

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
7:30 P.M., COMMISSION CHAMBERS
APRIL 11, 2006**

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

**COMMISSIONER CHRIS LUJAN
COMMISSIONER STEVE BROCKETT
CITY MANAGER PAT McCOURT
INTERIM CITY ATTORNEY REBECCA EHLER
CITY CLERK ANGIE RAHN-BROYLES**

CALL MEETING TO ORDER AND ROLL CALL

Mayor Don Carroll called the meeting to order at 7:30 p.m., and all members were present. The Invocation was given by Reverend Stephen Trout, and the posting of the colors was done by the Alamogordo High School Junior ROTC. The Pledge of Allegiance was led by Commissioner Steve Brockett. Mayor Carroll thanked the Junior ROTC for their presentation of the colors.

PRESENTATIONS:

1. Presentation by Farley Vener, CPA, from the firm of Hinkle & Landers, P.C., regarding the fiscal year 2004-2005 Annual Financial Report.

Mr. Vener passed out a highlight of what he would be speaking about. The highlights include a comparison of certain line items to the figures from last year so that any increase or decrease can clearly be seen. The cash investments increased about \$9.9 million from last year. Accounts receivables decreased by \$712,000 compared to last year. Tax and franchise receivables increased by \$404,000, and grants receivables increased by almost \$1 million. In addition, restricted cash increased by \$354,000, and capital assets decreased by almost \$11 million. One reason there was such a large decrease in the fixed assets or capital assets is that the inventory of capital assets was looked at and there were some large adjustments that needed to be made. Also, in net assets, which is basically net profit, for year ending 2004 there was a positive \$7.5 million. Alamogordo was in the black by that much, and in the year that was just audited, 2005, there was a positive \$11 million net profit.

The auditor looks at the balances and makes adjustments when they are appropriate. There were 25 audit adjustments that were made, and they were mainly for the capital assets funds. The way the audits are presented, the capital assets are not usually in the fund financials; that was adjusted. There were also a number of adjustments to fund balances. Payroll expenditures were adjusted as well as some bad debt expenses. Some of the equity accounts were adjusted to revenue accounts, and some minor payables and receivables were adjusted. In addition, compensated absences and property tax receivables were adjusted that needed to be adjusted beyond the 60-day period. Water and sewer bond balances were adjusted, and some bond issue costs were made. Finally, there was an adjustment to the post closure liability.

There were no disagreements with management, and they did not need to consult with any other accountants on any issues during the audit. The area that was the most difficult were working with the capital assets and the fund balances. It was not overly difficult, but they were the most time-consuming. They believe the City is improving those things for next year.

The opinion that was given on the City and its financial in the auditor's report is an unqualified opinion. In other words, it is a clean opinion so there were no issues about balances or activity. They were fairly stated, and there was nothing that the auditors had a problem with.

There were six findings, none of which were associated with federal awards. First of all, there were findings from last year including the late audit report. The audit report is due December 1st of the year, and that was repeated. The audit was not submitted until January 31st, which was two months late. The other five findings from the previous year have been resolved. The Housing Authority accounting system was insufficient, and that was resolved. The accumulated depreciation that was not reconciled was resolved. The cash account in the engineering fund and material deficit was not considered a finding. The issue of the State auditor not being notified of the intent to dispose of capital assets was resolved, and accounts not reconciled with trial balance was resolved.

The new findings include weakness of controls of municipal Court receipts, Department of Public Safety citations, landfill due to/due from and capital assets. As noted earlier, there was a late audit report, and the main reason the audit report was late is the prior audit was very late. The prior audit did not get finished until September of 2005; they had a very late start. As far as the weakness of controls of municipal court receipts, this relates to the municipal Court employees accepting cash as well as checks, money orders and credit cards. The cashiers also have access to the posting of receipts in the Court software, and in addition, the Court software allows for certain case information to be completely deleted without leaving an audit trail of transaction. The lack of segregation of duties and weaknesses in the software audit trail leave it susceptible to misappropriation of revenue. In other words, they felt that there were some weaknesses in the internal controls, and if somebody wanted to steal money, they would have the opportunity to do so. Management has responded with the things being done to improve the controls. including placing a sign stating that the defendant must receive a receipt or they should speak to the Court administration. They are also placing security cameras in view of all of the cash drawers so that the cash drawers are being monitored, and the cashiers are also closing out every day. Those things are improving the internal controls.

As far as the finding of the Department of Public Safety citations, during the auditor's understanding of the internal controls it was discovered that the City's Department of Public Safety does not reconcile all of the citations issued to the officers to a master list in order to ensure that citations are accounted for. In other words, they need to ensure that all of the citations that the police officers submit are accounted for and that none of them fall through the cracks. The auditors recommended that a system be created where there is reconciliation between the Department of Public Safety and the Courts. There will be two lists, and they are going to match. Management has responded by saying that they are taking measures to allow for reconciliation between DPS and the Courts.

The next finding is regarding the landfill. During the review of the landfill closure and post-closure cost estimates for the Otero/Lincoln County Regional Landfill, it was determined that the estimated cost to pay for the landfill was under-stated. A new estimate should be calculated to be sure that there are not unreported liabilities being accrued. Management responded by saying that they are getting a new report. Someone is going to assess what the liabilities are and take care of that issue.

Regarding the due to/due from, there are several funds, and there is money owed from one fund to another fund. The auditors found that there was a discrepancy of a very small amount, \$322. Upon looking into that further, it was found that there was no reconciliation of the due to/due from taking place between those two funds. The main issue is not the \$322. There was not reconciliation or monitoring of the transactions between the two funds. Management is monitoring it now, and they are looking into it to make sure that there are not any unrecorded payables or receivables.

The next finding is regarding capital assets, and the auditors noted that during the audit there were a lot of issues with the capital assets such as depreciation and asset costs. There were a few differences between certain schedules, which overall are not material. There were differences of \$9,000 and \$145,000, which are immaterial considering that there are \$60 million in assets. The main issue that the auditors wanted to express is there is room for improvement in the up keep of capital assets. A lot of adjustments did have to be made in capital assets, and there were some recommendations that certain things be done. Capital outlay for the year should be reconciled to all of the additions in the capital asset detail report. The expenditures should, of course, equal the

additions on the list. The listing should more readily provide calculated depreciation by function, which is something that is needed for the GASB 34 presentation of the audit. It has to be by function. The Public Housing Authority's accumulated depreciation should be separated by category, which is another requirement of the new standards that are used for presenting the audit. Management has responded by saying they are looking into improving the up keep of fixed assets.

Mayor Carroll asked if any of the Commissioners had any questions for Mr. Vener. Commissioner Ledford asked a question regarding the Municipal Court receipts, which had to do with lack of separation of duties. He wanted to know if that required an expansion of the scope of work and if so if it had a negative impact on the financial statements. Mr. Vener said it did not have any negative impact on the financial statements. The auditors assessed the controls, and if somebody wanted to steal money, there was opportunity to do so. However, they did not see that there was any money stolen.

There were no additional questions, and Mayor Carroll expressed his appreciation to Mr. Vener for the audit. He also expressed appreciation for the findings that were brought to the City's attention. There are always ways to improve the operation, and the key for the public to understand is that this was an unqualified audit, which is the highest standard that is available to a community.

Mr. Vener underscored that it is not uncommon to have findings. The City did have a very clean opinion, and he thanked the staff. Overall, he said they are very professional, and the staff of the City of Alamogordo is one of the best staffs that they work with.

Mayor Carroll then asked Mr. Richard Coltharp to come forward for a presentation that he would like to make to one of the staff. Mr. Coltharp explained that he is the publisher of the Alamogordo Daily News, and one of his favorite projects each year is presenting the Women of Merit awards. March 30th was the seventh annual presentation, but one was missed. He said that Angie Rahn-Broyles has worked for the City for about 30 years. The person who nominated her said they have worked with many professionals in their career, and she is right up there with the very best. She has almost single-handedly run the clerk's office all of these years and has devoted her life to the City of Alamogordo.

Mayor Carroll asked Ms. Rahn-Broyles to come forward and whereas Ms. Rahn-Broyles began her employment with the City of Alamogordo in 1976, has served as City Clerk since 1982, is a member of the New Mexico Municipal Clerks and Finance Officers Association and International Institute of Municipal Clerks, is a certified municipal clerk, a graduate of the Municipal Clerk's Academy for Advanced Education, has been accepted into the International Institute of Municipal Clerks Master Municipal Clerk's Academy, having successfully conducted 37 municipal elections she is recognized by her peers throughout the State as the go-to person for municipal election questions, she was selected as the New Mexico Municipal Clerk of the Year in 1995, during her tenure as City Clerk she has been a friend and mentor for five mayors, three City Managers and numerous City Commissioners, is retiring this month after 30 years of service and whereas the City wishes to acknowledge and thank her for the years of service to the City, he proclaimed Tuesday, April 11, 2006, as Angie Rahn-Broyles Day in Alamogordo and urged all citizens to join with him in wishing her a long and happy retirement.

CALL OF THE CONSENT CALENDAR:

MINUTES:

2. Minutes of March 28, 2006 Regular Meeting.

Recommendation: Approve the minutes.

CONTRACTS AND AGREEMENTS:

7. Collective Bargaining Agreement with the Alamogordo Public Safety Officers Association (APSOA) for 2006-2010.

Recommendation: Approve the agreement.

8. Award of Contract to Hinkle & Landers, P.C. for the annual Financial and Compliance Audit of the City of Alamogordo fiscal operations and Lodger's Tax for the fiscal year ended June 30, 2006

Recommendation: Approve the contract for year two of three.

9. Renewal of Memorandum of Understanding (MOU) Agreement with the Department of Air Force Medical Group for Disaster Planning.

Recommendation: Approve the agreement.

ORDINANCES AND RESOLUTIONS:

10. Resolution No. 2006-25 approving the intent to submit a grant application to the Department of Interior--Bureau of Reclamation for the FY06 Water 2025 Challenge Grant Program.

Recommendation: Approve the resolution. [Roll Call Vote Required]

11. Resolution No. 2006-27 requesting the DFA, State of NM, approve revised budget figures for certain line items in the City's budget for FY 2005-2006.

Recommendation: Approve the resolution. [Roll Call Vote Required]

12. Resolution No. 2006-29 establishing restrictions on outdoor water use.

Recommendation: Approve the resolution. [Roll Call Vote Required]

13. Resolution No. 2006-30 declaring the intent to apply for a loan through the New Mexico Finance Authority for the purpose of financing the Alamogordo Westside Infrastructure Project - Phase 1C.

Recommendation: Approve the resolution. [Roll Call Vote Required]

14. Resolution No. 2006-31 declaring the intent of the City to reimburse itself, in regards to expenses on the Alamogordo Westside Infrastructure Improvements Project - Phase 1C, with the proceeds of a loan agreement with the New Mexico Finance Authority.

Recommendation: Approve the resolution. [Roll Call Vote Required]

OTHER BUSINESS:

15. Incorrect billing on sewer service for Cycles 6 & 7.

Recommendation: Do not re-bill sewer service charges for Cycles 6 & 7.

16. Statement regarding the Executive Session of March 28, 2006 at 6:00 p.m.

Recommendation: Approve the statement.

17. Change Order No. 1, Public Works Bid No. 2006-002, Otero/Lincoln County Regional Landfill Roadway Phase II.

Recommendation: Approve the change order in the amount of \$25,947.88 (includes NMGRT).

18. Award of Bids and RFP:
 - A) Bid No. 2006-06, Zoo Animal Feed.

Recommendation: Award to Sanders & Danley Feed Store, the overall low bidder, in the amount of \$19,438.50.

- B) RFP No. 2006-001, Veterinary Services.

Recommendation: Award to Staley's Veterinary Medical Clinic, P.C. in the estimated amount of \$45,000.00, inclusive of NMGRT.

- C) Public Works Bid No. 2006-003, First Street Waterline Replacement.

Recommendation: Award to Cherokee Enterprises, Inc. in the amount of \$561,957.83, inclusive of NMGRT.

Commissioner Ledford made a motion to approve items 2, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18A, 18B, and 18C on the Consent Calendar. Seconded by Commissioner Cole. A roll call vote was taken. All voted "aye". The motion carried by a roll call vote of 7-0-0.

Mayor Carroll clarified that Item #12 on the Consent Calendar had a minor adjustment removing some language having to do with the washing of vehicles making it a little less restrictive. Item #11 also had a slight revision having to do with adjusting for expenditures for the golf course well.

PLANNING ITEMS:

3. Consider Ordinance No. 1265 rezoning to District "C-1" (Neighborhood Business) requested by Jennifer Taphorn [Case Z-06-0656(A), 1120 E. Twelfth Street].

Recommendation: As the action would be "spot zoning" and not conform with the master plan, deny the ordinance for Case Z-06-0656(A).

Mayor Carroll explained that this item was carried over at the request of the petitioner from the last meeting.

Jennifer Taphorn said that she would like the opportunity to place a small gallery and gift shop in her neighborhood. She feels that it would be a benefit to the neighborhood. She walks everywhere and loves the neighborhood, and she thinks people are now living close to home with the small neighborhood amenities moving toward the spot neighborhood. She asked that the Commission consider the rezoning and approve it in such a way that should she move or sell it would go back to the resident zoning.

Commissioner Brockett asked for further explanation as to what her plan was. Ms. Taphorn said that she is an artist and would like the opportunity to display her artwork and the artwork of her associates and be able to sell those items with a retail license.

Commissioner Brockett asked if that would be done on consignment. Ms. Taphorn said that if an artist isn't willing to do consignment there may be a small wholesale of one, two or three items. Commissioner Brockett further asked if the majority of the business would be through the mail. Ms. Taphorn said that some of it would be. She is planning to have a website that would advertise the art. For example, there is a Hopi Indian Tribe that comes through with cottonwood carvings. She

sells those on-line and in Denver, and she would like to be able to display and sell them from her residence.

Commissioner Brockett asked if she would potentially be bringing in out-of-town artists. Ms. Taphorn said she has a metal work artist who does garden stakes. She is from Denver. In addition, one artist who is located in Albuquerque, New Mexico creates glass necklace pieces and pendants for aromatherapy. The artists also include Berline Reyes and Margo Kirby who do copper pieces, and Ms. Taphorn does small prints and greeting cards. Gene MacDonald also does hand-made greeting cards.

Commissioner Brockett asked what kind of inventory the gift shop would have. Ms. Taphorn explained that she is only looking at around 5,000 for inventory including a couple of Kachina statues, the metal work pieces, her prints and greeting cards and the Matisse pottery. Commissioner Brockett asked if she had plans to open a restaurant or anything like that. She said no.

Commissioner Cole asked what would have to take place in order to make the zoning revert to the residence zoning once the business ceases to exist. Mayor Carroll explained that if the Commission chooses to approve the rezoning, it could be done on a conditional basis such that the use would be limited to the enterprise that the applicant has mentioned. If it ceased to be used for that purpose, the zoning would revert to the original. However, that is not an automatic reversion. It would require action on the part of the City to actually publish and change the zoning back. It can, however, certainly be conditioned on a limited use of the property.

Commissioner Cole said it was interesting that he saw on television how many more home businesses there are. He said that he would like to approve it if the Commission so desires with the condition that it revert back. Commissioner Brockett stated that his daughter is an artist in Albuquerque and also a college student. She is involved in a gallery that is in a residential area, and there aren't that many cars that come in at the same time. There is a lot of pedestrian traffic, but there can be some parking issues. He stated his agreement with Commissioner Cole that it is not only viable but would be a great benefit to the community.

Commissioner Moncada asked what the store hours would be. Ms. Taphorn said that it would vary but would mostly be from 10 to 2 and then 4 to 6. Commissioner Moncada also asked about the parking. Ms. Taphorn said that they are on a side street and have two parking spaces in the lot. If needed, she could open the gate and make another parking space. There is also parking along the side of the street. It's a corner lot, and there could be parking throughout the street and turning into the corner. They own the residence next door.

Commissioner Ledford said that he looked at it, and it appears that the area has quite a bit of traffic. He had a question regarding the status report, which shows the proposed action requires 3:1 but says the actual is 4.57:1. In the information it talks about not having adequate parking. He asked for an explanation about what the 4.57:1 means. Ms. Few explained that there actually is enough square footage on the lot less the house to support the required off-street parking. However, it is not in a usable format because of the landscaping, fences and shed. Either the entire area is not available for parking or it could not be traversed to meet the parking requirements. Commissioner Ledford asked if the site improvements allow for the additional parking or if something needs to be done to get to that point. Ms. Few said that something would need to be done to get to that point. Commissioner Ledford asked if that is what the applicant would be doing. Ms. Few said that the applicant has indicated that they would use on-street parking or the two parking spaces in the driveway next to the house and possibly one more in the rear yard. Approximately 11 stalls would satisfy the requirement.

Commissioner Ledford went on to say that obviously spot zoning is done in the right situation, but the report says that if the applicant thinks that adequate off-street parking can be provided, a revised site plan should be submitted for review, which addresses the parking but not the spot zoning. Approval would require spot zoning. Ms. Few also explained that for clarification it is not

the residence of Ms. Taphorn. It is a separate property, and under the home occupation, which they have been working under for well over a year they can continue to do their artwork. However, they cannot bring in outside artists. That is one of the differences with the home occupation provisions in the zoning. It only allows for the products of the resident. Commissioner Brockett asked what it would take to allow outside artwork. Ms. Few said that is why the rezoning has been requested for the separate building.

Mayor Carroll said that the 3:1 parking is also an issue so the motion would need to be amended to allow deviation from the 3:1 off-street parking. Commissioner Cole agreed to that as well as Commissioner Brockett.

City Manager McCourt said that in the staff report there is an indication that if the property is put into this commercial use it will have to come into compliance with all current building codes as far as electrical, plumbing and so on. Mayor Carroll said that certainly the zoning can be done on a conditional basis waiving the 3:1 parking, but the requirement to come into compliance with commercial use cannot be waived. Mayor Carroll asked Ms. Taphorn if she was aware of that, and she was.

Mayor Pro-Tem Ron Griggs said that Ms. Few answered one of his questions relating to whether the applicant lives in the residence, which she does not. Ms. Taphorn said they live in the corner lot and they purchased the residence to be office and retail sales. Mayor Pro-Tem Griggs said that he does not recall at any time creating spot zoning in this manner. There has been the issue of the tanning salon across the street from the post office, and the post office could go in any zone, which is one of the particular arguments about that. The property for that, of course, is much closer to Tenth Street where there have been businesses as well. Planning and Zoning has recommended against approving this primarily because of inadequate off-street parking. If cars are parked on both sides of the street, it is narrowed to one car coming through. He thinks it is a little bit of a stretch.

Ms. Few said that she believes the off-street parking issue would have to be dealt with under a separate variance rather than through the zoning ordinance. Mayor Carroll said that is more than likely correct. He would expect that if the Commission grants the conditional rezoning, as a part of that the Commission would at a future date be willing to grant the off-street parking if that is what was required as one without the other is not going to be workable. It can be taken back to the original motion and the reference to off-street parking deleted. City Attorney Ehler said that would be the cleaner way to do it.

Commissioner Moncada said that consideration should be given to the fact that this is a specialty business, and there would likely not be a lot of cars at one time. Ms. Taphorn said that she hosted an Art for the Heart event while they were remodeling, which was a benefit for the American Heart Association. She had about two cars at one time, but no more than two.

Commissioner Ledford said that one of the things he looks at pretty strongly is the parking. There is a lot of traffic on the street, and it could be a dangerous situation. However, normally one of the things he also looks at is the protests, and there were none. The neighborhood apparently supports it, which is favorable.

Commissioner Lujan said he doesn't want to get in the way of anyone's dreams or ambitions. He thinks what Ms. Taphorn is doing is great, but his concern is to prevent future problems for the City as far as getting it back to residential zoning in the future. A clause should be put in such that if Ms. Taphorn leaves it returns to residential zoning. Mayor Carroll said that the motion on the floor does address that issue. Commissioner Lujan said that even if Ms. Taphorn leaves the residence he feels a new owner should come before the Commission again for approval to protect the City.

Mayor Carroll said his issue is the spot zoning in terms of opening up another neighborhood moving towards rezoning. The risk is once this one is rezoned, it becomes hard to turn down the next one

across the street or next door. Commissioner Lujan said the only conditions he is asking for is that if it goes out of business, it gets rezoned back, and if another resident goes in the property, they be required to go before the Commission to continue the commercial zoning. Mayor Carroll said that an amendment to the motion can be proposed, or a request could be made to the maker of the motion to include that language in his motion.

City Attorney Ehler said that there is difficulty in limiting the use to a single person. It can be limited to a gift shop and consignment art business, but to limit it to a single user is legislating for a single person, which is considered a violation of several Constitutional principles.

Commissioner Cole made a motion to approve Ordinance 1265 for rezoning to District “C-1” (Neighborhood Business) requested by Jennifer Taphorn [Case Z-06-0656(A), 1120 E. Twelfth Street] but that it revert back to the original zoning upon the event that the business is no longer conducted and conditioned on the use as stated by the petitioner. Seconded by Commissioner Brockett. Mayor Donald Carroll, Mayor Pro-Tem Ron Griggs, and Commissioner Marion Ledford voted “nay.” Commissioner Inez Moncada, Commissioner Ed Cole, Commissioner Chris Lujan, Commissioner Steve Brockett voted “aye.” The motion carried by a vote of 4-3.

4. Consider Ordinance No. 1269 consenting to the annexation of 3.694 acres of land requested by Bella Vista, LLC [Case A-06-0068(A), Convair Circle].

Recommendation: Approve the ordinance for Case A-06-0068(A) for first publication.

Mayor Carroll said this item was brought before the Commission at the last meeting, and the Commission did not take action on it because it was felt that there was insufficient information on which to base a decision.

City Manager McCourt said that since that time they have received additional information, and the practices of the City have also been reviewed in looking at annexation questions. This does fall within the past practices of bringing in voluntary annexations upon request and closing up gaps within the City’s boundaries. Based upon that, the recommendation is to go forward.

Commissioner Ledford made a motion to approve Ordinance No. 1269 consenting to the annexation of 3.694 acres of land requested by Bella Vista, LLC. Seconded by Mayor Pro-Tem Ron Griggs. All voted “aye.” The motion carried by a vote of 7-0-0.

5. Consider the final plat of Larkspur Park Subdivision for eleven (11) lots located within the City of Alamogordo for Karma-JKS Properties, Inc. [Case S-06-0921(A), 900 Block of Larkspur Street].

Recommendation: Approve the final plat with right-of-way dedication on Larkspur and with a Subdivider’s Contract.

City Manager McCourt commented that there had been some previous concerns, which have all been addressed. Their recommendation is to approve it.

Commissioner Cole asked if the drainage question had been addressed, and City Manager McCourt said that it has been. Commissioner Cole asked how it has been addressed. City Manager McCourt said that they regraded so that rather than the drainage going onto the alley to the North, which is an unpaved alley where there has been flooding, the drainage is carried down the paved street. Commissioner Cole said the reason he brought it up is that there has been some concern from the citizens living north of that area about the drainage.

Commissioner Ledford made a motion to approve the final plat of Larkspur Park Subdivision for eleven (11) lots located within the City of Alamogordo for Karma-JKS Properties, Inc. with the right-of-way dedication on Larkspur and with the subdivider's contract. Seconded by Commissioner Moncada. All voted "aye." The motion carried by a vote of 7-0-0.

6. Consider the preliminary and final plat of Scenic Estates Subdivision requested by Elwood Lowe [Case S-06-0926(A), 1500 S. Scenic Drive]

Recommendation: Approve the preliminary and final plat with Lot 2 as a single discontinuous lot, with street dedication, with a Waiver of Protest Agreement, and with variances on the construction and installation of alleys, on the installation of utilities (water and sewer), on the construction of streets to City standards (curb, gutter, sidewalk, and paving), on the dedication of public land, and from Section 22-01-140(b)(1) relating to drainage plans.

City Manager McCourt said this is a little bit more complex of an issue, and he asked that Mr. Alterson and his staff address it. Mr. Alterson said that in this instance the plat came in as a request for a summary plat approval. Staff looked at it and saw that the portion of Earth Road that is on the plat is indicated to be a private road. Staff believes that it should be a public road. The making of it into a public road violates one of the conditions for summary subdivision approval; however, that is a condition in which staff's interpretation can be over-ridden by the action of the City Commission should they decide to require that it be a public road and approve the subdivision.

However, making Earth Road a public right-of-way will render lot two either two separate lots or two parcels of a discontinuous lot since the two sections of lot two are only joined by the section of Earth Road, which would no longer be a part of the property if that were to be a public road. Staff is recommending a slightly unusual procedure, which is the approval of the subdivision plat with Earth Road being a public street and with lot two be a single lot but discontinuous in two portions. It is unusual though not unheard of in the world of subdividing lots. Generally, this takes place when someone lives on one side of an alley and has parking on the other side. It is all treated as a single lot. Staff feels that in this instance the City is not being placed at risk by treating it in this way because at some future day when the property is actually developed lot two will have to be split in which case it will come back for a subdivision.

Pat Vandergriff represents the petitioner on this item, and Mayor Carroll said that regarding the subdivision immediately adjacent to Earth Road, Rain and Wind Streets were originally proposed to be public roads. For some reason from the time it was approved by the Commission to the time it actually was filed, those two streets became private roads. Mr. Vandergriff said that in the original subdivision that was adjacent to this, Fire was not originally intended to be there and there was a request for a 25-foot partial right-of-way for a public road for Fire. The other ones were already continued in the subdivider's contracts as being private easements. Additionally, Earth was also a private easement. The easement that is shown on the plat for this subdivision was also an easement that was used in the development. There was a private easement as well off of Mr. Lowe's property.

Mayor Carroll said this is certainly one that he hasn't seen before. The recommendation is to make it a dedicated road approved to City standards. He asked whether the City requires that and what the purpose is of making the lot two discontinuous lots. Mr. Vandergriff said that originally it was not the intent to make them discontinuous lots because it was proposed as a road easement. This is a County subdivision, and in this case if there is a public dedication, it literally has to be done to the City because the County has written a letter and said they are not interested in receiving dedication of Earth Road. Generally, what has happened in the subdivisions across South Scenic is that the portions that were in the City were dedicated right-of-way, and the portions outside of the City have all been private road easements dedicated for the purpose of the private road. In this case, it was submitted under the standard summary plat procedure. City staff indicated that they wanted to see it dedicated, which throws a kink into the works for the Lowes as they are now a

month and a half into the procedure. If at any point there was an attempt to deal with them as two separate lots, it would have to come back before the Commission in a full subdivision procedure, which is entirely a possibility and might occur in the very near future.

Mayor Carroll said that his concern is with the proximity of this to the existing City limits, it is likely to come into the City, and even if it doesn't, it would seem to approve this as presented is just asking for a problem for somebody down the road when you have a road that has somebody's lot on it. He said it doesn't make a lot of sense to him to have a lot running across a road.

Mr. Vandergriff said he understands the concern, but in the sense of the way the subdivisions are out in the County, they run across roads continuously by virtue of the fact that the County leans towards the dedication of roads by easement rather than by right-of-way as the City wants. This is identical to other locations that are directly contiguous to City limits. What was originally asked for is nothing different than what has been granted by the Commission on numerous subdivisions over the last four or five years. Mr. Vandergriff said they are not unwilling to allow the City to access and acquire the property as part of the subdivision procedure. Nor are they unwilling to come back at a later date, but this ties Mr. Lowe up for a considerable length of time. He is looking to retire, and so Mr. Vandergriff urged the Commission to either do what has been done with numerous subdivisions in the area in the past or go along with what the City staff recommendation is.

Mayor Carroll asked if he understood correctly that the Commission could approve it the way it is and then at some future date go back and buy the needed land from the lot owner. Mr. Vandergriff said that he never suggested that. What he suggested was that there are a couple of ways of dealing with the issue. One is to approve it as a dedicated road easement as the City has done with surrounding subdivisions on a regular basis or to request the dedication in the system that the staff has proposed and receive it at this time. Mr. Vandergriff said he never intended that the City would have to come back and buy it.

Mr. Alterson said that it is staff's preference and professional opinion that in any property that is outside of the corporate limits but still within the City's utility extension area as indicated in the comprehensive plan those areas have designated streets. Mr. Alterson said he didn't want to debate the point with Mr. Vandergriff, however, having studied the material that was presented to the council when the subdivision to the North was approved, it is his understanding that there is nothing that any reasonable person could have seen in that material indicating that those streets were private roads. The indication on the plat is that they are private roads, which was something that went on there after the Commission saw the document.

Mr. Vandergriff said he would certainly not get into that because he is not at the meeting to represent Mr. Turner on his subdivision.

Mayor Pro-Tem Ron Griggs said that one of the things he had discussed earlier today because of frankly never having seen lots split like this and having the same number, was that it might be wise to put a statement on the plat indicating that they had to be sold together or replatted before they could be sold. There should be some way to explain that it is not a mistake. Mr. Vandergriff said he would certainly agree with that concept. Mayor Pro-Tem Griggs said he has not seen it, but that doesn't mean it can't happen. Mr. Alterson said he appreciates that it is a very unusual circumstance when it happens, and it does not happen very often.

Mayor Carroll clarified that the recommendation from staff is to approve the plats allowing the discontinuous lot but requiring the street dedication with a waiver of protest and granting the other requested variances. Mayor Carroll asked Mr. Vandergriff if that is acceptable to the petitioner. Mr. Vandergriff said that it would be.

Commissioner Cole asked if what Mayor Carroll is saying and what staff is recommending is that the private road would become a public road. Mayor Carroll said that is the recommendation of staff; it would not be a private road.

Mr. Vandergriff said that for clarification he would like to clearly point out that it deals with the wedge of property that is private road that is involved in the subdivision. He said that he can't go back to a subdivision of 2004 and commit the owner to something he didn't represent them for in that case. The portion of property that is being dealt with is that portion which belongs to Mr. Lowe that he is capable of dedicating. He can't dedicate somebody else's property.

Mayor Carroll asked what if anything was dedicated when the Commission approved the Sleepy Mountain estates. City Manager said that this is a triangular-shaped piece that would be dedicated under this scenario. Earth Road would come all the way back to the Southeast corner of Wind and Earth. Mayor Carroll asked if there was no dedication in the previous subdivision. City Manager McCourt said they understood that there was based on the documents that were presented to the City Commission on Wind and Rain, which were the ones on filing that were listed as private. Mr. Alterson said that is his understanding. He would agree with Mr. Vandergriff that the action that is before the City Commission right now is only the Lowe's subdivision. He does not think that the City should concede that those are private streets in the Sleepy Mountain subdivision to the North, but that is really not what is on the table right now.

Commissioner Lujan asked for clarity regarding whether the dedication was just for Earth and not for Rain or Wind. Mayor Carroll said that is another subdivision.

Commissioner Cole said that he is not sure that he has a clear understanding of where Earth is. This was further explained by someone off microphone.

Mr. Alterson said that if it is approved, there would not be an issue with getting to lot three. They would still be able to traverse the portion of Earth Road that is within the subdivision before the Commission right now in addition to which there is an easement. Anyone who bought lot three would have easement rights on the entire Earth Road from the previous subdivision.

Mayor Carroll said that again since at this point in time it is out in the County, in the short-term it is something for the folks in the County to iron out and worry about.

Mayor Pro-Tem Griggs said that he guessed that the Sleepy Mountain Estates subdivision is an approved subdivision in the County, and the road is either a private road easement or a platted easement. Mr. Vandergriff said that the roads are currently listed as completed, dedicated easements including the easement that is Mr. Lowe's property at the current time. It is dedicated to that road as a permanent easement on the County records at this moment. The action tonight would be whether to continue it as a dedicated road easement or to follow the staff recommendation. Mr. Vandergriff said he has no problem with the staff establishing a policy in the expansion areas, but they need to make it a clear policy and then go with it. Whether to leave it as an easement or create that portion of it as a permanent dedicated right-of-way is the issue. The problem is he has received a letter from the Chairman of the County Commission indicating that they're not interested in receiving it. If it is to be dedicated, it will have to be dedicated to the City. Mayor Pro-Tem Griggs asked what the ramifications would be to the City were that to occur. Mr. Vandergriff said that the City has owned a lot of County property before. He doesn't see any headache.

Mayor Pro-Tem Ron Griggs made a motion to approve the preliminary and final plat of Scenic Estates subdivision with lot two as a single, discontinuous lot with street dedication, with a Waiver of Protest agreement, with variances on the construction and installation of alleys, on the installation of utilities and on the construction of City streets to City standards and dedication of public land with the notation on the plat concerning lot two. Seconded by Commissioner Moncada. All voted "aye." The motioned carried 7-0-0.

OTHER BUSINESS:

18. Award of Bids and RFP:

D) Public Works Bid No. 2006-001, Repainting of the Tenth Street Water Tower.

Recommendation: Reject all bids submitted.

Mayor Carroll said that this is an item that has been discussed over the years, and there was money set aside a number of years ago out of a bond issue to proceed with it. Some of the money has been used to have an engineer come in and look at the structural soundness of the water tower. The opinion at that point was that the tower was structurally sound. The corrosion was not going to affect the stability of the tower, and the painting would be largely a cosmetic fix. The bids have come in at over twice the amount that has been set aside so the staff recommendation is to reject the bid and re-allocate the funds for some other project. While the idea of painting the water tower has had mixed reception, Mayor Carroll feels that because of the additional moneys that would be required to paint it, which the City does not have readily available, he would be inclined to go along with the staff recommendation.

Commissioner Cole made a motion to reject all bids submitted on Public Works Bid No. 2006-001. Seconded by Commissioner Brockett. All voted "aye." The motion carried by a vote of 7-0-0.

[A break was taken.]

19. Notification of vacancies on Boards and Committees.

Mayor Carroll said that there is a vacancy on the Community Development Advisory Committee as well as one on the Senior Volunteer Programs Advisory Council. He suggested that if anyone knows of anyone interested in serving on those committees, that they would notify the clerk's office.

SCHEDULED COMMUNICATIONS FROM THE PUBLIC:

20. Request of Mr. Ernest Childers, 1013 Wright Avenue, regarding a Notice of Violation issued by the City's Building Inspector.

Recommendation: Approve the requested 90-day extension to allow Mr. Childers to make other arrangements.

Mayor Carroll asked Mr. Childers if he is in the process of moving the trailer off of the property and coming into compliance. Mr. Childers said that is not yet, but he is asking for the 90 days to allow him to do that or to stay there indefinitely as he has been there six and a half years.

Mayor Pro-Tem Ron Griggs said that he and Mr. Childers have talked about this particular issue for a couple of weeks now, and he has lived in the property for six and almost seven years as it is. Mayor Pro-Tem Griggs went on to say that some of the recommendations from staff indicate that this may set a precedent that the City may not want to set. However, as a particular property was re-zoned earlier, a variety of exceptions can be made and possibly one for Mr. Childers to stay as long as he is the one living on the property.

Commissioner Brockett said that he agrees with that wholeheartedly taking into consideration the fact that he has been there for more than six years. Commissioner Ledford said that it must be interesting to live somewhere for six years and then wake up with a violation. He wanted to know how someone moves onto a lot such as that and gets authorization to park a trailer. Commissioner Ledford said he didn't know if the issue was permanent rezoning but wanted to know what the process was for parking the house there. He asked if one just pulls up and hooks it up or if it is clear that the size of the trailer is smaller than what is allowed. Mayor Carroll said he certainly

doesn't know though he would suspect that it may be a case of either not asking permission or not knowing that one needed to. He said he didn't know whether someone needs permission to bring a travel trailer on to a lot. The potential problem comes up if it is there for an extended period of time and hooked up as a permanent residence. Mayor Carroll asked if Mr. Childers has a water meter and pays a water bill, which he does. Commissioner Ledford asked if he was allowed to hook up to City utilities, which he was. Nobody has a problem with him being there, but Commissioner Ledford did point out that just because it took six years to find it out doesn't make doing some wrong right.

Mr. Childers said that he was under the impression when we went on the lot that he was going on it legally. He said he talked to a City engineer who told him that he could go on without a permit because it was an RV. He might be there for three or four months, be gone for a month or so and then be back again. Commissioner Ledford asked what Mr. Childers would have to do in order to be approved to stay there indefinitely such as skirting. Mayor Pro-Tem Griggs said that he wouldn't expect that he would have to skirt any more than 80% of the people out there who live in mobile homes that aren't skirted already. He thought perhaps the Commission would need some advice on how or what would have to be done to allow him to stay there in violation of the Ordinance. If that can be done, the Commission would need to consider it.

Mr. Alterson said that the problem that staff has with it is precisely that there is no mechanism to allow it to continue past a temporary period for the gentleman to correct the infraction. Mr. Alterson said he realizes the infraction is not necessarily his fault, and he cannot explain how it has gone on for six years. The property, however, is not zoned for someone to live in an RV on it. He doesn't know what action the Commission could possibly take to make it zoned for that short of rezoning the property, which has all of the procedural ramifications of the hearing before the Planning and Zoning Commission and the rendering of the property as acceptable to have an RV parked on it for the life of Mr. Childers or his residence on the property, which may open a Pandora's box for people looking to move recreational vehicles on property to live in or in other districts to move mobile homes on property in districts that aren't zoned for such.

City Attorney Ehler said that the only zones that she believes are acceptable are mobile home parks or RV parks for living in RVs, which requires park plans and doesn't seem practical for a single residence. There was conversation off the microphone. In reality it is in a district where mobile home parks are permitted but not recreational vehicle parks. There is a provision for a special use permit that is generally for mobile homes, but we have allowed it in the past for people who were coming in to take care of relatives that were sick. That has a two-year limit on it. City Attorney Ehler said she couldn't think of anything else that could be done off the top of her head.

Commissioner Ledford asked if the staff is recommending a 90-day extension and wanted to know if they would come back in 90 days to think about it again. Mr. Alterson said it is their understanding that Mr. Childers would move the vehicle off the property in 90 days.

Mayor Carroll offered the suggestion that the Commission approve the 90-day extension and during that time explore with staff and the City's legal folks whether there is some other mechanism to allow it to continue past that point if that is acceptable. Commissioner Cole asked Mayor Pro-Tem Griggs to reiterate his suggestion. Mayor Pro-Tem Griggs said he is not sure that he has a particular suggestion, but he is concerned as to whether there is a mechanism that currently exists that would allow Mr. Childers to remain on the property. He has made his home there. He has friends around there, and he would like to remain there. The question is whether there is a mechanism that would allow him to do that. He is renting the property and does not own the lot.

Commissioner Cole said he would support the Mayor's suggestion to approve the 90 days and then explore what mechanisms may exist for him to remain there.

Commissioner Lujan asked Mr. Childers what he will do if there is nothing else that can be done to allow Mr. Childers to remain with the current home. Mr. Childers said he didn't know what he would

do. Commissioner Lujan went on to ask if more than 90 days could be granted. Mayor Carroll said that the Commission can certainly explore the options well within the 90-day period, and there is

nothing to say that during that period some other request or action couldn't be taken. It simply gives everyone the opportunity to explore the options.

Mayor Pro-Tem Ron Griggs made a motion to approve the requested 90-day extension. Seconded by Commissioner Moncada. All voted "aye." The motion carried by a vote of 7-0-0.

21. Request of Mrs. Sherlie Sanders-Morris, 2318 19th Street, regarding water bill relief and reimbursement of expenses caused by water leak.

Recommendation: Deny the water bill relief request. No recommendation on the reimbursement of expenses.

Ms. Sanders-Morris said that she wanted to get more relief because she was not notified. How are they to know that they have a water leak when it is so far under the ground? The individual who read the meter said that he notified a white lady at her address, and that is not possible. The lady next door was notified of her water leak, but they were not notified. Her husband discovered the leak on the 8th of January when he saw a large puddle. They had to pay \$3,000 to have their driveway redone, and that was not money that they intended to spend.

Mayor Carroll said as Ms. Sanders-Morris correctly stated the City does not have an obligation to notify people of an abnormal reading. Typically, the City does attempt to do that not knowing whether it is necessarily a leak or a large consumption of water for some other reason. An attempt is normally made to notify individuals, and that is a provision that many communities do not have, which is an attempt to mitigate the expense if in fact it is a water leak. The staff has applied the standard relief formula to the bill, and the reason that they're recommending denial is the fact that they don't have authority to go past what they have already done. The Commission does have the option to further mitigate the bill, but speaking for himself Mayor Carroll said there is no way that he would support paying to replace the driveway. There seems to be some dispute as to whether or not there was notification given either in person, with a door hanger or by some other means. He asked Mr. Ortega to speak to that.

Mr. Armando Ortega said that the day the meter was read one of the meter readers said he remembers the situation and exactly where the leak was. He explained to Mr. Ortega that he explained to the individual exactly where the leak was in the yard. He also saw the water coming up, and it was approximately five feet from the meter. If you look at the property, you can actually see that is where it was dug up. The whole yard line was replaced. Ms. Sanders-Morris' neighbor did, in fact, have a leak, and she is on a budget billing account. She obviously hasn't seen her deferred amount on the budget billed because when you're on a budget bill it doesn't affect the total monthly charge. It affects the deferred amount behind the scenes, but it is listed on the bill.

Mayor Carroll asked if the neighbor would be coming before the Commission when she gets her bill. He wanted to know if it was a large bill from a long-term leak. Mr. Ortega said that it is, and she does qualify for abatement. She simply hasn't requested it. It will be the same type of abatement that is applied to this account.

Commissioner Brockett asked when the neighbor's leak occurred. Mr. Ortega said that the neighbor was notified on October 26th, which was a month and a half prior to Ms. Morris' leak.

Commissioner Ledford asked if the water line on the residential side of the meter is the property of the owner, and it is. The leak was on the residence side of the property. Commissioner Ledford said that the balance due is \$681, and asked how she would be able to pay that amount. Mr. Ortega said that the \$681.58 was the amount adjusted on the February bill. In addition, \$255.62 was adjusted for the January bill. She received over \$900 in adjustments, and the amount remaining is \$494.51, which includes the regular current charges. City Manager McCourt asked if some sort of payment plan could be provided, and Mr. Ortega said that the customer could request

a payment plan. Six months is the maximum for the payment plan. City Manager McCourt asked if the break was definitely on the customer's side of the meter on their property and not on the City's line, and it is. Ms. Sanders-Morris said she is wondering why they didn't put a notification on their door. Mr. Ortega said that the door hanger that Ms. Sanders-Morris has is from their office. Three days after the meter was read an exception report was sent out, and, again, the meter reader talked to a person so they were informed. David said he spoke to a woman though it was not Ms. Morris. He did not ask for an ID. Ms. Morris said they were told that the meter reader had spoken with a heavy-set white lady. Mr. Ortega said he has no recollection of having ever said that, but that is what Ms. Morris and her husband told him. Ms. Morris said she couldn't bring her husband to the meeting, but she was there when her husband talked to Mr. Ortega.

Commissioner Ledford pointed out again that the City is not required to speak with anyone. It is done simply as a matter of courtesy. It is not in any of the policies or ordinances. Commissioner Brockett asked if that is due to insurance. Mr. Ortega said if they do make it a policy and then miss the leak, the City would be liable for any outstanding costs related to the leak. Commissioner Brockett asked for clarification about the second time the meter reader went out and the exception report was issued whether it was the same reader as the first time. Mr. Ortega said it was a different person on 12/22, three days later. Commissioner Ledford asked why that was done. Mr. Ortega said what happens is he gets trouble codes on the meter readings, and again it's a courtesy to the customer and also he checks for misreads. Sometimes the numbers are transposed, so he sends it out again to make sure it's not a misread if it's a real high consumption. A second reading is taken just to verify that the reading is correct. At that point, the customer will also be contacted. Mr. Ortega said they explain to the customer that the consumption is very high, and there is also an indicator dial on the meter that shows low flow. If it is moving, the suggestion is made to the customer to have it looked at.

Commissioner Ledford asked if the person they spoke to recognized that there was a leak. Mr. Ortega said that David told him that the person he talked to said they would pass on the message. City Manager McCourt pointed out that the second reader was not David. It was Nathan. Mayor Pro-Tem Griggs asked when the door hanger was left or if it was left at all. Ms. Morris said one was never left. Mr. Ortega said that if they contact a person, they don't leave a door tag. Mayor Pro-Tem Griggs asked if they contacted someone next door whether it would be a wise thing to still leave a door hanger on the door of the affected property. Mr. Ortega said that if no one answers the door of the home that is affected, they do leave a door tag. They don't go next door to the neighbors.

Mayor Carroll asked if it is correct that the bills seem to show excessive consumption through two billing cycles. Mr. Ortega said that is correct, and the leak abatement policy allows staff to adjust two consecutive months affected by the leak. City Manager McCourt explained that after notification there is a time lag going into the next billing period where the leak is still existent before it can be fixed.

Commissioner Ledford asked for clarification on why the staff went next door and asked someone to leave a message. Mr. Ortega said they never went next door for that purpose though they had been next door because they also had a leak. If you pass by the properties, both properties did have their yard lines replaced. Ms. Morris said that the lady next door did not have the yard line replaced. Mr. Ortega said that theirs is dug up, but the next-door neighbor's isn't. Commissioner Ledford asked if the payment arrangement could be extended to twelve months. Mr. Ortega said they have extended it to twelve months for homeowners, but for renters they do require six months.

Ms. Morris said she can't afford to pay the bill because she is having problems with her husband who is bipolar. Mayor Carroll asked if there were any suggestions. He said based on the information that they have, the leak abatement policy that has been granted is probably the most that the Commission would be able to do. Certainly arrangements can be made to stretch out the payments. Ms. Morris asked how that is fair when she was never notified.

Commissioner Brockett asked if somebody was spoken to on the next visit. Ms. Morris said she never got a first or second visit. Mr. Ortega said it was noted on the exception report that they talked to a customer. Commissioner Brockett asked whom the meter reader said he spoke to the first time. Mr. Ortega said he knocked on the door and spoke to a person. Commissioner Brockett asked if the person indicated to the meter reader that they were watching the house or it was the wrong house. Mr. Ortega said he had no idea. All it says is he talked to the customer. Mayor Pro-Tem Griggs asked for clarification if the policy is to either talk to someone at that house or leave a door hanger. Mr. Ortega said that is correct.

Commissioner Moncada asked if the payment arrangements could be extended, and Mr. Ortega said it could be extended to twelve months and would be about \$41 to \$42 a month on top of the current charges for twelve months. Ms. Morris said she doesn't have it. Her husband spends everything he gets his hands on, and she only has her money. He won't give her any. Commissioner Lujan asked how many people live in her house, and whether they could have spoken to her husband. Ms. Morris said it is just she and her husband, and she is sure they didn't speak with her husband. She is at home, and he is always gone. Mr. Ortega said when the meter-reader went back on the 23rd, there was a ladder over the hole already where they figured out where the leak was from being notified. Her husband did acknowledge that. Ms. Morris said that didn't happen and when he found a ladder over it is when her husband had found the leak and dug it up. That was in January on the 8th when he came back for the other reading.

Commissioner Brockett said that perhaps for future cases it would be wise to have the reader at the Commission meeting. Commissioner Moncada said that perhaps someone should sign something though that might be a problem insurance-wise. Commissioner Brockett suggested that regardless of whether someone is spoken to or not a door hanger can be left.

Mayor Carroll said that apparently there was a breakdown in communication, but the Commission is not a position to determine who is right and who is wrong. The issue is whether to further abate the bill. Commissioner Moncada said it is very unfortunate that Ms. Morris can't come up with the \$400, but if the Commission goes further with the abatement, it may be opening a can of worms. Mayor Carroll said that it is always a difficult situation, but that is why the policy has been modified. That said, there has to be some kind of a policy, and many communities have no policy at all such that if the water went through the meter the individual pays for it whether they had a leak or not.

Commissioner Ledford pointed out that it is good to note that the policy is one of relief, and it is not that the Commission is not trying to understand or be compassionate. That is what the leak policy makes an attempt to do. The payout plan is also something that many communities do not do. Substantial relief has been given, and that is probably the best the Commission can do particularly with the twelve-month payout.

Commissioner Ledford made a motion to deny the request for additional relief with the modification that the balance that is due beyond the normal bill be paid over a twelve-month period. Seconded by Commissioner Moncada. A vote was taken. The motion carried by a vote of 5-2-0 with Commissioners Lujan and Brockett voting "nay."

22. Request of Mrs. Virginia Estrada regarding the Sgt. Willie Estrada Memorial Civic Center and the "Wall of Honor" at the center.

Recommendation: No recommendation.

Mrs. Virginia Estrada addressed the Commission and said that she is at the meeting regarding the Sgt. Willie Estrada Memorial Civic Center. She said that she has a guest first, and being that Alamogordo is a military city whose economy is very dependent on the military with a long tradition of providing its best sons and daughters to defend America, she introduced a personal friend, Mike Tillbrook, who would talk to the Commission about the military life.

Mr. Tillbrook thanked the Estradas for inviting him and thanked the Commission for allowing him to speak. He gave a history of his life. He was born in southern Alabama and raised in South Florida. When he lived in Florida there was a plant making jet engines not too far from his house, and he heard them running all of the time. His dream was to join the Air Force, do four years as a jet engine mechanic, get out and move back to Florida and live out the rest of his life on the beach. While in high school, he moved to Alabama and he graduated when he was 17. He was bagging groceries and nobody at that age really knows what they want out of their life. He joined the Air Force but couldn't get the jet engine mechanic job that he wanted. They told him what was available, and he made his best choice. He is very happy with it and wouldn't change careers for anything. Through his nineteen years in the service he has been stationed in England, Oklahoma, Turkey, Alamogordo, back to Turkey, and back to Alamogordo. Coming to Alamogordo was always his choice. During that time he had been deployed several times to Saudi Arabia, Iraq and Afghanistan and other places in the Middle East. Having been stationed over seas good friends he has made good friends and lasting relationships. While he was stationed in Europe he had the opportunity to travel all over, and one of the better things about the military life is the family he has. He met his wife in Alamogordo and has been married for eight years.

He went on to say that he wanted to not only talk about the good times in the military but the bad times as well, bad places, horrible living conditions and not being able to take a shower for days. It's hard particularly to deal with time away from family and not being able to call. An e-mail can be sent every now and then or a call made for 10 to 15 minutes once a week. Most of the time the line is dropped before you finish a conversation. Relationships in the military are hard. Mr. Tillbrook was married before to another member of the military, and in 1992 she was deployed to Saudi Arabia. Two weeks before she came back Mr. Tillbrook left, and so it ended up being almost nine months that they didn't see each other. He received a "Dear John" letter and came home to nothing. He had no place to live. He doesn't blame that on the military because he choose that life.

Mr. Tillbrook noted that when he left Alamogordo, he did a one year remote in Turkey. He said that he was not even on a base there. He was on his own and was the only American there. He explained that he was on Turkish utilities, including water, which is next to horrible. He had to use a generator for electricity. Mr. Tillbrook added that he is going to retire soon and he plans to stay here in Alamogordo. He pointed out that he has come here to Alamogordo twice by his choice. He thanked the Commission and asked that they consider what he has said when they hear what is talked about next.

Mayor Carroll thanked Sgt. Tillbrook for his comments and for his service to our country.

Mrs. Virginia Estrada said that she believes the Commission has read the letters she has written that were delivered on Monday to be placed in the Commissioners' mailboxes. She stated that the point of her request and the local residents who have she has signatures from is to make sure that the Sgt. Willie Estrada Memorial Civic Center remain in his honor even if there is a change of location or a new center is built on the present site. She said that this is the American tradition for permanent memorials. She added that to even entertain not keeping Sergeant Estrada's name in perpetuity would serve no purpose except to cause ill will and possible bias. She explained that below the signatures she had, there was a request that the center be exclusively dedicated to honor any man or woman from Otero County, past, present, and future regardless of race, creed, or color who will sacrifice their lives in combat for our beloved country. She said that they do not feel it is appropriate and insist that the Commission and all other entities not include or combine outstanding civilians with the honoring of the military at the center. Mrs. Estrada recommended that individual plaques for each branch of service be placed in selected locations throughout the building to honor the names of the individuals from each branch of the military services who paid the ultimate sacrifice for our freedom. She said that the flyer that was given to them on the dedication day, March 6, 2006, said that Mayor Carroll dedicated that building in Sgt. Estrada's honor. She said that he also said that military people would be the ones that would be honored there. She noted that she also had newspaper clippings that supported this. She stated that she had attended the last meeting where Dr. Townsend gave back the results of the findings on the wall of honor and no

where did he say that the honorees would be placed at the civic center. Mrs. Estrada closed by reiterating that her request is that the civic center remain in Sergeant Willie Estrada's honor and perpetuity even if there is a change in location or a new center is built and that the center be exclusively dedicated to honoring military men and women of Otero County who sacrificed their lives in combat for our beloved country.

Mayor Carroll told Mrs. Estrada that he is very sorry that this has turned into a very divisive issue or potentially divisive issue. He stated that it was never anyone's intention that this happen. He said that he thought that when the building was named in honor of Sgt. Estrada that they were doing an honor to an individual who was certainly worthy of the honor. He explained that since then the issue has gotten confused with a committee that the Commission had set up. He stated that he is very well satisfied with leaving the Sergeant Willie Estrada Memorial Civic Center exactly as it is. He said that this Commission cannot commit future Commissions to do or not do anything at all. He stated that he is speaking for one individual Commission member and he will not vote to do anything with the Sergeant Willie Estrada Memorial Civic Center other than what is there now. Commissioner Moncada said that she thinks that what Mrs. Estrada is trying to say is that when the Commission receives the information from Mr. Townsend's committee outlining all the criteria for honorees that the Commission consider putting military honorees at the civic center and not putting civilians at the civic center. Commissioner Moncada explained that the Commission does not have any guidelines yet. She noted that she does know that Mrs. Estrada's request is to make the civic center building for honoring the military.

Mrs. Estrada said that when they first came to the wall of honor meeting Dr. Townsend said he was sending it back to the Commission for logistics and to make a decision. She said that they did say that for inclusion we would periodically publicize the nature of the monument to the families throughout the county by print and broadcast news media. She said that this would be a function of the City's tax-paid publicity public relations department. She said that we are not saying that we would haphazardly put in anyone that would come in with a story. They would follow the same criteria that Dr. Townsend was probably going to do or is going to do. Mrs. Estrada said that her husband suggested that he be included as one of the members for the committee for the criteria because she felt they have lived in Alamogordo all their life and know the people. She said that her mother was born here in 1912. She said her dad was born in Tularosa and they know the surrounding area and all the people. She said that some one that is Hispanic was not included in the committee the first time around. She asked Mayor Carroll again if he was willing to leave it as it is now. Mayor Carroll replied that as one individual commissioner he is not voting to do anything other than what is there at this time. Mr. Pete Estrada said that is all that they are asking. Mayor Carroll said that he is not voting to do anything other than what it is there now, period. Mr. Estrada asked if another committee was being appointed to follow up on Dr. Townsend's recommendation. Mayor Carroll replied that the Commission asked Dr. Townsend to put together a committee to make recommendations on how we might go about setting up a procedure to recognize individuals in the community. He said the committee met and made recommendations. He stated that the committee no longer exists. He said that the information that came from the committee has been given to the individual City Commissioners and the Commission at this time has not discussed or made any decision about whether they want to adopt the suggestions that were made or forget the whole plan and not have any procedure or have any committee to recognize anyone. He said that if it is going to be divisive, he would prefer not to recognize anyone for anything. He stressed that people need to recognize that the only city owned building that is actually named after someone is the Sergeant Willie Estrada Memorial Civic Center. He said that there are other buildings that have plaques on them with people's names on them, but the civic center is the only building that has been named in honor of someone. Mr. Estrada says they appreciate that. Mayor Carroll said the Aubrey Dunn Visit Center is technically a city owned building, but it is basically the Chamber of Commerce's building. Mr. Estrada said that is all they are asking and they appreciate it. He said he does not see a need to have a second vote on it. Mayor Carroll said this is his stance on it and this Commission cannot commit future Commissions to anything.

Commissioner Ledford said that he agrees with Mayor Carroll and appreciates what the Estradas are saying. He said that he thinks Mr. Estrada is saying that he agrees. Commissioner Ledford added that he will not change the name either, but there are a lot of years a head of us. Mrs. Estrada said that she wanted to add that they have 878 signatures that were wanting for it to remain the same. Mayor Carroll asked her to leave the signatures with the clerk and they will certainly put them with the records of tonight's meeting. Mrs. Estrada clarified that they will go on record. Mayor Carroll confirmed that it will go as part of tonight's meeting. Mrs. Estrada thanked the Commission for their consideration. Commissioner Cole added that he agrees with Mayor Carroll on the subject. Commissioner Brockett said he also agrees and thanked the Estradas for their presentation.

Mrs. Connie Scroggins came forward and thanked the Commission.

UNSCHEDULED COMMUNICATION:

A. Loretta Pacheco

Loretta Pacheco came forward and identified herself as Connie Scroggins' daughter. She asked if the rest of the Commission would like to comment on whether they agree with Mayor Carroll or not individually so they will know whether they agree or disagree. Mayor Pro-Tem Griggs responded that the way that Mayor Carroll has discussed it is certainly fine by him. He said that he has proposed in times past that we have a wall of honor for individuals in Alamogordo. He stressed that it has never been for outstanding individuals or prominent citizens in Alamogordo. He said it is for people who have done things, primarily flown under the radar, to be recognized in this community. He stated that they are probably not going to be recognized in any other place during their lifetime or after they have died. He explained that when he first brought it up he mentioned Theodore Holly. He said later he talked about Howard Walker, who was the principal over at Sierra Elementary School. He said he has talked about a variety of people who have made an impact on our community and need to be recognized somewhere. He said there was never any discussion on where it would be. He stated that what has happened is that there was a rush to identify and name military individuals and recognize them at the Sergeant Willie Estrada Memorial Civic Center. He said that jumped the gun because there was no criteria established for anyone. He said the Commission never had and has not yet established any criteria. Mayor Pro-Tem Griggs said they talked to Dr. Townsend to set up a committee to establish a process to do this. He noted that one of Dr. Townsend's recommendations was to set up a nine or fourteen member committee of people from all over town and charge them with developing the criteria and giving a recommendation of where people should be honored. He said that none of that has occurred. He stressed that his goal out of all of this is to find a way to recognize those people who have contributed to our community and may not ever be recognized in any way. He said that all of us know people that have done a lot of good for Alamogordo, but they are not seen as citizen of the year or with their name on something. He said they may have had a big impact on your life or on numerous people's lives. He said they need to be part of Alamogordo's history and recognized somewhere. Mayor Pro-Tem Griggs said he does not personally share the Estradas' opinions that it would diminish the honor placed upon Willie by naming the building after him. He said that he is willing to stand by the recommendations of a committee though because he wants to see this happen and happen right. He stated that we need to establish the criteria before we go any further. Mrs. Pacheco clarified that Mayor Pro-Tem Griggs agrees with Mayor Carroll. Mayor Pro-Tem Griggs responded that he did.

Commissioner Lujan clarified that we are not going to make a wall of honor in the civic center. Mayor Carroll responded that he will not vote to do anything to the civic center. Commissioner Lujan said that he agrees with leaving it as it is. He clarified that he cannot commit what a future Commission will do. He gave his word that he will never vote or support removing the Willie Estrada name off of this civic center.

Ms. Pacheco asked who had appointed Dr. Townsend chairman of the committee and why was not any member of their family talked to. Mr. Estrada told Ms. Pacheco that they had already gone through all of that. Ms. Pacheco said she was not informed. She thanked the Commission.

Ms. Helen Savoy came forward and said she sides with the Estradas on the Willie Estrada Memorial Civic Center. She said that the make up of the committee is essential and has to cover all aspects of everyone in Alamogordo and she would like to be a member of the committee if the Commission makes another committee. Mayor Carroll said there has not been a decision that there is even going to be a committee. He said one of the first steps would be answering how we decide who is going to be on this committee. He said based on what he has seen, this even has the potential to be divisive and he is not sure he is interested in doing something that they thought would be good if it is going to be divisive. Mayor Carroll cleared the record that there has never been any talk or consideration of taking the name of Sergeant Willie Estrada off of the name of that building.

B. Commissioner Cole

Commissioner Cole complimented Code Enforcement Officer James LeClair for solving a problem between two families over dogs and weeds. He noted that he did a super job on making friends on both sides.

C. Commissioner Brockett

Commissioner Brockett thanked the Estrada family for turning out in full force tonight and hopes things are smooth from here out.

D. City Manager Pat McCourt

City Manager Pat McCourt reminded the Commission that last Commission meeting he was asked to report what happens when an item is pulled from the agenda regarding notifying people. He explained that the City Clerk notifies the Director of the particular area who then relays the information to the staff member to get the information passed back to the person affected. He noted that in the particular circumstance that occurred and was addressed at the last meeting, both the director and the staff person were present when the item was pulled from the agenda.

City Manager Pat McCourt reviewed the water report saying that we have our reservoirs as full as possible. He said that since the demand has fallen off and Holloman is no longer taking any water from the system, we have cut back on our well use to let them recharge and be better prepared for the coming summer months. He noted that Bonito Lake is 19 ¼ feet below the spillway. He added that he noticed some snow up on Sierra Blanca so this will hopefully help us get some water into the lake.

City Manager Pat McCourt stated that he will be absent on April 28th. He previously thought it would be the 21st, but he had the wrong date.

Mr. McCourt then introduced the new City Clerk, Renee Cantin. He stated that she joined us from Columbus, New Mexico. Ms. Cantin thanked Mr. McCourt and the Commission for the opportunity.

Mr. McCourt informed the Commission that he would be out of town this Friday and the following Monday for meetings on the PSAP system and Mr. McNeile would be in charge during his absence.

E. Mayor Carroll

Mayor Carroll stated that we joined the U.S. Conference of Mayors this past year and he attended their winter meeting in Washington in January and it was of little note or concern. He said the annual meeting is coming up the first part of June and it is in Las Vegas, NV. He wanted to inform

everyone that it is his intention to attend the meeting so he can get a better feel whether the continued membership in the organization will be beneficial to the City.

Mayor Carroll thanked Angie Rahn-Broyles for all the years she has worked for the City and all the years she has kept him out of trouble and had the minutes reflect him as being a lot smarter than he really is. He emphasized the City's appreciation and that she will be missed. He wished everyone a Happy Easter.

EXECUTIVE SESSION: There was no need to adjourn into Executive Session to discuss threatened and/or pending litigation.

Mayor Pro-Tem Ron Griggs moved to adjourn. Seconded by Commissioner Brockett. All voted "aye". The motion carried by a vote of 7-0-0. The Meeting was adjourned at 10:23 p.m.

/s/ Donald E. Carroll

Mayor Donald E. Carroll

ATTEST:

/s/ Renee L. Cantin

City Clerk Renee L. Cantin
(SEAL)

(Prepared in part by Ubiquis Reporting and in part by Betsy C. Keller)
Approved at Regular meeting on April 25, 2006.