

**CITY OF ALAMOGORDO, NEW MEXICO
JOINT CITY/COUNTY COMMISSION SPECIAL MEETING MINUTES
ROOM A/B - SGT. WILLIE ESTRADA MEMORIAL CIVIC CENTER
THURSDAY, DECEMBER 16, 2004
9:00 A.M.**

CITY COMMISSION:

**MAYOR DON CARROLL
MAYOR PRO-TEM RON GRIGGS
COMMISSIONER INEZ MONCADA
COMMISSIONER MARION LEDFORD
COMMISSIONER ED COLE
COMMISSIONER DON COOPER
COMMISSIONER JOHN ROBERTSON
COMMISSIONER MARION LEDFORD**

COUNTY COMMISSION:

**CHAIRPERSON CLARISSA MCGINN
VICE CHAIRMAN DOUG MOORE
COMMISSIONER MICHAEL NIVISON**

Call Meeting to Order and Roll Call.

The Meeting was called to order at 9:00 a.m. Absent were Commissioner John Robertson and County Commissioner Michael Nivison.

1. Jail (Otero County Detention Center Fees).

Mayor Carroll said the current Joint Powers Agreement had been in effect for many years. One of the areas of concern to the City was the fees the City was charged for housing City prisoners in the detention center. We were currently being charged \$70 per day for each prisoner, in addition to the monies which came from the City in the form of property taxes to the County to help support the jail. The City's concern was whether the portion it was paying was a representative share. A quarter percent gross receipts tax within the City of Alamogordo generated over \$600,000, so if it was a County-wide tax then he would suspect they had \$800,000 to \$900,000 per year coming in. He would request that when the funding was reviewed, that we go back and look at what percentage of the jail operations were being funded and whether the additional \$70 per day on top of what came from the City towards the jail was still a fair and appropriate amount. County Commissioner Moore said the County had a draft Joint Powers Agreement which they would like to give the City today which would increase the \$70 per day rate up to \$80 per day. Mayor Carroll said he never recalled seeing a breakdown of what it cost to fund a prisoner each day. We were funding a substantial portion of it to start with, and the \$70 or \$80 per day on top of that seemed that it may not be equitable.

Mayor Carroll reiterated that the City understood this was a service which needed to be provided and paid for, and we just wanted to make sure that the residents of the City were paying their fair share and not a disproportionate share. County Commissioner McGinn requested the City to review the proposed draft contract. They were, of course, looking at the increases in costs to run the facility. DPS Chief Sam Trujillo said the last time this contract was thoroughly gone over was back in 1980, so he felt this would be a good time to review it all once again. County Attorney Dan Bryant agreed, and felt that the City Administration and County

Administration should meet to go over the different elements of the agreement. When looking at "fair share" and all that, he felt we needed to keep in mind who was paying in terms of our citizens for the particular service. County Commissioner Moore suggested that after the two staffs had reviewed the draft, that the two Commissions meet again in 30 to 45 days to perhaps take action on the agreement.

2. Ambulance Dispatch Services.

Mayor Carroll said the County was the lead agent on the agreement regarding ambulance service, and it was agreed that the City would provide the ambulance dispatch services and be compensated for its proportionate share. He understood the City had billed for that and had not been paid. County Manager Ruth Hooser said the County had already paid the first quarter. The second quarter was out right now and she was waiting for the City's quarterly payment to come in so that she could turn around and pay it back to the City.

County Commissioner Moore commented that Tularosa was not carrying their weight on this, and the County was paying for them. Mayor Carroll said he understood that, but as was agreed among the Authority, that was between Otero County and the Village of Tularosa.

3. Extra-Territorial Planning and Platting Jurisdiction.

Mayor Carroll said the extra-territorial planning and platting jurisdiction of the City extended five miles from the City boundaries. Then the City had agreed to do building inspection within a portion of that five miles. Recently there was a subdivision which came up that was in the extra-territorial jurisdiction. The City had some concerns with water issues, but apparently there was no way for us to address it. It brought up the question of the City's ability to exercise some control over future growth in those areas. One thing that may come back to haunt us was that we were not developing these areas to City standards, and at some point we knew some of these areas would eventually come into the City. Acting City Manager Brian McGuire said one of these areas was fire protection, as well as curbs, gutters, aviation requirements, etc.

County Commissioner Moore stated that he felt we would all be remiss if we did not address this issue. When we looked at expansion of the City, he felt we should all work together on it. The County was currently working on updating its Comprehensive Plan. When that was finalized, then they could more clearly define what they wanted their public land use to be in the County. He also intended to move forward with a proposal to implement zoning in the County. The County was also in the process of re-writing its Subdivision Ordinance, and it would be quite a bit more restrictive in several areas, including water. They hoped to get that through by early spring also. Regarding item No. 5, he perceived that without zoning, the County had no mechanism with any teeth in it. What they intended to do was to attach the AICUZ to their public land use plan, and to send a notice to all County property owners within those zones that this was the language. They hoped that with zoning, they could be restrictive with those AICUZ zones. City Attorney Ken McDaniel said there did seem to be some space where the City and County could enter into a Joint Powers Agreement where the County would authorize the City to exercise zoning authority in a specific area, such as the AICUZ area. If for any reason the County Commission balked at the area of County-wide zoning, then just the area between the City and the Base and immediately south of the Base was the area of critical concern in terms of keeping Holloman viable.

County Attorney Dan Bryant said there were a number of tools available to the two entities that we could start to put into place almost immediately. With the County tinkering with their

subdivision regulations, within the next thirty days if we could put together the right people, we could identify those areas within close proximity. On certain of the issues, such as curb, gutter, and community water systems, that could all be built into the County's subdivision regulations and it could be in effect within 120 to 180 days once they went through the State regulatory process. They could create an Authority that consisted of both City and County representatives regarding any zoning issues.

Mr. McGuire said he would provide electronic copies of the City's current zoning processes to the Otero County Planning Commission.

The Meeting was recessed for a 15-minute break.

4. PSAP (Public Safety Answering Point) Consolidation.

Mayor Carroll said DFA had made the determination that they would require the three PSAP's within Otero County to consolidate, or else they would no longer send back our monies to fund us on this program. He personally felt that Otero County needed two PSAP's. It may be fine to consolidate to some degree, but he felt there needed to be some backup. When he'd asked what happened if there was only one PSAP and it went down, he was told that you would have to have a prior agreement with someone else that had a PSAP who could come in and handle your problem.

Chief Trujillo said basically the FCC was requiring wireless companies to have the technology in place to provide PSAP's with specific information. The DFA was the State agency within New Mexico receiving the Grant funds for the PSAP's. They added an additional requirement to the agencies that would be receiving this equipment, and they were saying that we would all have to consolidate our services. They were saying that they would provide the \$1.2 million for the equipment, and they would cover the \$30,000 per year maintenance costs if we consolidated. Our concern was that we basically had two PSAP locations in this area that handled the calls—the Department of Public Safety and the Sheriff's Department. When the City's system went down, the Sheriff's Department was the backup. When the Sheriff's system went down, then their backup was the City. If we went to one PSAP location and it went down, then we would have to look to Las Cruces to cover us and it would be extremely difficult for them to cover our calls from our community. Neither the Sheriff nor he were in favor of having just one PSAP for this area. They would like to request a waiver on the consolidation requirement. Ruidoso and Hobbs were communities that had already requested a waiver on this, and they had been accepted. If we did not get that waiver approved and we did not do anything right now, then the cost to each entity would be a \$30,000 maintenance cost to maintain the same level of service we had right now. That meant that we would not be able to identify the cell phone location in the future and we wouldn't be able to pinpoint within 50 or 100 meters.

County Commissioner Moore asked if there was a way that we could designate one entity as the official fund receiver, and piggyback that signal over to the other guy? Chief Trujillo said they had inquired that exact question, but the answer received was no—it was an all or nothing deal. County Commissioner Moore asked if we could let the State Police be our backup? Chief Trujillo said the State Police, pueblos, and Indian Reservations were exempt from this. They did not have the resources in place right now in case our entities needed help. Some communities had created a whole new dispatch center to cover this. If we did that, it would require a whole new building with all the appropriate equipment. Mayor Carroll clarified that what they were trying to force everyone to do was to regionalize.

Chief Trujillo felt we needed to get our Legislators involved on this because it was questionable if DFA had the authority to require this, and also because they needed to know that it was going to hurt our community by not having two PSAP's. Mayor Carroll clarified that it was not really DFA—this was actually coming from the Finance Authority. It was a group that was put together from some of the different cabinet positions that actually came out of the Governor's office, or from some of the people working for him. Chief Trujillo said there were several options still ahead of us, but we still did not know where we could end up and we may need to get the support of the governing bodies, as well as our State Legislators, to make the argument for a waiver.

County Commissioner Moore recommended that both the City and County Attorneys work together with the Police Chief and the Sheriff to give the governing bodies a joint draft of a request for waiver. If the State denied that, then we could work toward option B. Mr. Bryant didn't think a waiver request should come from a governing body, but instead should come from a Sheriff or Police Chief. There was no reason why we couldn't put a draft letter together and have it out by early next week on its way to DFA. Chief Trujillo said Lea County and Hobbs had already been contacted, and they were sending over a copy of the letter they'd sent. We would be using that as our basis and apply for the same waiver. Mr. McDaniel felt it would be a good idea that after the law enforcement folks sent their waiver request off, that both the City and County pass Resolutions in favor of it come the first of the year.

5. AICUZ (Air Installation Compatible Use Zone).

Mayor Carroll said this was something which came from the Air Force. They had done a study and were recommending that we now consider adopting or integrating their AICUZ studies into our zoning and code projects to protect the approaches to the community. There was an Executive Order from the Governor, and a lot of it had to do with BRAC and protecting the viability of all the military installations in the State. So he had directed any of the agencies he had control over to do this and had recommended that counties and municipalities work to protect the integrity of the Bases. The City would most probably be integrating the AICUZ zones into its present Zoning Codes. City Code Administrator Pat Vandergriff said under extra-territorial zones, we would be able to solve the effect of these issues by Building Codes. We could express density, height restriction, and construction requirements within the Building Codes. Mr. McGuire said they'd asked that in some of these flight patterns coming into the runways that we not put in places where large groups of people would tend to gather, such as baseball fields. This item was simply informational in bringing up the fact that if we were going to support Holloman in this effort, then the City and County needed help in putting it together. Mayor Carroll clarified that this was nothing that we would get crossways with the Air Force on if we didn't do it, but as an Air Force community if we didn't do all we could to make sure of the long term viability of Holloman, then we were being pretty foolish. He understood that one of the main factors of BRAC in this go round was going to be encroachment issues and whether anyone was doing anything to mitigate it. These were the kinds of issues would could impact the Base if the wrong kind of development took place.

Mr. Bryant said since both entities were currently tinkering with their Comprehensive Plans, then we ought to obligate our respective planners to talk to each other and address compatibility issues. We ought to provide this information to each of those planners, and tell them to incorporate these zones and the safety requirements under the comprehensive planning. Also, he and Mr. McGuire had been talking about getting the two GIS systems compatible with and talking to each other between the City and County. These were all steps that could happen

within the next six months, which would put us way down the road in terms of planning and zoning.

County Commissioner Moore said that Holloman was the biggest economic industry in our community. Therefore, we needed to embrace their plan to protect that economic engine to our community, and also, look to protecting the safety of the citizens.

6. County Code Enforcement (re: areas entering City).

Mayor Carroll said this item had to do with Highways 54 and 70, as well as the Relief Route, and how did we deal with getting citizens to get rid of the junk cars and old dilapidated buildings. We had a mechanism within the City to deal with these things. It was slow, cumbersome, and frustrating, but it was a mechanism. The County recently passed changes, but he was not sure that they really had an effective mechanism. County Commissioner McGinn said they had dealt with the enforcement part of the Ordinance. They had decided that once a complaint was generated, it would go into Magistrate Court where a duly-elected Judge could make a decision on it. Mayor Carroll said he understood, though, that they had put the onus on some adjacent property owner to take that process through. County Commissioner McGinn said the onus had always been on the property owners and had never been the Code Enforcement Department that drove around and inspected sites. The whole process was generated by a complaint from somebody. County Commissioner Moore said the Sheriff or his department also had the authority to go out and upon observation of what they perceived to be a violation, would allow them to cite the individual. They had the Ordinance side and then a civil side as well, but what they had not had was an energetic enforcement effort on the County's part.

Mayor Carroll said the City had a mechanism which could be complaint-generated, or it could be upon our own initiative. The City's concern was the major thoroughfares coming into the City and how we could make those more attractive. Mr. McGuire said the City's goal was to change behaviors in getting things cleaned up. We found that the letter writing and complaint process was expensive and took time, and we didn't get near the results then when we got people out there to talk to the property owner and write them a citation at that point. Of course, a lot of people were reluctant to go out and do that without a law enforcement officer with them.

County Commissioner Moore said that after two years of working on this, he did not feel that the neighbor complaint was the right way to get the job done. That mechanism needed to be in there, but if it was a County Ordinance, then it should be enforced by County personnel. If they perceived a gross violation, then they should issue a citation. However, law enforcement personnel did not view this as a task they had been trained to do and this was basically beneath them. And you could not drag them to the fire to do it. He perceived the State eventually would sunset the CID and at the very minimum they would continue to receive the funds, but they would eventually drop code enforcement back to the Cities and Counties. They were going to have to spit up a new code enforcement department to meet this potential directive which they anticipated coming down from the State within the next ten years. County Commissioner McGinn said she kept in touch with the Magistrate Judges, and they assured her that they were following through with these complaint-generated cases and they were making sure that those people were cleaning up. County Commissioner Moore felt that the complaint process only caused animosity between neighbors, and he felt the Ordinance was what brought the law into it. He felt it would be better if instead of complaint-generated instances by neighbors, that a code guy or a law guy talked to the citizens with an Ordinance behind them.

County Commissioner Moore said that some of the glaring violations on the entries into town, like the scrap metal and wrecking yards, were regulated by the State. The County had sent complaint letters and followed them up with requests on what action was taken, and the State refused to enforce their own State Ordinances.

Mr. Bryant said if we were going to look at some kind of an extra-territorial zoning process, then one of the things which could be done was to designate the highway corridors as special scenic areas with special requirements. The burden was that the property owner had to be more diligent about cleaning up, and the benefit was that their property values increased because of the scenic requirements. Mayor Carroll reiterated that the City's main concern was only with the entryways into the City, and not with the outlying areas of the County. County Commissioner Moore agreed that zoning was the mechanism by which we could solve so many of our problems, that we would be remiss if we didn't try to pursue it.

County Commissioner Moore said regarding the properties along the access corridors in and out of town, they would identify a group of problem properties which they felt were in violation of both County and State Ordinances. In the month of January they would get a letter off to the State regarding those in violation of State laws.

7. Proposed Annexations.

Mayor Carroll said this was just an informational item on some of the annexations that were either proposed or in process for the City. County Commissioner McGinn asked why these particular annexations were being requested? Mayor Carroll said part were requests from property owners. On the First Street annexation, part of it had to do with acquiring right-of-way so we could straighten that connection out to the Relief Route. For the area off of Ocotillo Road and Florida Avenue, over the years that area had contained a hodge-podge of islands within the City. Basically, most all of it had come from requests of at least a portion of the property owners. In the past we had tried to leverage various properties to come into the City, but for the most part had been unsuccessful. Currently we had a serious utility service area where we were looking to provide utilities, and that had been taken into account on the areas we were looking at. City Planner Sharon Few added that with these pockets within the City, it became a jurisdiction for police, fire, and everyone else. We wanted to provide efficiency in all of these operations, whether it was for the County or the City.

County Commissioner Moore said he appreciated being informed on this issue, as he didn't appreciate reading in the newspaper about proposed areas of growth by the City. With what the City had planned for growth and the way it proposed to go with annexation, he felt the County could get on board for ninety percent of it. It should be good for the community and for the citizens. County Commissioner McGinn asked if all of the affected property owners had been notified of these annexations? Ms. Few said yes, and these annexations were all in response to major petitions. They were all initiated voluntarily, but there would be forced lands within them. However, every property owner involved would be notified.

Mr. Bryant said that Governor Richardson had put together the Water Task Force. One element of that was a water quality subcommittee which had been meeting and producing some recommendations that were highly likely within the next twelve to eighteen weeks to result in some real stringent changes to the whole septic program. We needed to start working on ways of how the two entities could start working together and step up to the bar and provide water and sewer whether people were inside the City or not. As this process went forward, he was hoping this kind of cooperation and communication would continue throughout. We needed to

look at this health/safety issue. It was going to hit us on septic and sewer before it hit us on water. We had better start thinking of how to build a mechanism where we could cooperate and provide the service. He could see the local government entities working together to make these services work. If the County cooperated and we put in place the mechanisms, we had the ability to require them to hook up. The Environment Department was going to be going to the cities and counties and saying that in areas where the density was a certain factor, they would allow no more septic. So if we started thinking and talking now about how to create the legal mechanisms that would make this work, then when this mandate hit us we would be prepared. Once we did that, the notion that there was no benefit to the City actually went away because there was a benefit to all of us when we were not dumping phosphates and nitrates into our ground water. The County government had the ability to pass Ordinances that helped clean up the watershed in and out of the City when they cooperated with the City and made it work.

County Commissioner Moore felt what would be a carrot was the subdivider having to lay lines. It then became more attractive so the new development would have a desire to tie on so that they had a confirmed source of water, whether sewer was involved or not. Mayor Carroll clarified that the reason the City had an outside the City water moratorium was not to discourage growth, but because of concerns over water availability. If the City was successful in getting the desalinization project and it did what we thought it would, then that would give us the ability to not have that concern about providing water outside the City. Another concern was that if we were talking about regionalizing or expanding the sewer capacity of the area, did we rebuild our existing treatment plant, did we build another one somewhere else, or did we build a satellite somewhere?

County Commissioner Moore reiterated that we needed to continue these types of discussions and work together on these issues. We needed to stop all the finger pointing about the County not paying its fair share for the Library or the City not paying its fair share for something else. He felt this was where we were going, and we needed to do everything we could to give this regional County-City type of image and let it get rooted and take hold. That would serve us all much better.

Commissioner Cole said out of the three proposed annexations, he felt that Ocotillo Road was the No. 1 concern. He regularly talked with the people who lived near and used that street, and there were great concerns with the safety and repair of it. He wanted to make sure both entities present here today understood that streets needed to be looked at that were on border boundary jurisdictions.

8. Legislative Submissions.

Mayor Carroll said the City had provided copies of its FY 2006 Legislative capital improvement requests. The top three priorities set by the City of Alamogordo and sent to the Governor were as follows: No. 1 was the South Florida Venue Widening and Extension; No. 2 was the First Street Extension to the Relief Route; and No. 3 was the Reclaimed Water Distribution and Storage. Items 4 through 7 had simply been added on for the sake of our local Legislators.

County Commissioner McGinn said their first request was the Road Shop Building. Also on the list was the Chaparral Medical Clinic, the old jail renovation, and the Riata Road culverts. Mayor Carroll said he hoped the County would keep in mind the Relief Route connectors as we had two more to go.

County Commissioner Moore asked if there were any Federal funds to connect Fairgrounds Road on through to the hospital? Mayor Carroll said we'd received \$400,000 from the last Legislative Session. The majority of the money was the Transportation Bill which didn't pass, so hopefully that request would be back in this year. We really hadn't had a discussion on exactly what we were going to do with that \$400,000, whether it be property acquisition, design, or what.

Ms. Hooser said the County had received \$177,000 for the First Street Extension. County Commissioner Moore said what was on their list was the First Street extender to the Relief Route and the Indian Wells extender to the Relief Route. After he'd talked to the City Manager, they'd agreed that they would not pursue the Indian Wells extender until they were sure how the Fairgrounds Road would go as they did not need to have two major arterial diversions. They did see a huge need for one on the southern end of town. Also, north of the Tenth Street extender, there was really nothing that he could get off on that was a pretty good road. Some of that was the County's, so perhaps they could go in there and do a little better job in helping to maintain those roads.

Mr. Bryant said if they were looking at Federal monies, then on the North Florida deal the County probably ought to put some time in pretty quickly towards looking at right-of-way acquisition issues. If we got too far down the pipe, there was a Federal Statute on land acquisition requirements that built in a year of notification, notice of landowners' rights, and all of those kinds of programs before an entity could go to forced acquisition.

County Commissioner Moore said they were also looking at securing Homeland Security funds to improve Fresno Road because if there was a wreck on the main highway, then that was the only way across to get down off the highway.

Mayor Pro-Tem Griggs said from conversations with Congressman Pierce, because of the tie with the Base to the hospital, that enabled us to be eligible for Federal funds to complete Fairgrounds Road. Congressman Pierce had called one day out of the blue and said he was going to put \$5 million in for Fairgrounds Road. That was considered the back way to the hospital, and the Feds wanted a second access into the emergency room of the hospital, which was at the back of the hospital.

Mayor Carroll felt we'd seen a lot of common areas where we could work together, and both staffs would be starting to look at some of these things. We needed to get together a couple of times a year at a minimum to see where we were on various items.

The Meeting was adjourned at 12:15 p.m.

/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 January 11, 2005.