

**CITY OF ALAMOGORDO, NEW MEXICO  
CITY COMMISSION REGULAR MEETING MINUTES  
MUNICIPAL BUILDING, 1376 E. NINTH STREET  
7:30 P.M., COMMISSION CHAMBERS  
APRIL 12, 2005**

**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 7:30 p.m. Mayor Pro-Tem Ron Griggs was absent. The Invocation was given by Rev. Stephen Trout, and the Pledge of Allegiance was led by Commissioner Inez Moncada.

Mayor Carroll commented that Mayor Pro-Tem Griggs was in Washington this evening representing the City of Alamogordo and the State of New Mexico, along with a group of representatives from a number of states who were advocating for the four-laning of Highway 54 from El Paso, Texas to Wichita, Kansas. The name of the group was called S.P.I.R.I.T.

**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.

1. Minutes of Regular Meeting of March 22, 2005.

*Recommendation:* Approve the minutes.

6. Application for participation in the 2005 Fire Protection Fund Distribution.

*Recommendation:* Approve the Application.

10. Award of RFP and Bids:

- A) RFP No. 2005-001 for the Infrastructure and Valuation Services for GASB 34 Implementation.

*Recommendation:* Award to Hirons & Associates, Inc.

- B) Bid No. 2005-03, Zoo Animal Feed for the Alameda Park Zoo.

*Recommendation:* Award to Sanders & Danley Feed Store for an estimated total of \$18,983.35.

- F) PW Bid No. 2005-006, First Street Accessible (ADA) Compliance.

*Recommendation:* Award to Mesa Verde Enterprises, Inc. in the amount of \$165,184.38, including NMGRT.

**Commissioner Cooper moved to accept items 1, 6, 10(A), 10(B), and 10(F) on the Consent Calendar. Seconded by Commissioner Robertson. All voted "aye". The motion carried by a vote of 6-0-0.**

**PLANNING ITEMS:**

2. Consideration of the preliminary and final plat of MARKET PLACE SUBDIVISION for three (3) lots located within the City of Alamogordo for C. Michael Shyne [Case S-05-0873(A), 3313 N. White Sands Boulevard].

*Recommendation:* Approve the preliminary and final plat of MARKET PLACE SUBDIVISION, Case S-05-0873(A), located within the City of Alamogordo with the requirement that dedication of right-of-way for Scenic Drive and a sewer easement be provided.

Mayor Carroll said the reason that was the recommendation, as outlined in the letter from the City Manager to Mr. Shyne, was since the Comprehensive Plan indicated that North Scenic Drive would extend through the proposed subdivision, that he could not approve it under a summary plat since the plat did not provide for the dedication of right-of-way. The City Manager had been in conversation with Mr. Shyne and his engineer, and he would let the City Manager explain the results of those conversations. Mr. McCourt said the City's Comprehensive Plan did show an extension of Scenic across U.S. 54 and continuing to the west. That portion of the Plan was done several years ago before the Relief Route was constructed. Given the current situation, it appeared to him that it was unlikely we would be extending Scenic across the railroad tracks and continuing to the west at that particular location. We did have a crossing immediately north of there where the Relief Route came back into 70 and 54 and where 82 continued up. We had a crossing planned south of there at Fairgrounds Road, another crossing planned south of there at Indian Wells, one currently at Tenth, one at First, and then one at the southern end of the Relief Route. So it did seem as though there was a good reason not to follow the planning document we had, which was the Comprehensive Traffic Plan for the City, and require that right-of-way be dedicated. He did understand that Mr. Shyne was planning on building an entrance into the property at that location regardless, which would seem to be a wise decision since there would be a stop light for access on and off. Staff did have a concern that we needed an east-west easement for sewer and water purposes across the property. That was currently not shown on the plat. He understood that Mr. Shyne was receptive to granting that east-west 30 foot easement, and that would be proposed to be granted on the southern end of the subdivision. He believed Mr. Shyne and his engineer were present tonight.

Commissioner Robertson said if we did hold Mr. Shyne to the road going through there, we needed to remind him that the Bypass was a no access highway. In other words, if we did put the road across there, we couldn't connect to the Bypass, so it was kind of useless. Mr. McCourt said we would actually have to take it down to Mesa Verde Road where there was an access point onto the Relief Route.

Mr. Charles Herrell said he didn't think the Fairgrounds Road exit was anywhere close to being approved by the Feds, the State, or anybody else. He didn't know where they would get across the railroad tracks. You couldn't go through the middle of the Mall. Mayor Carroll said for the Fairgrounds Road, whether that whole project got approved, was a different issue. There was already a connection, or an off-ramp there. Mr. Herrell said there was an off ramp, but there

was no connection. It was no further to the railroad track from the off ramp than it was from Scenic over to the off ramp. The City had been approached before many times about extending Scenic on over to the Bypass. The State had wanted to do it. Mayor Carroll said no, that we had requested that the State do it when they were doing the Relief Route, and they said no. Mr. Herrell said they didn't do any crossroads. Mayor Carroll said no—access to the Relief Route from Scenic, and they said no. Mr. Herrell said that wasn't what he was told, and he didn't think the City had all of its ducks in a row on the Fairgrounds improvement by a long shot. Mayor Carroll said there was no guarantee. Mr. Herrell said go ahead and get the easement now because the City was going to need one.

Mr. Shyne said today he'd met with Paul Light, who was working with Livingston & Associates, and dictated a letter to the City, stating that he would give the 20 foot water and sewer easement along that far south end of the property adjacent to the existing 10 foot easement the City now had on the north end of the shopping center property, for a total of 30 feet. The City would be receiving that letter in a couple of days, and he was in agreement with that.

**Commissioner Cole moved for approval (to approve the preliminary and final plat of MARKET PLACE SUBDIVISION, Case S-05-0873(A), located within the City of Alamogordo with the requirement that dedication of right-of-way for Scenic Drive and a sewer easement be provided). Seconded by Commissioner Moncada.**

Mayor Carroll asked if that motion was with the dedication? Commissioner Cole said yes, the letter was coming. Mayor Carroll said no—Mr. Shyne had indicated that he did not want to dedicate right-of-way for Scenic Drive, and the City Manager had indicated that even though the Comprehensive Plan showed a connection, that it was probably not going to be very practical to do that. It looked to him like where that would connect, would be as the overpass on the Relief Route started up the grade, that it would connect in there somewhere. Commissioner Cole said he'd mixed the two issues up. He thought when Mr. Shyne was speaking, that the letter would make that dedication. Mayor Carroll said it was the dedication of the 30' wide easement for water and sewer. Commissioner Cole thought that was what we were asking for. Mr. McCourt said we did want a 30 foot easement, and as Mr. Shyne had pointed out, there was already ten feet on one side of the property line and he was providing the 20 feet on the other side of the line to get us that total 30 foot water and sewer easement through there. Commissioner Cole asked if there was some reason why that wasn't sufficient? Mr. McCourt said the 30 feet was sufficient—if the ten feet was there, then the additional 20 feet was sufficient for our needs.

**Commissioner Cole amended his motion for approval (to approve the preliminary and final plat of MARKET PLACE SUBDIVISION, Case S-05-0873(A), located within the City of Alamogordo with the dedication of the 30 foot easement to the City for a water and sewer line). Seconded by Commissioner Moncada.**

Commissioner Cole said he wanted to clarify that this was the recommendation from the City Manager. Mr. McCourt said yes.

Mayor Carroll called for the vote on the motion. **All voted "aye". The motion carried by a vote of 6-0-0.**

### **ORDINANCES AND RESOLUTIONS:**

3. Ordinance No. 1236 establishing fees for Commercial Plan Review.

*Recommendation:* Approve the Ordinance for first publication.

Mr. McCourt said Code Administrator Pat Vandergriff could not be present tonight due to illness. This was a proposal to try and cost out our services fairly so that the other users of the service didn't pay disproportionately. As mentioned in the Agenda Report, it took many more hours and much more time to do a review of a commercial development than the residential type. So this proposal was to amend the Ordinance, which was highlighted on page 2 of the Ordinance, that all commercial projects be assessed a plan review fee equal to 50 percent of the amount of the permit fee as determined by this section. The permit fee varied depending on the valuation of the improvements that would be built. So this amount would be 50 percent of whatever that turned out to be. On a million dollar piece of property that was being built, the plan fee would be approximately \$2,000.

Commissioner Cole asked if those things were set by Code, or were they adjustable? Mr. McCourt said the plan fees were adopted as a percent of the value of the improvement that was being constructed. It was incorporated into our City Code in that manner.

Commissioner Robertson asked if they came up with these figures by estimated total cost of the building? Mr. McCourt said yes. Commissioner Robertson said they were having to pay a higher price than a house anyway. So if they were getting a lot more already for this because of the value of the property, then why were we wanting to raise it? They were already getting a lot more for this permit than we got on a house. Mr. McCourt said he had not spoken specifically with Mr. Vandergriff, but he understood there was a great deal more complexity. As he had indicated in his report, it could take as much as 80 times the number of man hours because of their requirements for commercial buildings, in looking at the fire requirements, etc. Therefore, it was much more complex than doing residential structures. Community Development Director Brian McGuire said the fees we collected for a structure were to cover the cost of the inspections and those parts of the service which the City provided. So that increased amount of money did in fact pay for the multiple times that we had to inspect a commercial building. A good example was the medical buildings which had just been built. The complexity of the mechanical and plumbing inside a medical facility was quite complex, so our people spent a lot of time up there. That was where the increased fee would go. We had found that it was just out of balance when it came to plan review. A plan review for an ordinary home was much less complex than having to go through a stack of plans that might be 50 or 60 pages thick and which had plumbing, electrical, framing, drainage, etc. So we were just trying to have the commensurate fees with the services provided. They were paying an increased fee already based on the value, but that covered the inspections and we felt the plan review was out of balance.

Commissioner Ledford said if there was a residence valued at \$200,000 and a commercial property valued at \$200,000, wouldn't the plan fee be the same? Mr. McGuire said yes. Commissioner Ledford clarified that the reason we wanted more was because a commercial property was worth more. Mr. McGuire said that was correct. Commissioner Ledford clarified that it was not more, but was the same as a residence. What he was saying was that we wanted to raise it 150 percent of what we were already doing to do commercial property because it took more time to do the same inspections than it did on a residential property of the same value. Mr. McGuire said that was correct.

**Commissioner Cole moved to approve the Ordinance for first publication. Seconded by Commissioner Cooper. All voted "aye". The motion carried by a vote of 6-0-0.**

4. Ordinance No. 1240 amending and re-codifying portions of Chapters 8, 14, and 15 of the Code of Ordinances dealing with the Code Enforcement Official.

*Recommendation:* Approve the Ordinance for first publication.

Mayor Carroll said this was basically the same item and information which was before us at our Special Meeting of April 5<sup>th</sup>, and we directed staff to proceed with transferring Code Enforcement to the Department of Public Safety and to make the necessary budget adjustments for next year's budget to accommodate the costs. Mr. McCourt said this was a direct result of the Special Meeting which was held last week.

Commissioner Ledford said he'd received several calls on this because a lot of people thought we were going to have Police Officers running around enforcing these issues. If the Chief would explain who exactly would be enforcing this. DPS Chief Sam Trujillo said basically we were going to hire two Code Enforcement Officers that would be the equivalent of our Animal Control Officers. They would be a special division assigned to handle these specific Code complaints. Commissioner Ledford asked what kind of training they would have? Chief Trujillo said they would have about two weeks' of in-house training we would put them through, involving the laws, rules, regulations, report writing skills, how to research property owners, and things of that nature. Commissioner Ledford clarified they would not be Police Officers out of the Academy carrying side arms, weapons, teargas and all that. Chief Trujillo said these Officers would be like the Animal Control Officers, where they would have the authority to issue Code complaints and citations, but they would not be armed and they would not be trained as Police Officers.

**Commissioner Cooper moved that we approve Ordinance 1240 amending and re-codifying portions of Chapters 8, 14, and 15 of the Code of Ordinances dealing with the Code Enforcement Official (for first publication). Seconded by Commissioner Robertson.**

Commissioner Cole asked if these two people would be new City staff? Mr. McCourt said yes. Commissioner Cole asked if they would have City vehicles? Mayor Carroll said yes. Commissioner Cole asked if they would work a normal day, but would be on call if someone had a question in that area? Mr. McCourt said they would have normal shifts. They would have differing ten-hour shifts so that they could cover the weekends and have an overlap in the middle of the week. We would have a non-call as we did now if some dangerous situation arose where we could get a response through the Police Department, just as we did now. These specific folks could potentially be called out if there was a need, but normally they would not be called out as they didn't normally face emergency-type situations. Commissioner Cole asked if the City Police already had the authority to do this type of Code enforcement if necessary? Mr. McCourt said the Police could enforce all of the City Codes. The question was the most efficient and cost effective way to accomplish the enforcement of them. The City Police Officers were much more highly trained individuals, and therefore, pulling them away from their other duties to do this was not felt to be cost effective, whereas we could train other individuals and have this taken care of at a lower cost. Commissioner Cole recommended that some of this information be included in the "City Profile" in its next issue.

Ms. Nola Jones, citizen, said part of South Scenic Drive was in the City and part was in the County. Was this just for City weeds and things like that? Mayor Carroll said yes, as we had no enforcement capability outside the City limits. Ms. Jones asked who would clean up Scenic Drive for the City? Mayor Carroll said the City would be responsible or the property owners. Ms. Jones said she was talking about the dividing area in Scenic. Mayor Carroll said the County was responsible for what was in the County, and the City was responsible for what was

in the City. Ms. Jones said on Canyon Road there was much of the same situation. Where those trucks were carrying the dirt out through there, Canyon Road was really dirty and there was a lot of mud. Who cleaned that up? Mayor Carroll said on the City portion of it, we could get our street sweeper out there. Mr. McCourt said we would also work with the contractor on it. Ms. Jones said they were now going down Ocotillo Road and it was terrible. Mayor Carroll said it was the same situation, and the contractor was responsible for repairing the damage he might have done, and to clean it up when they were through. At that point the City would take the street sweeper down to get the dust off. Ms. Jones clarified that if the County didn't have to do this, then it was the City and the contractor. Mayor Carroll said for that portion of it.

Mr. Fred Flores said when these personnel came to inspect someone's property, did they have the authority to come in at will, or would they notify the property owner? Mayor Carroll said there was really nothing being changed as far as the responsibilities of the property owners to maintain their property. All we were doing was shifting the enforcement of that from one department to another, and in essence hopefully we would have more attention paid to it and more enforcement. He understood that initially they would be responding mostly to complaints about weed problems, junk autos, and those sorts of things. If they saw some obvious violations, then of course they would contact the property owner and inform them of their requirement to maintain the property, whether it be cutting the weeds or removing obstructions from the sidewalks and those sorts of things. Mr. Flores asked if they would notify the owner whenever they were there to do an inspection? Mayor Carroll said they would make every attempt to make personal contact with the property owner. Mr. Flores said if nobody was at the residence, would they just go ahead and do whatever they wanted? Mayor Carroll said no, they would leave a notice at the property indicating there was a condition which was in violation and that action needed to be taken to remedy it. Mr. McCourt said they were not going to enter any buildings. Mr. Flores asked about entering the property? Mr. McCourt said usually they could visually see the property from the boundaries, so there would not normally be a reason for them to enter. Mr. Flores asked if that was in the Ordinance? Mr. McCourt said yes. There was no change in the Ordinances. We were clarifying and renaming some of the individuals that could do the enforcement. In fact, one of the requirements was being eased up, on the height of the weeds, from four to six inches. Mayor Carroll said if they had to go up to the door, obviously they would be entering onto private property, but that would be to either contact the property owner or leave some sort of a notice.

Chief Trujillo said basically when the Code Enforcement Officers received a complaint, they would go to the location. If there was a violation, they would try to contact the property owner or whoever was in charge of the property. They would serve them notice that they were in violation and that they needed to get the property cleaned up within ten days. If the property was not cleaned up in ten days, then the Officer would return and issue a citation to the individual to appear in court. If they were unable to contact the property owner, i.e., a vacant lot, then they would post the notice and then they would mail a letter to the property owner of record. If the notice returned, then they would get the property abated at the cost to the property owner. Commissioner Robertson asked if they would go as far as going to the Court House to get an address on the proper owner of a property? Chief Trujillo said yes. They were planning to do property research at the Court House to identify the property owner and their mailing address. Then they would post a notice on the property, and then we would send a notice to the property owner. At that point, they would have the ability to get the property cleaned up and we really didn't have any other dealings with them. If they did not get the property cleaned up, then we would seek abatement of the property at the cost of the property owner.

Mayor Carroll called for the vote on the motion. **All voted “aye”. The motion carried by a vote of 6-0-0.**

5. Resolution No. 2005-07 ratifying Airport rules and regulations under Section 4-03-010(c) of the Code of Ordinances. [Tabled at the February 8, 2005 Meeting]

*Recommendation:* Due to ongoing review of the Airport Advisory Board’s recommendations, request the item remain on the table until review is completed.

**Commissioner Cole moved to table the item until the review was completed. Seconded by Commissioner Cooper. All voted “aye”. The motion carried by a vote of 6-0-0.**

#### **OTHER BUSINESS:**

7. Discussion regarding Ordinance Nos. 1208 and 1210 relating to ancillary charges.

*Recommendation:* Take no action.

Mayor Carroll said this had to do with the decisions the City Commission made regarding standby charges for water and the cost to either remove or reconnect to the system.

Commissioner Robertson said he’d asked to have this put on the agenda because of two or three individuals who’d had water disconnected several years ago, and one of them even had to go back and pay four years’ worth of disconnect fees. Since then, he’d had six different people approach him, and they were “snowbirds” who were here five or six months out of the year. Most of them owned homes here, and before they could pay a small rate to have the water disconnected, and then a small rate to have it reconnected when they came back. Now they were having to pay these bills all the way through, or to pay two years’ worth of fees to disconnect. He didn’t think that was right, and he felt it needed to be redone by staff and changed. He could understand a rent house falling under this, but not for these people. When this was first brought up, we might have talked about people that had these meters turned off years ago, but technically they still owed the two years’ turnoff fee. He didn’t believe that was fair or right to any of our citizens. We were not here to punish them for being on the water system for years, but we were supposed to be here to be fair about this.

Mayor Carroll felt we had addressed a couple of those issues. The idea of the monthly standby charge for part time residents was part of the rationale in trying to recover the cost to the rest of the taxpayers for providing the ability of that service. In essence, we were attempting to encourage to stay connected to the system and not disconnect, but not at no charge for half the year. Commissioner Robertson said even if we had a small charge instead of the full rates for sewer and garbage and water, because there was no one there to use those services. He’d gone out with some of these meter readers, and it didn’t take them but a second to read those meters. Mayor Carroll said it was not just the time it took to read the meter, but it was the cost of the system that needed to be recovered. Commissioner Robertson said when we had the big discussion when Mrs. Clark was here, it was pointed out that the meter readers still had to read the meter. Well, it didn’t take but a fraction of a second to do that.

Mr. McCourt said the water and sewer system had a large fixed cost of operation, being in bonds which had to be paid, in basic electrical cost, the operation of the water treatment plant, and operation of the sewer treatment plant. Those costs didn’t vary tremendously based upon the volumes which went in. There were constant costs that had to be paid, and normally the

fixed component was designed to cover those costs. Everybody that was hooked up to the system had the benefit of those standby services, those fire hydrants being there, the water mains being there, the water production plant being there, the reservoirs and wells being there, and the service being available when they needed it. The same was true of the sewer systems and the lines being available to them. Those were all fixed costs of the system. That was the discussion we'd had. We also did discuss that there was servicing of the accounts which had to take place. As long as they were an active part of the system, we serviced the accounts. We had to read the meters whether there was somebody there or not because a leak may occur and there could be water leaking in the house when nobody was there. When we detected that situation, we would shut off the water system. We monitored all of the accounts. This was an attempt to fairly distribute the cost to all of those people who were receiving the benefits from having the water and sewer systems available to them. The same argument Commissioner Robertson was making could be extended to say, why not make all of it a variable cost system? The answer was because some people used different amounts. So a low water user was penalized by having to pay the same fixed fee as a high water user. The fixed fees were intended to cover the basic cost of having the system there and available for use 365 days per year, 24 hours per day. The water and sewer system was a closed system. No money was taken from the water and sewer system and used to fix roads, to pay police, or to take care of the parks. Every penny of that money was kept within the water and sewer system and used solely for it. There was no "profit". One way or another, the cost of operating that system had to be distributed to all of the users. When this recommendation came in, it was put forth that there were people receiving a benefit from having a connection to the system and who weren't paying their fair share, and there were other people who were here year around and they were having to pay that for the part time users. Therefore, this was proposed as a method to address that.

Commissioner Robertson said it was proposed to do that, but it wasn't proposed to go back and charge these people that had been disconnected from that meter for years, and to go back and charge them for disconnecting from it now. There was a play on words because seven years ago they used the term "disconnected", but they were actually disconnecting now. It was not right. He realized in going over the budget that we were in a money-losing business. We were out here trying to lose money, and he realized we were trying to get the water on at least a breakeven basis. But we couldn't penalize our citizens for doing what they thought was right. When these snowbirds disconnected, they totally disconnected so there wouldn't be any water leaking in their house. They paid the disconnect and paid to have it connected back up. Mayor Carroll said we were talking about a change in terminology—Commissioner Robertson was still using the term "disconnect", but now what he was really saying was that they shut the water off at the meter. They did not disconnect from the system. That was part of the confusion the last time—the terminology that was used. "Disconnect" was not the same now as turning off the service to the house. When we used the term "disconnect", we were talking about physically removing the connection between the City's water line and the property owner's. Commissioner Robertson said the snowbirds did physically disconnect the meter from their line, and that way there was no way they could be turned back on into their house. Mr. Armando Ortega, Utility Billing Supervisor, said when a snowbird came in to final their account out and be put on base rates, the water was turned off at the curb stop only and the meter remained in the ground. Commissioner Robertson said it was disconnected. Mr. Ortega said no. Disconnecting meant taking the meter and yoke out.

Mr. McCourt said after the Ordinance was adopted, letters were sent out to every property owner indicating that the policy had changed, and they were given a period of time to indicate if they no longer wished to be connected to the system that they could exercise that option at no cost to them. Some people did take that time and responded to the letter and to staff and were

disconnected from the system at that time. Other people chose not to respond, and if they did not, the billing then started for those individuals. So everybody did get a notification of the change of the policy. Mayor Carroll said there were a number of communities that charged a standby fee, whether you ever had a meter hooked to your property or not. Just the fact that you had a water line running in front of your property... Commissioner Robertson said we weren't set up that way. Mayor Carroll said correct, but we were saying that if someone had a meter hooked to the system, then they would be responsible for a basic charge whether they used the service or not.

8. Discussion regarding the Alamogordo Public Library.

*Recommendation:* Provide direction to City staff.

Mayor Carroll said he wanted to take a moment to recognize our Acting Library Director, Mannie Salgado. She was recently recognized as one of twelve "Women of Merit" by the *Alamogordo Daily News* and Runnels Broadcasting, and we congratulated her on the award.

Mayor Carroll said he'd asked to have this item placed on the agenda. There were proponents of the Library bond who were still eager to see a new Library built and wanted an opportunity to present a case to the Commission as to why the City should continue to hold onto the property and possibly try again at some point in time for either another bond or some other financing method.

Mr. Allen Stenger said he was standing in for Jim Gallagher who was the head of the Library Board. Also present were Michael Smith and Anita Raynor, who were two members of the Library Board.

Mr. Stenger read the following comments into the record: "We've known for some years that the current Library building is running out of space. On March 15<sup>th</sup> the City asked the voters if they wanted to issue \$6 million in property tax bonds for a new Library building. The voters said no. The comments we received on the water bill surveys indicated that the opponents were nearly all opposed to tax increases, but hardly anyone was opposed to the new Library building. The opposition (inaudible), but had little to say about the Library itself. The building was still running out of space and sooner or later we would have to do something. We already had the ideal location for a new Library in the form of the old IGA land that has been donated to the City. It has plenty of room, a prime location on Tenth Street, it is next to two existing City buildings. Putting a new Library there will help us form a City center which we do not have today. Alamogordo already has a wonderful Library with an outstanding collection, knowledgeable and helpful staff, and a central location. The only thing wrong with it is that it is located in a building that is too small for it. There are a wide variety of sources for funding Library buildings other than property taxes. Alamogordo Public Library Foundation was created last year to raise money for the Library and so far has collected \$25,000. If we give up this land, we will never have a location that is nearly as good as this. We ask that you keep possession of the IGA land for the day when we have raised enough money to build our new Library. Thank you".

Commissioner Cooper said they kept stating that this land was so precious. He'd been going over a list of property that the City had that we could use almost anywhere in the City. He didn't know what made this piece of property over here so valuable. Mr. Stenger said it was the location. It was located right in the center of the City and was next to two other City buildings. Commissioner Cooper said the first Library was located on Tenth Street down around Indiana Avenue, which at that point was the center of town. This location was not the center of town.

Mr. Stenger said we didn't really have a center area today. He felt we could make City Hall and the Library the center of the town. Commissioner Cooper said he didn't believe so.

Commissioner Cole thought in good faith, the Commission held an election for the Library. It was defeated. He thought that answered the question completely, as it was decisively defeated. He would not support the continuation of maintaining that building under the City's financial obligations. He felt we had allowed the people to vote, they voted "no", and consequently he would not support the request that was being presented this evening. He had no other reason not to support it, but he just would not because the people had voted on it and they said no, and he respected that. He knew there was a minority, but the majority won the election, so he would not support that this evening. Mr. Stenger pointed out that the election was for a bond and not for a Library. Commissioner Cole disagreed with that statement. The election was for a Library which included that building. Therefore, he would not support it and he didn't think Mr. Stenger's statement was good reasoning.

**Commissioner Cole moved to return the property to the owner, and that it be put back on the tax roles as soon as possible. Seconded by Commissioner Cooper.**

Ms. Maude Rathgeber, citizen, said when the City talked about this Library issue four years ago, it was about Mr. Shyne and part of a Trust Agreement allowing some money from an elderly lady and that money be designated to the Library upon her death. That night she had asked a two point question. She pointed out that the Commission was not giving a dollar sign for this Library, and she thought \$3 or \$4 million was a great amount. The other question was that the City was not giving the people a name for that Library. That question remained in her mind. She did read one proposal which had come out of City Hall, she guessed unlawfully, but she read it and it talked about giving the IGA property to the City and the name. Then when the Commissioners had this proposal come up in their agenda books and she'd borrowed the agenda book from her Commissioner, Mr. Cole, and she had read it, it was not the same proposal that she had read from City Hall. Now since this Library bond had failed, she and her husband had talked about this and wondered what the agreement was that the City had on this IGA property. She appreciated what Mr. Cole had said, and she stood with him that we return this property to the owner and put it back on the tax roles, because the tax on that building and property was exorbitant. The last tax paid on that property before it became nontaxable by the City, was \$18,065 for one year. That was a great amount of money, and if we had that money put away some other way to add to the present Library, we would be better off. Her husband had come to City Hall and asked for a copy of the Agreement which the City had proposed or supposedly agreed to on the Library property. During the campaign for the Library bond, a number of people talked about this and had talked to her about the IGA property. That was one of the issues which had defeated the bond, because a lot of people were reluctant about the IGA property, what it meant, what the cost was, and what actually the City was going to do with it. So her husband came to City Hall and asked for the document which had been drawn up in the agreement, which she felt most of the Commissioners had not read. Four days later when her husband came back to City Hall to pick up the document when he was notified it was ready, a number of names on the document were marked out with a magic marker. They'd looked the document over a great deal, and it did not tell them what the name was to be on the Library. That was one of the other issues in this campaign—what was the Library going to be named? They were very concerned about why the City management did not want them to see the name of the donor who apparently was going to donate a half million dollars to the Library. A half million dollars was a lot of money, but you needed to consider we were going to the property owners and asking them to fund a \$6 million new Library and those property owners would have to pay that property tax for at least twenty years until 2025 or 2026. So a half million dollar

donation was not as great as some people thought it to be. When they read the document from City Hall with all the names marked out, their interest was peaked. Why was it that we were not being told the truth in a sense about this matter? Why were some people in City government tip-toeing around the issue of the name that was to go on the Library. So they noticed a number on the top of the document, which meant that document was registered in the Court House and was available. Her husband had paid \$5.00 for the document he'd received from City Hall, when he went to the Court House and got the companion document that had no names marked out, he paid 15 cents per page, or 45 cents for the document. She had a copy for each of the Commissioners that she wanted them to look over. She had a copy for the press, and a copy for Allen Stenger. She also wanted to make one point from this document as to how the Library was going to be named, and it was not going to be the "Alamogordo Public Library".

Ms. Rathgeber said when Mayor Carroll came to the Friends of the Library meeting some three or four years ago and told them to go ahead and kick off the campaign for the Library bond, she asked him if the intent was to name this building for the lady who was supposed to be a donor. Mayor Carroll had told her the City would name the building for the lady, but it would still be the "Alamogordo Public Library". At that time she thought we could put a little brass plaque by the door, maybe 12 inches by 24 inches, that said "This Library donated by Esther Sheldon", and that would take care of it. But in this document she had given them, she wanted them to notice one item particularly about the name. She hoped they read the rest of the items because you wonder where that \$500,000 was going, who it belonged to, or what was going to happen. Item No. 8 stated that "The City of Alamogordo agrees to name this Public Library the 'E.H. Sheldon Library' or the 'E.H. Sheldon Public Library', and to so dedicate the building upon its completion". That was the name that was going to be on the Library, and not the "Alamogordo Public Library". It also said, "The City of Alamogordo further commits to the dedicated name that the name shall continue to be used as the public name for this property and shall be so marked that it can be readable from Tenth Street by passersby". She asked Commissioner Robertson if he knew that was what had been agreed to? Had the bond passed and the Library built, we would have been puzzled to find a name on the Library that we did not know. Why couldn't we call it the Alamogordo Public Library? Mayor Carroll said that was the name that would have been put on the Library. It would be the "Alamogordo Public Library". Ms. Rathgeber said that was not what the document stated. Mayor Carroll said he understood what the document said, but in conversation with representatives of the donor, the agreement was that it would be the "Alamogordo Public Library", the donor's name would in fact appear on the building, but it would be the "Alamogordo Public Library". He wished to also clarify why the name was redacted out—because we were trying to honor the request of the donor to maintain their anonymity until such time as she died. He was sorry that it had come out. Ms. Rathgeber said this was the name of the gentleman—Evan H. Sheldon. Mayor Carroll said he knew the name. Ms. Rathgeber said there had been no public record that this had been changed. This was in the document. As you read the document, you wondered about the half million dollars and how it was shuffled around, and was it still City money because it was given in the name of the gentleman in this record. When she talked to people, and her phone rang quite often before the election, most of the people were listening to the message about the taxes that would be imposed on their property, and they were not happy with that. The second item they were concerned about was the IGA property. There was a question in their minds, and they wanted to get the City out of the business of holding that property. The third item, which she thought was interesting and which they should look forward to now and with her having been a worker and a proponent of this Public Library for many years, was that we could add to the present Library and not go to the costs that the City had tried to encumber in this bond election. The Library could be added to toward the south. She'd talked recently with the Architect who had designed the current Library and who had made the addition to the Library, and he said, "Oh, I

wish I could come to Alamogordo and add to your Library. I know exactly what can be done". Her proposal and her suggestion to each of them, and she knew Commissioner Ledford dealt with money and taxes, was that we set aside some way that we can save money toward adding to this present Library without going to the voters with a large bond first and that we make some plans. If we had a half million dollars from the gentleman or from this elderly lady, then save it in a Library fund for the City. If there was a half million dollars as we read in Mayor Pro-Tem Griggs's article in Sunday's paper, which he stated the City had, then let's also put that away and save it towards the Library for the next few years. The cost the City paid to the Architect was \$175,000. That should be money which should be saved in the future. The cost for the election was \$15,000 to \$20,000. Her proposal was to lay aside the IGA property and not inundate out people or put that encumbrance on our people again. Let's save what we can toward adding to the present Library. You could go south on the Library, extend the Children's Room and make it larger, add some work rooms and some storage room, and if necessary, go to an upper story. She proposed that the upper story be the meeting room or multi-purpose room, and on that room they could put the name of "Mr. E. H. Sheldon" on the wall and name one big room in the Library for this gentleman. That way we couldn't break the total trust we had for the Library. She felt we had a lot of thinking to do, a lot of work to do, and we must take into consideration the citizens in this City who had to pay for this, and not fork another \$6 million bond on them because they had answered the Commission very, very plainly.

Ms. Bev Eckman-Onyskow said she wanted it very clearly on record that she was not a snowbird. She and her husband bought a house here a year to a year and a half ago, and one of the first things they did was get Library cards. They'd moved here permanently last October and she got on the Library Building Committee and obviously she was a Library proponent. There seemed to be a lot of concern and fuzziness about this question on the name for the Library. She thought if there was some question with the documentation, then clearer documentation should be drawn up to get rid of that fuzziness and to make it very clear that the name of any new Library would be the "Alamogordo Public Library" and that if a donor certificate were put on that it would be a separate thing. She knew a little bit about it because she was President of the Lennox Township Library Board in New Haven, Michigan for twelve years, and under her direction they had added a huge addition to that Library. Those Board members were elected and not appointed, so they had to run in the General Election on a non-partisan ticket every four years. Her daughter had succeeded her, and she was now the President of the Lennox Township Library Board. She did know a little bit about Libraries, having dealt with the problems of hiring, firing, personnel problems, problems with patrons and clients, etc. She thought that the main question should be laid to rest by getting legal documentation on exactly what the name should be. She was a big fan of Tony Hillerman and Georgia O'Keefe and they were both noble New Mexico residents, so she could make a case that would be a great name for a Library. So she felt the name thing should be laid to rest. She knew there was a lot of feeling for making the whole thing go away. She would suggest that the Commission not do something which would be irretrievable. We'd already lost many thousands of dollars in Grants, so she would suggest holding onto the land and to consider the \$18,000 in taxes as an investment in the future. She believed it was too soon to make an irretrievable decision. This was a very acrimonious campaign. She recalled one of the Commissioners making a statement at a post-election get together that the opposition played loose with the truth. It was a very acrimonious campaign and the opponents of the Library were in her opinion the leaders in the acrimony. However, put that away. It hadn't even been a month since the election. She felt it would serve the future better to let this rest a little while. The \$18,000 in taxes wasn't going to bankrupt the City in a couple of months. Let it rest awhile, let everything calm down, and then take a sincere unbiased look at what alternatives there were, and go from there.

Mr. Michael Shyne said he'd like to bring a few points to consideration that were very, very important. He knew the Commissioners were all elected to make decisions for the citizens. There were times when the Commission had to make difficult decisions that were not popular. He realized that statement could work for or against every one of us in this room. But the Commission had to make difficult decisions, and when they learned more information, they may change their reasoning and come to a different conclusion at that moment. They had to have the courage to step forward to the people they told something different to, and let them know they had not been informed of this information and therefore had to change their mind. He would like to address this name issue. There was a 94 year old lady who was laying on her probable death bed who deserved, chose, and wished to be anonymous, and that was the reason why that name was asked to be kept quiet. He felt when somebody was willing to make a contribution of this magnitude, such respect should be granted. The City staff worked very hard to honor that lady's wish, and someone in this room chose not to. He felt that was disgraceful. It was very easy to look at this situation and to ask why we were naming a building after someone we didn't know. If anyone had lived here for 10, 20, 30, or 40 years and had made their whole life and career here and they had donated money to this town for some philanthropic purpose to improve the quality of life and living of all the citizens here, it was a big deal. But this was where they'd lived all their life and where they had their friends, their kids' friends, etc. But when someone from another state half way across the country who spent their entire lifetime working to make money amassed a sizable amount of money, \$1 million, and came to Alamogordo and they were willing to contribute the remainder of their estate to a City for the benefit of citizens they didn't even know, he felt was a much greater philanthropic act than the act that any of us in this room would make to benefit our town. How many times had someone donated \$1 million in this town for the benefit of the community? It had never happened before. But let's think about demographics. We all knew that more and more couples were having fewer and fewer children. We were facing the time when for the next 40 or 50 years there were going to be a sizable number of people retiring and moving to retirement communities, and our community would be one. A lot of those people would come here with a lot of money in a bank account and no children. Every major City had grown and improved the quality of life by philanthropic acts on the part of wealthy citizens willing to make such contributions to the entire population—whether somebody was white or black, Republican or Democrat, Anglo or Hispanic. Alamogordo hadn't experienced that. This was a poor state and there were not a lot of people with a lot of money. But people would be and had moved here with substantial money and no heirs, and when they could have an example—they could drive up Tenth Street and see a name, the "E.H. Sheldon Building", it was an example of philanthropy which would spurn more philanthropy. This was very important. Scourging the one example was like shooting ourselves in the leg because we were tired of our sock. We needed to start thinking differently, and he urged the Commission to start thinking differently. The Commission was entrusted to make difficult decisions. They needed to amass the facts and think very clearly. He was not happy about some of the things he heard from time to time about the way decisions were made. The Commission needed to evaluate the facts and make decisions on facts. That election was an election based on the new Library being paid for by the citizens owning property within the City limits even though the benefit of the Library extended to the citizens outside the City limits. That was what was being voted on, and not the Library. The means of financing was unacceptable to the majority of the voters who voted in this election. That was not a vote against a Library, but was a vote against exactly what the bond said. If the bond said something different, then people may have voted different. You had to read the bond and decide what was the conclusion of the voters. You did not have a right to your own facts, but only a right to your own opinion. The facts were facts.

Mr. Shyne said the magnitude of this asset, \$1.6 million which was what the property was appraised for, plus about \$125,000 for the extra property the Ruckman's were donating, plus the other \$500,000 that would come from the Sheldon Estate, made for a total of over \$2 million. There had never been a \$2 million donation in this town. But when you got to control a \$1.6 million asset for 1 percent, say \$16,000 per year, that was the best investment that any real estate investor could ever make. The Commission needed to make decisions based on financial logic and not on emotion. He was asking the Commission to keep that property and look for other ways. Someday we would need another Library. If they looked to expand the existing Library to the south, that was a great idea, but only if you closed Ninth Street and had access to the City parking lot. But the City wasn't going to do that, and there was no parking for the existing Library. That idea wouldn't work. When people came to apply for a building to parking ratio, the Commissioners had all said at certain times that it wasn't enough parking, and yet here they were considering the possibility of violating their own tenant. Hypocrisy was unacceptable in this case. The plan which was given to the Commission was excellent, but the financing was not. There were better ways, and he asked the Commission to keep that property because it cost the City virtually nothing and they had lots of time. There was five years after the last to die to do something with this property. In the meantime, the City could convert that property to any income-producing property they could think of, and the City would get the income. Indeed he and the Mayor needed to take the blame for this name issue, because the Mayor came to him and asked if this building could be called the "E.H. Sheldon Building", but the Library continue to be called the "Alamogordo Public Library". He had said yes, but they had not put it in writing. However, it could be put in writing at anytime. That was agreed upon in the past after this document was recorded, and they felt it was done. The Commission had to make a difficult decision, and he trusted they would use reason.

Mr. Charles Herrell thought the Commission was already making the right decision. This publicity about that naming and this and that and the other, it was the wrong time to do it anyway. He'd been recalled from the Commission because they'd tried to get a diversion ditch around town. They'd voted on it three times, and the people finally voted the Commissioners out. He was speaking for the City of Alamogordo, and it was a majority vote, that we don't need a Library at this time.

Mr. Howard Barkley said he didn't care what we called the new Library if we got one. The modern method done by all the big cities on ball parks, sports parks, etc., was that the highest donation got their name on it. We were turning down \$2 million. He happened to be a fan of the Library. He used it and he would like to see us have a good Library. Beyond that, he had a personal problem with the way this Council broke up the money when they refinanced for the betterment of life as Mayor Pro-Tem Griggs described in the Sunday paper. In there it stated that the City put in \$2.5 million for a Golf Course Clubhouse with no voting for the public, and a half million for the Library if the bond passed. He was suggesting that a \$2.5 million Clubhouse at a Municipal Golf Course should be better to be voted on by the City because it was totally out of line with a Municipal Golf Course. He was a member of this Golf Course and he played at it. It was a good course, but was not a championship course. \$2.5 million was not going to bring a nickel's worth of revenue to this City, but that money could be applied to the Library and we could have a fine facility. The way we were growing, every vacant lot was getting a house on it. That said that we needed to get our Library up equal to what this town was going to need as it grew.

Mr. Ron Whitely said he'd lived here for 35 years, and he was going to rise in opposition to this Library. The Golf Course budget was approximately \$250,000 per year, and it brought in revenue. The Library was approximately \$850,000 per year and he didn't know how much

revenue it did, but he would submit right now that he would vote for the Library if Mr. Barkley would pay \$1,025 per year to belong to it. Up to this point how much money, including the cost of the Library, security, election costs, and architectural costs, had the City spent on this Library? Mayor Carroll said he suspected it was probably in the neighborhood of \$125,000 or \$130,000. Mr. Whitely said he had nothing against anyone trying to push the Library—they believed in what they were doing and he applauded them for that. He didn't applaud anyone trying to accuse Mr. McCourt of malfeasance, and he was one of the guys who had that big sign with the big letters, and he wasn't making a dime off of it. He didn't believe that thing should be circulated in this audience. He didn't think there was any reason to go back and renew what we'd just done. We had a vote and it didn't carry—not one precinct carried that election. Why were we revisiting it? It had been said and done.

Mayor Carroll said there had been a number of things said about the money we had wasted with the Architect. He didn't remember exactly when, but we had contracted with an Architect to look at the needs of a Library and to make recommendations for three options, to add onto the existing Library, to utilize the existing IGA building by remodeling, or to tear down the IGA building and build a new one. The opposition wasn't there in investigating and proceeding with that—the opposition came when we made a decision of the three that wasn't in agreement with what some people wanted to see done. So he didn't believe the money was wasted because we explored the option of remodeling and adding onto the old Library. The decision was made that while it was the cheapest option, it was not the most cost effective in the long run. Also, it wouldn't have made any difference if we'd have picked that option, because we would have still had to have a bond election to pay for it as the City did not have a funding mechanism to handle it other than a bond issue.

Mr. Michael Smith said he was a member of the Library Board. He'd lived in Alamogordo 48 years and he remembered going to the Library when he was a kid. He'd always loved and enjoyed it, and he felt it was one of the finest things this City had. He was an amateur poet, and the first thing which came to his mind about this name issue was the words, "A rose by any other name smells just as sweet". What about Gerald Champion Regional Medical Center? Did anybody say they wouldn't go to that place just because it was named after somebody? He felt a lot of things had been blown totally out of context here. The important thing was that we needed to do these things, and they would have to be done or this City would go under. He knew that a lot of people were angry with him, but that was why we lived in a democracy. He could tell everyone that ignorance was not bliss, and it never would be.

Commissioner Moncada said perhaps a lot of the people that went to the polls did so not because they didn't want or support the Library, but because they felt they couldn't afford the taxes. If a lot of these people were now saying that if there was a group that was trying to raise money to build a new Library, they might be in favor of it or even help to raise the money. They just did not want their taxes raised. A lot of people still wanted the Library but not the taxes, and a lot of people in her district voted that way. Perhaps if we took time, maybe a year or so, and thought about this, maybe we could motivate people to raise money and a new Library could be built with that.

Mayor Carroll said obviously the property tax was a big issue in this election and the argument was that the people couldn't afford it and therefore did not want the Library. With both a little interest and a little dismay, he'd noticed that 80 percent of the registered voters didn't seem to care whether their property taxes went up or not because they didn't even bother to vote. So he wasn't sure whether it was a community-wide totally against the Library, or the fact that it would be funded by property taxes. He understood the results of the election and that the people who

did choose to come out and vote, voted against it, but apparently 80 percent of the voters didn't care whether their property taxes went up or not.

Ms. Edwina Reeves said she was not a member of the Library Board, nor was she a member of the "Sacred 50". She was just a normal citizen of this community. She thought in the last few moments we'd gotten away from the issue before the Commission tonight, which was if we should keep this property. She personally would like the Commission to take some time, a year—that wasn't a lot to ask, to look at the issues of a Library, give the Library Committee, give Ms. Rathgeber and all the people who were on her side of this issue, time to look at the issues. Ms. Rathgeber was a very prominent person in this community, and she believed she could raise a lot of money for the Library if she saw it as a need for the community. She would actually like to ask Ms. Rathgeber to look at seeing if we could raise money for a Library, and not do the taxes. The Commission had allowed people to get up here and say derogatory remarks to each other and be hateful to each other, and she really hated to see that in an open meeting for Commissioners. Please get back on the issue and please really consider holding onto this property for six months or a year to give people time to see what they could do. They were looking into Grants and funding sources and also looking for donations and fund raisers.

Mr. Junior Stoots said he was against the taxes on the Library and he was still against that. Perhaps they could find another way without taxing the public. It was suggested tonight to go to the County, but it would still get defeated. The Commissioners all had an obligation as elected officials to maintain trust between the people and themselves. With the documents he'd seen tonight, they were starting to act like some of the Federal agencies that liked to white things out so they could have the plausible deniability stuff. Many more acts like that and the trust was going to be lost. If they didn't have enough integrity to put in the documents "anonymous donor" or whatever, then they would lose more trust. If they could find another way for a Library, that was fine, but no taxes and maintain the trust.

Mayor Carroll said on the issue from the earliest time on as to the donation of the property, he felt it was made public more than once that it was an anonymous donor who wished to remain anonymous at this time. The reason many of us did not name the individual's name was because they had requested to remain anonymous. It was no attempt to hide anything from anyone. When we had these discussions of the donation of the property, we had said early on that the donor requested to remain anonymous, and that was what we were trying to uphold. Had the issue been handled a little differently we may have avoided bringing the individual's name out when they had requested that we not do that.

Commissioner Cooper pointed out that the election was what had defeated this Library issue—the City Commission did not defeat it. It was the citizens of Alamogordo that said "no", and we had to honor their wishes. As far as he was concerned, when it was voted down, the issue should have died. He still maintained that. We could carry this thing on forever and we weren't going to get any further than we did the day that the bond was defeated. As a result, he requested that the land be returned to the donor. That was the will of the people and not the City Commission. He represented his constituents, and he would represent them on whatever they said.

Ms. Nola Jones felt we had a responsibility to all the people here and not just the ones who happened to vote. There were a lot of people that used that Library and needed it that were either too young to vote or some of them could not vote because they were incapacitated. That didn't mean that they didn't need that Library. We had all sorts of things for these kids. She didn't think we knew how many people in this town did not have access to computers or to any

extent of the money that they could possibly use on anything that was a quality of life. If they couldn't afford periodicals or newspapers, they went to the Library and that was where they used them. There were people who had impaired hearing, and the Library had a program where they brought it to them. You didn't get that by saying we were penny pinching. A Library was a quality of life, and so many times our kids that were growing up here needed to do research, to send job applications, they needed to use computers, and many older people liked to do genealogy. There were so many people that the quality of life would not be there for them, and we had computers sitting there that were not able to be used simply because we didn't have the room. Someone had pointed out that there were a lot of empty shelves, but you couldn't reach those shelves up at the top or down at the bottom. There was multiple use of that Library that you just couldn't say—it was so wonderful. Commissioner Cooper said he understood that, but he also understood that the High School had a Library. Ms. Jones said no, that was closed. The College Library was not adequate. The only place we had was right here in our Public Library, and everybody better remember that.

Commissioner Robertson said she was right, but however, we had been paying very dearly for those services. The gentleman was right that we had to use some integrity on this tonight. We also had to use a little common sense. By our City Engineer looking over these plans, the Architect said it would cost \$8 million to build this, but our Engineer said it would cost \$8 million. The man was in the business everyday and he knew what he was talking about. The request was to put this off for a year, but in a year's time with the little nickels and dimes everyone was collecting, there was no they would come up with \$8 million. And in a year if they did, it could cost twice that because the way the cost of building was going up everyday, it was going to be astronomical. Another thing that bothered him was that in our small Library right now with the services it offered, in 2003 we had cut the budget 10 percent in all departments. That year the Library was allotted \$720,000 and they did real good because they only spent \$712,000. In 2004 they were again only supposed to be using \$720,000, but it went to \$762,000. He was astonished by the 2005 figure which went to \$857,000 for their budget. He did not understand where that figure had come from or where they got the extra money. All he knew was that we were spending a lot of money on services, and he wasn't sure we needed to do that. Last year El Paso had shut down a Library because it was costing them \$240,000. We were spending three times that on a Library right now. All the information and literature he got was always something going back to the computers. Were we going to have a Library, or were we going to have a computer store? Personally he didn't think the City had to be supplying computers to everyone. There were a lot of other services the City didn't need to be supplying. These budgets had to come down. He was a businessman and had been in business for a long time, and he'd never seen a business that had a \$700,000 per year loss and still be in business. The people were asking us to build a three times larger Library, so it stood to reason to him that it would cost three times the cost to run it. How would we get the money to do that? The money was not there to run a larger Library, much less being able to get \$8 million to build one. He could not back the keeping of the building not only because of the taxes being paid by the City, but he also wanted to kill this conflict between all the citizens. Since the election, his phone had been totally full everyday with messages. He had not received one message yet that told him that if there was a way to do it other than a bond, that they would want to do it. He got nothing but praise for backing the other direction, and he'd received hundreds of phone calls. So he could not back this play even for a year because he did not believe they could come up with the money. If they did come up with the money, who was going to pay to operate it? It was just not there.

Ms. Eckman-Onyskow said she wanted to share an experience she had while out canvassing in favor of the Library bond. She knocked on one door, and one gentleman told her that kids didn't

need books because they had computers and the Internet. She told him she'd just written a story for the *Alamogordo Daily News*, in which she interviewed a whole bunch of junior high and elementary school students. Out of a dozen, ten of them did not have telephones. If they didn't have telephones, meaning home phones by landlines—there were a lot of poor people in this community and they would use the Library for access to the great big world out there and the Internet highway. If the Commission killed this issue now and gave the land back, it was irretrievable. Sit on it awhile until things calmed down, more studies could be done, and a better look could be taken on it. Holding onto the land for a few more months would not cost that much. As was pointed out, 80 percent of the voters did not vote and some of those people might want the City to hang onto it and take another look at it.

Mayor Carroll said he did not want to deny anyone the right to speak if they chose to, but he felt we had heard both sides of the issue.

Commissioner Ledford said he'd heard a lot tonight, and it was amazing that something so important could be so controversial. The problem was that it was a difficult thing to decide who was the most right or whatever. He felt the voters did vote that they didn't want a property tax to do the Library, and we needed to honor that no matter how many voted—that was the way our democracy worked. He felt the Library proponents were asking for a little time to put a different game plan together or a different approach. They were asking for six months to a year, and what was the cost of that? His concern was that if they came back in a year and we had given this land back, then we were going to be down \$1 million. Somebody was giving us \$1 million to start a Library. That may not be enough, but who would have thought five or ten years ago that someone would have given us \$1 million, and yet they did. So to just throw that away without thinking this through and talking between us and trying to work out a plan, it seemed to him would be a waste of a good donation. He would hate to see us step back. There were a lot of elections which failed, and then the issue came back and it passed. Since he'd been on the Commission for the past two years, he'd seen issues come back and then get voted in. That was because people went out, delivered a message, explained the issues, made changes, did negotiations or compromises, and came up with a better plan. That was what we were all about, and he thought that was what we were trying to do here tonight. It seemed to him that we should hold onto the building for another year because he didn't want to go out and pay a million dollars to find another building if the Library Board came back and decided they had a plan. Obviously it wasn't going to be a property tax because the people were pretty loud and clear on that. Maybe we should come back in a year and revisit this issue, and if there wasn't a viable plan—and he knew a lot of things that could be ironed out to maybe make it a better plan than what we had—then maybe we did need to give it back at that time. But he didn't think it was too much to ask for another year to see what could be done, and then if it didn't happen, we bring it back and send it back. An unidentified audience member asked how much that would cost? Mayor Carroll said it would be the loss of the tax revenue. The City's share of the tax revenue was not 100 percent of the property tax—the City's share would be probably about 25 percent of that. From the information he had, if the building had been on the tax roles in 2004, the total tax would have been \$18,950. So there would be a cost to the City, a cost to the County, and probably a cost to the school system based on what percentage of the total property tax went to them. The City did not get 100 percent of the property tax people paid—about 25 percent of the total property tax went to the City for operating funds and to pay off existing City property tax bonds. Commissioner Ledford said the \$18,000 was a cost or lost revenue, but he felt if we decided in a year or two that we wanted to build a Library, it was going to cost a lot more than \$18,000 to buy some property or to get to where we were at today. It was the lost benefit of what we had and not what it was going to cost us for another year. The people voted and they didn't want their property tax increased, and that was very valuable. If it

took a year to work something out, and if the answer was to put a half million dollars into the current Library to fix it, he didn't know if we could do that. He honestly didn't know what the answer was, but if it was to fix up the present Library, then he was all for that. His point was, what was one year to let the community come together and see what they could do to expand the quality of life? If it was to keep the existing Library, so be it, but he didn't think it was too much to hold off another year.

Mayor Carroll agreed. This was an opportunity and based on the conditions of the donation, we still had some time. But if we walked away from it tonight, that opportunity was not going to come back. It was not an open-ended opportunity, so if there was a way to take advantage of this, then the one year's missed tax revenue was a small price to pay for the potential opportunity we had if we could figure out another way to fund the project or make it work.

Commissioner Moncada agreed as well. She didn't think we were trying to send out a message to the general public that we did not respect how they voted. This was just a way of saying we respect your vote, but we were also giving somebody else a chance to build or do something without the general public being taxed for it. She knew a lot of those people would probably even be helpful in trying to raise some of these funds.

Mr. Whitely asked if that \$18,000 figure included maintenance, security, or any other types of costs? Mayor Carroll said there were some additional costs which were not insignificant, but they were not large costs either. Mr. McCourt said we did carry insurance on the building, and our premium did not change as a result of adding that piece of property on. We sometimes had some maintenance which was required on the building. We filled two potholes out in the parking lot which would have been dangerous, or if a window pane broke, we would have to take care of that too. From an actual outlay, because there were no utilities on the building, it was about \$500 per year to maintain it.

Commissioner Cooper said Commissioner Ledford kept referring to the \$18,000 which was insignificant, but this has been off the tax roles for four years. So that was not \$18,000, but was \$74,000. Commissioner Ledford said he wasn't counting the last four years, but was counting the next year. Commissioner Cooper said the thing was we would go another year, and then have to go another year. Commissioner Ledford said no, he was saying to put this on notice for one more year. Commissioner Cooper said even if we built that thing today, we didn't have the money to operate it. Commissioner Ledford said he didn't say we did. He didn't know what we were going to do—we may keep the old building because we didn't have the money. That was part of the thought process. Commissioner Robertson said he'd talked to Mr. McGuire the other day, and it would be \$100,000 to fix the existing Library. Commissioner Ledford said he had been told that it wouldn't cost three times the amount to operate the new Library just because it was three times as large, and he didn't know where Commissioner Robertson got those numbers. Commissioner Robertson said he was getting the operating costs from the budget. Mayor Carroll said one of the things he needed to take into account in those budgets was that in the last two legislative sessions there had been money appropriated specifically for libraries, so some of the expenses that showed up in the overall operation of the Library would come under the heading of books, periodicals, and audios, and those numbers had increased significantly. A lot of that had to do with funding which had come from the State through bond issues that had been passed on the State level for funding of library books.

Mayor Carroll felt everyone had been given the opportunity to either express or agree with the position one way or the other, so we might as well go ahead and take the vote.

Mayor Carroll called for the vote on the motion. **Commissioner Cooper, Commissioner Cole, and Commissioner Robertson voted “aye”. Mayor Carroll, Commissioner Moncada, and Commissioner Ledford voted “nay”. The motion to return the IGA property back to the donor failed by a vote of 3-3-0.**

Mayor Carroll said we could either see if we could agree to hold the property for another year to see if there was some viable funding source or some viable plan which could be put into place, or we could bring it back at some later date when we had a seventh Commissioner present. Commissioner Robertson said if we did that, then at that time he would ask Mayor Pro-Tem Griggs to refrain from voting because his wife was on the committee for the Library and he had a conflict of interest there. Mayor Carroll said he could ask that, but the State Statutes dealing with conflict of interest stated that if you had a direct financial conflict in an item coming before the Commission, then you needed to declare that conflict. That did not mean you couldn't vote on it—it meant that you declared it and then it was up to the remainder of the Commission to decide whether or not the individual could vote. Commissioner Robertson said he would check into that further. Mayor Carroll said someone's wife being in a campaign to raise money for something in the City did not in his mind in anyway constitute a conflict of interest on the part of an elected official. Commissioner Robertson said it did when her husband was voting on it. Mayor Carroll said we would cross that bridge when we came to it.

Mayor Carroll said the property would remain under the control of the City until such time as another vote was taken one way or another to either establish a time frame or to donate it back.

The Commission recessed at 9:30 p.m., and reconvened at 9:45 p.m.

9. Request for direction regarding an Affordable Housing Ordinance.

*Recommendation:* Provide direction to City staff on whether to proceed with the development of an Ordinance.

Mr. McCourt said the anti-donation clause was a clause in the State Constitution which prohibited the City from providing items of value to individuals or organizations. There were some narrow exceptions to the anti-donation clause which were in the New Mexico Constitution. One of those was to provide assistance for organizations or individuals who were providing affordable housing. The clause had been in there for awhile. Prior to the last Legislative Session, the Legislators passed some legislation which would allow that constitutional clause to be enacted. Included in that was the ability that if the City passed an Ordinance which fulfilled the requirements, the City could potentially provide assistance to organizations or individuals who were providing affordable housing. In the agenda packet he'd included copies of the Act which had passed, and he'd tried to underline and mark it up. In addition to that, staff had retrieved from the New Mexico Mortgage Finance Authority, another 22 pages of rules which would need to be complied with to set up our Ordinance for the City. The question became whether the Commission wished the staff to develop an Ordinance which would permit the City to be able to provide assistance to individuals and organizations that were providing affordable housing opportunities.

Mayor Carroll said these rules had been under consideration for quite some time. He, along with some other folks, had an opportunity to comment on them. In reading through the way they finally came out, they were a whole lot less onerous on local government than they were originally. It appears they had removed some of the guarantees that the City was going to have to put up, and instead shifted them to the people, or the grantees. At this point, the only ones

he was aware of that had shown an interest in our ability to provide assistance was the Habitat for Humanity. As he read through this, he thought that before we could even do an Ordinance we had to develop an Affordable Housing Plan. Mr. McCourt said he had to admit that he was not certain on that. Mayor Carroll said the rules apparently had been finalized, If we followed up with this, it would not be available to just Habitat for Humanity, but for any organization, group, or anyone who wanted to come in and make a proposal. Since the only ones at this point who had indicated any interest in this was Habitat for Humanity, he suggested we contact those people and see if based on the requirements that were being placed on them and on us to even assist them, whether they felt they had the ability or interest to comply with everything required for us to even be able to consider helping them. It was going to be time consuming and there would be some costs to the City to develop this Ordinance and to evaluate whatever came before us. Before we assumed that there was a lot of interest out there, he suggested we contact Habitat for Humanity, let them look through the rules, and see if after that, we were all going to feel it was a viable program for them.

Commissioner Cole said Norm Davies from Habitat for Humanity had met with the City Manager on this. He couldn't speak for Mr. Davies, but he didn't see a problem with this. They would have to meet with the City Manager to find out which direction to go to get the information, but they could easily do that and then get back to staff. Mayor Carroll said after they looked at the rules that they were going to have to comply with to even make an application, whether or not they were able to provide the assurances and information required, it might or might not be worth their while. Commissioner Cole said Habitat for Humanity had an Attorney, and maybe that would be easier for them to decide on this. He would be happy to carry this information to Habitat for Humanity, unless the City Manager wished to contact them himself. He did not realize the requirements on this. Mayor Carroll said the Act was 20 pages long and the rules for complying with it were 20 pages long too.

Mr. McCourt suggested that the direction to staff be that he go back and talk with Habitat for Humanity Board members. Commissioner Cooper clarified that it wasn't just for Habitat, but that any worthwhile organization could apply for assistance under it. Mayor Carroll said that was correct, but at this point the only one that had shown any interest was Habitat for Humanity. Commissioner Cooper said evidently nobody had been apprised of this other than Habitat. Mayor Carroll said he didn't know how long these rules had been out, but there was a lot of discussion early on with the rules that were being proposed. There had been a lot of back and forth between local governments and the Mortgage Finance Authority and some of the nonprofits as to the easiest way to structure it. So if it was agreeable, we would just have staff contact the folks from Habitat for Humanity to see if there was still an interest in this, and if so, then we could proceed. Mr. McCourt asked Commissioner Cole if he would like to be notified when that meeting was set up? Commissioner Cole said yes.

Mr. Isaiah Scott said he had been told that the affordable housing in Alamogordo was three-quarters empty now, so why did we need to develop more when we couldn't even fill the ones we already had? Mr. McCourt said we did have some problems at the Alamogordo Housing Authority where we had a fairly high number of vacancies. That had more to do with getting the units into habitable shape than the lack of demand for it. At the last meeting of the Public Housing Authority Board, staff presented a proposal and schedule to get those units into shape and to make them available. Staff indicated to the Authority that they did not anticipate any difficulty in filling those units and that there was a very sufficient need in the community.

10. Award of RFP and Bids:

C) PW Bid No. 2005-003, ADA Improvements and Waterline Replacement - Project 1.

*Recommendation:* Award to General Hydronics, Inc. in the amount of \$823,446.91, including NMGRT.

[See discussion and action under item 10(E)].

D) PW Bid No. 2005-004, ADA Improvements - Project 2.

*Recommendation:* Award to Mesa Verde Enterprises, Inc. in the amount of \$436,580.52, including NMGRT.

[See discussion and action under item 10(E)].

E) PW Bid No. 2005-005, ADA Improvements - Project 3.

*Recommendation:* Award to Cherokee Enterprises, Inc. in the amount of \$244,692.19, including NMGRT.

Mr. McCourt said if he could address items 10(C), 10(D), and 10(E) jointly, he felt it would be the best way to present this. This was part of our street preventive maintenance and repair program that the voters approved the money for a year ago, and we started collecting it last September. This was the list of local streets throughout the community that we were looking at getting paved in October 2005. When we went out to bid, the prices for the prep work came in much higher—not in the water and sewer area prep work, but in the prep work for making sure our community was fully accessible. In order to address this question, staff went back and looked at the choices. We could try and re-bid it, but we did not believe that would significantly impact it. We could try and re-work with the existing bidders on the scope to see if there were areas where we could reduce the potential contract to get it back in line so we could maximize the number of roads actually getting fixed, while staying in compliance with the Federal requirements. We broke the total project into three parts to increase the bidding, so this was the project. Hopefully we could get more bidders and more competitive bidding. Staff felt that did happen. After we received the bids, we went back and reviewed each one, realizing we didn't have enough money. What we were doing and had done, was we looked at the contracts and we were anticipating that the ADA work on each of the corners would be paid for out of the City's money. We would then create a corridor on one side of the streets that would be accessible. That meant that the driveways on one side would be made so that there was an accessible corridor down each of the streets. Any sidewalk that needed to be installed or needed to be repaired would remain the property owner's responsibility as it currently was under the City Code. Staff understood that potentially we could require the homeowners to fix all their driveways and also to make all the corner cuts. Technically speaking, the homeowners were responsible for the sidewalks and walkways in front of their homes. We felt it would be in the best interest of the community, because we had a national directive coming down, that we shared that cost throughout the community. So the only portion the homeowners would be looking at picking up was if the sidewalk needed repair or if it didn't exist at the present time. We did that on all three of these projects and created these corridors. By doing that, we were able to keep all of the streets that we had promised the citizens we would get in this first round. We did change the treatment mechanism on the surface on Cherry Hills Drive. Rather than resurfacing the entire street, we reduced it down so about only one-third of the street would be resurfaced with the Cutler type process. The remainder of the street we felt we could still salvage with a seal coat process. By doing that, we had brought this project down to within the

amounts we could afford to move forward with all of the streets as promised, get them ready prior to October, and finish the paving portion in October, 2005. Staff felt the direction from the City Commission was that they wanted us to maximize the number of streets we would get done, and it was felt that the proposed plan would accomplish that goal and comply with our requirements under the national mandate for an accessible community.

Commissioner Ledford said the recommendation was to go with General Hydronics. When he looked at the information, our base bid was quite a bit less. Did that have to do with some of the issues the City Manager had just talked about as to why it was so much less than what they came in at? Mr. McCourt said yes. A couple of things had happened. The price of concrete had gone up tremendously. We also did not anticipate having the number of driveways to be reworked that we found when we actually got out onto the job. Mr. McGuire said right, and in our original estimates, we were making all sidewalks on both sides of the street whole. So there was a lot more concrete work in the original engineer's estimates. Commissioner Ledford asked if they had to go back and re-bid? Mr. McCourt said staff had talked with the bidders on this contract. We knew that one of our options was to go back and re-bid. What we would actually be doing was a Change Order to lessen these contracts very significantly. We had discussed that with the bidders, and they were willing to accept those Change Orders.

Commissioner Ledford said Star Paving came in less, so why didn't we go with them? Mr. McCourt said there were two reasons. First, because they failed to fulfill the technical requirements of the bid. He would rather not discuss the second reason, but we did have a high level of dissatisfaction with the last job they performed with the City and which we were still struggling to get corrected.

**Commissioner Cooper moved to approve PW Bid No. 2005-003, ADA Improvements and Waterline Replacement - Project 1, items 10(C), 10(D), and 10(E). Seconded by Commissioner Robertson.**

Mr. Gary Meisner said when the sidewalks were reworked, would they stay as wide as they currently were, or would they be made wider? Mr. McCourt said the current requirement was for a three foot sidewalk, so we were not planning on widening them. What we had was a cross slope which was unacceptable at the driveway entrances. We would be correcting that, and also making the corner cuts so that it was more accessible.

Mayor Carroll called for the vote on the motion. **All vote "aye". The motion carried by a vote of 6-0-0.**

G) PW Bid No. 2004-010, North Florida Avenue Storm Drainage Project.

*Recommendation:* Award to Cherokee Enterprises, Inc. in the amount of \$81,397.32, including NMGRT.

Mr. McCourt said we had replaced and relocated a section of the Bonito Pipeline that flowed under Florida Avenue. That was done in conjunction with the Air Force, and the line was relocated to the west on a different route. That meant that the old pipeline underneath N. Florida was not in use and was essentially abandoned. We had a flooding problem in the area around 25<sup>th</sup> Street where the water came down from the Tays Ditch and flowed into what used to be the old City reservoir. Several years back the State caused us to breach that reservoir because it was an unsafe dam. We had a lot of water flowing in there, but no holding capacity for it. Nor did we have a path for the water to get from our Public Works area down to the canal

that paralleled Indian Wells. The water essentially sheet flowed across our Public Works yard, and it then sheet flowed across the neighborhood, flooding the homes and streets on 24<sup>th</sup>, 25<sup>th</sup>, and 26<sup>th</sup> Streets. The water eventually reached N. Florida Avenue where an even moderate storm would create a flooding situation over there. We did have a long range plan for the area, but it would cost us millions of dollars essentially. What we proposed to do was to create a swale along the southern boundary of our Public Works yard, flowing in a westerly direction over to N. Florida. We would then install two catch basins on N. Florida at that location and funnel as much water as we could into the old Bonito Pipeline. That line did have a generally downward slope to the canal. We would then connect that line into the canal near the intersection of Canal Street and N. Florida. He did not want to give the illusion that this would solve all the flooding problems in that area, but he believed it would provide significant relief for many of the areas. After we bid the project, we found we did not have sufficient money budgeted to accomplish the bids. We were asking the Commission to release from the \$500,000 which was set aside from the Library, \$50,000 to be allocated toward this project so that we could move forward with this flood relief in that part of the community. Commissioner Cooper felt that would be in order.

**Commissioner Cooper moved to award PW Bid No. 2004-010, North Florida Avenue Storm Drainage Project, and to get that additional \$50,000 out of the \$500,000. Seconded by Commissioner Robertson.**

Mr. Mark Offman asked if the \$50,000 being taken out of the Library money would be replaced, or what would happen to it after it was used? Mr. McCourt said there would be no method to replace that money—it was from the bond refunding and it was specifically set aside by the Commission about a year to a year and a half ago under the condition that it would remain until after the bond election was passed. Mr. Offman asked if that was the same \$500,000 they were discussing under the Library issue earlier? Mr. McCourt said it was.

Mayor Carroll called for the vote on the motion. **All voted “aye”. The motion carried by a vote of 6-0-0.**

#### **SCHEDULED COMMUNICATIONS FROM THE PUBLIC:**

11. Request of Mr. Charles Herrell, 725 Ridge Court, for an adjustment to his utility bill.

*Recommendation:* Approve a credit in the amount of \$687.88 for water charges caused by a faulty meter.

Mr. Armando Ortega, Utility Billing Supervisor, said the reasons staff felt the meter for the Charles Herrell account was faulty were as follows. Staff noticed a high consumption on the day they read the meter, and right then they had administered a leak test for Mr. Herrell. Mr. Herrell got his utility bill, and naturally he was upset and contacted the Water Billing office. He then hired a plumber who also determined there was no leak. Our staff did a second test and verified there was no leak. Staff had no explanation, nor did Mr. Herrell, for this excessive use of water. Therefore, staff did recommend an approval of the credit. Mr. McCourt asked if the meter had been pulled? Mr. Ortega said it had been pulled and tested.

Commissioner Ledford asked if there was a way to test a meter to see if it was working? Mr. Ortega said yes. That meter actually came back 1 percent fast. Commissioner Ledford asked if that equated to what we were off here? Mr. Ortega said it was hard to say. He had spoken to Tony Medina of Water Technologies, and he had stated that for the amount which went through that meter—it just depended on whether it happened during outside watering. He had asked

Mr. Medina to back the reading back to the previous reading to see if perhaps it had skipped a digit, but to do that he would have to run an excessive amount of water back through it just to get it back to the reading. The meters would register backwards if they were in backwards. Commissioner Ledford said the point was, if they were not using the water, then they shouldn't be charged for it. Mr. Ortega said absolutely. We had no explanation for the excessive use of water or for the excessive consumption shown on the meter.

**Commissioner Cole moved to approve the refund based on staff explanation (a credit in the amount of \$687.88 for water charges caused by a faulty meter). Seconded by Commissioner Moncada. All voted "aye". The motion carried by a vote of 6-0-0.**

12. Request of Mrs. Ella Valley, 1604 Washington Avenue, for an adjustment to her utility bill.

*Recommendation:* Approve a credit in the amount of \$1,185.53 for water charges caused by a faulty meter.

Mr. Ortega said Mrs. Valley's situation was quite different (than Mr. Herrell's). When reading that meter, we had noticed a very high consumption of water. Naturally, we sent the meter reader out to recheck the reading, and he did a leak test while he was there. He had noticed no leak on the day that he had read the meter. Our position on this was that we had to bill by the reading on the meter. The City read her meter on December 11, 2004. On December 12<sup>th</sup>, Mrs. Valley had a leak fixed in the back yard. She consumed 41,000 cubic feet in a 24-hour period, and that was our reasoning in asking for relief on this water bill.

Commissioner Robertson said he was confused. On Mr. Herrell's case, if it showed that he used more water than he actually did because the meter was 1 percent fast, how can a slow meter still show that they'd used more water than they actually had? It should be showing less. Mr. Ortega said he had no explanation for that. Mr. McCourt said actually the meter correctly was registering that she used more than 41,000 cubic feet. Mr. Ortega said 4 percent more. Commissioner Robertson said if the meter was slow, though, a lot more water should go through there... Mr. McCourt said than was measured. It measured 41,000 cubic feet because the meter was registering slow. If the water actually passed through the meter, then actually more than 41,000 passed through it. Mr. Ortega said yes, 4 percent more. Commissioner Robertson asked why we were giving her money back, then? She should be paying us more because more water went through the meter. Mayor Carroll said because the meter indicated that she used 41,000 cubic feet in a 24-hour period. Commissioner Robertson asked how it could be slow, then? Mr. McCourt said the meter just slowed down in time. Commissioner Robertson asked if it had been pulled out? Mr. McCourt said yes—it had been replaced.

**Commissioner Robertson moved to approve a credit in the amount of \$1,185.53 for water charges caused by a faulty meter. Seconded by Commissioner Cooper.**

Commissioner Ledford said it seemed like everyone complained when they got a bad bill. When the meter readers got a bad reading, they went out and checked it, and they picked up on that information here in the office. Were they not notifying the people about these readings so they didn't get all worked up and come down here with a pistol? Mr. Ortega said our normal practice was to send out a recheck leak test. First they rechecked the readings. Commissioner Ledford asked if they were not telling the customers that they were doing this? Mr. Ortega said yes, they were. Commissioner Ledford asked why they were complaining when they got a bill if they knew the City was checking it? Why were we sending a bill? Why not just check it and be

done? Why were we letting people get mad? Mr. Ortega said staff didn't have the authority to approve an adjustment. Commissioner Ledford clarified that they weren't getting a bill not realizing what was going on. They knew staff was checking it and taking it to the Commission. Mr. Ortega said Mrs. Valley was notified prior to getting the bill. Commissioner Ledford thought these people ought to be happy that the City was doing this. What was the not happy all about? Mayor Carroll said this was the amount after staff had adjusted what they could under the policy. So basically she had a \$2,000 plus water bill. Most of the time staff was able to adjust it because there was a reason why the bill was high. But once in awhile, in Mr. Herrell's case and in this one, there was no rational explanation as to why that meter read the way it did. So it had come before the Commission because staff only had the ability to relieve so much. Commissioner Ledford said he understood that, but he just found it odd that if they didn't really get the water, all we were really doing was relieving them for what they didn't get. The Ordinance said that staff had to get Commission permission, but for what? Because they had a faulty meter? Mr. Ortega said on almost all occasions where we ran into a high consumption, they were leaks.

Mayor Carroll called for the vote on the motion. **All voted "aye". The motion carried by a vote of 6-0-0.**

#### **UNSCHEDULED COMMUNICATIONS:**

Commissioner Moncada commented that she was very glad we had Commissioner Cole with us tonight after all he had been through (health-wise) recently.

- A. Comments by City Manager regarding water report; status of issue regarding self-fueling at the Airport; settling problems at the Library; accusation of malfeasance on the Library issue; and upcoming vacation and City Management Conference.

Mr. McCourt said staff felt the water situation was the best it had looked in many years. Although we hadn't had any rain since February, our reservoirs were full, our wells were turned off, and we felt we were in good shape.

Mr. McCourt said there was an issue about a request for self-fueling at the Airport. Staff had been working on that, and at this time we had drafted some amendments to the City Ordinance and also to our fueling regulations. We had sent those to the FAA for review before they came to the Commission to make sure it would meet their scrutiny. We had sent them to the individual requesting the Lease, and we had sent them to the Airport Board for review. Staff was looking forward to bringing it back to the Commission.

Mr. McCourt said there was a question tonight on the \$500,000 which was set aside on the Library, and the Commission had approved \$50,000 of that money for the drainage project. He wanted to let the Commission know that we were going to have to use a portion of that money to make repairs on the Library building. There was considerable settlement up on the northeast corner, and we didn't know at this time what it may take to stabilize it and make the repairs. We were researching it and preparing estimates. Our expectation would be to use a portion of that \$500,000 to get the building safe and usable. We had to make immediate repairs. The building had settled considerably and there was significant cracks. The way we realized it was settling was that the light fixtures had fallen inside the Library, and so we did some very quick repairs, and then researched it further. He felt we were probably in the vicinity of \$100,000 to \$150,000 just to get it stabilized. Mr. McGuire said we'd had a structural engineer look at it and were waiting for that report. We were also looking at the drainage to keep the water away from it on

the outside, as well as the repairs inside. We should have that information within the next two to three weeks.

Mr. Herrell said regarding the settling issue at the Library, the City had not spent one dollar repairing that building since it was built. There had not been any money designated to repairs to the building, and it was just 40 years of being run down. It was nobody's fault, it just hadn't been done. Mr. McCourt said actually we had spent quite a bit of money on the building in repairing the heating and cooling system. This was a major structural fault and we have been fortunate that we hadn't had problems before. We were just going to have to fix this.

Mr. McCourt said he'd noticed on one of the letters we'd received regarding the Library issue, that he was accused of malfeasance from an apparent supporter of the Library bond. In the newspaper he was also accused of favoring the other side. He would rather have people be telling him that he was doing a good job from both sides, but if he had to be neutral and they said he was doing a bad job from both sides, then he guessed that was okay too. He just tried to walk down the middle.

Mr. McCourt said he would be on vacation Saturday through next Wednesday, and Mr. McNeile would be in charge during that time. When he came back from that, he had the New Mexico City Management meeting up in Taos, and he would be going up there with Mr. McNeile, and Mr. McGuire would be in charge. He would be back in the office the following Monday.

**B. Comments by Mayor Carroll regarding the outcome of the Legislative Session.**

Mayor Carroll said the Legislature had adjourned a week ago, and the Governor had signed the Capital Outlay Bills. He wanted to thank our local Legislators for the work they'd done in Santa Fe on behalf of the community and the City. They were successful in obtaining some funding for some of our City projects. We got \$507,000 for the continuation of work on the First Street connection to the Relief Route, \$375,000 toward the improvements on S. Florida, and \$50,000 for ADA compliant sidewalks in the First Street and Tenth Street areas. Mr. McCourt pointed out that \$30,000 would actually go towards creating a corridor down Cuba Avenue. Mayor Carroll said we had \$30,000 toward playground equipment for University Park, but the Governor had vetoed it, and he suspected it was not in keeping with what he thought the responsibilities of Municipal Government were versus issues which might be State issues. There was also money obtained for the Flickinger Center, for C.O.P.E., and toward an Armed Forces Museum that would go to entities other than the City. It was a fairly successful Legislative Session, and in looking at some of the legislation that was passed, he didn't know that there was a lot which would negatively impact municipal government. It was an interesting session to say the least, and again, he wished to thank our Legislators for their devotion to the efforts. Commissioner Robertson said the Governor had requested our list on the big items and not the little items, so how come we got funded on the little items and not the big ones? Mr. McCourt said actually we had gotten funded a considerable amount for First Street and Florida Avenue. Commissioner Robertson said there were some we'd asked for that were a lot larger than that. Mayor Carroll said they had \$470 million in capital outlay funds to put out, and there was \$1.27 billion worth of requests. Otero County actually did quite well. There was a total of a little over \$9 million in capital outlay for Otero County. One of the large items he failed to mention was \$2.5 million for a student nursing program addition building to the New Mexico State University-Alamogordo branch. So all in all it was not a bad session for Otero County.

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

Mayor Carroll confirmed that there was no need for an Executive Session tonight.

**Commissioner Cooper moved to adjourn. Seconded by Commissioner Robertson. All voted "aye". The motion carried by a vote of 6-0-0. The Meeting was adjourned at 10:30 p.m.**

*/s/Donald E. Carroll*

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Mayor Donald E. Carroll

ATTEST:

*/s/Angie Rahn-Broyles*

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City Clerk Angie J. Rahn-Broyles  
(SEAL)

(Prepared by Teresa Y. Gutierrez)

Approved at the City Commission Regular Meeting of April 26, 2005.