn't have to do anything except come up with the other \$5,000 and they will have pushed the issue down the road for another year. That was the simplest way for them.

Mayor Carroll called for the vote on the motion. Mayor Carroll, Mayor Pro-Tem Van Doren, Commissioner Moncada, Commissioner Griggs, Commissioner Easley, and Commissioner Cooper voted "aye". Commissioner Cole voted "nay". The motion carried by a vote of 6-1-0.

UNSCHEDULED COMMUNICATIONS:

A. Commission wished everyone a Merry Christmas and offered thanks to City employees.

The Commissioners wished everyone a Merry Christmas and a Happy New Year. Commissioner Griggs thanked staff for all the work they'd done throughout the year.

B. Comments by City Manager regarding Water update; Legislative Meeting on January 4, 2002; Medical procedure; and Gross Receipts Taxes.

Mr. McCourt said he'd passed out a water report which indicated where we are now versus where we were on December 11th. We were creeping up there. He continued to have a lot of concerns on whether we would be full by March 1st. He did remember that the Public Works Director controlled the wells and if it came to push and shove, they would probably turn on more wells.

Mr. McCourt said on January 4th we were meeting with the local Legislators at the County Courthouse at 9:15 a.m. That would be held after the Prayer Breakfast scheduled for the same day.

Mr. McCourt said they may have noticed that his face was a little cheery and glowing and though he was full of the holiday joy, it was because of a little medical procedure to do some chemical burns on sun-damaged skin.

Mr. McCourt said he'd passed out the Gross Receipts Tax report. They'd had an excellent collection during the month of October. They were now half way through the year and it looked very good.

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 11:54 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 January 8, 2002.



[City Of Alamogordo Home Page](#)

[Table Of Contents](#)

[Minutes Page](#)

[Return to City Clerk Home Page](#)