

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
7:30 P.M., COMMISSION CHAMBERS
JUNE 27, 2006**

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

**COMMISSIONER CHRIS LUJAN
COMMISSIONER STEVE BROCKETT
ASSISTANT CITY MANAGER MATT McNEILE
CITY ATTORNEY WILLIAM BROGAN
CITY CLERK RENEE CANTIN**

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

Mayor Carroll called the meeting to order at 7:35 p.m., and all of the Commissioners were present. The Invocation was given by Pastor Richard Hicks, and the Pledge of Allegiance was led by Mayor Pro-Tem Griggs.

Mayor Carroll introduced City Attorney William Brogan and welcomed him. He also noted the passing of Jay Marion Bell and extended condolences to his family and friends.

PRESENTATIONS:

1. Presentation of suggested CDBG projects and the Community Development Advisory Committee's recommendation to the Commission for selection of a project for grant application – 2007

Recommendation: Approve the selection of the Plaza Hacienda sidewalk improvements.

Mayor Carroll recognized Bruce Meeh, the Chairman of the Committee and expressed appreciation for his work and the work of the Committee.

Ms. Schmittle reported that three public hearings were held this year to discuss possible projects for the Community Development Block Grant application. One was held in January and two within the last month and a half. Several recommendations were heard, and there was some good input from the citizens regarding items that they feel are priorities in the community including upgrading streets, plumbing and sidewalks as well as other things that may be needed in the area from First to Ninth Street and from Alaska to White Sands. One idea that was discussed was historic preservation as a possible area that would be eligible for funding, and it was suggested that the water tower restoration project be looked at and Dudley School as possible historic preservation projects. That idea met with a lot of favor, and several people called her about that. However, Ms. Schmittle noted that property must be owned by the City or County to be eligible for CDBG funding.

Another project that was mentioned was the Plaza Hacienda Public Housing Authority sidewalk installation. There are about 150 units, and there are not safe, continuous sidewalks throughout that complex. Another project was funding for the Alta Vista Public Housing Authority Complex to convert it to housing for elderly and disabled residents. It was noted, however, that was a previous project that had been planned and is not planned right now because those units are being rehabbed for occupancy, which will not be limited strictly to senior or disabled residents. Another suggested project was ADA-compliant sidewalks along Indian Wells Boulevard, specifically at the east end to connect with Scenic Drive. If a planning grant is put in for, the need for a new comprehensive plan was discussed. It is her understanding, however, that the plan is being updated and is always something that's available for CDBG funding. The final suggestion was a crisis center, which was suggested by a local non-profit organization. They think a crisis center for people who need temporary housing is a need in the community.

Ms. Schmittle explained that the Community Development Advisory Committee is a committee of seven volunteers that report to the Mayor, and she met with the Committee looking at all of the suggested projects and taking into consideration what might best be suited for funding that would best reach the State council that decides the Community Development Block Grant funds. They determined that they would like to recommend to the Commission to choose the Plaza Hacienda sidewalk project. The committee feels that it meets the three eligibility criteria for the Community Development Block Grant, and they think it would be the best application at this time.

Mayor Carroll explained that the Community Development Block Grant money is federal funding that is channeled through the State, and various communities and projects compete with other communities within the State for that limited funding. There are always a significant number of dollar requests in excess of the available money, and so part of what needs to be done to be successful is to understand exactly what the criteria is and what the Board that will be making the allocations will be looking for from year to year. Some years the City has been successful and some not. This project appears to be one that would give Alamogordo an excellent opportunity, and the City is already working on sidewalks and ADA accessibility, which would fit with it. Mayor Carroll suggested that they go along with the Committee's recommendation.

2. Presentation by Mr. John Shomaker of Shomaker & Associates, regarding the results from test wells North of Tularosa.

Mayor Carroll explained that these are the wells that are being proposed as part of the long-range desalination and RO project.

Mr. Shomaker thanked the Mayor and Commissioners and passed out information including maps and tables. He went on to explain that the report is about the test well program that began in March 2005 and was completed this spring with the idea of developing understanding regarding the desalination well field. In the handout there is a map showing where the ten wells are that have been applied for in the State engineer application. There is also an enlargement of the map giving the state engineer file numbers and the City of Alamogordo well numbers for each. Mr. Shomaker explained that the first two pages of the handout are tables, and the first is a list of the four wells that were drilled, including two production-scale wells with 14-inch casing and two 6-inch diameter test wells. He pointed out that this is very much unexplored territory, and the time as the hearing before the State Engineer relative to the application, the City had drilled one much shallower, small-diameter test well. It was felt that the addition of a good deal more information would be very helpful. The first page gives the estimated yield, which is on the State Engineer Well Record, and in the fourth column from the left is the actual yield at which the well was pumped during the test.

The next column gives a measure called the transmissivity of the aquifer, which is a number that is interpreted from the test information in order to characterize the water transmitting properties of the aquifer for making projections and doing ground water modeling for the purpose of the State Engineer hearing. The next column is the estimated yield of the production well, which is in gallons per minute. It is the instantaneous pumping that the well can be equipped at. There is a big difference in a couple of cases between that and the actual yield during the test. For instance, looking at well number one, the first row in the data, the estimated yield of a production well, there is 500 gallons/minute although the actual yield during the test of that six-inch well was 118 gallons/minute. The difference is that the six-inch casing would only accommodate a small pump, and a great deal of lost circulation trouble was encountered in the drilling of that well. A production well, taking advantage of what has been learned about drilling conditions in an oil field, can be expected to have much higher efficiency.

The next column over is estimated annual production in acre feet per year, which is arrived at just by converting the gallons/minute to acre feet/year assuming that the well is pumped 60% of the time, which is a standard assumption of the State Engineer. If the operational facts on the ground show that the well can be pumped or will need to be pumped more than 60% of the time, the numbers in that column would go up.

Mr. Shomaker continued in his explanation that well number four is the second one. It was drilled as a 14-inch production well, but it was drilled in a part of the aquifer that has relatively low transmissivity. Comparing that number to the other three wells, there is a dramatic difference, and that well is probably capable of the 205 gallons/minute that it was tested at, which translates into 199 acre feet per year if it's pumped 60% of the time. Well number five, the third row, is a 14-inch, full-scale production well. There was no driller's estimate of the production rate so in the next column is the actual rate it was pumped at during the test, which is at 1,209 gallons per minute. The transmissivity at that place in the aquifer is relatively high, and the estimated instantaneous production rate from that well as it exists today is 1,500 gallons a minute. Sixty percent utilization would result in 1,453 acre feet/year.

Continuing on, well number eight was a small well. It was another six-inch test well. The driller's estimate of the yield in the well report was 140 gallons/minute, which was based on the actual rate at which it was tested. However, the transmissivity interpreted from the pumping test is relatively high and in fact the highest of the four, and the estimated yield from a full-scale, 14-inch production well is 1,000 gallons per minute leading to an annual production of 968 acre feet.

If for number one a production-scale well were drilled in addition to well number eight, the combined instantaneous production would be around 3,200 gallons/minute, and the combined annual production would be about 3,100 acre feet at 60% utilization. That's essentially the amount for which the State Engineer has approved the permit. What that boils down to is that they were all drilled under exploratory permits. Production wells at those two places would lead to over 3,000 acre feet/year in production.

Mr. Shomaker moved to the second page and explained that it lists the other six sites that have been proposed. The transmissivity of the aquifer is the thing on which the projections are based, and that is listed in the second column. It is done by incorporating what is now known about the geology through having drilled five wells including the earliest one and the results of the tests. From that transmissivity, there are estimated yields of full-scale production at each of those places. That is then translated to the estimated annual production in acre feet at 60% leading to a total for those six additional wells of 4,557 acre feet/year. The sum of those together with the four that have already been drilled leads to a grand total of 7,661 for the production capacity of the well field. Because the well field is pretty remote, there aren't many neighbors, and most of that determination in addition to looking after the wells being drilled in the field was largely Steve Finch's work. Mr. Shoemaker thinks there is a strong possibility that once the permit is in place, pumping is occurring, and the neighbors have been dealt with, which they are doing, supplemental wells in the field would be well within reason and quite possible. That is certainly not to pre-judge what the State Engineer will do, but it is reasonable to believe that they could reach the 7,661 with the wells that have been proposed and applied for and then go beyond that with supplemental wells. It can be shown that the effects of doing that would be acceptable to the engineer.

Mayor Carroll clarified that the well field has a potential yield approaching twice what the La Luz well field produces as that is about 4,000 acre feet. Mr. Shomaker said that the number he has for La Luz is 4,573, and he thinks that number has actually never been attained in practice. Mayor Carroll said that is correct and that it is probably closer to 3,000 to 3,500 acre feet as far as what has actually been established in that well field.

Mayor Pro-Tem Griggs asked if some of the wells, two and three in particular, would be wells they would even recommend drilling because of the estimated annual production being so low. He wanted to know if they would recommend drilling those or if they would recommend looking for another location to drill. Mr. Shomaker said it would depend on how badly the water is needed and the timing. He did agree that they would be the last ones considered.

Mayor Carroll pointed out that the projected scheduling for utilizing the wells would not bring them all on-line immediately. They would be phased in over a period of time, and along the way a lot more

could be learned about the well field. A request could be made of the State Engineer that some of the wells that have not been drilled be relocated to an area where they might be more productive.

Commissioner Ledford asked if they were to attain the 10,000 acre feet if it would be done through supplemental wells or through increased operation from the currently proposed wells. Mr. Shomaker asked for clarification of the question, and Commissioner Ledford explained that they had 7,661 acre feet of estimated annual production. He wanted to know how they would get to 10,000 acre feet.

Mr. Shomaker explained that they could ask for additional points of diversion under the permit, which would be the better way to do it, or an alternative would be to pump the wells more than 60% of the time. They could do either one depending on the operational needs.

Mayor Carroll thanked Mr. Shomaker for his presentation, and said that it would go a long way toward giving the Commission a better understanding of what the potential is and helping to substantiate the request that has been made, which is now headed for district court.

PUBLIC HEARINGS:

3. Transfer of the Location of Interlocal Dispenser License No. 0714, Appl. No. A485229, to Walgreens Hastings Co. d/b/a Walgreens #9991 located at 955 N. White Sands Blvd., Alamogordo, NM.

Recommendation: Approve the transfer of the license.

Mayor Carroll explained that the Alcohol and Gaming Division has given this application preliminary approval, and now it has come to the Commission for comment. The notice was published in the Alamogordo Daily News on June 11th and June 18th. Basically, the license is being transferred because the Walgreen's is building a new store and abandoning the old one. They have to transfer the license from the old physical location to the new one.

Commissioner Cole made a motion to approve the transfer. Seconded by Commissioner Moncada. A vote was taken, and all voted "aye." The motion carried by a vote of 7-0-0.

CALL OF THE CONSENT CALENDAR:

MINUTES:

4. Minutes of June 13, 2006 Regular Meeting.

Recommendation: Approve the minutes.

CONTRACTS AND AGREEMENTS:

12. Approval of franchise agreement with Arturo Cardiel dba Casa Del Sol Enterprises for commercial solid waste disposal services.

Recommendation: Approve the agreement.

13. Approval of MOU with Holloman AFB for Joint Maintenance of the Bonito Pipeline.

Recommendation: Approve the MOU.

14. Approval of Amendment to Severn & Trent, Inc Utility Maintenance Contract for Bonito Pipeline Maintenance.

Recommendation: Approve the amendment to the contract.

15. Approval of airport hangar leases.
 1. Louis & Anita Godman

Recommendation: Approve the leases.

16. Bureau of Land Management Cost Recovery Agreement.

Recommendation: Approve the agreement.

ORDINANCES AND RESOLUTIONS:

17. Resolution No. 2006-40 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.

18. Resolution No. 2006-44 approving the city to enter into a loan agreement with the New Mexico Finance Authority for the Westside Infrastructure Improvements Project.

Recommendation: Approve the resolution.

19. Resolution No. 2006-45 approving the intent to submit a CDBG grant application for the recommended project; Plaza Hacienda sidewalk improvements.

Recommendation: Approve the resolution.

20. Resolution No. 2006-46 approving the FAA Project application for the Alamogordo-White Sands Regional Airport to reconstruct the General Aviation Apron, Phase 1.

Recommendation: Approve the resolution.

23. Approval of sale of City property on Stanford & 23rd described as the south two hundred forty-five feet (245') of Block Four Hundred (400), Resubdivision of Dyer Subdivision No. 2.

Recommendation: Award the sale to Wayde K. Kawa'a and/or Patricia L.L. Kawa'a , in the amount of \$32,500.

25. Approval of Executive Classification Plan.

Recommendation: Approve the classification chart.

26. Statement regarding the Executive Session of June 13, 2006, June 22, 2006, and June 27, 2006.

Recommendation: Approve the statement.

Commissioner Ledford made a motion to approve items 4, 12, 13, 14, 15, 16, 17, 18, 19, 20, 23, 25 and 26. on the Consent Calendar. Seconded by Commissioner Moncada. A roll call vote was taken because of items 17, 18, 19 and 20. Mayor Don Carroll, Mayor Pro-Tem Ron Griggs, Commissioner Inez Moncada, Commissioner Ed Cole, Commissioner Marion Ledford, Commissioner Chris Lujan and Commissioner Steven Brockett voted "aye." The motion carried by a vote of 7-0-0.

PLANNING ITEMS:

5. Approval of Ordinance No. 1276 rezoning Wesley Subdivision amending the official zoning map of the comprehensive plan to C-3 (Business) for Boys and Girls Clubs of Otero Co.

Recommendation: Approve the ordinance for final publication.

Mayor Carroll explained that this is basically to allow the Boys and Girls Club to utilize part of the premises as a lease or rental to help offset their operating costs. This is for first publication, and the condition that the City would put on it would be that this would be an ancillary use of the facility and not turn into the major activity at the center.

Arthur Alterson clarified that this is for final publication.

Mayor Pro-Tem Ron Griggs made a motion to approve Ordinance #1276 with the condition that any lease/rental of the building will be supplemental to the continued primary operation of the Boys and Girls Club of Otero County. Seconded by Commissioner Brockett. A vote was taken, and all voted "aye." The motion carried by a vote of 7-0-0.

6. Approval of a variance for George and Tawin Rader of seven feet (7') from Section 29-03-020, of the Code of Ordinances to allow the construction of a twelve feet (12') deep addition to the master suite with a resulting front yard setback of eighteen feet (18').

Recommendation: Approve the variance with conditions.

Mayor Carroll explained that the property owner has indicated that there is a large tree in the front yard that he would like to keep and maintain in a tree protection plan. Mayor Carroll thinks it is nice that he wants to keep the tree, but he thinks that the tree protection plan should be advisory and not a condition because there is no formal requirement in the ordinances that individuals maintain trees. Mayor Carroll suggested that the tree protection plan be looked at as a list of recommendations on the best way for him to go about it assuming that the Commission is agreeable to granting the setback variance.

Commissioner Cole asked Mayor Carroll if he was saying that if the owner decides he wants to cut down the tree he has the right to do so. Mayor Carroll said that is what he was saying.

Commissioner Cole made a motion to approve the variance with no conditions. Mayor Pro-Tem Griggs seconded the motion. Mayor Carroll clarified that it does not include the tree protection plan. A vote was taken and all voted "aye." The motion carried by a vote of 7-0-0.

7. Approval of a variance for Diane Hutchison of five feet (5') from Section 29-03-030 of the Code to legitimize an existing garage constructed on the north lot line.

Recommendation: Approve the variance with conditions.

Mayor Carroll explained that this is an item that has been before the Commission previously, and this was a case where a previous property owner had gotten a building permit for some modifications to the structure. That permit was approved, but at the time that happened, that owner went further and did things that were not approved. Staff has worked with the current property owner, and they were able to satisfy themselves that the existing condition would not pose a safety hazard to the neighborhood because they did, in fact, get an agreement from the adjoining property owner that is basically an easement for additional space between them and the adjoining property. They also agreed that they would not do any construction that would limit that distance. This becomes an after-the-fact request for forgiveness, if you will, but in this case the current property owner was not the one that was involved in the original construction. Mayor Carroll said that to require her to remove it

he thinks would be an undue hardship on an innocent party, and he is pleased that they were able to work out a reasonable accommodation.

Mayor Pro-Tem Griggs said that one of the conditions recommended by P&Z was that if there is any fence constructed, that it be restricted to three feet in height at the front of the property. He asked exactly what is meant by that.

Mr. Vandergriff, representing Ms. Hutchison, said that there are already restrictions on the height of fences in front yards, but the added restriction brings it tighter. It brings it down to three feet, and they are working with the Fire Services Division to make sure there would be nothing built along that line such as a fence that would deny the Fire Department access to the structure. The variance says it is limited along the side of the structure, and beyond that the City ordinance would prevail.

Commissioner Brockett made a motion to approve the side yard setback variance for Diane T. Hutchison with the conditions that have been noted. Commissioner Lujan seconded the motion. A vote was taken, and all voted "aye." The motioned carried by a vote of 7-0-0.

8. Approval of the final plat of Bella Vista Subdivision for 171 lots.

Recommendation: Approve the final plat with conditions.

City Planner Sharon Few explained that the final plat of Bella Vista Subdivision has been worked out with the developer, the city engineer, the director of community development and the developer's engineer. The fees will be paid in lieu of land dedication, and the waiver of protest and subdivider's contracts have been signed. The plat dated May 15th is the most recent one, and there are additional drainage easements that have been put in it. There is a 40-foot area on the northern side of the property that will be both an alley and a drainage easement, and Ms. Few went on to explain the drainage course of that easement in addition to the far eastern side of the property where there is a 20-foot alley and parallel drainage easement that will empty into an existing 80-foot drainage easement owned by others on the south side of the property.

Mayor Carroll asked if that satisfied the concerns regarding the drainage, and Ms. Few said that it does. However, the city engineer has noted concerns with the design. A copy of his comment is attached to the report where he notes problems that will probably result from the approval of this subdivision and the establishment of a detention basin to the north of an established residential area, which would be the detention basin located between Cottonwood West Subdivision approved at the last meeting and north of Cottonwood Heights, Unit #3 north of Scenic Drive abutting Burn Drive, which is outside the City.

Mayor Carroll asked if the conditions that he noted would be potential complaints and an inconvenience to the people that already live there, and Ms. Few said that is the case. Community Development Director Arthur Alterson said also that the city engineer's concerns are not engineering concerns. The engineering plan as submitted does theoretically work and does meet engineering standards; however, he and the department feel obligated to point out to the City Commission that these are non-engineering concerns but real potential concerns.

Commissioner Cole wanted to know if the fees in lieu of land meant that the City was planning to accept fees in place of some type of community park. Ms. Few said that the City is requesting fees in lieu of land dedication. In this case, the developer had asked that additional drainage easements be credited to the public land dedication, but staff does not support that. Commissioner Cole asked in follow up what the formula was for figuring the fee that would be collected. Ms. Few said that it is a formula in the ordinance, which is 5% of the infrastructure cost.

Commissioner Cole said he has been concerned lately about the long-range plan for the 171 plots and the development of the subdivision with so many questions regarding the water issues. He wanted to know what the applicable timeframe might be. Ms. Few asked if he was speaking about

the build out of the homes or the infrastructure. Commissioner Cole explained that they are continually asked questions about subdivisions being approved while water restrictions are being implemented. The community may not realize at times that when a subdivision is approved it is a long-term type of approval. Ms. Few said that according to the contract the completion of the improvements is to be within two years. That is the infrastructure including the water lines, sewer lines, streets, etc., but the City has no control over the time it takes for the development of the units. Commissioner Cole then asked Mr. Zimmerle if he could estimate the time it may take for all of the units to be built.

Klad Zimmerle said that it usually develops a street at a time, and the streets have been filling up basically every twelve to sixteen months. It is going to be driven by the economy, but his estimate would be roughly eight years.

Commissioner Cole said that the statement he thinks he is looking for is although the Commission is presumably going to approve this at this meeting, it could be up to eight years before it is completely filled in. Mr. Zimmerle said that the infrastructure would be built as it goes to the north. They can, however, through the subdivider's contract ask for an extension of time to complete the infrastructure, but the infrastructure is typically put in ahead of the homes. Mr. Zimmerle clarified that with regard to the fees in lieu of land dedication, the way it works is if it is paid up front for the entire project, it is 3%. If it is paid per phase, then it is 5%.

Mr. Alterson clarified that the eight years is a forecast. The developer is not committing to that.

Commissioner Brockett made a motion to approve the plat with the conditions to require fees in lieu of land dedication, a Waiver of Protest Agreement, and a Subdivider's contract. Commissioner Moncada seconded the motion. A vote was taken, and all voted "aye." The motion carried by a vote of 7-0-0.

9. Approval of the final plat of Country Club Estates, Replat A, Phases 1-4, for 113 lots.

Recommendation: Approve the final plat with conditions.

Mayor Carroll explained that this is an instance where the City is going to give an off-site utility easement to the developer in return for a sewer line being put in across that easement. Mayor Carroll asked what the time frame is for addressing the necessary documents on the utility easement, and Ms. Few said they expect those to be to the Commission by the end of August.

Mayor Pro-Tem Griggs made a motion to approve the final plat with a variance on the requirement of alleys, with the final plat to be held until the off-site utility easement is accepted by the City, with an increased rear setback requirement, and with an Avigation Easement, a Subdivider's Contract, and a Waiver of Protest Agreement. Commissioner Brockett seconded the motion. A vote was taken, and all voted "aye." The motion carried by a vote of 7-0-0.

10. Approval of the final plat of Market Place subdivision, Replat A, for seven (7) lots.

Withdrawn - This item was postponed until the July 11, 2006 meeting.

CONTRACTS AND AGREEMENTS:

11. Consider approval of increase in SWCA, Inc.'s contract for the Environmental Impact Statement (EIS) for the Alamogordo Regional Water Supply Project.

Recommendation: Approve increase in SWCA, Inc.'s contract for the required EIS for the Desalination project from \$805,498.19 to \$986,412.75.

Mayor Pro-Tem Griggs explained that this particular item is one of the hold-ups on the desalination facility north of Tularosa, and as the documentation shows, the City entered into this agreement in May of 2004. It now looks like it will go out to April of 2007 instead of March of 2006. The timeline that had been received a couple of months ago showed it going out to October of 2007. He asked for an update on what is happening and why they need the increase in money and time.

Mr. Alterson explained that the increase in time and money stems directly from the public comments that were made during the scoping session causing the consultant, the Bureau of Reclamation, the Bureau of Land Management, and the City to agree that they need to delve further into the environmental impact statement procedure in light of some of the comments that were made by people in Tularosa and Alamogordo during the scoping sessions specifically regarding a buy/lease of water rights option and an option that deals with the possibility of utilizing the well field at Alvarado to the south of the City. The latter suggestion is being treated as an alternative that needs to be mentioned and discussed but dismissed because the City really does not have any access to that water. The buy/lease options need a more thorough investigation, and one of the reasons it is being done is to better prepare the City for a potential legal challenge of the results of the environmental impact statement procedure when the end is finally reached. The National Environmental Protection Act actually requires that the federal agencies go through the process of investigating all of these possible alternatives. It does not really allow for the federal agency's decision to actually be thrown out, and this is being seriously looked at. It is not a paper-chase type of exercise. It is a sincere examination of all of the alternatives. However, the legal exposure and chance of having the process played out even more than it has already is a situation where the environmental impact statement is challenged on the basis of the federal agencies in the City not investigating thoroughly enough something and a judge simply sending it back for re-investigation rather than that the study has come to false conclusions.

Mayor Pro-Tem Griggs said that he has been informed that the process has to be done right, and if that does not happen, there is a risk of delaying it even further.

Commissioner Ledford asked for clarification as to whether the timeline goes out to February of 2007 as far as when there may be a final opinion. Mr. Alterson said that is true. Commissioner Ledford asked who from the City makes sure that the timelines are adhered to, and Mr. Alterson said that he does. They have monthly conference calls in which the progress is noted and tasks are assigned. The consultant also sends a weekly statement of what progress has been made. It is in the best interest of all parties to get this finished.

Commissioner Cole asked if there are parallel things going on at the City level so that the wells can come on-line once the environmental statement is finished or if that has to be finished before the City staff does anything. Mr. Alterson said there are other things going on. Staff is preparing to acquire all of the needed rights-of-way. The conclusion of the environmental impact statement process is the trigger for the Bureau of Land Management to be able to authorize the permanent well field, and it is the trigger for whatever grants are received for the project from the Bureau of Reclamation. The City can be working on all other engineering and acquisition steps, and they are doing so. The idea behind the environmental impact statement is it is not a foregone conclusion. It is not being written to support a process that has already been decided upon. Taking that into consideration, there is a little bit of risk to the City in moving too quickly. That said, the City is proceeding as is reasonable without expending funds needlessly.

Mayor Pro-Tem Griggs made a motion to approve the increase. 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:

21. Resolution No. 2006-47 ratifying the City Manager's watering schedule.

Recommendation: Approve the resolution.

Commissioner Brockett asked for an update from Jose Miramontes regarding what has happened over the last two weeks. Mr. Miramontes reported that as he indicated two weeks ago he started lowering the storage, and it is down to about 92%. The real problem is at Bonito, which is over 24 feet below the spillway. There hasn't been much in the way of relief, but other than that, he does not see any problems.

Mayor Carroll asked if there has been a noticeable increase in water use, and Mr. Miramontes said there has not been. Mayor Carroll pointed out that the rains have helped to mitigate the need for people to be irrigating their lawns, and Mr. Miramontes said he is still comfortable with the decision. Commissioner Moncada asked if Bonito is still 24 feet below the spillway even with the rains, and Mr. Miramontes said that is the case.

Commissioner Lujan asked if this is continued if there is any chance they will have to go back to one-day watering. Mr. Miramontes pointed out that they are obviously at the mercy of the weather, but he doesn't see a problem developing. Commissioner Lujan asked on what basis this decision is being made, and Mr. Miramontes said he has based it on historical use and production. It does envision some rain, but right now it is going very well.

Commissioner Cole made a motion to approve the resolution. Mayor Pro-Tem Griggs seconded the motion. A vote was taken. Mayor Don Carroll, Mayor Pro-Tem Ron Griggs, Commissioner Moncada, Commissioner Ed Cole, Commissioner Marion Ledford, and Commissioner Steve Brockett voted "aye." Commissioner Chris Lujan voted "nay." The motion carried by a vote of 6-1-0.

Mayor Carroll recessed the meeting at 8:40 p.m., and the meeting reconvened at 8:50 p.m.

22. Contesting a water bill - Mr. George Romeyn at 2409 Abbott.

Recommendation: Deny request.

Mr. George Romeyn thanked the Commission for hearing him. He explained that he received a water bill for the dates of 3/15 to 4/17, and during the time from 3/15 to 4/06 he was on vacation. Mr. Carruso found the front door to the house open a couple of times, and Mr. Romeyn indicated that he is a foster parent and did have two foster girls staying at the house before the vacation. Mr. Romeyn asked the water department to check the meter, and they couldn't find anything wrong with it. They also couldn't find any leaks in the house, but he got a bill for \$221.71, which took him up to tier five. For the last ten years he has normally been at tier one or tier two, and the only time he was in tier two was when he filled a swimming pool.

Mr. Carruso said that the amount being contested is \$172. Before and after this bill, their bill was in the tier one category. When Mr. Romeyn left, he made sure that everything was shut off that needed to be. There were no leaks outside, and the faucets outside were secured. Someone is responsible for the usage other than Mr. & Mrs. Romeyn, and Mr. Carruso said that any consideration would be greatly appreciated. He's not requesting something for nothing, but they didn't use the water.

Mayor Carroll said that this becomes a problem that the Commission addresses, and they try to make some accommodations where there is some reasonable explanation of what happened to the water. In this case, in looking at the meter numbers it doesn't appear that there was a number skip with the meter, and the policy has been that without some evidence of something else that could reasonably be relied on, the Commission has no way of ascertaining that the water did not go through the meter. The leak policy really doesn't give the Commission the ability to adjust the bill. Mayor Carroll explained that they have tried to address each case on an individual basis, but the basis for what is charged is what goes through the meter. Without any other explanation, the reasonable assumption

is it went through the meter. Therefore, the City bills for it, and the policy is that the home owner pays for it.

Commissioner Ledford agreed that the point is that somebody used it. Mr. Ortega concurred that the Leak Abatement Policy does not apply because there is no evidence of a leak. Staff cannot make an adjustment without proof of a leak.

Commissioner Lujan asked what Mr. Romeyn is suggesting in terms of who used the water if their position is that they did not use the water but somebody did. Mr. Romeyn said that his first theory was that perhaps the neighbors used the water, but they also have had at different times foster children and Mr. Carruso had found the door open a couple of times when they were gone for three weeks.

Mr. Ortega suggested that perhaps whoever was in the home during that time knew of a leak that had been repaired. If that is the case, they could provide Mr. Romeyn with the information, and it would then fall under the current Leak Abatement Policy.

Commissioner Moncada said that with all due respect she understands what they are asking for, but if the Commission begins to go against the current policy, they will have to go back and re-address every other situation that has been brought up.

Mayor Carroll said that to the best of his recollection the Commission has not approved relief under the new policy for anything where there was not some evidence or some way to think that somehow the meter failed or there was a leak. Under the current policy, it doesn't matter who uses the water in terms of billing for the water that goes through the meter.

Commissioner Moncada asked if payments could be made, but Mr. Carruso indicated he has already paid it in full.

Mayor Pro-Tem Griggs said that he knows Mr. and Mrs. Romeyn and they are probably telling the truth, but he doesn't see how they can approve the request in light of the current policy.

Commissioner Brockett made a motion to deny the request. 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.

24. Change order No. 2, Public Works Bid No. 2005-11, Alamogordo Desert Lakes Golf

Withdrawn – This item was postponed until the July 11, 2006 meeting.

27. Appointments to Boards and Committees.

Mayor Carroll stated that there is one vacancy on the Community Development Advisory Committee and one on the Alamogordo Disabilities Council. If anyone is interested in serving on one of these boards, Mayor Carroll asked that they please contact the City Clerk's office.

UNSCHEDULED COMMUNICATIONS:

Mayor Carroll asked Mr. Trujillo to give a brief overview of the flood situation. Mr. Trujillo reported that on June 23rd the City Commission approved a resolution for a disaster declaration that was made to the Governor's office. That was sent to the Governor, and on Monday Governor Richardson signed a declaration for Alamogordo, which frees up about \$750,000. The City is now eligible for reimbursement at a 75%/25% State/local split for expenses such as overtime for public safety personnel, road, water line and sewer repairs and other public assistance that was created by the storm. The State Office of Emergency Management has been assigned by the Governor to coordinate requests for assistance, and they will be sending an assessment team to Alamogordo on

Thursday to join up with City personnel to do an evaluation of the community. They are also looking at the need for federal assistance after the evaluation.

In terms of an update on exactly what has occurred in Alamogordo or what is occurring right now, PNM reports that there are still gas outages. There are 18 residents currently without gas service. The power company is also reporting power outages. There are twelve residents currently without electricity. In terms of street information, there is still a closure at the Scenic and Abbott intersection, which will be closed for an extensive period of time. The arroyo and culvert areas have been cleared. Abbott and Bonnell is closed as part of the same arroyo system. The Bellamah, Madison, Abbott area remains closed.

Several roads that were closed previously have been opened including Canyon Road from First Street to the Mountain View School entrance. That has been opened for traffic, and base course has been laid down. It is going to need paving, but it is open to all traffic. All other streets are open in Alamogordo, and the street department is in the process of cleaning up debris.

His department received over 300 calls for service during the flood, and there were 13 rescues that needed to be performed. Three of those involved motorists that were in high water, and ten of the rescues were for residents who were in immediate danger. In addition, there were many more rescues that occurred throughout the community by private citizens. He went on to say that there was one structure fire on the 400 block of Sunbeam during that time.

Forty residents were evacuated due to the flooding. As a result of the flood waters, there were ruptured gas mains and downed utility poles. Seven residents required transportation, which was provided by the Alamogordo Senior Center buses, and they were sent to the emergency shelter, which was the Senior Center at that particular time. They were later transported to the White Sands community for more long-term housing and for arrangements to have extended stay in motels. The Red Cross reported that everybody has been placed, and there is nobody in shelters at this particular time.

Mr. Trujillo said that Mr. Mike Riley was present to address any questions regarding the process with the governor's office.

Mayor Carroll said that there were a lot of people who pitched in to help during this emergency, and he did issue a press release thanking the various entities and giving an update on what is planned. He is hopeful that the newspaper will publish that press release. There is still work to be done, and the City will move as rapidly as possible in doing that.

Commissioner Ledford said that he has had some calls from property owners regarding insurance, and he asked at what point they will know what might be funded. Mr. Riley said that the day the assessment team gets back, they will make the recommendation, and all the governor has to do is make a call. The paperwork can follow any time after that. However, for the actual federal representatives to get to Alamogordo may take a couple of weeks.

Commissioner Moncada said she has had a couple of phone calls from an individual saying that she had two bedrooms that were totally destroyed, and she was in desperate need of getting it repaired. She wanted to know how to go about getting aid as she didn't have any money or flood insurance. Commissioner Moncada asked who that individual should get a hold of. Mr. Riley said that if the federal declaration is not received, his suggestion would be to go to the service organizations in the community that are willing to donate time and materials to help those who do not have funds to do what needs to be done. Mayor Carroll said that the local Red Cross office is available to provide the assistance that they can. He indicated that there would be a press conference the next day involving the Red Cross and PNM with some significant donations to the Red Cross to help with the relief effort.

Mr. Riley said that although he really feels for the people, there is really a whole lot that the City cannot do. They have to abide by the rules of what is to be done with money that is received. However, the community has stuck together in a lot of different situations, and there is always somebody willing to lend a helping hand.

Commissioner Cole said he wanted to take the opportunity to echo what was said in the press release. City staff did a good job as did the City police, City maintenance and others. There was a youth team that was out helping people at their homes, and the youth team, Salvation Army and Red Cross have been bringing meals to the people working around the home. He even had someone knock on his door asking if there was anyone they could go help. He commended everyone for working together.

Mayor Carroll said that Susan Flores is the contact person for individuals or organizations that want to volunteer. Her number is 491-4388. It is better to coordinate efforts through one individual who knows where the immediate needs are and what the most appropriate use of volunteers would be. Judy Wright addressed the Commissioners. Her house flooded twice last year, and she was not in a flood zone. She said she was informed that she was not in a flood zone according to the 1983 map. Since 1983, a lot of construction has taken place in the City, and every time something is built water is redirected. She wanted to know if the City will continue to use the old map to determine who is in a flood zone, and she wanted to know what will be done in the future to protect citizens.

Mayor Carroll said that the City has requested for a number of years that FEMA come in and re-do the flood maps. Their answer has been that they don't have the resources to do so. As part of the flood control project that the Corps is building, the City did get an assurance from FEMA that when that project is completed, they will come in and revise the community flood maps. Short of them doing that, the only thing that the City has to go by are the existing maps. FEMA is the one that gets the federal money to do the maps, not the City.

Ms. Wright said that is unacceptable, and Mayor Carroll said it is unacceptable to the City as well. However, the federal government cannot be forced to do what they don't want to do. Ms. Wright said they may need more citizen input. She said they definitely need to do something, and letting developers build willy-nilly taking out shrubbery wherever they want to is not working. The realtors need to be telling people buying houses in the town that it was once a river. It is an accident waiting to happen. It happened last Thursday, and it can happen tomorrow. It will happen again. She said this is wake-up call to do something about the City. She said the Commissioners may need some expert help to help them because they don't seem to know what's going to happen, and there needs to be some kind of warning system. Mayor Carroll said that the City does have the ability, which was utilized, to interrupt TV service with the warning scrolling across the bottom. There has been some discussion regarding the radio, but part of the problem with using radio is that it is nearly all automated. There is typically no one to contact, but it is done with the TV.

Ms. Wright pointed out that when a lot of rain comes down in a short period of time, the streets fill up, and it doesn't take much to sweep a car away. Mayor Carroll explained that there have been flooding problems periodically throughout the community. This was an extraordinarily heavy discharge of water out of the mountains in a short period of time. The system was totally overwhelmed, and there was nothing that could have been built that would have prevented the flooding. The flood control project that is being done is the one that Senator Domenici had championed for a number of years. Flood control was put on the ballot three times and was defeated all three times. The original one was basically a big ditch around the town, and it was voted down in the fifties, the seventies, and the eighties. Following the defeat in the eighties, the Commission found an alternative way to fund the City's share of that project. The cost has escalated from what was originally in the 1950s a \$2 million project to now being a \$55 million project. There is a source of funding to do the City's share; however, the City has not had the amount of money that was needed all at one time. The building of the project had to be spread out over an extended period of time, but when it is completed, that is what is believed to be the long-range solution to flooding in parts of the town.

Ms. Wright asked how many years it will be carried out. Mayor Carroll explained that it was originally designed to be a ten-year project, but it has unfortunately already slipped. For a number of reasons, the timetable is sliding. He does not have a definite date when it is supposed to be done. Ms. Wright asked if citizen input would help to stop the sliding of the timetable, and Mayor Carroll said it always helps.

Mayor Pro-Tem Griggs gave an update off microphone with regard to the status of the project.

Linda Shaw addressed the Commissioners on behalf of her mother-in-law and father-in-law. She asked if she understands correctly that when developers are working on new subdivisions, they can pay a 2% to 5% fee in lieu of putting in drainage. Mayor Carroll clarified that developers are required to put in drainage. The City requires that in subdivisions land be set aside for public parks and those sorts of things as a percentage of the total development. In the particular situation that was discussed the developer was asking that the City credit the amount of land that he had to provide for drainage toward his public land dedication. The City would not, and he is responsible for putting in the drainage. In addition to that, he was responsible for providing either an amount of acreage for the recreation or cash in lieu. The cash in lieu was for park area not drainage. The drainage is the responsibility of the developer, and there is not credit given for that toward the public land dedication.

Ms. Shaw explained that her in-laws nearly lost their house in the last flood and very well could have lost their lives because of the diversion of the water into their home. They are very concerned about the situation in that arroyo and in the ditch itself where they build a walking path over it and the design of that situation. She asked if the City assessments in the next few days will include an estimated monetary amount of the damages done by the flood per house. Mayor Carroll said that he didn't know whether the damage assessment would be on a property-by-property basis or just an overall estimate. It may be up to an insurance adjuster to estimate the damage. Mr. Riley said they have been getting calls from the community, and they can do a self-assessment.

Ms. Shaw said that she does understand how the Commission is trying to help out with the reduction of water bills and trash and things like that, but she wanted them to know that the City is also probably liable for some of the damage done down Abbott because of the construction done on the arroyo and maybe the County as well. Based on the responsibility of the City's engineering of the arroyos and the County's building projects in Marble Canyon and based on information gathered on those things, it is their desire not to cause the City any more financial distress other than to hold the City responsible for its part in the most recent flood that damaged or destroyed some 20 or more homes. As homeowners, they would like to initiate a homeowner's association and retain an arbitration lawyer to embark on an arbitration settlement that would hopefully prove to be beneficial to both parties with as little mental distress as possible.

Mayor Carroll said that they would consider it, but the City as a governmental entity is limited as to how it can respond to that type of request. The City is insured against risks with an insurance carrier, and a lot of the determination of what may or may not be covered by the City will have to be made by them. They would like to be able to take care of the harm and damage that was done to everyone, but the laws do not allow that flexibility. The City certainly wants to avoid litigation. Ms. Shaw said that they don't want litigation to take place either, but it is her understanding that is already underway. Nobody wins in that situation. Mayor Carroll said that the City will explore whether there is a legal way to address the situation, but in many ways the City's hands are tied by law. Ms. Shaw said they were one of the lucky families having a church family that kicked in to help, but there are neighbors who don't have those resources available and houses are already being destroyed by mold and mildew. She also asked for more information on the PNM meeting.

Mayor Carroll said that there is a press conference scheduled for the next day with PNM and the Red Cross. He understands it will be a substantial donation by PNM to the Red Cross to aid in relief effort and also a challenge where they will in addition to whatever amount they are going to donate provide some matching donation over and above that.

Mr. David Budak addressed the Commission. He lives on South Florida, and he admires the leadership that has been displayed as well as the support provided by all of the City services. He said there are a number of issues related to storm water control that are above and beyond the most serious issue that is being dealt with. He has discussed some of the issues with Mr. Alterson, Mr. Cole and Mr. Griggs, and he wanted to officially bring up some concerns about controlling storm water run-off as they apply specifically to construction sites. There is a federal law under the Clean Water Act, which does require that areas over one acre that are disturbed or under construction require storm water control measures to be in place. The City could take a role in enforcing that. He cited an example along South Florida just south of the armory and Fire Department where there are two very large areas under construction. One is a housing development, and across the street on the east side there is a concrete company. There has been quite a bit of soil moved on that site from the civil works project mentioned earlier that is ongoing. On the concrete plant area, for example, there is a silt fence just up the slope parallel to the road, which is obviously not adequate to control the run-off from that site onto the road. If during the permitting process for construction the City adds to the construction permits the requirement for storm water control in accordance with the federal laws and holds the developers to that, the City may find adequate control such as properly installed silt fences, bales of hay, and proper diversion of water that can prevent what's happening on South Florida. You don't need rainfall events to the degree that happened on Thursday to cause flooding. There was run-off off from that site onto the road flooding out the road and putting a large amount of soil and gravel onto the road causing flooding on the road and causing the road to be narrowed down so that oncoming traffic has to be opposed because there is only one lane through. This is one of the areas that should really be considered and a proper resolution developed. The City should talk to the developers and appeal to their ability to become good neighbors and maybe put some good practices into place even without having to establish an ordinance.

Mayor Carroll thanked him for his input and said they will look into it. Mr. Budak added that he is a civil engineer and works at Holloman AFB. They file storm water construction permits with the State and are very familiar with the process. They are held to task by the State and federal EPA and can certainly assist the City in providing that.

Priscilla Ortega addressed the Commission. She lives on South Ocotillo and Canyon, and when she got home her yard was a lake. There was no way for the water to go down. Her neighbors down the street live on the County side, and they had mud in their house. Mayor Carroll reiterated that they are counting on the flood control program, but they are taking some steps in the short term to try and mitigate the run-off onto Canyon Road. Ms. Ortega said her whole garage was flooded, and she lost a lot of valuable things.

Mayor Carroll said that they will have a lot of things to look at both short-term and long-term as a result of these very difficult lessons.

Commissioner Brockett expressed thanks to City staff, particularly rescue and emergency people, for their outstanding response last week.

Mayor Pro-Tem Griggs said it was a tragic event, but it was incredible to see the people come together. He hopes that as time goes on the City can get things fixed.

Assistant City Manager McNeil said that they provided a memo for the Commission, and the City Manager and staff would like to recommend that the City allow residents that have been affected by the flood the ability to either temporarily disconnect from the water system, disconnect completely, or keep the water on and disconnect from water and sewer while they do repairs. The City wouldn't charge them for that. They are working on a mechanism to do it such that the residents can contact the water utility department and put that process in motion. They will come back at the next commission meeting with a recommendation so that action can be taken.

Mr. McNeile also extended his appreciation to the City departments that responded and did a wonderful as well as the private contractors and community in general as they pulled together.

Mayor Carroll commented that the next Commission meeting would be after the 4th of July. The City, in conjunction with the International Space Hall of Fame and the New Mexico Museum of Space History, has a fireworks display scheduled for the evening of the 4th. He wished everyone a happy 4th of July and reminded that there will be a Town Hall meeting on the 6th of July at the Willie Estrada Convention Center to discuss the water issues.

Mayor Pro-Tem Griggs made a motion to adjourn into Executive Session. Seconded by Commissioner Cole. All voted “aye” in a roll call vote. The motion carried by a vote of 7-0-0. The Meeting was adjourned at 9:58 p.m.

EXECUTIVE SESSION: Adjourned into Executive Session to discuss threatened and pending litigation, limited personnel matters, and purchase, acquisition or disposal of water rights.

/s/Donald E. Carroll

Mayor Donald E. Carroll

ATTEST:

/s/Renee Cantin

City Clerk René Cantin

(SEAL)

(Prepared by Ubiquis Reporting)
Approved at the July 11, 2006 Regular Commission Meeting