

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
MUNICIPAL BUILDING, 1376 E. NINTH STREET
7:30 P.M., COMMISSION CHAMBERS
JUNE 24, 2003**

**MAYOR DON CARROLL
MAYOR PRO-TEM RON GRIGGS
COMMISSIONER INEZ MONCADA
COMMISSIONER ED COLE
COMMISSIONER DON COOPER**

**COMMISSIONER JOHN ROBERTSON
COMMISSIONER MARION LEDFORD
CITY MANAGER PAT McCOURT
CITY ATTORNEY KEN MCDANIEL
CHIEF DEPUTY CLERK BETSY KIDWELL**

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 Commissioner Cole, and the Pledge of Allegiance was led by Mr. McCourt.

PUBLIC HEARING:

1. Public Hearing regarding the Tularosa Basin Desalination Research Facility Draft Environmental Assessment.

Mayor Carroll noted this item was misprinted in the paper earlier this week that said this was for the desalination project north of Tularosa. He corrected that it has nothing to do with that project, but is a separate, stand alone project.

Mr. Del Holz from the Bureau of Reclamation Denver Technical Center introduced himself and Tom Jennings from the Bureau who has been serving as the Reclamation's lead on the executive committee for the research center.

Mr. Tom Jennings came forward and thanked the City for their help. He noted that a few people he spoke to tonight before the meeting were confused as to what project this is about. He clarified that the project they are talking about tonight is neither the Navy project nor the project north of Alamogordo. He noted that some newspapers have mixed these projects up. He stated the project they are talking about tonight is the facility on LaVelle Road. He said it is a research facility and a national center for groundwater desalination. He said there are none of these in the country that have the same characteristics. He said they would like to research different kinds of desalination, water treatment technologies, and concentrate disposal, which is the major problem in the southwest. He explained the question is that if you desalinate water, what you do with the salt. He said they are looking at new technologies that are emerging around the country. He noted it would not be a government, in-house laboratory. He stated it would be open to the private sector, universities, and the complete realm of resources. He said these technologies would be brought to bear solving the needs of the country. He stated that these technologies would be looking at turning the salt into highway materials, building products, and chemicals that can

sold for example. He stressed that they are not going to be taking good water, but want a small quantity of bad water to test and research.

Mr. Holz explained that this is the research facility that they performed the NEPA compliance document on. He said early in fiscal year 2001 Congress directed Reclamation in consultation with Sandia National Labs to look at the possibility and evaluate the potential of building and developing a desalination facility in the Tularosa Basin. As part of that direction Reclamation organized an executive committee to look into developing this in the Tularosa Basin area. He noted that committee was organized in January 2002. They met monthly from January to August developing this facility and to see where it might be located. It involved several agencies including the Bureau of Reclamation, Sandia National Labs, US Geological Survey, New Mexico State Engineer, New Mexico Water Resource Institute, and several of the southwestern communities, including Alamogordo.

Mr. Holz stated that the research facility is going to provide a means of investigating not only existing technologies, but the next generation of technologies with the purpose of increasing the quality and quantity of existing water supplies. He noted that the committee investigated seven or eight locations for the facility and this was trimmed down to 3 potential sites. The environment assessment was performed on these 3 sites. He noted it was circulated for public review on May 29, 2003 and they also circulated their findings on that draft environmental assessment, which was a finding of no significant impact. He added that the document is out for a 30-day review, which ends on June 30th.

Mr. Holz said that the location they are looking at getting their water from is west of Alamogordo. He pointed out on a map the 3 sites that they assessed for the facility. They looked at a site west of LaVelle Road, a privately owned site immediately south of the City limits, and a site further down Highway 70 on State land. He noted that the site that they picked is the LaVelle Road site. He noted that the City landfill use to be located near there. He pointed out the 30 acres of land within the city limits they had selected for the facility. He said there was not much difference from any of the three sites from an environmental standpoint. He said the controlling factor for selecting this site was probably proximity to City utilities, being within City limits and having fire protection readily available, and the reuse water line (reclaimed) runs along LaVelle Road so if they produced any reuse water it could possibly be put into that line.

Mr. Holz continued that the facility itself will consist of a research facility and another factor for being in Alamogordo is being an educational facility. He showed an illustration of the facility and pointed out an educational walkway with some places to stop and review the facility. The actual facility layout was displayed along with the pipeline layouts. He noted the preferred pipeline is down the right of way of the Holloman Air Force Base railroad spur. He noted that the test wells would be a few miles out to the west. He stated that they have not dug any of the test wells yet, but that will be one of the first things they do. After the

review period, they will take the comments they receive on the assessment and revise it as necessary and finalize it. He said assuming there are no environmental concerns that are raised that they were not aware of they expect to finalize within 3 weeks after June 30th. He said they would then be prepared to sign a finding of no significant impact and that would complete their NEPA or environmental compliance. He added that the only thing they still have to look at is the well field. They are not sure where that well field is so they will have to do some culture compliance when it is identified. He said the archaeologist in the Albuquerque office will handle that and any necessary compliance.

Mr. Jennings stated that they were asked to come up with a streamline 24-month schedule, but they think they have come up with a streamline 13-month schedule. He explained they are looking at four months for design and nine months for the build including the wells, pipeline, building, and all of it. He said they anticipate the contract being awarded between July 15 and August 1, 2003 and being finished in September 2004. He said that is the projected schedule and they think that everything is going to go well.

Mr. Holz asked if there were any questions.

Commissioner Cole asked about the facility using the City sewer system for disposal of water. Mr. McCourt replied that if they use the City sewer system they are charged the rates in effect at that time. Mr. Holz added that their intent in the section Commissioner Cole was referring to was to outline as many possibilities as they could on how to dispose of their discharge. Commissioner Cole said he read that a lot of the water will go into the ponds, but some of it might go into the sewer system. Mr. Holz replied that would be a possibility if the City would accept it otherwise it would go to the ponds or be recycled within the facility itself. He added that if there was any water produced that would be suitable for the city's reuse system that would be agreeable to that as well. He referred to the park the City had talked about on the other side of LaVelle Road. He stated that if there was any water produced from their research that would be usable for irrigation they would make it available to the City.

Commissioner Cole clarified there would be an agreement between the two parties. Mr. McCourt noted that if they use the sewage system they will be charged and possibly at a higher rate. He added that they are going to be looking at ways to improve and clean up water. He pointed out that one of the major problems inland is how to put to use the concentrates or brine. He said looking at beneficial ways to put that concentrate to use is going to be one of the functions of this lab. He added that desalination is going to become a much more common method of obtaining water throughout the United States. It is already used in coastal areas, but their disposal method is different because they just put it back in the ocean.

Commissioner Cole clarified that the water that would be going into the park would be a better grade of water than what goes into the ponds. Mr. Holz replied affirmatively.

Commissioner Robertson asked how much water there would be to go to a park. Mr. Jennings answered that the maximum design capability right now is 180,000 gallons a day coming into the building. He said there are six research bays. Each might be occupied with equipment they would be testing and some equipment only uses six gallons per minute or 9,000 per day. He said that as far as the water going out it will not be a substantial amount. He said if we were going to deal with full capacity, and used 50% of that capacity going out it would be 90,000 gallons out per day into something. He added it would be going into the aquiculture, the ponds, the reuse line, or the park across the street. He said they can adjust that depending on the needs. They do not anticipate ever going at that capacity. He added that he is sure they can take care of the park because they do have an aquiculture area there. He explained that the park is another aquiculture area where we could possibly grow different kinds of grasses, plants, or even food.

Commissioner Robertson asked what the problem would be with putting the water in our effluent lines and sending it to the parks if it is better than our sewage water we have now. Mr. Jennings replied that it is up to the City and they will be glad to cooperate anyway they can. Mr. Holz noted that it is not a dependable water supply because the output will vary. He explained that there may be two of the six research bays running and it could be infrequent that all six research bays will be running at one time. Mr. McCourt agreed. He explained this is a research facility and you cannot count on it like a production facility. He said there may be times where there are substantial flows and others where there are no flows coming out of it. He said if we are going to develop the adjoining area into green space, which is not what necessarily has been discussed, we might use this as a supplement, but would not count on it as a primary source.

Commissioner Robertson clarified that the water would not be so hard that it would affect our water going to the golf course. Mr. McCourt replied it would not be hard on those areas. He explained that sometimes brine will be the primary product they are producing because they are working on disposal methods. He said they will produce brine so they can experiment with different plants and techniques on how to do disposal. He added other times they may be looking at filtration methods to clean up the water so their product will actually be the clean water. Mr. McCourt noted that depending on how concentrated the brine becomes could become a problem in putting it into our reclaimed water system. Mr. Jennings added that if it is really bad, which they do not think they are going to have any really bad water, the alternative would be to reinject the water into the aquifer and it would improve the quality of the aquifer. He explained that where they would inject it would actually bring the quality up in the aquifer. He

noted that it is getting more difficult because of the environmental compliance so they really did not want to plan that into this facility, but it is an alternative.

Commissioner Cooper stated that some private companies have done some of the research on vegetation, especially grass that will accept this brackish water. Mr. Jennings noted that they have half a dozen projects nationally that dealt with salt tolerant plants and that is a developing field. He said there is a lot of promise there. Commissioner Cooper commented that pistachio trees thrive on brackish water used here. He added that there are two by products that create separate industries such as brine water, which can be used to raise and harvest brine shrimp and the solids can be used to make saltlicks for cattle and other animals. Mr. Jennings said they have used the brine discharge for shrimp in the mid east. He said the shrimp are then ground up for fertilizer and pet food. He said it is a huge industry. Mayor Carroll stated these are all ideas that will lend themselves to the type of research they are planning to do out there. Mr. Jennings stated that they have another research project going with a university. He stated that the United States imports 96% of its iodine. The researcher thinks he can extract iodine from these desalination plants at a reasonable cost. He said that if he is successful the United States will not have to buy its iodine from Chile. He stressed that there is all kinds of possibilities.

Mayor Pro-Tem Griggs noted that whatever happens we have options to dispose of the water and that is one reason this site works well.

Mayor Carroll noted this is a public hearing and asked if anyone in the audience had any questions.

Mr. Miramontes asked if there was a projected life for the project. Mr. Jennings noted that it would be 30 to 50 years or more. Mr. Miramontes inquired about the economic impact of the project. Mr. Jennings replied they are not sure. They will bring people here like researchers and their families. He said companies will come here to test their equipment at the facility. He noted that tourists will also come in and look at water resources and experiments. Mr. Holz said they would have 10 to 12 members of permanent staff. Mr. Carr asked them how much the immediate economic impact would be from the cost of the facility. Mr. Jennings said it would be about 5 million dollars to build it. Mr. Carr noted that would be an immediate impact. Mr. Carr stressed that the timeline is key because of the Navy project. He said they would like to test at this facility and the timeline discussed facilitates that testing.

An unidentified man in the audience asked if the subsidence was being addressed. Mr. Holz said not in this particular case because they are talking about such a small quantity of water.

An unidentified woman in the audience asked if there was any coordination with the other projects going on. Mr. Jennings replied the only connection they have is with the Navy for testing.

Another unidentified man asked if there would be any impact on adjacent wells. Mr. Jennings stated they do not think it will have any because they are looking only for our bad water with tds 10,000 or 5,000 where the well users are wanting tds levels around 1,500. Mr. Holz noted that they will have to run the State Engineer's model to get permission.

A member of the audience asked about the coordination with area education institutions for field trips. Mr. Jennings replied that they have a sidewalk planned so that you can walk and tour different parts of the facility outside. The same member of the audience asked about the selection of the location of the wells. Mr. Holz replied that where the facility is located is still kind of where the water is coming down out of the mountains. USGS suggested they go out a few miles to keep the same quality of water for testing.

Mr. Holz added they are looking at three wells in the well field at this point. One will be for 3,000 to 4,000 tds, one will be for 5,000 to 7,000 tds, and one will be for 10,000 tds.

Mr. Jennings noted that these wells will not be pumping continuously because they will be filling tanks up at the facility and the pumps will run when they need the water to fill the tanks. Mr. Miramontes asked what the maximum capacity of the wells will be. Mr. Jennings said they are looking at a maximum designed capacity of 180,000 assuming that everything is operating.

Representative Gloria Vaughn asked about them bringing people in versus hiring locally. Mr. Jennings replied there would definitely be job opportunities in the facility. He noted they advertise competitively for research dollars they have and local companies may bid on those. Ms. Vaughn asked what happens to the facility once the project's lifespan is finished. Mr. McCourt noted that our plan was to construct the lease so that the land and facility would revert to the City.

An unidentified lady asked if the project would just go on and on for testing. Mr. Jennings replied affirmatively and said that science is changing everyday and it will be a long time before the United States water problems are solved.

Mr. Holz stated that if you want to track the project there is a web site on the project at wrri.nmsu.edu. He added that they keep minutes of all the meetings and everything that is happening on that website. Mr. Jennings said everything is open and nothing is classified.

Mayor Carroll thanked Mr. Holz and Mr. Jennings for their presentation.

The meeting recessed at 8:15 p.m. and was reconvened at 8:30 p.m.

PRESENTATION:

2. Presentation by Men's Golf Association Course Improvement Subcommittee.

Mr. McNeile, Community Services Director, introduced Mr. Ed Kimber of the Men's Golf Association. Mr. Kimber noted he had a short presentation regarding the condition of the golf course clubhouse. Mr. Kimber introduced Mr. Herb Altum, another committee member who was in attendance. Mr. Kimber introduced his grandson, Alex Kimber, who was going to assist in the technical end of the presentation.

Mr. Kimber showed and reviewed pictures of the clubhouse showing serious disrepair. Pictures included cracks around the doors, sloping floors and floors with cracks through them, gaps between the floor and the walls that a golf ball would fit through, and other areas of disrepair at the clubhouse.

Mr. Kimber noted that the support wall that goes across the clubhouse shows no signs of settling right now. He added that if it does settle we will have serious problems.

Next, Mr. Kimber showed a picture of what he described as part of the problem. It was a cast iron drain. He said the drain was recently repaired and Mr. Pat Vandergriff said there was standing water under the area that was pumped out, but there was 4 to 6 inches of unsupported area, which will lead to at least another 4 inches of settlement. Mr. Kimber and the committee recommend that they take an elevation reading once a month and compare it to see if the building is still settling.

Commissioner Robertson clarified that Mr. Vandergriff believes the floor will settle at least another 3 to 5 inches. He asked what will happen to the cinderblock walls if they do settle. He wondered if the walls would collapse. Mr. Kimber answered that the only walls that are made out of cinderblock are the weight supporting walls. He said all the other walls are drywall. Mr. Grant Dalpes added they are wire and plastered walls.

Commissioner Cooper discussed the continued deterioration of the building and how progressively worse it has gotten. Mr. Kimber stressed the dangers of the condition of the building and it continuing to deteriorate.

Commissioner Ledford questioned whether the ball in the photo belonged to our own Mayor Pro-Tem Griggs since he has lost a few on the course.

Mayor Carroll thanked Mr. Kimber for the presentation.

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 June 10, 2003.

Recommendation: Approve the minutes.

5(B). Joint Powers Agreement for Ambulance Dispatch Services.

Recommendation: Approve the agreement.

7. Amendment to Employment Agreement with City Manager.

Recommendation: Approve the amendments and direct staff to prepare the Agreement.

8. Ordinance No. 1177 amending Section 11-05-350 to comply with State Law regarding carrying a concealed handgun.

Recommendation: Approve the ordinance for final publication. [Roll call vote required.]

9. Ordinance No. 1179 amending Section 24-01-050 dealing with Correction Fees and Judicial Education Fees.

Recommendation: Approve the ordinance for final publication. [Roll call vote required.]

10. Ordinance No. 1181 amending Section 11- Leave of the Alamogordo Personnel Code.

Recommendation: Approve the ordinance for first publication.

13. Award of RFP No. 2003-001, custodial service for City Hall and Public Works buildings.

Recommendation: Award to Alamogordo Building Maintenance for \$39,651.24.

14. Statement regarding the Executive Session of June 10, 2003.

Recommendation: Approve the statement.

Item Numbers 6, 11, and 12 were removed from the Consent Calendar.

Commissioner Cooper moved to accept the Consent Calendar including Items 3, 5B, 7, 8, 9, 10, 13, and 14. Commissioner Robertson seconded the motion. All voted "aye." The motion carried by a roll call vote of 7-0-0.

PLANNING ITEMS:

4. Consideration of a variance for Jessica Schofield, Case V-03-0461 (A).

Recommendation: No recommendation.

No one was present to represent the requestor. Commissioner Cooper stated evidentially the property owner picked a house design that does not fit on this piece of property. Mayor Carroll agreed. Commissioner Ledford asked if it was determined that they did need the entire 5 feet set back and what the safety concerns were. Mayor Carroll stated they did decide they needed the entire 5 feet. He said the side yard setback is normally a safety issue, but in this case the setback would be from the alley looking at the lot. Mayor Pro-Tem Griggs said he thought it was a side street. Commissioner Ledford agreed. Mr. McCourt said the picture in the book is not accurate; it is of the lot at 1012 Mimosa. The property in question is at 1210 Mimosa. He stated the representation on the map in the book is inaccurate. Mayor Carroll said the lot itself has a side that is adjacent to an existing house and the other side would be adjacent to what is currently an alley up against undeveloped land. He explained that one side yard would be up against an alley. Mr. McCourt noted that the dimensions of the lot would be the same and the intrusion into the setback would apparently be the same also. Mayor Carroll said this map in the book seems to indicate it would be a clear sight triangle problem with the corner, but that is not the case in looking at the lot.

Commissioner Cole said he did go out and look at it and he spoke with Dean Hunt in Engineering about it.

Commissioner Cole moved to deny the variance. Commissioner Cooper seconded the motion.

Mayor Pro-Tem Griggs said he is concerned that the house itself would not necessarily impact the clear sight triangle. He noted the lot was quite deep and offered that they could consider having her to push the house back. He added if it is an alley he does not see the 15-foot setback from an alley as an issue at all. Mayor Carroll said the drawing is incorrect and he and Mr. McCourt went out and looked at it. Mr. McCourt asked that we table the item. He said he had questions he wanted to discuss with Planning Staff.

Commissioner Cole withdrew his motion. Commissioner Cooper said he would not change his mind.

Commissioner Moncada moved to table the item until the next meeting. Commissioner Cole seconded the motion. Commissioner Cooper voted "nay." All others voted "aye." The motion passed by a vote of 6-1-0.

CONTRACTS AND AGREEMENTS:

5(A). Joint Powers Agreement for Ambulance Operations.

Recommendation: Approve Joint Powers Agreement for Ambulance Operations in the amount of \$131,312.

Mr. McCourt explained that in the preliminary budget we have budgeted \$128,000. He noted that in the previous budget we budgeted \$131,000. He stated that to stay at the same level that we have previously subsidized we would need to adjust the budget to \$131,312. He explained that the County is the lead agency for the ambulance service. Tularosa and the City help support the subsidence. He also noted that there is a committee that reviews the contract with the ambulance company, which is a private organization. He explained the ambulance companies requirements to respond to calls. He noted that the subsidy costs are based on the population of the areas. He stated that the ambulance company can request an increase of subsidy based on their profit and loss statements because they are guaranteed a certain profit. He said that is why they are requesting to increase the subsidy to \$163,169.

Chief Trujillo pointed out that the original agreement was for \$131,000. He stated that it was not until May 21st that the contractor requested the increase of \$31,857.

Mayor Carroll noted that he represents the City on the joint ambulance committee. He said the terms do allow for the provider to request an increase in the subsidy if they do not maintain a certain level of profit. He said that this is the first time in about seven years they have exercised this option. He explained that part of the rationale that they gave was that due to some recent legislation at the State level that allows EMTs to be employed as nursing assistants they have to pay more to keep employees. Mayor Carroll stated that their financial report for the last year shows that of the three municipalities where they provided service, Las Cruces, Roswell, and here, they lost considerable amounts of money in Las Cruces and Roswell and they were somewhat slightly profitable here in Alamogordo.

Mayor Carroll said he thinks the main problem facing the City is not so much that they do not deserve or are not entitled to the increase, but is the timing of their request and the renewal of the contract. He stated it was after we had done our budget and had not budgeted this increase. He noted that Tularosa had the same concern, but the County seemed to be aware of this increase and did budget for it, but did not inform the City or Tularosa of the increase. He

questioned whether we had sufficient funds to absorb the increase. He also questioned what would happen to the service if we did not increase the subsidy.

Mayor Carroll suggested that if we do not increase it as requested that we revisit the item mid year to see if the resources are there to do it. Mayor Carroll discussed the terms of the contract. Ms. Kidwell informed him that the contract had been approved by the County and she had received it late that day. Mayor Carroll stated that proposes the problem that the City either comes up with their share of increase to the subsidy or we force the County to do it. He pointed out that he does not know where the County will come up with the money, but he suspects it will be in some of the other joint power agreements where they fund certain percentages of operation of the City. He stressed that even though it is not a budgeted item, we should give it some careful consideration before we just reject their request.

Commissioner Robertson questioned if the ambulance company was trying to compensate for the losses in other areas by increasing their prices here. Mayor Carroll noted their contract allows them to make an 8% profit, but their recent financials were no where near there. He said he does not believe this increase would provide an 8% profit margin for them next year. Commissioner Robertson said he would like to see the figures for this and does not want to cover losses for some other city. Mayor Carroll stated without this increase they will be looking at operating at a loss here in Alamogordo also. Commissioner Robertson questioned if anyone has seen the financials. Mayor Carroll noted that he had and provided them to Mr. McCourt.

Commissioner Cole questioned the company's ability to terminate the contract. Mayor Carroll responded that he believes there is some notification clause in the contract, but he does not know. He added that he had no indication from them that would be their intent from the local manager.

Mayor Carroll noted that the County is the lead agent and has signed the contract so there is service for the next year. He said the question becomes whether the City provides their share of that contract or not.

Commissioner Cooper noted that the cost of business has escalated quite a bit. Mayor Carroll said that is what the company is saying.

Commissioner Ledford questioned the contract and the profit guarantee. He questioned who decided what their profit should be. Mayor Carroll clarified that they provide financial statements and it is 8% of costs. He noted that they do provide an audited financial statement to the County who is the lead agent. Commissioner Ledford asked if they could do this each year to protect that 8% profit. Mayor Carroll responded that they have that option in the contract, but this is the first time they have exercised their option. Commissioner Ledford noted it was a 25% increase overall. He said they are wanting a bunch all at once.

Discussion continued regarding other monies coming in from their services, reviewing their financial statements, and how much they charge for their services normally.

Mayor Carroll reiterated that it would not have been a problem if we had known before the budget was completed. Commissioner Ledford clarified that what Mayor Carroll was saying was that if we don't approve this increase we will reevaluate it in six months and that gives us a chance to find out where we are going to get the money and make sure we handle this timely next year.

Commissioner Robertson asked what steps we have gone through so we would not have to go through this again. Chief Trujillo replied that they were given a date of January 1 this year for contract renewal to avoid this happening next year.

Mayor Carroll noted that if we do not come up with our share the County is going to have to make it up. Commissioner Cole stated that the County might adjust other percentages of other joint power contracts.

Mayor Pro-Tem Griggs asked where we would look for funding this additional cost. Mr. McCourt replied we would have to look and see if perhaps our carry over balances would provide a source of funding from the general fund. Mayor Pro-Tem Griggs said he does not see how we can do this unless we want to go in and cut some service.

Commissioner Robertson questioned the City's share of the contract. A brief discussion was held regarding the City's quarterly payments on the contract. Commissioner Cole asked if we could postpone this and talk to other committee members to see where we are at if we cannot do this budget wise.

Mayor Carroll noted the recommendation was to approve the joint powers agreement in the amount of \$131,000. Mayor Carroll added since we are paying it quarterly he would recommend that we revisit this at the end of the first quarter.

Commissioner Cole moved to approve the joint powers agreement in the amount of \$131,312. Mayor Pro-Tem Griggs seconded the motion.

Commissioner Cole clarified that there is a direction to Staff to go back and review this contract at the end of the first quarter.

Mayor Pro-Tem Griggs noted that their concern is that they will not be able to make any profit. He clarified that currently they are making a profit, just not 8%. Mayor Carroll confirmed this. Commissioner Ledford noted that they are going to get the requested increase, but the question is who is going to pay it.

John Garst suggested that we may have a bargaining chip here with the library services. He said maybe we should consider a grant match type approach on the ambulance issue.

Paul Banse came forward and said he disagrees with the County. He said this is the largest ambulance company in the United States. Mayor Carroll noted they are emerging from Chapter 11 bankruptcy. He stated that there is not a lot of money to be made in ambulance service. Mr. Banse said he has been sitting here for two years and everyone comes in here with an empty bucket and wants the City to fill it. He said we are running out of money. He discussed the ambulance company's profit, taxes, and the welfare of the citizens.

The vote was taken on the above motion. All voted "aye." The motion passed by a vote of 7-0-0.

6(A). Amendment to agreement with the French Brothers (Tierra de Suenos) regarding the extension of time.

Recommendation: Approve the extension of time.

6(B). Amendment to agreement with the French Brothers (Tierra de Suenos) regarding extending the recapture area.

Recommendation: Provide direction to Staff.

Mr. McCourt explained that when the French Brothers built their subdivision, Tierra de Suenos, there was one service line down towards the golf course. It was the line that went down Hamilton Avenue. He said it was determined at that time that the line was at its capacity. He stated that based on the discussions he has had, the French Brothers were either strongly encouraged or coerced to build a second water line if they wanted to build that subdivision. He noted that as part of that discussion there was a request for a recapture clause so that future development that was adjacent to where that line was installed and hooked into would help repay the costs of that line. He said that agreement had a term on it, which we will reach in September of this year. He explained there have been two requests regarding renewing this agreement. He stated that one request is to extend the term for 10 years or until 75% of the costs of the line are recaptured. He explained that the reason it is 75% is that the French Brothers development uses 25% of the line. He noted this was item 6 A in the agenda book.

Mr. McCourt explained that item 6B is a new development that was apparently not discussed originally. It concerns the recapture area to be included in the agreement. He referred to a map in the agenda book showing the original recapture area. He pointed out that other development has occurred in the

vicinity of the golf course. He stated that development has only been able to occur because this line was brought in.

Commissioner Ledford asked why we do not just eliminate the limits for time until they get the original investment back. Mr. McCourt replied that the original agreement did have a time limit and development has not occurred within the recapture area as proposed. He said the reason for the ten years as he understands is that we did not want the agreement to extend beyond the possible life of the line. He noted that ten years was well within that time frame. Discussion continued regarding why the term was set at seven years, what development was already there, and how much has been recaptured up to now. Commissioner Ledford asked what the life of the water line is. Mr. McCourt replied twenty years at minimum. Discussion continued regarding the extension of time and who should have to pay for water off this line.

Mr. Norman Lane came forward and noted that they never recouped one dime out of the Hamilton Road line when they put it in. He questioned who all would be eligible to recoup if new contracts were done on this. He stated that he agrees that the French brothers should be paid and there should not be a limit of time. He pointed out that he owns 40 acres of land out there and does not think he should have to pay if he hooks into that line. He stated that would not be right since they put in the original line and did not get paid back for doing so. He explained that this line now loops into their line and questioned when it becomes this line in question.

Mayor Carroll noted we would only have to amend the contract to extend the time. He added that a number of the Commissioners have a problem with extending the recapture area.

Mr. Lane discussed the City paying the costs and recouping them. Mr. McCourt noted that the suggestion that was made is not an unusual concept, but would require higher hookup fees. He noted that this discussion came up in the Subdivision Ordinance review committee meetings. Mayor Pro-Tem Griggs stressed the importance of equity in the new Subdivision Ordinance.

Mayor Pro-Tem Griggs moved to extend the agreement recapture time until 75% of their costs is reimbursed in the original recapture area. Commissioner Robertson seconded the motion. All voted "aye." The motion passed by a vote of 7-0-0.

Mayor Pro-Tem Griggs asked what the intention is of putting Tres Lagos, Desert Hills, and some other areas in the extended recapture area. Mr. McCourt replied he does not know their intent. He said there might be some point in vacant areas that might be developed.

Commissioner Ledford moved to deny the request for extending the recapture area. Commissioner Cooper seconded the motion. All voted "aye." The motion passed by a vote of 7-0-0.

11. Resolution No. 2003-13 writing off certain uncollectible and unsecured accounts receivable.

Recommendation: Approve the resolution. [Roll call vote required.]

Mayor Carroll asked to have this item removed from the Consent Calendar. He stated he is concerned with us writing off items in a special assessments district. Mr. McCourt noted that we have two groups of write offs in this resolution. He explained that the largest one is in the special assessments district in the Airport blocks.

City Attorney Ken McDaniel stated that the reason these were recommended for write off is that these two pieces of land were sold at state tax sales and we were junior lien holders behind the other ad valorem taxes. He stated that they did not raise enough money to pay us anything. He noted that we could have gone to the tax sales and bid. However, we would have had to pay out hard money to pay off the senior liens to get the parcels. He explained that the one that we show \$80,000 as the write off had a principal amount of under \$33,000 and the rest was interest and penalties. He said that piece of land sold for about \$6,000, which was the highest bid at the state tax sale. He stated that apparently we had more in improvements there than educated buyers thought the land was worth so they bought it at state tax sale, free and clear of all junior liens.

Commissioner Ledford asked if a special assessment is not a lien on the property. Mr. McDaniel replied they are and if the lien had still been a special assessment lien it should have been equal to the ad valorem taxes. He noted that he understands that the City had paid off the bonds on it and sought to enforce a lien on the property, which would be a municipal lien instead of a special assessment which is junior to a state tax lien. Mayor Carroll stated that he understands that the conditions of the bonds for those special assessment districts required the City to come up with the full amount of bond payment and we did not have a choice when they came due. Mr. McDaniel said we may have done that at some point to get more favorable interest rates. He said if the City did that to get more favorable interest rates, it would have been on the hook. Mayor Carroll said that was his understanding at the time those were done.

Mr. McDaniel stated that with the larger one the City thought there was an agreement with the Tax and Revenue department where the City was going to enter into a payment arrangement on those liens in order to keep it from going to foreclosure sale. He noted that was an oral agreement and pretty much worthless.

Commissioner Robertson asked if we had a lien filed against the property. Mayor Carroll replied yes. Mr. McDaniel added there were liens filed. Commissioner Robertson confirmed that it was sold through the tax sale. Mr. McDaniel affirmed this. Commissioner Robertson asked how old the liens were. Mr. McDaniel said he is not sure when they were paid off and the City filed a lien. Commissioner Robertson explained he is an expert in this area because he buys tax property constantly. He said that a tax sale will not get rid of a lien except if the lien is filed within 3 years prior to January 1 of the year of the sale. If the lien was filed over 3 years before the sale, it is still a standing lien. Mr. McDaniel said there was a stipulation entered into on the larger one. Discussion continued regarding whether the liens were filed at the courthouse or not. Mr. McDaniel said he could not tell us at this point.

Commissioner Cooper moved to table the item. Commissioner Robertson seconded the motion. All voted "aye." The motion passed by a vote of 7-0-0.

12. Resolution No. 2003-18 requesting the NM Department of Finance and Administration approve revised budget figures for certain line items in the City's budget for Fiscal Year 2002-2003.

Recommendation: Approve the resolution. [Roll call vote required.]

Ms. Nichols explained that she laid a new report out for them tonight. She explained that she had to add a couple items to this revision. The first change was to Revision #6 due to the emergency water Walker Project. She explained that when we first budgeted the funds we knew we would be spending it in both fiscal years, but we did not know how much in each year. She explained that we have spent more than we originally projected for this fiscal year, but it will be less in the 2004 fiscal year budget. She noted her first figure was 450,000 and she has raised that to 750,000. Commissioner Ledford confirmed that the total has not changed, just the timing. Ms. Nichols confirmed this.

Ms. Nichols noted she added Revision #11 because we received our June solid waste collection bill. She explained that we estimated what we would spend in March, but we are coming in over that amount by \$3,000 so she needed to add that amount to bring our budget into compliance.

Commissioner Cole moved to approve Resolution No. 2003-18 requesting the NM Department of Finance and Administration approve revised budget figures for certain line items in the City's budget for Fiscal Year 2002-2003. Commissioner Robertson seconded the motion. All voted "aye." The motion carried by a roll call vote of 7-0-0.

OTHER BUSINESS:

15. Appointments to Boards and Committees.

Mayor Carroll appointed Ms. Marie Wuerschling to the Senior Volunteer Programs Advisory Council.

All remaining vacancies were rescheduled.

UNSCHEDULED COMMUNICATIONS:

Tommy Dale requested monitoring of wells close to the City's Prather wells.

Mr. Tommy Dale said he went to the last County Commission meeting and said it appeared that the County was going to be doing some monitoring of some of the wells out in the area. Mayor Carroll stated that it was proposed it would be a joint monitoring. Mr. Dale asked if there was anyway we would slow down the time schedule on when we are going to pump water so there would be enough time to gather enough data so everyone would know what is about to happen out there. Mayor Carroll said the schedule is going to be driven by how much water we have at the time and how much shortfall we have. He said if the monsoon rains come there could be a possibility that we would not need the water in August or September. Mr. Dale asked what the water supply looks like.

Mr. McCourt said he does have a water report. He briefly reviewed the report. He noted that we have less wells pumping and consumption is down. He stated that we are in better shape than we were a year ago, but it is highly dependent on rains. Mr. McCourt noted that the lake level has dropped substantially. It was about 18 inches below the spillway and now it is at 39 inches below the spillway.

Mayor Pro-Tem Griggs asked about the water coming from the canyons. Mr. McCourt replied that water has continued to decline.

Mayor Carroll explained that we would not begin to tap the water from those wells any sooner than we had to. He stated if we could delay that, he thinks that would be the City's position. He added that he is not in a position to guarantee that. Mr. Dale asked that they consider that. Mayor Carroll said that was his feeling on it, but they have to rely on recommendation from Mr. McCourt and City Staff regarding how long we can delay pumping them. He noted it is not only an impact of where we are this summer, but where we are next year if the same drought conditions occur. He said we do not want to do anything to negatively impact anyone and the more monitoring and data baseline we can get, the better off we will all be. Mr. Dale said when he brought that up at the County Commission meeting the other night they told him he would have to come down here and make this request.

Mr. T.D. Thompson requested a meeting on backflow preventers and thermal expansion tanks.

Mr. Thompson stated that he wanted to discuss the water meter extra devices that are eventually being put in throughout the City, with an extra item slipped in with the reasoning it is to protect the water heater and the City from being sued. He said he has spent over a month researching this and is probably one of the few who understand the details behind this and the side effects. He said he has been trying to get a meeting going. He added that he would like to see Ordinance 1068 amended. Mr. McCourt said Mr. McDaniel has been directed to set up the meeting with Mr. Thompson, Mr. Heberle and Code Enforcement.

Commissioner Cole inquired about some requests for funding and asked for any updates on the First Street Project.

Commissioner Cole asked about the letters Zia Therapy regarding transportation funding and from the Counseling Center. He asked if that is going to be some type of matching funds. Mr. McCourt replied that Zia is continuing with their current request for subsidy for their mass transit program. He said he anticipates they would continue their request with the City for a subsidy to also support that. He said the request from the Counseling Center is a capital request to purchase equipment. He added that they have not approached the City concerning providing the subsidy portion or any portion towards the funding.

Commissioner Cole asked if there was any report regarding the First Street Project. Mr. McCourt said we did meet with Mesa Verde on that and some of the suggestions include straightening out Florida Avenue. He noted this was far beyond our financial means. He said although we have discussed it, it is not on our priority list at this time. He explained that they then provided a proposal to do the project within the original scope that was presented. He said that was far beyond our financial means. They then proposed a very different project. He said we had originally proposed using quite a bit of concrete in that intersection due to the difficulty we have had in holding the asphalt with the heavy turning action by heavy trucks there. Their proposal suggested a project using asphalt as opposed to concrete to redo the intersection. He noted that they estimated it would last about 10 years. He said that from a Staff standpoint we did not feel that was an acceptable alternative either. He stated that we are not willing to proceed with that project. He noted that if we were going to have to rebid the project because of the substantial change in the nature that would be one alternative, but we need to realize we are going to have a limited life greatly reduced from what we would normally expect on a project. Commissioner Cole confirmed that we are going to proceed with the project. Mr. McCourt replied that we have money budgeted for that project, but we are going to have to change it to keep it within the available funds.

Commissioner Cooper reminded everyone to attend the Fourth of July events.

E. Commissioner Robertson asked Mr. McCourt to set up a meeting with the jail and Zia Transportation.

Commissioner Robertson noted he has a situation he is trying to deal with regarding the jail. He said there is confusion between Zia and Ms. Blansett at the jail regarding whether transportation service is desired there. Commissioner Robertson asked that Mr. McCourt or staff get on this project to set up a meeting with Ms. Blansett and Zia Transportation so that prisoners can get back into town.

F. Commissioner Moncada stated she will be absent for the 07/08/2003 meeting.

G. Mr. McCourt discussed ongoing events and NMML.

Mr. McCourt noted that he reviewed the water report earlier. He noted that he will be on vacation from July 5 through July 20 and Mr. McNeile will be in charge.

Mr. McCourt informed everyone that he attended a NMML policy meeting last Saturday. He noted that he was on the tax and revenue board for the League. He said they hope they put together some good revised policies for the League Staff as they discuss it with the legislators in the next session. He added that they had quite a bit of conversation on what is happening on a statewide level in the review body that is looking at our total tax code. He recalled that there is a public hearing set up in August in Las Cruces. He urged everyone to attend and give our input. Mr. Fulginetti is our municipal representative, and all though he is very competent, he is only one person. He noted that one of the largest items is the removal of Gross Receipts Tax on food. He said this is a very hotly discussed item. He added that would have a devastating impact on all municipalities within the State. He said that Gross Receipts Tax is our largest source of income. For many communities 40% of Gross Receipts Tax is from food. The question is how to address this problem. He reiterated his encouragement for their input.

H. Mayor Carroll discussed non-taxable transaction certificates, gave compliments to Robert Blanton, Mr. Miramontes and Utility Maintenance, discussed a request from the Library Board, and information he received from Union Pacific.

Mayor Carroll said that one of the items they were able to get a resolution on from the policy committee, which will go to the resolutions committee is on the non taxable transaction certificates. He noted that the City of Alamogordo has been hit with a pretty hefty bill for compensating tax on those. He said they did introduce a resolution urging that the League make that a priority issue in having the legislature address it. He noted that in tonight's newspaper there was an article regarding Las Cruces. He said the auditors have assessed Las Cruces \$345,000. He stressed that we may have a lot of support in the state.

Mayor Carroll said he received a copy of a memo complimenting Robert Blanton from a citizen who had fallen outside of her house. Mr. Blanton rendered aid, called the ambulance, secured her house, and waited with her. He passed on kudos to Mr. Blanton.

Mayor Carroll also complimented Mr. Miramontes and his utility maintenance crew for working on the major water break on Alaska the other night. They promptly responded to it and got it solved.

Mayor Carroll stated he received a letter from the Library Board stating they want to make a presentation on their recommendations for the new library. They are suggesting a number of things. He will get a copy to everyone. It includes using the donation of the IGA land, tearing down the old building, and building a new building. He noted that they recommend we fund the project with a Gross Receipts Tax and not a bond.

Mayor Carroll noted that he was informed today that Union Pacific railroad is planning to do some work on the trestle off Highway 54 and that underpass will be blocked for some period of time, possibly permanently. He noted that the indication he got today was that the Railroad intends to close it permanently following the work they do. Brief discussion was held regarding what we could do with this traffic and crossing.

Mayor Carroll said that due to some things he has been hearing he wants to address the City's standpoint on the thinning of the forests. He stated that the City has been involved in the forest health issue for a number of years. He had a copy of the letter he wrote to the administrator of Cloudcroft, Mr. Nivison, indicating the City's support for the Lincoln National Forest demonstration program and saying we wanted to be a partner in that program, which we are along with other agencies. He noted that as a result of that particular demonstration program they have been able to generate in excess of 2 million dollars in fiscal year 2003 for thinning projects in the Lincoln National Forest. He noted that the request was for 3 to 5 million. He added that the State Forester was able to get 3 million dollars for forest thinning throughout the State. The NRCS and Dan Abercrombie are putting in a grant request from the State Water Board for \$1.3 million for a watershed hydrology survey.

Mayor Carroll said he has had extensive conversation with Mike Nivison who has been the lead on this from the County standpoint. He stated Mr. Nivison has been working with other states. He said the problem is really one of limited funding from the federal government. He noted that there is a total of about \$3.2 billion available. Unfortunately, the forest service at the national level has not seen fit to disperse the monies for forest thinning the way they should. He added that what we are going to end up doing is having to put together more of a coalition of the western states possibly working through the governors of the various states to lobby Congress to either earmark the money directly or to direct

them to do. He stressed that it is not something we have been inattentive to and we have been working on it and have briefed our Congressional delegation on. He referred to Congressman Pearce's recent visit.

Commissioner Ledford said it is often a communication problem. He stated that he appreciates what the Mayor is saying, but asked if it could be put in a newsletter or a paper to distribute to the public. Mayor Carroll stated that Mr. Nivison would be more than happy to do an in depth interview with the local media. He noted that it would be incumbent on the people making the statements to be more informed rather than making blanket statements and acquisitions. Commissioner Cooper said some people tend to shoot from the hip with little or no information.

EXECUTIVE SESSION: Adjourn into Executive Session to discuss limited personnel matters and acquisition of water rights.

Commissioner Cooper moved to adjourn into executive session. Commissioner Robertson seconded the motion. All voted "aye." The motion carried by a roll call vote of 7-0-0.

The Governing Body of the City of Alamogordo, New Mexico, hereby states that its regularly scheduled meeting of June 24, 2003 was adjourned into executive session and items discussed in the closed meeting were limited only to those specified in the motion for closure.

The meeting was adjourned at 10:48 p.m.

Mayor Donald E. Carroll

ATTEST:

Chief Deputy Clerk Betsy C. Kidwell

(SEAL)

(Prepared by Chief Deputy Clerk Betsy C. Kidwell)

Approved at the City Commission Regular Meeting of July 8, 2003.



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