

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
MUNICIPAL BUILDING, 1376 E. NINTH STREET
7:30 P.M., COMMISSION CHAMBERS
SEPTEMBER 25, 2001**

MAYOR DON CARROLL COMMISSIONER DON COOPER

MAYOR PRO-TEM JOHN VAN DOREN COMMISSIONER ED COLE

COMMISSIONER INEZ MONCADA ACTING CITY MGR LEEANN NICHOLS

COMMISSIONER RON GRIGGS CITY ATTORNEY REBECCA EHLER

COMMISSIONER STEPHEN EASLEY CHF DPTY CLK TERESA GUTIERREZ

Call Meeting to Order, Roll Call, Invocation, and Pledge of Allegiance.

The Meeting was called to order at 7:30 p.m. Absent was City Manager Pat McCourt; Finance Director LeeAnn Nichols was Acting Manager. The Invocation was given by Rev. David Rorabaugh, and the Pledge of Allegiance was led by Commissioner Stephen Easley.

PRESENTATIONS:

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

Mr. Ed Carr, Executive Director of OCEDC, said he first wanted to comment on the flag project which the Chamber had started. The whole \$1,200 for the cost of the flag had been paid for. They would leave it up to the City to help them get it put in an appropriate location on either the water tower or some other place.

Mr. Carr said regarding 1-800-FLOWERS.com, Teresa Varela of the NMED In-Plant Training Office had stated that the contract for the in-plant training had been received and would take effect on October 1st. The contract for the building with the French Brothers had been signed, and the asbestos abatement procedure which was required by the owners was complete. Paving would have to be done for the parking lot, and that had been sublet to Mesa Verde to be done. The construction inside the building was proceeding very rapidly. The old roof had been removed and the new roof had been installed. The conduit for Qwest had been run, the duct work for the HVAC had been put in place, and the new transformer was on site. They had been working two shifts a day with three supervisors monitoring that activity. However, the City contract was pending. We were on their schedule and frankly the longer they took to ask for the money from the City, the better. It was "their nickel" so to speak, and it was really up to them

to get the contract back to the City. They had not said that they had anything earth shattering to change in the contract, it was just that it was in the legal review and their Legal Office had not gotten to it yet. They were arranging to rent the former Heilig-Meyers building, and they wanted to be in that building by October 1st. They still planned on being in Alamogordo this week with their Human Resource people. They were going to be doing a team building exercise on Friday and Saturday, and they hoped to be in that building by October 1st to start the interview process and maybe some training. They wanted to have that building for at least two months. They anticipated having the old IGA building on N. Florida ready by November 1st. They hoped to have the telecommunications done by mid-November so they could start work. They had also noted that they did provide all the flowers for the Yankee Stadium Memorial Service recently. Being from New York, they had lost several business contacts in the recent terrorist incident.

2. Presentation by Mr. Leo Baca, Qwest-New Mexico, regarding Qwest's 271 Initiative.

Mr. Leo Baca, Director of External Affairs for Qwest Policy and Law in New Mexico, said a little over a year ago Qwest took over operations from U.S. West in its fourteen-state region. So the fourteen states previously served by U.S. West were now being served by Qwest. Prior to Qwest taking over from U.S. West, it was the nation's fourth largest long distance company. After the takeover, Qwest had to give up its long distance operations in the fourteen-state region, including New Mexico. The reason for that was that it was a Federal requirement which was imposed on U.S. West that Qwest had to assume once it took over operations from U.S. West. Qwest assumed those restrictions by buying out U.S. West. What Qwest was doing now, was they understood that there was Federal law which would provide for Qwest to get back into the long distance business, and that was called Section 271 of the Federal Act. So under Section 271 there were requirements that were spelled out that any regional Bell company that wanted to get back into the long distance business must comply with an order to get approval from the Federal Communications Commission. There was a fourteen-point checklist contained in Section 271 of the Federal Act and he believed the Commission had some background information as to what a lot of that meant. Qwest had been working very hard with the industry, with the Public Regulation Commission (PRC), and Commissions from other states in order to put in place workshops that showed they were meeting those requirements. They had an arbitrator who was working with all parties to ensure that any disputed issues were resolved and that in fact the requirements were met. They'd been going through this process for almost a year now and they were coming to the final stages of this process where all of this was under review from the Public Regulation Commission. Several of the fourteen points on the checklist had already been approved by the Public Regulation Commission and they were moving forward to get the remaining part of the fourteen-point checklist approved as being complied with. The PRC did not have ultimate approval of

this; it was actually the Federal Communications Commission that had ultimate approval. So why was he present tonight? The fourteen-point checklist was definitely something the Commission had to go by and it was very strict in the requirements they were looking at. There was another provision in the Federal Act that took a look at the public interest. Assuming all the fourteen-points on the checklist were met, they would ask the PRC if it was in the public interest to allow this regional Bell company to get into the long distance business. New Mexico was not the first state to apply for this. There had been several states that had already received approval, with the most recent being Arkansas and Pennsylvania. The other states were Texas, Oklahoma, Kansas, New York, and Connecticut. So there were other states that had already received this approval, and there were many, many more that were lining up right now to get that approval. What Qwest New Mexico would like to see was for New Mexico to be among the next states to get that approval because it would bring tremendous benefit to New Mexico. In the states that had already received the approval, long distance rates had dropped, local competition had increased and many, many citizens had benefited through reduced rates in their long distance bills by adding another competitor to the intrastate long distance mix, being the local regional Bell company. They would like to see New Mexico be among the next states to be there. It was going to happen, but it was just a matter of when. If they spoke with anyone in the industry or anyone who had studied this, it was just a matter of maybe within a couple of years all the states will have gone through this. They would like to see New Mexico be among the first and not among the last.

Mr. Baca said in the public interest section of what the Commission needed to consider, they were asking Chambers of Commerce around the state and local governmental bodies to join in and to show support for this. With consumers receiving lower long distance bills anywhere from 15 to 20 percent, that in itself...there had been a study done with some extrapolated information from these other states which showed that New Mexico could receive a benefit of up to \$56 million in reduced long distance rates. Not only would Qwest come into the picture with lower rates, but it would force competitors like AT&T and MCI to lower their rates also. So there was a tremendous opportunity here to get New Mexico in among the next states and definitely realize the benefit. There were also economic benefits to this by having more competition in the local market and having competitors who could provide both local and long distance services. He had been speaking with people who handled these call centers and for them today in New Mexico, they had to have multiple providers in order to get their calls either in or out of New Mexico. Because Qwest on the local side could only handle the local piece, it had to be handed off to AT&T or MCI to handle the long distance piece, and then handed back over to someone else on the other end. With 271 and getting more companies into the mix, they'd be able to see call centers to reduce their costs because they could have one choice-one provider. If New Mexico was among the first states to get this, then it was another incentive for call centers to come to New Mexico and this part of the State.

Mr. Baca said entities that already supported this included the Association of Commerce and Industry, who would be issuing a press release this week showing they'd gone over an extensive review over at ACI in their telecom committee and then it was passed by their executive committee. The Las Cruces Chamber of Commerce was in support of this initiative, as was the Alamogordo Chamber of Commerce and the Santa Fe Chamber of Commerce. There were many other Chambers that were studying this issue currently and they fully expected all would be in support of the initiative because there were many, many positive results that could come out of it.

Commissioner Cooper asked if there were fourteen Bell operating companies after Ma Bell split up? Mr. Baca said when the Bell system was broken up, it was broken up into several Bell operating companies. Since then, Verizon had taken over from Bell Atlantic and New York. He believed now there were only four or five regional Bell companies because there had been some mergers. Commissioner Cooper said when Ma Bell broke up, that was when the rates had started to increase because overseas calls, telegrams, and long distance calls were taken away. But it appeared what Mr. Baca was suggesting, was that this action would have a reverse effect on it. Mr. Baca said as demonstrated in other states that had already gone through this, rates for interstate long distance calls or "interlada" calls had been reduced anywhere from 15 to 20 percent, which was an immediate benefit to consumers and business owners throughout the area.

Mr. Ed Carr reiterated that the Alamogordo Chamber of Commerce did support 271. They thought in the overall interest of the public, 271 was good for New Mexico. On behalf of John Marquardt, Chamber President, they'd like to throw their support in favor of 271.

Commissioner Easley said generally speaking he supported this initiative. He felt it would in the long run be good for the citizens of New Mexico. He hoped at the Commission's next meeting they could pass a Resolution of support.

Mayor Carroll shared Commissioner Easley's feeling on this. He thought in the long run it would be beneficial. He knew there were still some hurdles for them to overcome and some hoops to jump through. The predicate for the City supporting the draft Resolution was the fact that they had in fact complied with all of the points. Consideration of the final Resolution would be placed on the agenda for the next Commission Meeting.

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.

3. Minutes of Regular Meeting of September 11, 2001.

Recommendation: Approve the minutes.

4. Consideration of a seven foot (7') side yard variance and a nine foot (9') front yard variance for Haydee McCloud. [Case V-01-0445(A); 702 Second Street]

Recommendation: Approve the side yard variance (on the street side of Texas Avenue) and the front yard variance with the condition that the subdivision plat be filed no later than October 1, 2001).

5. Consideration of a nineteen foot (19') rear yard variance for Leo S. Kane. [Case V-01-0447(A); 1722 Monte Vista Corte]

Recommendation: Approve Case V-01-0447(A) for a rear yard setback variance with the condition that the breezeway never be enclosed.

6. Consideration of a nine foot two inch (9'2") rear yard variance for William M. Crabbe III. [Case V-01-0448(A); 3000 Del Sur]

Recommendation: Approve the rear yard setback variance for Case V-01-0448(A).

8. Consideration of the final plat of Desert Mountain Estates, Replat A, for two (2) lots located outside the City of Alamogordo but within its extra-territorial planning and platting jurisdiction, for Patrick C. Morrow. [Case S-01-0722(A); 24 Ocotillo Lane]

Recommendation: Approve the final plat of Desert Mountain Estates, Replat A Subdivision, Case S-01-0722(A), located outside the City of Alamogordo, but within its extra-territorial planning and platting jurisdiction, with variances on the construction and installation of alleys, on the installation of utilities (water and sewer), on the construction of streets to City standards (dedication, curb, gutter, sidewalk, and paving), and on the dedication of public land, with the submission of a drainage plan, private access, private wells, and septic tank systems.

9. Renewal of Airport Standard Commercial Leases:

A. Greg Hock - Area "V".

B. The Fambrough Family Trust - Area "T" and Area "A-2".

C. Ralph (Jac) Curry - Area "J".

Recommendation: Approve four Airport Standard Commercial Leases.

11(A). Resolution No. 2001-26 authorizing Agreement for Drainage Culverts on South Florida.

Recommendation: Approve the Resolution.

12. Resolution No. 2001-24 authorizing the Mayor signatory authority for the submittal of a Grant for property acquisition and taxiway lighting at the Airport.

Recommendation: Approve the Resolution.

13. Resolution No. 2001-25 authorizing deposits and withdrawals from accounts at Edward D. Jones.

Recommendation: Approve the Resolution.

14. Incorporation into the minutes of the Governing Body the final approval of the 2001-2002 Municipal Budget by the Department of Finance & Administration.

Recommendation: Approve incorporation into the minutes of the Governing Body the final approval of the 2001-2002 Municipal Budget by the Department of Finance and Administration (See Attachment "A").

15. Award of Bids:

A. Sole Source Purchase of Rain Bird Nimbus II Control System with Field Controllers for Desert Lakes Golf Course.

Recommendation: Award to United Green Mark of Albuquerque, NM.

B. Bid No. 2001-17, Meter Cans.

Recommendation: Award to Waterworks Sales of Albuquerque, for an estimated total of \$14,373.70.

C. Bid No. 2001-19, Portable Breath Testers.

Recommendation: Award to Lifeloc Technologies, Inc. of Wheat Ridge, CO, the lowest responsible bidder, for a total of \$16,036.00.

Item Nos. 7 and 11 were removed from the Consent Calendar.

Mayor Pro-Tem Van Doren moved to approve Consent Calendar items 3, 4, 5, 6, 8, 9(A-C), 11(A), 12, 13, 14, and 15(A-C). Seconded by Commissioner Cooper. All voted "aye". The motion carried by a roll call vote of 7-0-0.

PLANNING ITEMS:

7. Consideration of Ordinance No. 1125 for rezoning to District "D" (Business) requested by the New Mexico State Armory Board. [Case Z-01-0604(A); 1562 S. Florida Avenue]

Recommendation: Approve Case Z-01-0604(A) to amend the official zoning map of the City of Alamogordo, to change the zoning of subject property to District "D" with the condition that the Avigation Easement and the Waiver of Protest Agreement are executed and returned to the City no later than December 31, 2001, and to approve the Ordinance on such for final publication.

Mayor Carroll said he had withdrawn this item from the Consent Calendar. In reading through the staff reports, it appeared that this rezoning would be spot zoning and may not comply with the Comprehensive Plan. He had no problem in allowing the National Guard to do what they were requesting at this location, but he would suggest that rather than just a blanket "D" rezoning, that they make it a conditional "D" zoning to allow the uses that they were requesting to be done so long as the National Guard or the State Armory Board had control over the property, and at such time if they were to sell or otherwise dispose of the property, then the zoning would revert back to "A". They had some representatives from the National Guard present tonight. He had previously expressed to them the comment he'd planned to make.

Sgt. Jerry Kimmel, National Guard representative, said they had no problem with the Mayor's suggestion. Commissioner Easley felt it was a good change and he also supported it. Commissioner Cooper said he approved of it wholeheartedly.

Commissioner Griggs said if they made this restriction, what actually notified the public by record that it existed? What did they file at the Courthouse to where if they checked the records they would see it? City Planner Sharon Few said the Ordinance was filed at the Courthouse and City staff flagged it in our system. Commissioner Griggs said when it was there with the County Clerk on this particular tract, then when this tract was sold how was the restriction going to be noted? Ms. Few asked if the question was how prospective buyers be notified, or what was the procedure for returning it to single-family? Commissioner Griggs said if the Armory wanted to sell the property and move it to somebody who wanted to utilize it under "D" or as it had been used and there was this restriction that the City knew about, did the County records know the same thing? Ms. Few said they knew the same thing just as they would know for variances that were filed. Otherwise, she didn't know of a mechanism. Commissioner Griggs said actually there may not be one. Ms. Few said she could make sure a copy was sent over to the Assessor's office. Commissioner Griggs said he was trying to think about that sort of stuff, and when they had it how would they be able to tell? They were going to have it zoned "D" conditionally, but they were going to have someone else come out there assuming they wanted to buy it knowing what the Armory had used it for in the past. They might not know the conditions by the County records. Ms. Few said most appraisers came in and checked the zoning with the City and it was flagged as conditional, and even issued a zoning

certification to that effect. As far as the reversion to the single family, if the property was sold, then they notified the new owner and set a hearing as to the reason for it to revert. It would come back to the City Commission and a new Ordinance issued for it to revert, or a new Ordinance after advertisement and notice that it was going to stay the same. But there had to be a hearing procedure.

Sgt. Kimmel said typically with the State Armory Board property as they acquired the property they were on now, it was a simple trade with the City. Of course as they looked through the record, this last trade wasn't so simple because the School Board was involved with it. Typically they would deal with the City and would turn over the armory and the land to the City in exchange for more land in which to build a new armory. So most of the time they would not sell to a private citizen, but would deal with the City because they wanted to stay on good terms with the City. They would rather give the building and the land to the City, and have the City give them ten acres somewhere else. So they would keep taking care of each other. This was his second duty posting, and the same exact thing had happened in Lordsburg. They donated the old armory property to the City in exchange for ten acres on which to build a new armory. They still had the "new" armory out there even though it was 20 years old. But they now had the ten acres of land if they wished to build a new armory on it. That was the typical procedure for that. More than likely if that ever happened, it would just be the State Armory Board and the City dealing with each other. They wouldn't be selling the land like that. Mayor Carroll said this of course did not in any way impact the Armory Board's ability to use the property as though it were zoned straight "D"; it was not necessarily to restrict them but to make sure that the area didn't change based on the City's changing some zoning that then opened the door to changing zoning throughout the area. The conditional zoning would not in any way impact the ability of the National Guard to do exactly what they wanted. Sgt. Kimmel said what they were after was weddings, anniversary parties, etc. They provided a service to the City in exchange for money that allowed them to maintain their own building without overtaxing the State's budget.

Commissioner Cooper moved that we accept the Ordinance as written with the conditions (conditional "D" Business as outlined). Seconded by Commissioner Moncada. All voted "aye". The motion carried by a roll call vote of 7-0-0.

ORDINANCES AND RESOLUTIONS:

10. Request of Mr. David J. Hall, Friends of the Hondo Valley, for Commission to reconsider Resolution No. 2001-17 requesting the New Mexico State Highway & Transportation Department to continue its project to expand U.S. Highway 70:

A. Rescind Resolution No. 2001-17.

No recommendation.

B. Adopt modified Resolution No. 2001-17 as proposed by Mr. David J. Hall on behalf of Friends of the Hondo Valley.

No recommendation.

Mr. David J. Hall was present on behalf of the Friends of the Hondo Valley. He passed out various documentation for the Commission's review.

Mr. Hall read a prepared statement (See Attachment "B").

Mrs. Maria Aragon, a member of "Mothers for Safe Children", said she lost her six-year old son and she wanted a safer highway for their community and their kids. Mrs. Alice Hall, Friends of the Hondo Valley, said four months ago Ms. Aragon's six-year old son was killed when a truck came around the curve between 80 and 85 mph, missed the curve and hit her father and son who were already off the highway, and her son was killed instantly. There was not anybody in the valley that had not been touched. It was not unusual for one family to have three or four people killed, and these were not the statistics they normally had. Occasionally they had somebody they lost in their family, but to lose two or three siblings or children was senseless and she felt a little bit more effort could be put into the engineering of this highway. On Highway I-40 and on Highway I-25 there was not on and off traffic, nor were there schools buses stopping on them. That was what they were expected to have in a community where they lived. This was a special community, a multi-generation special, special community.

Dr. David Townsend, Co-Chairman of the Transportation Committee of the Chamber of Commerce, said as a committee they were urging the Commission not to rescind the prior action it had taken. The Transportation Committee recommended to the Board of Directors of the Chamber of Commerce that it send a letter of support for the idea of four-laning through the Hondo Valley, and the Board of Directors had done that. Their reason for doing so interestingly was along the same lines that had been presented by the proponents of their rescinding this action. The major issue was safety. With due respect to the person who was speaking just before him, the major issue was safety. Alamogordo had lost people on that road also. The Transportation Committee could not be convinced that a well engineered, well built, well prepared four-lane road was going to be more dangerous than the road that was there at the present time. It simply flew in the face of common sense to make that assumption. The general assumption made in the presentation prior to his was that the Highway Department was somehow going to go up there and do something stupid by building an obviously dangerous road in some way. That was not the way they did business. If they built adequate frontage roads, adequate turnout areas and that sort of thing, they built a safer road. It was that simple. On the basis of safety, they were urging the Commission not to rescind their prior action. Also in

their request to the Board of Directors of the Chamber, they urged the idea that that road, along with some other roads in this area, were becoming an economic bottleneck to us. Just before coming to this meeting, he had driven in from Santa Fe. The road from Carrizozo to Tularosa was not only unsafe, but was becoming more and more a bottleneck. There were 18-wheelers running through that small narrow area, and that was not only dangerous but also economically inadvisable. The same thing was going to happen through the Hondo Valley. They didn't have a choice as to whether more traffic would be moving through that Valley--it would be. The choice they did have was to build an adequate road to support that movement of traffic. With all due respect, the concept of the bypass had nothing to do with spotted owls and such, but had to do with the people of the Hondo Valley trying to slow this project such that the money would ultimately be moved to some other project. It was the same sort of thing that kept us from building a sensible relief route for a period of twenty years. From the work the Transportation Committee had done with the Highway Commission, that bypass was not feasible. It was not in the money, and it was almost impossible to get the way to build the bypass through the area. What he was saying was that simply on the basis of safety above all and also on the basis of economic development, the Transportation Committee of the Chamber of Commerce asked the Commission to please not rescind their prior action in this instance.

Mr. Dwight Harp, member of the Board of Directors for the Chamber of Commerce and the Transportation Committee, said he also urged the Commission not to rescind their actions. He wholeheartedly agreed with all of the items which had been discussed by Dr. Townsend. Safety was the primary concern and it was certainly his impression that a new four-lane road through the Hondo Valley would be a far safer road than the one that existed now.

Mr. Hall said 100 percent of the people who were in favor of the bypass had not looked at the design carefully. There were no frontage roads and only three turnouts. There was a short one at the school, one at Highway 380, and one at Alamo Canyon. They had 350 entrances, and particularly at mile marker 278 and 284. The State had already admitted that they had to go back and do something. The people there had looked at the designs carefully because they wanted safety--they were getting killed every day. The shoulders on the side of the highway that the State had designed were four feet and 40 percent of them had concrete barriers. He swore to God that was the truth. That was not a safe design. His group was amazed and they were appalled. They all thought a four lane highway was going to be their salvation. It was very easy to sit here 70 miles away and say it was going to be safe. It was not. NAFTA trucks were going to be coming through, and the truck rate was increasing at 18 percent per year. In 1996 there was a report stating that it would become a major connection route from Alamogordo to Las Cruces. He wasn't doing this because he wanted to slow the process down. He wanted a safe highway. They had school buses on this highway stopping on a 65 mph highway. These people here said it was safe, but it was not.

Commissioner Cooper said Dr. Townsend brought up a point about simplicity, and he agreed. But he was always told that the closest distance between any two points was a straight line. Looking at the map, from Ruidoso to Riverside was basically a straight line. If they followed the contour of the Hondo Valley, they had curves, dips, and everything else which they would have to incorporate within that new highway. He thought the sensible thing would be to run from Ruidoso to Riverside and bypass the valley in its entirety. He was in favor of extending Highway 70, but he didn't feel they had complete information when they came on board with the Resolution. A lot of the information they had was basically one way. Since that night this other information had been brought before them. He wasn't saying they didn't need to expand the highway, but he believed if they would look real hard at this route from Ruidoso Downs to Riverside, it would be much safer and would eliminate anything that would have to happen within the Hondo Valley itself. He felt they should take a long hard look at it and that right now they needed some dollars and cents figures as to the two different projects.

Commissioner Moncada asked what would happen to the existing road in there right now? Would it still be maintained? If the buses used that road right now, why couldn't they continue using it and then just use the new bypass for the big trucks? Mayor Carroll said he didn't know what would happen in that event. It was his understanding that while the State may be four-laning roads, they were not adding any more miles of road. There may be lane miles, but not miles. As part of the Relief Route around Alamogordo, there was a road exchange where the City wound up taking over the responsibility of some of the roads. In the event that there is a bypass around the valley, he had no idea what arrangement the Highway Department and Lincoln County would make as to who would maintain the road.

Commissioner Easley said based on his discussions with the Highway Department and his knowledge of the Highway Department and their works, in his estimation there was zero probability that they would build this bypass anytime in our lifetimes. It may eventually happen someday he supposed, but he thought there was no chance that there would be funding or the will or desire to build that bypass across there. Even if hypothetically the bypass was a straight line, this was of course a red ink line on a map and not actually a route with purchased right-of-way or anything else. Should they stop the project on the Hondo Valley, there was virtually zero chance that anything would then happen to four-lane that highway for that entire stretch. That money would go elsewhere and would be used for other projects, and they would have the very dangerous road through the Hondo Valley remaining, not to mention the extreme bottleneck there. He believed they devoted considerable time and effort to looking at this issue in the last few weeks, talking to people, and so forth. He personally was ready to move on.

Commissioner Easley moved that we retain our previous Resolution (No. 2001-17) that we passed a few weeks ago. Seconded by Commissioner Cole.

Commissioner Griggs said he sympathized with the people in the Hondo Valley. He'd driven through that valley since he was a little kid. It was one of the prettier places in the southern part of the State. However, he couldn't tell them how long he'd wanted that road to be four-laned--probably ever since he was driving on it. It was far safer today than it was thirty years ago. He believed that the State Highway Department would do their darndest to make sure that road was safe for the residents. He also believed that to look at this map and to look at the red line which indicated a nice easy, straight shot from Ruidoso Downs to Riverside, they were just kidding themselves. It wasn't that way. It was up on the top of a mountain. It was going to go up and down and around and over and it was going to be a real mess. It may be more dangerous to build that than it was to build this. He thought there was not a way in the world they could build it, nor would they build it. He thought what needed to happen with the residents continuing to work with them on their concerns, that their concerns would be addressed to make the road better. He believed it was going to be a dangerous road from now on unless something happened, and probably four-laning it was the only real alternative to make it safer. He supported Commissioner Easley's motion.

Mayor Carroll commented that in the City's original Resolution, there was nothing in there which said they wanted the Highway Department to do anything other than design a safe highway. He didn't think there was anything in there which precluded the Highway Department and residents of the Hondo Valley from working together to address the concerns of the residents, nor that the City was giving the Highway Department any particular direction as to exactly how to build the highway. He didn't know that the City's Resolution as written would in any way have a negative impact on the residents of the Hondo Valley being able to have their concerns addressed by the Highway Department.

Commissioner Cooper asked if the idea had ever been brought up about any service roads running parallel with U.S. 70? Mr. Hall said it had to do with the layout of the valley. All of the side roads presently went into the main highway. There were 350 entrances in a 34-mile space. The Highway Department had made a commitment not to infringe on the river. They just didn't have the space for even a frontage road. They hadn't designed any frontage roads into it either. The turn lanes into the design were still the perpendicular turn lanes. They did a great job with the enhanced two-lane design and had made it safe; they made wide, median lanes, entrance lanes, and exit lanes. They had to present that as an alternative, and you could see how the Highway Department was capable of designing a safe highway by looking at that design. But none of those features were present in their four-lane design because they only had 100 feet of right-of-way, and in some places less. The residents were trying to work with the Highway Department for a safe highway, but there was just no room. They kept coming back telling the residents they didn't have room to do it.

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

11. Resolution No. 2001-22 adopting an Infrastructure Capital Improvements Plan (ICIP) for Fiscal Years 2002-2006.

Recommendation: Approve the Resolution.

Mayor Carroll said this item was withdrawn from the Consent Calendar because of a couple of changes they needed to be made aware of.

Ms. Nichols said she had passed out the updates. On the memo portion they received from her, she had corrected a figure in 2(A); she had an incorrect figure in there and the correct figure was \$50,000. The ICIP actual projects connected to that were not affected; it was just her memo that had the wrong amount in there. Also, under item No. 6, Fund 90 for the Golf Course, they had added \$10,000 for some netting which was planned for Fiscal Year 2002-2003. It was planned for \$100,000, and they planned to spend \$10,000 this year for some safeguard netting. Other than that, there had not been any changes to the projects in the ICIP. She pointed out that the items listed in the memo, 1 through 6, were items that either eliminated a project out of the current budget or added additional projects from fund balances.

Commissioner Cole moved for approval (of Resolution No. 2001-22). Seconded by Commissioner Cooper. All voted "aye". The motion carried by a roll call vote of 7-0-0.

Commissioner Cole asked why the change had been made in moving Ocotillo Road from next year to the following year in the revised backup? He felt the road was quite deteriorated right now with some pretty serious potholes. He realized the financial constraints and also how the City and County had a mixed jurisdiction there. A second concern was the lack of street lights, and a third concern was the overgrowth of vegetation at the stop sign and the inadequate line of sight for vehicles, especially coming from the south. That was why this had caught his attention, and there must be some reason for it having been moved. Mayor Carroll said it hadn't been moved. Commissioner Cole thought in the previous ICIP they'd received that it had been scheduled for next year. Mayor Carroll said he didn't remember them spending a whole lot of time talking about Ocotillo Road at the ICIP meeting. In any event, at this point it was kind of academic because they didn't have the money to do it whether it was 2003 or 2004. Commissioner Cole said he didn't disagree, but he was just wondering if there was a reason for it being moved. Chief Engineer Kevin Heberle said one reason it might be in 2004 was because it was given a level 3 priority, which was the lowest priority. When funds got tight, they had bumped projects with the lowest priority. However, he didn't recall actually doing that, though. Ms. Nichols said she would research this and get back with Commissioner Cole on what had happened.

OTHER BUSINESS:

16. Appointments to Boards and Committees.

Community Development Advisory Committee. Two vacancies.

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

Airport Zoning Board. One vacancy.

Parks and Recreation Board. Two vacancies.

Airport Advisory Board. Two vacancies. Mayor Carroll reappointed Mr. Charlie Hainline to fill one of the vacancies.

All remaining vacancies were rescheduled.

UNSCHEDULED COMMUNICATIONS:

A. Proposal by Mr. Leonard Sheffield regarding a waterline.

Mr. Leonard Sheffield said he lived in Oklahoma, but he maintained a home just outside the City limits of Alamogordo. In the 1950's or earlier, the City provided the City Dairy with a 4 inch waterline from Eighth Street to First Street. At that point, the City Dairy picked up the waterline from the meter, which was located inside the City limits, and ran it on out to the dairy. There was a dairy in operation at that time of about 650 cows. Several years ago he had bought this property and since then he had maintained a home on it and had been able to continue to use the water. Over that period of time, having been the owner also of the land between Eighth Street and First Street, he'd had occasion to call the City no less than four to six times about water breaks on that line and great amounts of water being wasted. It was an old line and the City was well aware that it was in bad shape. About two months ago he came to town and at the time he had an agreement with PNM. They were located on his property in the area, and they owned a water truck which they needed to fill from time to time. They asked him if they could tie onto the waterline. He told them sure, if they would pay the bill and he would pay the minimum he normally paid. When he came to town, he went down to PNM and one of the people gave him a bill for \$6,500. From inquiring into it, he found that the line which the City Dairy had put in had sprung a leak. Shortly thereafter his son and an engineer who worked in Las Cruces had come over as they were in the process of growing a five-acre grape vineyard in that area. They discovered where the leak was and called the City to come turn the water off so they could repair it. The City did come out and told them it was on his side on First Street. His son called a plumber, and it was four or five days before the plumber got there. In the meantime, there was a bill which ran up on this to \$6,500, part of it being the fact that it was a double rate outside the City limits. He didn't feel the gas company should be responsible for this, so he made

contact with the City and started trying to come up with a solution as to what would be just in paying the bill and getting it paid for. He had talked to the City Manager and he'd said the request would have to be brought before the Commission to see what could be worked out. The City's line was broken again when he came to town this time because he didn't have any water and one of the employees said they found the problem over near Eighth Street.

Mr. Sheffield said he was agreeable and willing to propose a solution to this problem which would be for him, at his own expense, to run a line from LaVelle Road near the Convenience Center for about a half mile to where he lived. He was willing to do that provided that the City was willing to forgive the bill owing against him. He knew meters were generally pretty honest, but he did take a look at the time he went out right after he'd gotten the bill to see what kind of an area the water had spread over. Those Russian Thistles would grow up shoulder high where there was an abundance of water. When he got out there, there wasn't an abundance of water and there still wasn't even with all the rain they'd had. He didn't know what had happened or how it came about. He'd tried to talk to his son and this other person to determine what size of leak they had. They'd told him it was kind of spraying. It would take a long time for that much water to leak, but he just didn't know. Therefore, he wanted to present it to the Commission and let them consider it amongst themselves. He'd be open for a solution or proposal to do what was right. He knew it was a problem with the breaks and that water was precious.

Mayor Carroll said the City Manager did mention that he'd talked to Mr. Sheffield. He was out of town right now, but he had indicated that he was interested in presenting something to the Commission which would allow them to work with Mr. Sheffield to solve the problem and to be fair. However, at this time they had basically no information to be able to arrive at any kind of a decision as to what they may or may not be able to do. Mr. Sheffield said he wasn't asking for a decision tonight. He tried his best to present it to the Commission. They needed to try and come up with a solution which would take care of it for now and forever. Mayor Carroll said the City Manager was pursuing it and as soon as he had something, they would certainly consider it and see if they could work something out that was beneficial to everyone.

Commissioner Easley clarified that Mr. Sheffield's property was west of White Sands between First and Eighth Streets. Mr. Sheffield said he was out at West First Street, and the old City Dairy was about a block beyond the bypass. Commissioner Easley asked if he'd ever found the meter out there? Mr. Sheffield said yes. They'd come up and repaired it again, but there was no way of turning it off without causing it to leak at the turnoff before it went into the meter. It was worn out.

B. Request of Mr. Al Lauber, Alamogordo Artists Alliance, regarding a City Art Commission.

Mr. Al Lauber, Alamogordo Artists Alliance, brought to the Commission's attention a letter which their president, Ann Bagby, had written to the City Manager dated September 6th. This followed the presentation she had made at the Commission Meeting of August 27th. The substance and primary interest was stated in the end of her first paragraph, which read as follows: "We ask the City Commission to study the feasibility and appropriateness of establishing a City Arts Commission/Advisory Board for the City of Alamogordo". Their interest was in encouraging the City Commission to do so and to be involved in the establishment of such a Commission and to be able to make various presentations to them and to whatever study group they might formulate during its proceedings. Mrs. Bagby was in the process of putting together various kinds of information concerning Arts Commissions that have been formulated in the western states for communities of approximately this size. In addition, she was gathering more information on the subject matter of one percent for the arts and how cities of approximately this size handled that in their own construction projects, as opposed to the State or Federal projects which had requirements for one percent of the arts. They'd like the Commission to be thinking about these things and for his group to be involved as one of the participants in the study group.

Commissioner Easley said he'd spoken to Mrs. Bagby a couple of occasions on this matter, and he would tell Mr. Lauber what he told her. He did favor the establishment of such an Arts Commission here in Alamogordo. He believed their group could be of some service and help to the City in getting that turned into a reality if they would prepare some proposal documents which would suggest how they might determine what the composition of such a Commission might be; how many members, how would the members be selected, which art fields would be represented--hopefully all of them, etc. If they would do that, it would give a starting point to work from which they could develop from that. They might also give a statement of goals and what the Arts Commission should be expected to do and accomplish and carry out. That would give them something as well. They would become the informal ad hoc Arts Commission for development of an Arts Commission. He believed it would be helpful to all of the Commissioners if they had that kind of documentation to work as the artists were the most interested and knowledgeable parties on it. They then of course would modify that as necessary to meet what they perceived to be the legitimate purposes of the City. The sooner they could do that, the sooner they could move on to consider establishing an Arts Commission. Mr. Lauber said Mrs. Bagby was in the process of gathering information in order to be able to put together such a draft study proposal that might be used by the City Commission or whatever study group they wanted to put together. They would proceed.

C. Comments by Commissioner Cole regarding the ICIP approved tonight.

Commissioner Cole said most of them were aware of the spreadsheet that Mr. Heberle had made up for the ICIP and when things were supposed to come

about. He just wanted to mention section 15(a), the Golf Course, for \$69,000 for this current year. He wanted to acknowledge that was in the packet which the Commission had approved tonight.

D. Comments by Commissioner Cooper regarding his thoughts on the recent terrorist attack.

Commissioner Cooper said it had been two weeks since our confidence was shaken, but not broken. People around the world were just starting to realize what really happened on that day. The loss of a good friend and one still missing really drove it home, but they couldn't for a moment let this go by without thinking about it on a daily basis and learning from it.

E. Comments by Commissioner Easley regarding the recent Enchanted Jazz & Blues Festival.

Commissioner Easley said on September 15th he was privileged to be part of a group that had put on the Enchanted Jazz & Blues Festival at the Zoo in Alameda Park. They could have used a few more people coming out for it, but under the circumstances of that week he felt they did pretty well. He wanted to thank the City Commissioners for helping to make it possible. He also wanted to thank the City staff who did an unbelievably good job of helping them at every turn in making that possible--Matt McNeile and the Parks Department; Doug Quam and Tammie Reynolds were phenomenally helpful at every conceivable moment that they needed help, information, or understanding; Steve Diehl and Johnny Crain from the Zoo did a tremendous job for two days. They started early, stayed late, and just did a terrific job for the City. Also, he wanted to thank the five members from DPS who came out, and he wanted to thank the Chief for making that possible so they could have that extra measure of security and safety for the event.

F. Questions from Commissioner Moncada on the bid process for public works projects, and qualifications of bidders.

Commissioner Moncada asked for clarification on something which had been brought up to her. She asked for details on how the bid process worked. Mr. Heberle said they would have an invitation to bid, they received bids at a certain deadline, and at a given time they would open the bids. It was a public bid opening and anyone could come. All bids were read aloud and then they were tabulated by the Engineering Department. Generally, the low bidder was the one who received the contract. Commissioner Moncada asked what the qualifications were in order for someone to be able to bid on a project? Mr. Heberle said the contractor had to be licensed to do the work they were bidding on. In general, they couldn't have performed poorly on a previous project which the City was aware of. Commissioner Moncada asked if they had to be bonded? Mr. Heberle said they had to be bondable. Commissioner Moncada asked if they had to be

bonded at the time they submitted the bid? Mr. Heberle said no. Commissioner Moncada said she'd received a couple of phone calls from individuals saying they had submitted a bid and they lost because another company was lower. However, when it came out, that contractor could not get a bond and so now everyone knew the price of their bid, yet this other person who got it could not be bonded. Mr. Heberle said there had been a protest filed and he wasn't sure if they could discuss it. Ms. Ehler said in the case they currently had going with the protest filed, they ought not talk about it, but it was not a case where the person did not furnish a bond or could not be bonded. They had attempted to provide bid bond security. There were different kinds of bonds. They had to have a bid bond which they submitted with their bond and then they had to have a performance bond which they had to secure once they received the award. They had in the past had problems sometimes when somebody got the award and then was unable to get a performance bond, and in that case they would have to pull the contract from them because they couldn't do the work unbonded. She didn't want to get into too much detail on the current protest, but the contractor attempted to provide bid security; it just was not an acceptable form of bid security and the Construction Project Manager, who was the City Engineer, was evaluating the protest on that bid right now.

Commissioner Moncada said she wasn't even sure if they were talking about the same project, but it was brought to her attention and she just wanted to be clear on our procedures. Ms. Ehler said it was not infrequent that there was some kind of an error in a bid. The more complicated, the more likely there was an error. They put those together at the last minute a lot of times, they were waiting to get the best prices from their subcontractors, etc. There were some errors that were not fatal to a bid, and there were some errors that could be corrected. It depended on whether it changed the overall price or quantity whether or not the Construction Projects Manager or the Purchasing Manager, in the case of goods procurement, could waive an error as being something that didn't impact the bottom line. Commissioner Moncada asked what would happen if a particular company couldn't come up with a bond? Now everybody knew what their original bid was. Did they go back and re-bid? Mr. Heberle said they didn't necessarily have to do that; they could go to the second low bidder provided they had the proper bonding.

G. Comments by Commissioner Griggs regarding the newly formed Subdivision Review Committee.

Commissioner Griggs said just yesterday they had the first meeting of the Subdivision Review Committee, and they'd started the process of reviewing our Subdivision Ordinance along with the applicable Zoning Ordinances. He was sure everyone hoped they could move a little faster, but it looked like it was going to be a lengthy process. Out of that hopefully they would bring a document that was a little more up-to-date and which would help our City Planner and our

Engineering Department and everyone who built and subdivided within the City of Alamogordo to have a little more concise, readable, understandable process.

H. Comments by Acting City Manager regarding water update.

Ms. Nichols said the water in storage was presently about 79 million gallons, or 43.8 percent of maximum storage capacity. Two of the eight major production wells were operating, Bonito Lake was full, and the line was flowing at a rate of about 1,000 gallons per minute. Holloman AFB had a credit of about 175 million gallons and would begin to draw water on October 1st at a rate of about 2 million gallons per day.

I. Comments by Mayor Carroll regarding the State Highway Commission meeting held in Alamogordo last week; street lighting on the overpass; congratulations to the promotion of Brig. Gen. Marc Rogers; and the deployment of HAFB personnel.

Mayor Carroll said the Highway Commission had met here last week and it was a very successful meeting. They always enjoyed coming to Alamogordo because we always took care of them while they were here, and that took a lot of effort and a lot of work on the part of a lot of people. He wanted to recognize Ron and Joan Griggs from Alamo Title who had provided the refreshments; Clif and Barbara McDonald who had hosted a reception; Dave and Linnie Townsend; Lowell Stephens who hosted a breakfast by Pioneer Abstract; Jerry Johnson and Aubrey Dunn who had hosted a luncheon for them; Representative Terry Marquardt who hosted a reception; the Space Hall Foundation that had hosted a breakfast for them; and all the other folks that got out and made them feel welcome.

Mayor Carroll said he had received questions from folks wanting to know why all the lights on the overpass weren't on. The problem was a shortage of some of the parts that were required for some of the pedestal mounts for the electric meters. Those were on order and as soon as they arrived, they'd be installed and then all the lighting on the overpass would come on.

Mayor Carroll said Colonel Rogers, Commander of the 49th Fighter Wing, would be promoted to the rank of Brigadier General this Thursday, and he offered congratulations.

Mayor Carroll said some of the military personnel from Holloman had already been called to deploy. He felt it important to let the folks out there know that we appreciated what they do for us and for our country and our concern for them. Anytime anyone saw someone in uniform, don't forget to say thank you.

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 9:05 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 October 9, 2001.



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