

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
7:30 P.M., COMMISSION CHAMBERS
AUGUST 22, 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
CITY ATTORNEY WILLIAM BROGAN
CITY CLERK RENEE CANTIN**

CALL MEETING TO ORDER, ROLL CALL, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Don Carroll called the meeting to order at 7:30 p.m. All of the Commissioners were present. The Invocation was given by Ms. Dotti West followed by the posting of the colors by the Alamogordo High School Air Force Junior ROTC. The Pledge of Allegiance was led by Mayor Pro-Tem Ron Griggs.

Mayor Carroll thanked the Junior ROTC for their participation in the meeting.

PRESENTATIONS:

1. Presentation of Proclamation to Sonia Candelaria, Miss Alamogordo, and Leslie Abercrombie, Miss Otero County, for Miss Alamogordo/Miss Otero County Day.

Mayor Don Carroll read the proclamation and made the presentation to Ms. Abercrombie.

CALL OF THE CONSENT CALENDAR:

MINUTES:

2. Minutes of August 8, 2006 Regular Meeting.

Recommendation: Approve the minutes.

ORDINANCES AND RESOLUTIONS:

10. Consider Resolution No. 2006-56 requesting support from various entities to obtain additional missions for Holloman Air Force Base.

Recommendation: Approve the resolution.

OTHER BUSINESS:

11. Consider approval of the Airport Certification Manual.

Recommendation: Approve the manual.

13. Award Bid No. 2006-11 for Hot Mix.

Recommendation: Award bid to Cemex, for an estimated amount of \$109,102.50.

16. Statement regarding the Executive Session of August 8, 2006.

Recommendation: Approve the statement.

Commissioner Ledford made a motion to approve Items 2, 10, 11, 13, & 16 of the consent calendar. Commissioner Moncada seconded the motion. A roll call vote was taken. All voted

“aye.” The motion carried with a vote of 7-0-0.

PLANNING ITEMS:

3. Consider the final plat of **MARKET PLACE, REPLAT A, SUBDIVISION**, for C. Michael Shyne [Case S-06-0929(A), 3313-3751 N. White Sands Blvd.].

Recommendation: Approve the final plat of **MARKET PLACE, REPLAT A, SUBDIVISION** with (1) a variance to §22-01-070 on alley installation, (2) deferral of §22-01-040 drainage plan requirements pending construction plans & building permit application; (3) dedication of an easement for Scenic Drive from Market Place Drive to the west property line; (4) the developer being responsible for the required intersection and signal modifications on North Scenic Drive at North White Sands Boulevard; (5) payment in lieu of land dedication; & (6) a Subdivider's Contract.

Mayor Carroll explained that this Item had been continued from the meetings on 7/25 and 8/8.

Michael Shyne was present at the meeting and addressed the Commissioners. He explained that the previous motions had been tabled or postponed as a result of inadequate information, and the main issue is the expense that will be associated with modifying the traffic light at Scenic and North White Sands Boulevard, which currently is a three-way light allowing traffic from the North, South and East. It would be changed into a four-way light by adding the westerly leg. The light was originally installed in 1988 and then reinstalled in 1998 all in accordance with the City's Master Plan, which showed Scenic Drive extending west to the Alamogordo Relief Route. It was very appropriate that the Highway Department install a traffic safety system there that would handle all four legs of the intersection.

City Manager Pat McCourt said that an attempt was made to get as-built drawings from the Highway Department, but they indicated that those drawings were not available. Mayor Carroll explained that it is his understanding from City staff that the conduit and sleeving were installed to allow for future expansion, and the controller that is presently there will accommodate additional lights. There is concern, however, looking at the alignment of the proposed roadway that the location of the controller will have to be moved. The main cost would be for a new mast arm and whatever acceleration or deceleration lanes would be necessary for safe access, both ingress and egress. The cost estimates are in the neighborhood of \$15,000, and that doesn't include the removal of the sidewalk and type-one pole or the construction needed to set the type-three pole that would be needed. It also does not reflect engineering fees. While it is not an insignificant cost, it is certainly not nearly what it would be if they had to start from scratch.

City Manager McCourt pointed out that there is an electrical pole that appears to be about centered on where the street would go through. Mr. Shyne said that the electrical pole has been addressed with the electric company and would not be a part of the expense that would be incurred for the redoing of the intersection. There is also a fire hydrant that would have to be relocated, and it would be Mr. Shyne's responsibility to handle the expense of having that moved. Mr. Shyne went on to say that in terms of aligning the right-of-ways he thinks the control box will be fine where it is located. A surveyor will have to confirm whether or not that is the case.

Mr. Shyne provided handouts to the Commissioners, which were copies of page seventy of the Alamogordo Comprehensive Traffic Study listing the short-range programs that were planned to be completed between 1997 and 2002. He read the specific section to which he was referring, and number one on the list was to construct the Alamogordo Relief Route. Mr. Shyne said he knows he has a financial responsibility in this situation, but it is his opinion that the City staff is trying to get him to pay a cost to comply with the comprehensive plan that the City should pay. He explained that he is looking for a solution to this problem that both he and the City can work together on. He said he would put up \$15,000 for the materials, but he would like the City to do the installation. He would also like to split the cost of the acceleration and deceleration lanes with the City. He believes that to be a realistic proposal.

Mayor Carroll explained that while Mr. Shyne was correct that the City had laid out goals in terms of the Relief Route in the comprehensive plan, it does not indicate that the City was going to pick up the expense for those. However, the Master Plan is simply a plan that is subject to change.

Commissioner Cole spoke up in support of Mr. Shyne's proposal as a reasonable compromise. Commissioner Ledford asked if the \$15,000 was the definitive amount that Mr. Shyne would contribute or if it would be adjusted in relation to how much it would end up costing. Mr. Shyne confirmed that what he had envisioned was simply writing a check to the City for \$15,000.

Commissioner Ledford said he appreciates Mr. Shyne's proposed compromise, but he asked what the normal policy or procedure is to address these situations as he was under the impression that the City does not typically pay for these things. Mayor Carroll said that the policy has been that when traffic lights are required for a development, it is the responsibility of the developer to put those in as well as any streets that are required. Commissioner Ledford asked why if that is the City policy it doesn't simply apply in this case, and Mr. Shyne made the argument that it is because of what was listed in the Comprehensive Traffic Study as the City's number one priority. Commissioner Ledford said he would certainly want to have specific numbers in terms of what the project would cost before consideration could be given to making any type of agreement.

Mr. Alterson pointed out that in staff's memo what is stated is an estimated parts list only of what it would take to upgrade the intersection. It is noted in the memo that the prices are from a few years back, and they should be increased by at least 50% and still may not be 100% accurate. In addition, the estimate does not address the contractor costs. It is simply a parts list. They cannot get a comprehensive number without doing the necessary engineering and the assessment of how much that would cost.

Commissioner Lujan asked for clarification of what costs Mr. Alterson was referring to. Commissioner Lujan then asked if those costs are increased by 50% to reflect current prices whether Mr. Shyne would increase his offer. Mr. Shyne said he believes the City should share in the costs. Otherwise, he believes he is being required to do an unfair portion. Mr. Shyne said that he doesn't care how it is done, but an agreement will have to be written in advance. If the City prefers that he contract and have it done, he is willing to do that. However, it is his intention to contribute \$15,000 for the lights and half of the cost for the additional lanes with the City paying whatever the remainder is for both of those things.

Commissioner Ledford asked Mr. Shyne if he is ready to begin development in that area. Mr. Shyne said it is interesting that they are going through this grief because this is a replat but nothing is being replatted. He is simply submitting this to the Commission to move an old phone easement, add an old phone easement, grant the City requested easements for utility lines, and dedicate the street. It is not a subdivision, but it is being considered one. Commissioner Ledford reiterated his lack of comfort with approving this with no specific details in terms of cost. These are really two issues, the traffic light and the dedication of land.

Mayor Pro-Tem Griggs said that he can look at the Master Plan, and the way he sees it the Relief Route was the number one priority and the extensions were simply supplemental to that. He didn't know of any other time when the City split costs with a developer in this way. He asked if changes had to be made when the City redid the highway and if so how those were handled. He said he didn't know that he wanted to set any precedent. Mayor Pro-Tem Griggs pointed out that Home Depot and Wal-Mart funded the lights near their locations. Mr. Shyne said that if a large box business were to move onto that property, he would be very pleased for them to put those in at their expense. This is simply to get a plat approved and to give the City easements that it wants.

Ms. Sharon Few said that she would most strenuously argue Mr. Shyne's point that this is not a subdivision or a replat and is simply an easement document. She stated that under State statutes the division of land into two or more parts within the City is a subdivision and the dedication of public rights-of-way require City Commission approval. The plat changes lot lines adding a re-division of lot and property lines. It also creates a new street, and a new lot in lot 5A. The easements can be done

privately between the utility companies, and a summary plat could have been done to adjust lot lines laterally if it hadn't already been done with the original plat.

Mr. Alterson said that he is not trying to turn this into a debate as it is strictly a decision related to the authority of the City Commission and its prerogative to make a decision on whether or not to accept a plat. Mr. Alterson cited subdivision regulation 22-01-130.

City Manager McCourt said that he has a bit of a different perspective, and that it seems to him what the Commission is being asked to do is to utilize road funds for this project as a top priority. This, however, was not discussed in the recent meeting at which the Commission discussed the City's current priorities.

Mr. Shyne commented that in relation to the cost of the other projects that the City has, this is a very small amount of money. Commissioner Lujan did point out, however, that they don't know what the figures are.

Mr. Zimmerle suggested that a work session be engaged in to discuss this issue. They can then come up with hard numbers and everyone would have the opportunity to ask questions. Mayor Carroll said he does not have a problem with that. Commissioner Brockett asked Mr. Zimmerle to clarify what parts of the project he is referring to, and it is the traffic light, the public land and the additional requirements. Mayor Carroll asked if there is a request to table this item again in order to address it in an informal work session with the Commission and staff. Mr. Shyne said that would be fine with him. Commissioner Ledford stated that he doesn't have a problem with that, but doesn't want to simply move from this time to another time to start talking about it again with the hard numbers and other information needed to make a decision.

City Manager pointed out that he is not even sure that it is appropriate for the City to participate in the sharing of the costs, and in connection with that, Mr. Shyne ought to come up with numbers as to how much the project will cost. Commissioner Lujan suggested that both the City and Mr. Shyne bring their own estimates so that they could then be compared. Mayor Carroll pointed out that it is not simply a question of the numbers but it is a policy decision as to whether or not no matter what the number is the City should be sharing in any of the costs. Commissioner Brockett asked if having a special session would set a precedent that the Commission would sit down with other developers each time this question comes up.

Mayor Pro-Tem Griggs made a motion to table this item in order to address it in a work session. Commissioner Lujan seconded the motion. A vote was taken, and all voted "aye." The motion carried by a vote of 7-0-0.

Mayor Carroll recessed the meeting at 8:22 p.m. and reconvened it at 8:30.

4. Consider Ordinance No. 1277 rezoning from District "R-1" (Single Family Dwelling) to District "C-1" (Neighborhood Business) requested by Christina Shyne Williams [Case Z-06-0662(A), 1408 Cuba Ave].

Recommendation: Deny the rezoning.

Mr. Shyne explained that this property consists of a small home fronting on Cuba Avenue and five cinderblock one-car garages that are built on the back of the property facing and accessible from the alley. His parents bought the house in about 1959, and his father built the garages and started renting them to the public in about 1962. His father passed away some time back, and Mr. Shyne and his sister listed this property for sale. They had the inside remodeled and updated, and they are looking for an owner occupant. The realtor told him that if a buyer for that property goes to qualify for a loan, they would not be able to include the potential rental income from the five garages unless the zoning allows for those garages. There was no need to rezone the property in 1962 when the garages were built, and the property has been rented to the public ever since then on a continuous basis. The entire basis for his application is to simply allow the property to be used as a home and five non-commercial rental

garages. He wanted to specifically request that the C-1 zoning be conditional specifically prohibiting retail business out of the garages and prohibiting retail business out of the home.

Mayor Carroll asked how the storage facilities could be rented out as non-commercial. Mr. Shyne said he is talking about the tenants' use of the garages, but Mayor Carroll pointed out that it is a commercial enterprise for whoever controls the piece of property. Mr. Shyne compared it to renting out a fourplex, which would be a business but it's the business of renting out residences. That would not require commercial zoning, and he feels the same thing applies to this. Mayor Carroll said he thinks there is a difference because there is an appropriate zoning for multi-family. Mr. Shyne made the point that there is not a specific zoning code that addresses storage units.

Commissioner Ledford asked if the storage units are part of the house. Mr. Shyne said it is being used by individuals that are not occupying the house. Commissioner Ledford said therefore it is non-residential. Commissioner Cole said that going and looking at the units they are garages and he asked for clarification on what Mr. Shyne intended by saying they would be non-commercial. Mr. Shyne explained that he wants the zoning restricted such that it would not allow commercial activity. Over the years a number of tenants in the nearby apartments rented the garages for either cars or extra stuff. The use would not change. Mr. Shyne feels it is still in conformance with current zoning to continue their current usage as pre-existing, non-conforming buildings. Mayor Carroll pointed out that what Mr. Shyne is asking for really is that they rezone the entire piece of property. Mr. Shyne said he does not want the house used for commercial purposes. He stated this is not his intent, and perhaps an acceptable alternative would be rezoning it to R-4. Commissioner Ledford asked if parts inventory could be stored there with a business on another street.

Commissioner Moncada asked what R-4 is, and it is multi-family zoning. Mr. Shyne said he is looking for the most restrictive zoning that would simply allow the units to be rented out as storage units.

Ms. Few explained that this property was in place and zoned single family. It came in as single family when the first zoning ordinance was put in place in 1950. It is non-conforming, but the issue is whether it is legal non-conforming. Staff's position is that it is not legal non-conforming in that the rental of the units to persons other than the occupant of the house that in itself is a commercial activity. There is no record of any business registration having been issued on this property at any time. Ms. Few stated that all of the other storage units in the City carry a commercial classification for zoning.

Mayor Pro-Tem Griggs said that his concern is that in the past the City has moved to more inclusive zoning rather than restrictive because of legal arguments. If it is zoned C-1, it is spot zoning. R-4 can be talked about, but he doesn't see that this should be passed unless that is a consideration.

Ms. Few said that the application came in requesting C-1. Nothing was advertised to approve a lesser reclassification, and there are several protests regarding this. The Planning Commission is recommending denial.

Commissioner Ledford said if the Commission could approve zoning in such a way that the units could continue to be used in the same way that they have been, he has no problem with that. Mayor Carroll said that he is unclear regarding this item because the next item is consideration of an off-street parking variance, and he doesn't see how that would be needed if these are going to be utilized in the same way that they have been.

Mr. Alterson pointed out that regardless of whether this is a legal non-conformance or an illegal non-conformance, which the jury is still out on, the next matter with regard to parking points out that in order for someone to use these as storage units they have to park their vehicle in the alley to unload unless they are simply using them as extra residential garage space. The issue is not whether or not the property can be sold but whether or not a lender is going to require that the new buyer have the income from the garages in order to be able to qualify for the loan.

Mr. Shyne stated that he does not have a buyer, but he is trying to come up with a way to sell the property in such a way that it would draw a nice quiet tenant to the neighborhood. He believes that the

request he is making to allow the garages to be used rezoned to R-4 will prevent that option as well, which could be much more disruptive. He also pointed out that it is fine with him to leave the zoning of the house as is if they would prefer to just changing the zoning of the garages. Mayor Pro-Tem Griggs said that he can't support the C-1 zoning, and the City Planner has said that R-4 hasn't been advertised so it would have to go back out.

Mr. Shyne said he is puzzled because he has been attending City Commission meetings for 33 years, and he recalls many meetings where once the discussion took place a requested zoning was downgraded to a lesser zoning and there was no need to re-advertise.

Mayor Carroll said he thinks the difference in the past may have been going into a more restrictive zoning and giving the neighbors the opportunity to protest. He would look for a more restrictive zoning that would accommodate what has been going on for years. Mr. Shyne agreed with that. Commissioner Ledford said that they have turned down projects because of the advertising and protests. There is a big enough protest that it needs to be straightened out.

Mr. Shyne asked if they will need to come back to the Commission or Planning and Zoning. Ms. Few clarified that it would go back to the Planning Commission. She recommended that the City Commission take action on the current item and that a new application be submitted by the property owner.

Mayor Carroll said that Mr. Shyne can withdraw his request and start over or the request can be denied and he can start over. Mr. Shyne asked if he could continue under his current fee or if he has to repay the fee. Mayor Carroll said he would have to repay the fee and start over to request a new zoning. Mr. Shyne said that is ridiculous and it is a demonstration of the bureaucracy of the City. He would then be further taxed by paying the fee again when he is not even convinced that he needs to do it. The restriction will help the neighborhood.

Mr. Alterson said he has some discomfort as to whether this will result in a defective notice situation, and he said he would need to confer with the City Attorney regarding that issue. He recommended that the issue be tabled so that it could be re-addressed at the next meeting. The whole idea of a hearing is so that the neighbors can be notified and have an opportunity to find out what is going on and are invited to the proceedings. Commissioner Ledford said Mr. Shyne is not arguing about the hearing but it is the \$400. Mr. Shyne requested that his request be withdrawn, and he will pay the \$400 again for the application fee.

Commissioner Lujan asked if Mr. Alterson's suggestion could be followed legally, and Mr. Alterson said that he would have to confer with the City Attorney regarding that.

Mr. Shyne requested that his request be tabled and if it is found by the City Attorney that it is necessary for him to re-apply he will withdraw the application and do so. If it is found that there is no need to do that, he would like his request changed from C-1 to R-4.

Santiago Villabiscencio addressed the Commission and stated that he feels what the storage units are illegal even though it has been going on for the last 40 years. He is very concerned about what is stored in the units. There are apartments all the way around the units, and there is no Ordinance restricting the storage of gasoline, explosives, paints or even drug paraphernalia in them. There was a tenant that failed to pay for the storage unit, and when they put the objects up for auction, there were three 55-gallon barrels full of gasoline along with various paints. Who is going to be responsible for the lives and property damage that is going to occur if a fire takes place? The Commission has to address the issue of what is being stored in the units all throughout the City. He lives in the neighborhood and certainly doesn't want to be blown up because someone is storing gasoline.

Antonio Biancenello addressed the Commission. He said that he resides directly across from 1408 Cuba Avenue. He would like for the Commission to think about what Mr. Shyne would like to have. He asked the Commissions if they would like someone in their neighborhood to build five garages in the backyard and ripping off people that come into his back alley. He said that he doesn't think the issues

needs to be tabled. He thinks it needs to be denied. He feels that Mr. Shyne should take the garages down and sell the property. He is putting money into his house, and he does want this to be tabled. He doesn't want to waste more time. He took time off to come to this meeting, and he said that at the last meeting Mr. Shyne called them liars. Mr. Biancenello said Mr. Shyne doesn't live there and he doesn't know what the word integrity means. Mr. Biancenello said integrity means one always does the right thing, especially when no one is looking.

Dahlia Mirabal lives on Fairview Lane. She said that this item should not be tabled. It should be denied. The property is a single-property home. It is not a business where the units could be rented, and then the house sold in front. That is double money in his pocket. He is consistently making a profit doing it because the units are being used and will be used for who knows who, why or what for. Ms. Mirabal said she is an educator, and she believes in safety for the children and communities. She said that this has been in the newspapers, the Commissioners need to take care of the City by disposing of drugs and all of the buildings that are not being used properly for the citizens and the children. Ms. Mirabal said that she had received a ticket because of her weeds, but there are weeds all over Mr. Shyne's property. She said this is a lot of games. The request was denied, and it should still be denied. There are a lot of drugs in the City, and they are trying to fight it. Nobody can see the garages because they can't be seen from the front of the street. She said she didn't know they existed until this item came up. She pointed out that the flier in front of the house says the house is for sale with new zoning commercial for business. She said she would really appreciate it if the Commissioners would look at it very closely. There are a lot of children who walk there and who knows what will go on in the alley. She stated that it is a hiding place in the neighborhood.

Mayor Carroll stated that Mr. Shyne certainly has the right to request that the Item be tabled. If it is tabled and then comes back as another zoning request that may provide an opportunity to find out what the concerns of the neighbors are.

Mr. Shyne commented that Ms. Mirabal has the nicest home in her neighborhood. It is well cared for and beautiful. He stated that he does have weeds, but he is now awaiting a bid from a company for dessert landscaping.

Commissioner Cole made a motion to table items 4 & 5. Commissioner Lujan seconded the motion. A vote was taken and the motion carried by a vote of 6-1-0. Commissioner Brockett voted nay.

5. Consider an off-street parking variance for C. Michael Shyne [Case V-06-0499(A), 1408 Cuba Avenue].

Recommendation: Deny the variance.

6. Consider dedication of right-of-way for South Florida Avenue and a utility easement by the School Board and the City. [1492 – 1600 S. Florida Avenue, Case M-06-0328(A)].

Recommendation: Approve the dedications.

Mayor Carroll explained that this is a follow up to a subdivision that the Commission approved had approved earlier where the City was dedicating some of its right-of-way for a sewer line. As a part of that, the school is dedicating some land to the City.

City Manager McCourt further explained that this would benefit the City by allowing the property to be more easily developed as well as the school. It also cleans up the right-of-way question on South Florida for development.

Mayor Pro-Tem Griggs made a motion to approve the dedication. Commissioner Brockett seconded the motion. A vote was taken, and all voted "aye." The motion carried by a vote of 7-0-0.

7. Consider the final plat of **ABBOTT ACRES, REPLAT B, SUBDIVISION** for Leon Abbott [Case S-06-0952(A), 2954 US Highway 54 South].

Recommendation: Approve the final plat with a variance on the construction and installation of alleys, with a deferral on public land dedication, with a deferral from Section 22-01-040(4) relating to drainage plans.

Klad Zimmerle said that he believed everything had been worked out with staff with regard to this item.

Mayor Pro-Tem Griggs made a motion to approve the final plat. Commissioner Brockett seconded the motion. A vote was taken, and all voted “aye.” The motion carried by a vote of 7-0-0.

ORDINANCES AND RESOLUTIONS:

8. Consider Resolution No. 2006-60 approving a local emergency declaration for severe flood damage to the City of Alamogordo.

Recommendation: Approve the resolution.

City Manager Pat McCourt explained that the City Commission passed the first local emergency declaration on June 23rd. Since that time there has been continued flooding in the City. The original application to the State FEMA has a 60-day window during which everything has to be identified. Because of the continuing nature of the flooding incidents the State has indicated and staff is recommending adoption of an additional ordinance so the time can be extended to try to get the repairs completed that need to be addressed.

Mayor Carroll said that there were no flooding incidents between the June 24th and July 26th, but City Manager McCourt said that he didn't know whether that was the case or not. City Manager McCourt thought the intention was to capture the most current event, which would have been August 20th. Sam Trujillo, Director of Alamogordo DPS explained that there have been three dates of additional damage that have occurred in the City. August 16th was the most severe, and there was also infrastructure damage on August 18th and August 19th. There was also some damage to private residences. June 22nd was the original flood damage, and the initial resolution was adopted on June 23rd.

City Manager McCourt and Mayor Carroll concurred that the date on Resolution 2006-60, which cites the date of July 26th. City Manager McCourt said that the date should be August 19th.

Mike Riley from the Department of Public Safety explained that the reason July 26th is being used is because when the City declared in August it as just Alamogordo. Now the state has had so many flooding problems throughout that they are starting it on July 26th. This has caused the State to declare a federal emergency and not just the City of Alamogordo. They are using that date as the beginning for the State part of that to say the State is now going to declare an emergency and not just the City of Alamogordo. The State is going to combine all of those together and come up with a state of emergency stating July 26th.

Commissioner Ledford said that they had the incidence on June 22nd and they talked about being able to apply for and get additional funds if there was another incident. He asked why they are not trying to get a resolution passed for each incident individually. He pointed out that there were duplicated costs associated with each one of the dates.

Mr. Riley said that the initial resolution has been funded. The money hasn't been received, but the situation at that time, and the damage that it caused, has already been recovered in a sense. Since that

time and before that time, there were other flooding problems in the State that didn't have anything to do with Alamogordo. The State wants to lump them all together in one big declaration for the State of New Mexico to declare an emergency and not just the City of Alamogordo.

Mayor Carroll asked if it would be more correct to say, "caused by flooding since July 26th..." instead of, "caused by flooding on or about July 26th." Mr. Riley felt that "on or about" leaves it open to July 26th not necessarily being the exact date either. Commissioner Ledford asked if this would help with FEMA in terms of assistance for private citizens. The request will go up both ways, both as private sector and public sectors. There is no problem with either of those. The original IA request is still in Washington, D.C. waiting to be decided upon. Mr. Trujillo went on to explain that this resolution is also seeking financial aid to help us mitigate the problems.

Commissioner Brockett made a motion to approve Resolution No. 2006-60 to declare an emergency. Mayor Pro-Tem Griggs seconded the motion. A roll call vote was taken, and all voted "aye." The motion carried by a vote of 7-0-0.

Mayor Carroll recessed the meeting at 9:34 p.m. and reconvened it at 9:45 p.m.

9. Consider Resolution No. 2006-55 to join the South Central Regional Transit District.

Recommendation: Approve the resolution and appoint a member and an alternate to the Board of Directors.

Tom Shuster from the Metropolitan Planning Organization provided the Commission with an overview of what the project is and what it may entail. He presented a PowerPoint Slide Show with respect to SCRTD.

Mr. Shuster explained that in the fall of 2005 the Commission passed a Resolution expressing interest in the formation of a regional transit district in South Central New Mexico. An RTD would be responsible for the planning, financing, and operations of all public transit services within their region, which can be anything from organized carpools and vanpools, including fixed route buses, van response buses and possibly even rail transit.

The reasons why a number of governments have expressed interest in this include as the main purpose recognition that there are a large number of residents of Southern New Mexico who can't drive for one reason or another. That may be a result of age, income, or other various contributing factors. It can help individuals maintain access to healthcare and jobs, which is extremely important for quality of life. It provides commute options for people who don't necessarily need transit but if they travel long distances to work, they may seek an alternative to driving alone every day. As the system develops and matures, it can help to take cars off the road, which can reduce a lot of the negative affects associated with that. However, even if the system does not add a whole lot of new service it will serve a role in the coordination of public transit. There are currently a number of services operating in Southern New Mexico that serve different target populations or different people who are eligible for different services. Oftentimes the services overlap and cross each other. Having the planning occur under one roof would help to coordinate a lot of the existing services and hopefully make more efficient use of funds.

Mr. Shuster went on to present a map of the proposed RTD, which would include various counties and municipalities. Those that are involved have passed Resolutions of Intent as Alamogordo did back in the fall. He explained that the dashed lines represent proposed high way study corridors for looking at what kind of demand there is for service along those corridors. In addition, a feasibility study is planned with regard to the rail line that runs north and south fairly close to the river. It would be an extension of current service that just started up in the Albuquerque area. There is a statewide plan to eventually have service from El Paso to Denver.

As far as funding for the RTD, there is a State grant available for startup in the amount of \$250,000. It is for the next RTD that it is to certify. When the State legislation was passed back in 2003, three of these

grants were set aside, and two of them have already been spoken for by the two RTDs already in service. It is expected that the money will be used for the development of a service and financial plan. The study corridors would be looked at, and they would make an effort to find out what each government can afford, what it would demand in terms of service and then a plan will be developed to be the guiding document behind the provision of service by the RTD.

Once that plan is developed, and the implementation phase is entered into, there is a possibility for a local option gross receipts tax, between a sixteenth and half a percent, and that would be dedicated directly for the funding of RTD activities. It would also qualify for federal matching funds for both capital and operations, and hopefully soon there will be state grant available to supplement. When the federal cap is met, hopefully the State money will be used to go beyond that. It got tied up in the legislature this year, but hopefully within the next couple of years it will get through.

Mr. Shuster elaborated on the service plan and provided an example. What would be asked is along certain routes what the expected drivership and expected cost would be.

In terms of the timeline, public hearings have been conducted in each of the interested jurisdictions, and they have worked with Becky Lane and Joe Harden as representatives of Alamogordo to draft the contract as well as by-laws. They are currently passing that same resolution around to other local governments.

Mr. Shuster said that they are on track to receive State certification. The planning commission will meet on September 21st, and if certified at that time, the \$250,000 grant would be obligated. Some time during the fall of 2006 they would hope to convene the RTD board.

Part of the Resolution that is before the Commission is to name a member to the RTD board at which point the bylaws would be adopted and the administrative structure determined. The NPO has been coordinating efforts, and they have received a lot of help from Z-Trans and the South Central Council of Governments. He did, however, say that they do need to figure out how the administration of the RDT would be run throughout the first couple of years before it is generating its own revenue. They expect to play a central role in that, but some of the \$250,000 start-up money will have to offset the cost of doing that, which will also be determined by the board early on.

In early 2007 they hope to issue a Request for Proposals for the study, and the study itself will probably take about a year. The consultant will be going around to all of the different communities to find out what the needs are and to talk to residents and local stakeholders. After that, the RTD board will then be presented with a plan, which they will probably choose to amend before approving. That plan will determine the funding obligations for each of the members.

Some of the other key provisions in the contract include that within 60 days of the adoption of the service plan, the RTD can withdraw without penalty, and the board of directors, which will be responsible for making all of the major decisions of the RTD, will consist of elected officials. The number of votes per member is determined by population. With a population of over 20,000, Alamogordo would have three votes on the Board. Between 5,000 and 20,000 would have two, and less than 5,000 would have one. Currently, if all of the members join, there would be twenty votes and eleven needed for a majority. New members can join the RTD after it is formed; however, they would need two-thirds approval by the existing members.

The RTD can provide service outside of the RTD, which is important specifically in our case because El Paso cannot join the RTD, which is enabled by State legislation. However, there are many residents of Alamogordo and also Los Cruces who do commute to El Paso on a regular basis. The service would not have to be stopped at the state line. There can be intergovernmental agreements to take it to a more convenient location such as a transit transfer point, which is a very important provision. The RTD can take over local service if the existing provider agrees to the terms. It has to be a mutually agreeable position. Currently, the City of Alamogordo contracts with Z-Trans to provide the service. Under the RTD that would still be the case. There would have to be some cooperation from a planning perspective

to make sure that new groups meet up with routes provided by Z-Trans. If the set up in Alamogordo is working, they can keep it. If they think that it may be more efficient to transfer administration of that system to the RTD, which is a possibility as well. There is some flexibility built into the contract.

Lastly, Mr. Shuster addressed the issue of nonpayment. The members of the organizing committee generally felt that it was best to deal with that issue in the by-laws. Mr. Shuster provided a draft of the by-laws, and there is a grace period after the financial obligation is set by the adoption of the service plan. Each member would have twelve months to meet their financial obligation at which point if they don't they would lose their vote unless reinstated by a two-thirds majority vote of the board.

Mayor Carroll pointed out that the by-laws do state that within 60 days they could opt out without penalty but in paragraph C it does say that withdrawal does not terminate the government unit's responsibility for payment of bonds or other obligations. He went on to cite different parts of the by-laws and stated that he believes he knows what the intent is, which is that the option to opt out will be there. Mayor Carroll's concern is that there is nothing that would prohibit the board at that time from incurring obligations that could be transferred to someone who wanted to withdraw within the 60 days. Mr. Shuster said that it is correct that the intent is certainly to allow members to opt out if they feel that they're getting in over their head financially. He cited a statement where it included, "according to the approved service and financial plan," which clarified that there should not be any financial commitment before that point. They do fully expect that they can make the \$250,000 last until the plan is approved. If the money runs out, then a less detailed plan will still be gotten. The goal is to do the most efficient job possible.

City Manager McCourt stated that it would seem to him that it should include a statement regarding if the City was a member and agreed to issue bonds if the City then withdrew at a later date the obligation would still have to be continued through the life of those bonds. It's very important that an elected official be selected for the board because they are the only ones eligible to vote on financial matters.

City Manager McCourt explained that with many transit systems the revenue from the operation is not adequate to support the operations. There are normally federal moneys available to supplement, but normally some sort of operating subsidy is also required that has to come from a tax base somewhere. There is a gross receipts tax base that is allowed under the law specifically for this purpose, which could be put on the ballot.

This Resolution allows Alamogordo to be a part of the study to make a determination of the viability of Alamogordo being part of a regional transit system. Mayor Carroll expressed that he personally has some doubts as to whether or not the study will show that there is a whole lot of cost benefit to be a part of it. However, if not signed on to it, Alamogordo won't be part of the study and won't know.

Commissioner Lujan asked if this would come out of the general fund, but Mayor Carroll said initially no money would come out of municipalities. It is a state legislative grant to do the study. At this point in time no money would be taken from the City. If the draft by-laws are adopted in their current form, even the travel for the Board member could be paid for out of the start-up money. Commissioner Ledford asked if the study would compare how the services would compare to the commercial providers. Mr. Shuster explained that under FDA guidelines they are not allowed to directly compete so they have to complete a detailed analysis of what exists. Commissioner Moncada asked if it would accommodate the handicapped, and the law requires that. Commissioner Moncada asked him to review those who had signed on already, and he went through that list again. The study can't afford to be spread too thin.

Mayor Carroll said the study would determine what the demand is to go from one place to another in the general area. Commissioner Lujan asked if the boards are made up of individuals from municipalities. Mr. Shuster said that they are mostly boards from municipal employees or elected officials. Mayor Carroll asked if they would have to appoint a member and alternate at this meeting, and Mr. Shuster indicated that it would not have to be during this meeting but it could be done at a later date. It doesn't have to be done for certification, but they would like to convene the board as quickly as possible after certification.

Commissioner Lujan expressed his interest in being a board member, but he wanted to know more about how much time and travel would be required. There will probably be bi-monthly meetings at first every other month, and they would rotate from place to place to minimize any one individual's travel. The board will have to decide the specifics. The first meeting will be held in Las Cruces.

No alternate was chosen at this time.

Mayor Pro-Tem Griggs made a motion to approve Resolution 2006-55 with Commissioner Lujan to serve as the member. Commissioner Moncada seconded the motion. A vote was taken, and all voted "aye." The motion carried by a vote of 7-0-0.

OTHER BUSINESS:

12. Consider approval of Change Order No. 2, Public Works Bid No. 2005-011, Desert Lakes Golf Course Clubhouse.

Recommendation: Approve change order No. 2 in the amount of \$10,603.60.

Commissioner Brockett asked for clarification on the details of this Change Order. City Manager Pat McCourt explained that there were three items that were not in the original contract that they have asked to address in this Change Order. They found a lot of subsurface drainage that was coming off of the putting green, which sits immediately East of the clubhouse. This may have been one of the factors that was causing the old clubhouse to settle. It has to be addressed so that it will not penetrate under the new clubhouse and cause it ultimately to settle. The proposal is to use drainage tiles and a pump to collect the water and keep it from causing a problem. The water will be pumped out onto the driving range.

There are two other items, and Arthur Alterson explained that one of them is the clear-story window reframing. There are two relatively flat roofs, and the idea was for a clear-story window to be below the higher roof. The opening was made for the window, but after that it was discovered that the flashing for the lower roof exceeds the height of the window. This item would cover the reconfiguring of the window opening to accommodate the flashing.

Commissioner Brockett asked if the settling could be an impediment to the structure, and City Manager McCourt assured him that it is an extremely important issue to address.

The third item is to put additional low-voltage communication for microphones, speakers, televisions and extra conduits.

Commissioner Lujan asked if the water is sinking down towards the foundation and then going underneath or going completely under the ground. City Manager McCourt explained that it is coming off the green and moving in the direction of the building. For the short-term some pits have been dug to collect the water. Commissioner Lujan asked if the contractor should have addressed the situation. City Manager McCourt said it wasn't detected when the footings were put in, and he is not sure why. Commissioner Lujan asked if the City pays for the architecture for this. City Manager McCourt said the City had a firm design this. Commissioner Lujan's point was whether or not whoever handled that should fix the problem instead of the City putting out more money into the golf course clubhouse in light of the current needs that the City has.

Commissioner Moncada made a motion to approve Change Order No. 2 of Public Works Bid 2005-11 in the amount of \$10,603.60. Mayor Pro-Tem Griggs seconded the motion. A vote was taken, and all voted "aye." The motion carried by a vote of 7-0-0.

14. City Bid No. 2006-13, Water Pipe - West Side Infrastructure.

Recommendation: Award bid to Rio Grande Pump & Supply in the amount of \$920,912.00.

City Manager McCourt provided an update on this recommendation. The City is a charter city or home rule city. It has its own constitution and is allowed to adopt its own purchasing rules. Within those rules there is a provision that if the City goes out on RFP, receives responses and the local bidder is within 5% of the lowest bid price and the local bidder is willing to meet that price, the City Commission can award to that entity. When the bids were originally looked at, the understanding was that this was federal money so the City would also be bound by the federal requirements. That information was provided by the State. Therefore, when the bids were evaluated, the lowest bid was from Rio Grande Pump & Supply company, and the City was not aware that the local ordinance could be implemented to give them the bidding preference.

City Manager McCourt stated that if the local bidder (Morrison) is willing to accept the low price, then the City could award the contract to them.

Commissioner Lujan asked if they would then have to go to all of the bidders to ask if they would go lower as well, but that would not be according to the purchasing ordinances.

Rick McCracken, a representative from Morrison Supply, said he did have a conversation with Mr. Johnson, and they would be willing to meet the price.

Commissioner Brockett made a motion to approve the bid award to Morrison Supply for \$917,853.00. Commissioner Lujan seconded the motion. A vote was taken, and all voted "aye." The motion carried by a vote of 7-0-0.

Commissioner Ledford asked a question regarding the request for budget adjustments and the deadline. Mr. McCourt explained that the funding has to be spent by the end of September or the City will not be able to buy the items utilizing the grant money. Ms. Nichols said there were some expenses that were charged on the Fund 54 line item that should have been charged differently. The expenses mentioned on the budget revision come from something other than the grant. There is \$554,000 left in Fund 54 that hasn't been allocated, which is available for this.

5. Adopting a classification plan for non-represented employees.

Recommendation: Approve the classification plan.

Mayor Carroll explained that an executive level classification plan was recently approved. The rest of the study is now complete, and so this Item would complete the reclassification and salary plan for City employees that are not covered under Union contracts. Some positions would require increases to bring them into the entry level for the new range, and some would have slightly higher maximum earning potential within the ranges. Mayor Carroll explained that what is in the memo talks about one-third of the covered that is one-third of the number of employees that are affected, which is about 20 employees. Commissioner Ledford stated that he is not ready to act on this as he is a little puzzled by the methodology. He asked if a budget adjustment would be needed for the \$62,000. Mrs. Keller explained that the money was already budgeted for, and in fact it is only about half of what has been budgeted. It was part of the budget that was adopted in May. Commissioner Ledford reiterated that he needs additional time to understand this better before he could approve it. Commissioner Lujan agreed. Mayor Pro-Tem Griggs said there are some philosophy deals that he finds rather interesting, and it appears to him that other communities were surveyed to basically determine the NR3 mid-point average. Then when that was determined, it was used to create all of the other pay grades. Mrs. Keller said that it was also based on the same survey that was done for all of the positions. There was a median point for every grade. When the 25% overlay was compared to the median from each grade, they were all very close. She offered to provide that information to the Commission.

Commissioner Ledford asked if the 47% range is a common municipal range or where that comes from, and Betsy Keller explained that it is a common range for mid-level management. Mayor Pro-Tem Griggs suggested that until an individual reaches a certain pay grade they not be designated as managers. He also stated that he would be more comfortable with it if he had more time to discuss it. Mrs. Keller will address any particular questions that they have.

Commissioner Ledford asked for clarification as to whether the memo is saying that there are positions that would get a \$7,000 raise. Mrs. Keller said there is one position that is highly market driven, which is the MIS Manager position. Commissioner Ledford asked how this was not addressed through merit raises and regular pay increases. Mrs. Keller explained that merit is not given unless an employee is performing meritoriously. There are individuals who were hired at slightly higher than entry-level pay. For someone to get \$7,000 meritoriously would not have worked as merits are typically given at 2%.

Commissioner Brockett made a motion to approve tabling this Item. Commissioner Lujan seconded the motion. A vote was taken, and all voted "aye." The motion carried by a vote of 7-0-0.

17. Appointments to Boards and Committees.

Mayor Carroll said that there are openings on the Disabilities Council, Parks and Recreation Board and Alamogordo Promotion Board. Mayor Carroll appointed Cynthia Goffman to the ADC and asked that the clerk notify her.

SCHEDULED COMMUNICATIONS FROM THE CITY COMMISSION:

18. Discussion requested by Commissioner Cole regarding relief for building permit fees for homeowners affected by the June 22, 2006 flood.

Recommendation: None.

Mayor Carroll explained that the fees of the City are established by Resolution, but the City Attorney has recommended that an Ordinance be established for such so that the Commission could then amend those fees to address particular situations.

Commissioner Cole expressed that it is his desire that the City work with the individuals who have been affected by the flood, and the City Attorney will look into whether a rebate can be issued for the permit fee that has already been paid. He would like to see some effort on the part of the City to work with the people who have paid their \$35 so that it can be given back to them.

Commissioner Cole asked what the timeline would be for addressing this issue, and Mr. Alterson indicated that his staff is working on it but he feels it would take at least two weeks. It may not be on the next Commission meeting agenda.

Judy Wright addressed the Commission and said that it seemed to her in reading the agenda at the library that the Otero County Homebuilders set the fees so that an Ordinance needs to be passed so the fees can be refunded. Mayor Carroll pointed out that it will likely not be possible for the City to refund the fees, but it is correct that they are seeking to go from Resolution to Ordinance. It may be that the folks who are working on this will recommend that the fees be adopted by Ordinance every year. Within that a system can be set up such that the Commission can grant a variance.

Mayor Pro-Tem Griggs asked why at the next Commission meeting they couldn't have a resolution that says for the particular properties affected by the flood the charge for building permits would be X amount. At the same time the Ordinance could be initiated, which may take a month or more to get approved and through. If, for instance, the building permit is \$1 and they still have to come in and get the permit, it does seem to him that it could be done by Resolution.

City Attorney Brogan explained that it looks like it has not been done by Resolution. It looks like the head of the code enforcement section adopted a fee schedule. They have been hard pressed to find any place where the Commission adopted that. The Commission did adopt a Resolution a couple of years ago authorizing a percentage increase in the fees each year, but they have been unable to locate anything indicating that the Commission adopted either by Resolution or Ordinance an actual fee schedule. They are asking for some patience so that this can be started on the right track. There is an Ordinance that says the fee schedule has to be adopted by Ordinance. In addition, the International Building Code requires the same approach. Commissioner Cole said he could not understand how it is possible that this governing body cannot waive the Ordinance so the permit fee can be waived under these special circumstances.

City Attorney Brogan reiterated that an Ordinance cannot simply be waived. Commissioner Cole reiterated his desire to work as a governing body to smooth away some of the difficulties that the individuals affected by the floods are experiencing.

Commissioner Moncada asked if it would be possible for the individuals to come in, get a permit and put it in some sort of charge account. Mayor Carroll reiterated that one can always go forward, but it is difficult legally to go back.

UNSCHEDULED COMMUNICATIONS:

1. Judy Wright

Judy Wright asked about the International Building Codes. She wanted to know how many there are, and if they are under the United Nations or something like that. Mayor Carroll explained that it is simply an effort to standardize building codes in the United States. Arthur Alterson explained that it is actually a product of an organization.

2. David White

Mr. White explained that they have been experiencing flood water on the other side of the bypass highway that comes from the City. It comes down Indian Wells, goes straight across White Sands, goes under the railroad tracks and turns south. It goes down to the sawmill and runs between the sawmill and the electrical substation that is there. Then it goes to the bypass highway, under the highway and then comes out on everybody's land. They are being flooded out every year. This year it has happened more often than normal. It has destroyed the skirting on his trailer and has undermined the pads. Part of the trailer is sinking, and it was still running under his trailer when he left his home this evening. It is a big issue that is affecting a lot of people. Instead of Matthews Street, they now call the road Matthews Lake. It is North of 10th Street.

Mayor Carroll said that if the City is impacting their property, it needs to be looked into. He asked for some addresses so that they can look into it.

City Manager McCourt pointed out that the water has to go somewhere.

Commissioner Lujan suggested that the water somehow be diverted. He went out to look at it, and it is just flying into people's yards.

Mr. White said that it is also picking up manure from another yard. His grandkids run through it, and they may get sick.

3. Gene Canard

Mr. Canard said that he has been in Alamogordo for 20 years and has lived on Abbott for 15 years. The first time the flooding occurred he had to clear boulders from his yard, and it cost him \$800 to have those removed. All of that is back. The damage to the house the first time was \$30,000, and this time it is

\$60,000. It was all repaired, and now they are back to square one. He was in the military for 30 years, and they always knew what was going on. The residents on Abbott aren't being told anything.

Mayor Carroll said that it has been a very difficult situation for those who live on Abbott and all of those who have been affected. Many have been in Alamogordo for a long time and have never seen the amount of rain and floods that have occurred of late. The City is still struggling with how to fix the Abbott Ditch so that it is serviceable. They are trying to find a way to fix it.

City Manager McCourt said that they do have a contractor who will be able to get the channel dug down in about a week. They will also put up some barriers to direct the flow of the channel so that it will go directly down the channel and not eat out the banks. They have barriers wired together and set today. They are also attempting to address problems further up the channel in terms of how it is eroding, and a plan has not been developed to address that yet. In the long-term a major settlement basin will be constructed at that site to absorb the shocks and divert the 100-year events or less down a new channel over to Mountain View School and out the western edge of the City.

Mr. Canard asked if anything could be done with the rocks. Commissioner Cole said he had talked to Mesa Verde, and they indicated that they could go in with a bobcat and pick the rocks up. One man could have a contractor in to do it, but if he doesn't get in there very, very soon, Mesa Verde will be finished. They will be through with the ditch by the end of the week if everything goes smoothly. He asked if the Commission could somehow work with Mesa Verde to get the rocks off the yards and into the ditch so that Mesa Verde could take them away.

Mayor Carroll said he thinks there may be a way that the rocks can be used in the rebuilding of the channel. They're going to need a lot of rocks to do that, and there may be a way to get a waiver from the property owners so that they could use the rocks to help rebuild the channel without having to purchase it.

City Manager McCourt said that it is a policy decision whether or not to use the rocks. The New Mexico Constitution does prohibit the use of public moneys for private purposes. Mayor Carroll pointed out that the public purpose would be the availability of the rocks being near where they have to be utilized. There would have to be some agreement or waiver of liability from the property owners.

Commissioner Moncada said she doesn't have a problem with that, but she asked how they would go about doing it. She asked if they would have to state specifically that it is just to collect the rocks and not to level the yards.

Commissioner Lujan asked if the problem can't be addressed this way whether there is anything else that could be done to address it by way of working with Mesa Verde. If the debris is on public property, it will be cleaned up by the City.

Mayor Pro-Tem Griggs expressed his appreciation to whoever thought of this potential solution.

City Manager McCourt will work with the City Attorney to draft the appropriate agreement.

4. Commissioner Cole

Commissioner Cole commented that the maintenance yard is out of sandbags, and they haven't been able to get any since Saturday. Commissioner Moncada said that she had called them, and they will give individuals the bags to fill themselves. The military has been helping by filling many bags also.

Commissioner Cole also asked whether some of the streets could be cleaned off with a sweeper or not. He expressed his appreciation for the City staff and others who are working together to help the individuals who have been most deeply affected. He commended the Officers that are patrolling as well even during the night hours. The emotional effect is tremendous.

5. Mayor Pro-Tem Griggs

Mayor Pro-Tem Griggs commented that the award to Cemex was approved earlier, and he wondered if the City could perhaps work with them in an effort to keep the mud from their property from crossing Florida.

He also commented on the individuals living on Walker Road and some of the Airport blocks. While they haven't been hit nearly as hard, they have had issues with flood damage in yards and such. They have faced issues and are facing them well. He didn't want everyone to forget that others are facing issues along with those on Abbott. It has been an unusual summer, and he has never seen a summer like this before.

6. Commissioner Moncada

Commissioner Moncada commented that water is sitting in the front yards in her district, and it is causing a lot of mosquitoes. Although the trucks have been there to try to suck some of the water up they don't go often enough. The residents want to know if there is something that they can put into the water to kill the mosquitoes until the truck can come to suck up the water.

Mayor Carroll said that the City is using tablets of some sort in some areas. It is like an insecticide to kill the larvae where there are standing water pools. The problem is exactly what has been said in that the rain keeps coming.

Commissioner Moncada said there was one yard that was actually green, and the homeowner was going to pour a bunch of Clorox in it to try to address it that way. She wanted to know if that is safe to do. City Manager McCourt suggested that realistically they should simply invest in insect repellent as that would be more effective than trying to stop it.

7. City Manager Pat McCourt

City Manager McCourt reported that the reservoirs are filling, but they are filling so fast there is a lot of sediment in the water that needs to settle out. They may be able to remove all watering restrictions.

8. Mayor Don Carroll

Mayor Carroll commented that next week is the annual conference in Taos, and the Commission is planning to attend.

EXECUTIVE SESSION: Adjourn into Executive Session to discuss purchase, acquisition or disposal of real property and threatened or pending litigation.

Mayor Pro-Tem Griggs made a motion to adjourn at 12:10 a.m. to discuss purchase, acquisition or disposal of real property and threatened or pending litigation. Commissioner Cole seconded the motion. A roll call vote was taken, and all voted "aye." The motion carried by a vote of 7-0-0.

/s/Donald E. Carroll

Mayor Donald E. Carroll

(SEAL)

ATTEST:

/s/Renee Cantin

City Clerk Renee Cantin

(Prepared by Ubiquis Reporting)
Approved at Regular Meeting on September 12, 2006