

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
MUNICIPAL BUILDING, 1376 E. NINTH STREET
7:30 P.M., COMMISSION CHAMBERS
DECEMBER 7, 2004**

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

**COMMISSIONER JOHN ROBERTSON
COMMISSIONER MARION LEDFORD
CITY MANAGER PAT McCOURT
CITY ATTORNEY KEN McDANIEL
CITY CLERK ANGIE RAHN-BROYLES**

Call Meeting to Order and Roll Call.

The Meeting was called to order at 7:40 p.m. The Invocation was given by Commissioner Don Cooper, the Posting of the Colors was by the Alamogordo High School Air Force Junior ROTC, and the Pledge of Allegiance was led by Commissioner Inez Moncada.

PUBLIC HEARINGS:

1. Ordinance No. 1226 approving a project in accordance with the Alamogordo Economic Development Strategic Plan: Project MOTO.

Recommendation: Approve the Ordinance for final adoption.

Commissioner Cooper moved to approve Ordinance No. 1226 approving a project in accordance with the Alamogordo Economic Development Strategic Plan: Project MOTO. Seconded by Commissioner Robertson. All voted "aye". The motion carried by a roll call vote of 7-0-0.

CALL OF THE CONSENT CALENDAR:

Items on the Consent Calendar are considered routine and should not require further discussion. All items marked "CC" will be approved by a single motion 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.

2. Minutes of Regular Meeting of November 23, 2004.

Recommendation: Approve the minutes.

3. Consideration of a ten foot (10') utility easement for the extension of an electrical line for Texas New Mexico Power Company [Case M-04-0317(A), 500 LaVelle Road].

Recommendation: Approve the electrical easement for Case M-04-0317(A).

5. Resolution No. 2004-51 supporting "Incentives for Jobs" Legislative Agenda 2005.

Recommendation: Approve the Resolution.

6. Selection of Camp Dresser & McKee as an "on-call" engineering firm.

Recommendation: Select Camp Dresser & McKee.

Item No. 8 was removed from the Consent Calendar.

Commissioner Cooper moved to approve items 2, 3, 5, and 6 on the Consent Calendar. Seconded by Commissioner Robertson. All voted "aye". The motion carried by a roll call vote of 7-0-0.

ORDINANCES AND RESOLUTIONS:

4. Ordinance No. 1225 issuing Revenue Bonds, Series 2005, for the City's Joint Water and Sewer Improvements.

Recommendation: Approve the Ordinance for first publication.

Mr. McCourt said this was the bond we'd discussed to repay ourselves on the emergency sewer project, as well as to repair the concrete lines in the College Blocks area of the City. There were a couple of other minor projects listed, and they were all direct sewer projects. This would be repaid from the sewer rates, and specifically that was in the rate structure the Commission had approved at the last meeting. It would go in under a two-step process, with a portion beginning in 2005, and a portion beginning in 2006. It was a Revenue Bond and was guaranteed by the revenue stream from the water and sewer bonds.

Mr. Kevin Powers, Dain-Rauscher, said the bond issue, as stated in the Ordinance, was at \$5,595,000, which would provide \$5 million of spendable proceeds for projects. It would also fund a debt service reserve fund, which was roughly equal to one year's principal and interest payment, it would provide enough money to pay cost of issuance, and also purchase a municipal bond insurance policy to elevate the bond rating to AAA to obtain the most favorable interest rates in the market place. Based on the estimated time schedule being worked under right now, this Ordinance would come back at the January 11th Regular Meeting to seek approval with interest rates set at that time. The bond issue would then close on or about February 15th, so the City would have money in hand on February 15th. The Federal Reserve had been raising short term interest rates, and that had impacted the very short end of the yield curve—the very early maturities. However, it had actually had a positive effect on the longer end of the curve. So we were actually borrowing this money over a 20-year period. Interest rates were still very favorable. In fact, he had been using some numbers for planning purposes, and based on today's market if we issued the bonds today, we'd actually be at lower rates than had been used for planning purposes. So he was still feeling better than what had been used in the plan. Typically January had been very strong for bond sales. Interest rates typically went down in the early part of January relative to where they were in December. He hoped that held true this year. That was really due to the fact that a lot of money came out of the system in the latter part of the year, and it was available for investment early in the year. He was hoping for this to be one of the first bond issues out in the market in January, and he hoped to take advantage of all that money chasing around the available bond inventory. Everything looked to be in good shape and on schedule. The preliminary numbers from 2004 looked good in terms of the revenue and expenditures of the utility system, and he expected that the City would be able to obtain favorable bond rating, and also to obtain an insurance policy at an attractive price. The only thing we couldn't control was the market, but as of now that looked really good.

Mayor Carroll said in the "boiler plate" it referenced both insurance and a reserve fund. Was it correct that would be an either/or? Mr. Powers said yes. The language put in here was

intended to provide maximum flexibility in the event that a debt service reserve fund surety bond could be obtained at a very attractive price. He wanted to keep that open as a possibility. Right now, based on our knowledge of the market and what the quotes were for those kinds of policies, he believed that the cash funded reserve would be the most beneficial to the City. So it was an either/or.

Commissioner Robertson said for planning purposes, what range were they looking at? Mr. Powers said in terms of an AIC, which was the same as an APR when you were obtaining a consumer loan, the all inclusive interest cost at this point, including cost of issuance, was 4.36 percent for 20 years. Those were absolutely locked in rates, and the average life was twelve years. Mr. McCourt clarified that the earlier bonds were lower and the later bonds were higher, but the rates were locked in once it was sold. Mr. Powers said the interest rates on this would range from between 2.2 percent and 4.5 percent--that would be the actual coupon rates. Then when you took into account the cost of issuance and the cost of insurance and you did a present value calculation on all that cash flow, you came up with an all-inclusive true interest cost of 4.36 percent.

Commissioner Cooper moved to accept Ordinance No. 1225 issuing Revenue Bonds, Series 2005, for the City's Joint Water and Sewer Improvements. Seconded by Commissioner Robertson. All voted "aye". The motion carried by a vote of 7-0-0.

OTHER BUSINESS:

7. Protection of the La Luz Well Field.

Recommendation: Authorize sending the letter to the Office of the State Engineer.

Mr. McCourt said this item harkened back to when we were discussing the La Luz Crossroads Subdivision. The concern which came up at that time was whether this development could potentially threaten or have a negative impact on the City's well field. At that time the Commission instructed staff to see if we could work out an agreement with the proposed developer to see if we could alleviate some of our concerns about the impact on our well field. We did meet with them, but were unable to reach an agreement. Ultimately, that subdivision was approved by the City and it proposed to have domestic wells to serve the property there. There were several options available to the City. One was that we could just do nothing and basically take our chances on whether it affected the well field or not. Second, we could potentially look at a takings of a property right, but he felt that would be a difficult issue to approve. The third option, and the one which staff was suggesting, was that we send a letter to the Office of the State Engineer and ask them to expand the critical management area. This subdivision immediately abutted the critical management area previously declared by the State Engineer. There was legislation which was going to be proposed at the State level to allow the State Engineer more authority over domestic wells. That had happened for the last couple of years, but it had not succeeded in getting through the legislative process yet. So there was a possibility that legislation could come into effect, which would then give the State Engineer a tool to address domestic well situations like this. What we didn't know was whether that was going to occur or not. So this letter would indicate to the State Engineer that this was a method that perhaps he would consider using to expand the critical management area to include where this proposed subdivision was. If he accepted the recommendation and did that approval, what it would do in the current designation was to restrict each family that was on a domestic well. They could still have a community domestic well, but each family on a domestic well would be restricted to .3 acre feet per year for use. It would also prohibit the drilling of commercial wells

within that particular section of land. That section of land did take in a large part of the unincorporated La Luz village. It did not prohibit the drilling of domestic wells, but would restrict them to a limited amount, and it would require that they be metered. Those were a couple of the City's major concerns.

Commissioner Cooper felt we should authorize this letter to be generated because it would be an additional tool to the State Engineer if the Legislature would go along and give him a little more power. That way we could pretty much be guaranteed protection.

Mayor Carroll said in conversation with the City Manager, he had suggested the inclusion of some additional language in this letter. The language he'd suggested would go in prior to the last sentence in the first paragraph. The language be along the lines of, "In the event that you do not acquire the control over domestic wells needed to protect existing water right holders during this Legislative Session, then we would like you to consider a possible solution to address an immediate concern of ours". He felt our concern was not necessarily to declare this a critical management area, but our concern was that the State Engineer had to have better control over the issue that we were facing up there. So we were not necessarily urging the critical management area as a first step, but if he couldn't do it any other way, then that was what we would prefer he do. Commissioner Cooper said he agreed with that.

Mayor Pro-Tem Griggs supported the fact that we write the letter because he felt it was important for the citizens of Alamogordo to know that we were out there trying to protect our water rights, and in doing so, would protect their ability to have water. He just had one suggestion in the letter, which would be to remove the last two sentences which dealt with the .3 acre feet. He just felt that was telling the State Engineer something he knew. If he were to even actually do something on this thing and even make it one (1) acre feet, it would still be positive for us. He felt we should let him make that decision. He was suggesting that we leave out the last two sentences.

Commissioner Robertson said he'd talked to some of the La Luz Domestic Water Association members, and one of their major concerns was that they may have to supply water to these people because it was in their area. There was another area near them where the State had made it mandatory that the Association supply them water three or four years ago. They were afraid this would happen with the new subdivision area as well. He didn't know if that was a concern we wanted to look at. Mayor Carroll said it was not something we wanted to address. Commissioner Robertson said he was wondering if we should take those last two sentences out. Mayor Carroll said those last two sentences were really a re-statement of what was in the prior State Engineer's critical management area designation. Commissioner Robertson suggested we contact La Luz to see if they wanted to co-sign with us on this letter, or had we already done that? Mr. McCourt said we had not. Commissioner Robertson felt it might be a good idea to talk to them and see if they would like to add something to this letter. Mayor Carroll felt that was an issue over and above what we were trying to accomplish. Commissioner Robertson said possibly, but it seemed like with both of us hand in hand, then it might have more authority when it did get up there. Mr. McCourt suggested he could copy a letter to them. Commissioner Robertson said he would like to see that. He didn't know if they would have anything to add or not, but he would like to get them on our side with this thing, even if they wrote their own letter. Mayor Carroll suggested a courtesy copy be sent to the County Commission and our State Legislators as well. This was an issue the Legislators would have to be faced making a decision on.

Commissioner Cooper moved to authorize the City Manager to send a letter to the Office of the State Engineer with the suggested changes that had been discussed. Seconded by Commissioner Robertson. All voted "aye". The motion carried by a vote of 7-0-0.

8. Designate City representatives to serve on the Southeast Regional Planning Organization (SERPO).

Recommendation: Reappoint Mayor Don Carroll and City Engineer Dean Hunt.

Mayor Carroll said he was willing to serve if no one else would do it, but he was no longer desirous of serving on this particular Board. He'd had some conversation with the Mayor Pro-Tem on whether he'd like to serve instead. Mayor Pro-Tem Griggs said he'd be happy to serve if appointed.

Mr. McCourt said he hoped everyone understood the importance of this. There were basically two committees—one was the policy committee and the other was the technical committee. The technical committee was staffed with a representative out of Community Development, City Engineer Dean Hunt. This was a group that reviewed projects for funding that came through the State process. We felt it was important to have representation on this committee so that we could get our projects properly presented and moved forward in the State funding process.

Mayor Carroll said he would certainly agree being an alternate. Going to these meetings was educational at a minimum. As the City Manager said, the people that showed up when it came time to vote were the people that got the projects. So it was important that we had representation at these meetings. This organization was also the one which ranked and rated the requests for public transportation funding for Zia and some of the other public transportation operations throughout the southeastern part of the State.

Commissioner Cooper moved to appoint Mayor Pro-Tem Griggs and City Engineer Dean Hunt. Seconded by Commissioner Robertson. All voted "aye". The motion carried by a vote of 7-0-0.

9. Appointments to Boards and Committees.

Community Development Advisory Committee. One vacancy.

Mayor Carroll appointed Mr. Glenn Tally to fill the vacancy.

Planning and Zoning Commission. One vacancy, and one Ex-Officio Member and one Proxy.

Mayor Carroll appointed Ms. Sharon Gardiner to fill the vacancy, and appointed Mr. Sam Sandoval as the Ex-Officio member, and Mr. Andrew Gomolak as a Proxy for the Ex-Officio member.

UNSCHEDULED COMMUNICATIONS:

A. Comments by Commissioner Cooper regarding the VITA tax assistance program.

Commissioner Cooper said he'd attended the awards banquet for VITA, which was the Voluntary Income Tax Assistance program. Their figures for last year were very impressive. There were 30 volunteers and almost 3,800 man hours to Alamogordo, La Luz, Carrizozo,

Mayhill, Cloudcroft, Timberon, High Rolls, Ruidoso, Mescalero, Weed, Boles Acres, and Holloman. The total federal returns prepared were 799, the total State returns prepared were 1,269, and that included New Mexico and many other states. It was an increase of 16 percent over last year, with three fewer people to do it. The number of electronically filed returns was 575, which was a 58 percent increase over last year. Holloman provided the computer systems that were used, and the extra power enabled them to prepare more returns. The savings in preparation for electronically filing costs for our community was between \$96,000 and \$105,000, and the Federal and State tax refunds and rebates received by the people from these prepared returns was approximately \$700,000, which was pumped back into our community.

B. Comments by Commissioner Robertson regarding Airport Advisory Board meeting.

Commissioner Robertson questioned an issue he'd heard the City Manager mention which had been brought up at the Airport Advisory Board. Could he give an update, or was it not appropriate to talk about it yet? Mr. McCourt said he didn't think it was appropriate at this time. They were looking at several issues, but he felt it was premature to really discuss them at this time.

C. Comments by City Manager regarding new Internal Auditor for City; water report; sewer project engineering proposal; new water sub-district to include Bonito Lake; plans to be out of town next week; City Awards Banquet; and Railroad "Quiet Zones".

Mr. McCourt introduced Mr. Ron Jeske, who had been hired as the City's new Internal Auditor. He invited the Commissioners to stop by and visit with him in his new office.

Mr. McCourt said the water report was passed out to the Commission, and we were doing okay. It had been cool and wet, and we had a lot of snow up on the mountain. The situation looked good right now. Commissioner Robertson asked why we weren't running the wells a little more to try and get our storage up for summer? Mr. McCourt said this was always a balancing question, and they would notice that our flows into the flume were up from the snow and rain. So we tried to rest our wells to the extent we could so that we could get all the recharge. As we got closer to our watering season, we may turn some of the wells back on if we were low. But at this point it looked good. We were hopeful some of the snow and saturation would make its way into Bonito Lake. Our reservoirs were at about the same level as last year. The citizens had actually kept the usage down, so we were doing well.

Mr. McCourt said he'd passed out a memo to the Commissioners dated November 30th regarding the sewer project in the College Street area. Staff was pretty sure they'd understood the Commission's intent that they could start forward with the engineering expense on getting that project going before the bond was actually issued, and then repay ourselves. We wanted to verify that was correct. He'd listed in there that the Commission had authorized staff to expend \$2.4 million, but they had actually authorized \$2.6 million and we were staying within that.

Mr. McCourt said the State Engineer had established a new water sub-district up in the Hondo Valley, and it included us on the Bonito Lake part of it. We received a notice on Saturday that there would be a hearing to consider this. The hearing was held last night, at which time they announced that the district had been established. We didn't know exactly what it meant, but we were in it. Staff would gather more information and find out how it would be affecting us.

Mr. McCourt said he would be out of town next Wednesday afternoon through Friday afternoon, along with the Assistant City Manager and the Personnel Manager. Community Development Director Brian McGuire would be in charge while they were gone.

Mr. McCourt thanked the Personnel Department for the excellent job they'd done setting up and coordinating the City Awards Banquet last Saturday night.

Mr. McCourt said there were regulations being considered at the Federal level to allow the establishment of "Quiet Zones" where the train would not have to blow its whistle as it approached each crossing. We had been very interested in that and had been tracking it. The Commission had authorized some money so that we could participate in that program and get our crossings set up to comply. The date for those regulations to be finalized was December 18, 2004, but it had been pushed up to April 1, 2005. We were continuing to track it and would be prepared to move forward on it.

D. Comments by Mayor Carroll regarding City Awards Banquet; thanks to City staff regarding Christmas Parade; passing of pioneer rancher Raymond Walker; and best wishes to Clyda Gentile and thanks to DPS and EMS responders for quick response.

Mayor Carroll echoed the City Manager's comments on the City Awards Banquet. There was over 500 years of service to the citizens of Alamogordo that were recognized at the Banquet.

Mayor Carroll thanked City staff for the work they did in preparing for and working through the Chamber of Commerce Annual Christmas Parade. The weather was a little wet and cold, but people said that the lights reflecting off the wet street added something to it. He asked that compliments and thanks be passed onto the Parks Department, Facility Maintenance, and DPS.

Mayor Carroll said in tonight's paper he'd noticed that Mr. Raymond Walker, a pioneer rancher and long time resident of Otero County, had passed away. We send our condolences to his family.

Mayor Carroll said Ms. Clyda Gentile, the wife of former City Commissioner Frank Gentile, was in the hospital, and we wanted to send out our prayers and best wishes to both of them. He'd spoken to Frank last night, and he'd requested that praise be passed onto DPS and the EMS workers for the response from 911 that they'd received. He especially was thankful for the help that Lt. Wood gave him during the situation.

EXECUTIVE SESSION: Adjourn into Executive Session to discuss threatened and/or pending litigation and/or acquisition of water rights.

Commissioner Cooper moved to adjourn into Executive Session to discuss threatened and/or pending litigation and/or acquisition of water rights. Seconded by Commissioner Cole. All voted "aye". The motion carried by a vote of 7-0-0. The Meeting was adjourned at 8:21 p.m.

"The Governing Body of the City of Alamogordo, New Mexico, hereby states that its regularly scheduled meeting of December 7, 2004 was called into executive session and the matters discussed in the closed meeting were limited only to those specified in the motion for closure."

/s/Donald E. Carroll

Mayor Donald E. Carroll

ATTEST:

/s/Angie Rahn-Broyles

City Clerk Angie J. Rahn-Broyles
(SEAL)

(Prepared by Teresa Y. Gutierrez)

Approved at the City Commission Regular Meeting of December 21, 2004.