



# Agenda

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**PUBLIC UTILITIES COMMITTEE  
MEETING  
CITY COUNCIL CHAMBERS  
WEDNESDAY, JANUARY 16, 2008  
5:15 PM**

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF CONSENT AGENDA
5. APPROVAL OF MINUTES FOR THE NOVEMBER 7, 2007 PUBLIC UTILITIES COMMITTEE MEETING

**INFORMATIONAL ITEMS**

6. Update on Current Water Supply Status. (Michael Gonzales)
7. Update on Solid Waste Division. (Bill De Grande)
8. Water Rights Transfer and Acquisition Programs Update. (Dale Lyons)
9. Presentation of "Quantitative Evaluation of City of Santa Fe's Demand Management Program". ( Dan Ransom)
10. Presentation by PNM on "New Energy Era". (Nick Schiavo)
11. Report on Buckman Direct Diversion Project. (Rick Carpenter)

**CONSENT CALENDAR**

12. Request for Approval of Water Rights Purchase Agreement Between the City of Santa Fe and Jerry and Helen Shelburn for Acquisition of Water Rights in the Nambe-Pojoaque-Tesuque Basin. (Dale Lyons and Marcos Martinez)



13. Request for Approval to Purchase an FM150SDT Flowmaster Series Valve Exerciser for the Amount of \$40,191.55 from Vermeer Sales Southwest's Proposal for the Transmission and Distribution Section. (Shannon Jones)
14. Request for Approval of Procurement of 34 Large Water Service Meters Ranging in Size From 3" to 6" Under the New Mexico State Price Agreement. (Shannon Jones)
15. Request for Approval of Amendment # 4 to the Legal Services Agreement for Sheehan Sheehan and Stelzner for an Additional \$50,000 for Legal Services Regarding the Hospital Tank. (Maureen Reed)

### **DISCUSSION ITEMS**

16. Request for Approval of Sewer Service Only Under the Provisions of SFCC Section 22-6.2 by Scott Hoeft of Santa Fe Planning Group for the Proposed Village Plaza Project in Santa Fe County Near NM 599 and SFC 62. (Stan Holland)
17. Appeal by James Siebert on Behalf of Victor Montano of Water Allocation Option B Denial. Mr. Siebert Requested Transfer of Historic Water Use From 3964 Agua Fria to 11 Aviation Drive to Allow His Client, Victor Montano, to Consolidate His Business. The 11 Aviation Drive Site is Located in the County and is Contiguous to the City. Providing Water Service to the 11 Aviation Drive Site Will Require Annexation of the Property. (Antonio Trujillo)
18. Request for Approval of Resolution No. 2008-\_\_\_\_\_. A Resolution To Lease 2,500 Acre-Feet of the City's San Juan-Chama Project Water to the Bureau of Reclamation in Exchange for a Waiver of the Carry-Over Storage Provision to Allow the City's 2007 San Jan-Chama Water to Remain in Heron Reservoir Through September 30, 2008. (Claudia Borchert) (Councilor Chavez)
19. Request for Approval of Resolution No. 2008-\_\_\_\_\_. A Resolution Directing Staff to Study and Make Recommendations to Ghe Governing Body Regarding an Incentive Program to Use State of the Art Water Conservation Technology in the Car Wash Industry. (Dan Ransom) (Councilor Heldmeyer, Councilor Chavez, Councilor Calvert, Councilor Bushee, Councilor Wurzbarger)
20. Request for Approval of Bill No. 2008-\_\_\_\_\_. An Ordinance Amending Section 7.2 of Exhibit A of Chapter 22 SFCC 1987 to Correct Waivers to the Wastewater Utility Expansion Fee for Affordable Housing. (Kathy McCormick) (Councilor Wurzbarger)

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**MATTERS FROM THE COMMITTEE**

**NEXT MEETING: WEDNESDAY, FEBRUARY 6, 2008**

**ADJOURN**

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**MINUTES OF THE  
CITY OF SANTA FE  
PUBLIC UTILITIES COMMITTEE  
Wednesday, January 16, 2008**

**1. CALL TO ORDER**

A meeting of the Public Utilities Committee was called to order by Councilor Miguel Chavez, Chair, at 5:15 p.m., on January 16, 2008, in the Council Chambers, City Hall, Santa Fe, New Mexico.

**2. ROLL CALL**

**MEMBERS PRESENT:**

Councilor Miguel Chavez, Chair  
Councilor Patti J. Bushee  
Councilor Karen Heldmeyer  
Councilor Ronald S. Trujillo

**MEMBERS EXCUSED:**

Councilor Carmichael Dominguez

**OTHERS PRESENT:**

Galen Buller, Public Utilities Director  
Stephanie Lopez, Public Utilities  
Marcus Martinez, Assistant City Attorney  
Melessia Helberg, Stenographer

There was a quorum of the membership present for conducting official business.

**NOTE: All items in the Committee packet for all agenda items are incorporated herewith to these minutes by reference. The original Committee packet is on file in the Public Utilities Department.**

**3. APPROVAL OF AGENDA**

Chair Chavez said staff asked to move Item #10 to be heard first on the Information Agenda. Mr. Schiavo said PNM hasn't arrived at this time.

It was the consensus among the Committee to amend the agenda to hear PNM as soon as they arrive.

**MOTION:** Councilor Heldmeyer moved, seconded by Councilor Trujillo, to approve the Agenda as amended.

VOTE: The motion was approved on a voice vote, with Councilors Heldmeyer and Trujillo voting for the motion, none against, and Councilor Bushee absent.

#### **4. APPROVAL OF CONSENT AGENDA**

MOTION: Councilor Heldmeyer moved, seconded by Councilor Trujillo, to approve the following consent agenda as presented.

DISCUSSION: Councilor Heldmeyer noted there is an amendment to the Legal Services Agreement for the hospital tank issue, and she would like to have a briefing in an executive session at the next PUC meeting.

Chair Chavez asked if that could be done at the Council meeting.

Councilor Heldmeyer said Councilor Wurzbarger has taken the position that we have too many executive sessions at the full Council meeting.

Responding to the Chair, Mr. Buller doesn't believe it is far enough along to hear it at Council, so it would be good to do this at the next PUC meeting if the Committee would like to do so.

VOTE: The motion was approved on a voice vote, with Councilors Heldmeyer and Trujillo voting for the motion, none against, and Councilor Bushee absent.

#### **CONSENT AGENDA**

- 12. REQUEST FOR APPROVAL OF WATER RIGHTS PURCHASE AGREEMENT BETWEEN THE CITY OF SANTA FE AND JERRY AND HELEN SHELburn FOR THE ACQUISITION OF WATER RIGHTS IN THE NAMBE-POJOAQUE-TESUQUE BASIN. (DALE LYONS AND MARCUS MARTINEZ)**
- 13. REQUEST FOR APPROVAL TO PURCHASE AN FM15-SD6T FLOWMASTER SERIES VALVE EXERCISER FOR THE AMOUNT OF \$40,191.55 FROM VERMEER SALES SOUTHWEST'S PROPOSAL FOR THE TRANSMISSION AND DISTRIBUTION SECTION. (SHANNON JONES)**
- 14. REQUEST FOR APPROVAL OF PROCUREMENT OF 34 LARGE WATER SERVICE METERS RANGING IN SIZE FROM 3" TO 6" UNDER THE NEW MEXICO STATE PRICE AGREEMENT. (SHANNON JONES)**
- 15. REQUEST FOR APPROVAL OF AMENDMENT #4 TO THE LEGAL SERVICES AGREEMENT FOR SHEEHAN, SHEEHAN AND STELZNER FOR AN ADDITIONAL \$50,000 FOR LEGAL SERVICES REGARDING THE HOSPITAL TANK. (MAUREEN REED)**

**5. APPROVAL OF MINUTES FOR THE NOVEMBER 7, 2007, PUBLIC UTILITIES COMMITTEE MEETING.**

MOTION: Councilor Trujillo moved, seconded by Councilor Heldmeyer, to approve the minutes of the meeting of November 7, 2007, as submitted.

VOTE: The motion was approved unanimously on a voice vote.

**INFORMATIONAL ITEMS**

*STENOGRAPHER'S NOTE: Since PNM was not in attendance at this time, the Chair began with Item #6, to continue until PNM arrived.*

**6. UPDATE ON CURRENT WATER SUPPLY STATUS. (Michael Gonzales)**

Weekly Water Report for the week ending January 13, 2008, is incorporated herewith to these minutes as Exhibit "1."

Michael Gonzales introduced Victor Archuleta, the new Operations Manager, and gave a brief overview of his qualifications and education, noting he holds a Level 4 Certification in both water and wastewater, and graduated from New Mexico State University in 1999 with an Associates Degree in Water Utility Management. Mr. Gonzales said Mr. Archuleta will be taking his position, noting he [Gonzales] is the new Manager.

Mr. Archuleta reviewed the information contained in Exhibit "1." Please see Exhibit "1" for specifics of this presentation.

*Councilor Bushee arrived at the meeting*

Responding to Councilor Heldmeyer, Mr. Archuleta said the reservoir is staying about the same, and is still at 60%. This is because we are equaling the inflow from the treatment plant. He said there isn't much runoff at this time, and the runoff should start in February, March and April.

Chair Chavez asked about the snow pack.

Mr. Archuleta said at the Snowtel site the snow pack is 40.7 inches, which is equivalent to 11.2 inches of water, and at Elks Cabin, right above McClure, there is 10.7 inches of snow pack and 2.4 inches of snow water equivalent. The snow pack is more than that of the past two years.

Chair Chavez and the Committee welcomed Mr. Archuleta and extended congratulations for his new position.

## 10. PRESENTATION BY PNM ON "NEW ENERGY ERA." (NICK SCHIAVO)

A packet of information was given to the members of the Committee, and a copy of this packet is incorporated herewith to these minutes as Exhibit "2."

Mr. Schiavo introduced Ernie C. De Baca, Vice President, Governmental Affairs, PNM.

Mr. C de Baca reviewed the information in Exhibit "2," noting that PNM is seeking its first rate increase in more than twenty years, talking about what happened and why the increase is needed.

The Committee continued discussion and asked questions, and Mr. C de Baca responded as follows:

- *What is the reason for this presentation?* Mr. C de Baca said many communities don't understand the need for an electric rate case, and some were shocked when other utilities received a rate case and there was a large, unanticipated bill. He said PNM is being more pro-active to try to get the communities to public forums, and to get the information to municipalities.
- *Is the rate increase related to the divestiture of PNM's gas company?* Mr. C de Baca said it is totally unrelated, and the electric business and the gas business are two stand-alone businesses, so the sale of the gas company has nothing to do with the electric rate case.
- *Is there a relationship between the electric business and gas business with regard to how much one is making versus the other?* Mr. C de Baca said no, reiterating these are stand-alone businesses. He said the costs associated with the rate case are costs which go through a test year of about eighteen months which a utility requests a rate increase. He said the costs associated with the period of time from October 2007 to October 2007, are the basis of the rate case.
- *Are the renewable resources paid in part by increased rates to the people who sign up, particularly the wind farm?* Mr. C de Baca said the wind farm is totally paid by shareholder funds and people who have entered into Sky Blue investments, noting none of this currently is in PNM's rates. PNM is requesting to put a portion of the wind farm into its rates in this rate case. Any future investments in renewables, most likely will be requested to be put into rates, but these won't be in the rates until a rate case is filed and approved.
- *What is the time frame for the renewable energy portfolio?* Mr. C de Baca said the study was just completed, and the findings are in order to get the costs down, a 125-MW solar project would be needed to capture expenses, but the cost of the solar power still is 16¢ per MWH, which is about three times that of a coal project or twice that of a natural gas-fired project. This is still a very expensive proposition, and PNM is looking at ways to partner with people to build something like this, as well as looking at a site.

- *What state and federal incentives are available which might lower the cost so it is more competitive.* Mr. C de Baca said the study is based on the current incentives, noting there is a 30% federal investment tax credit, and tax incentives from the State. However, even with those tax credits, it is still expensive, but PNM wants to try to do this if possible.
- *If people are more efficient with energy, does PNM save money because it doesn't have to build as much capacity.* Mr. C de Baca said it is a "two-way sword." He said PNM is working on legislation on the Energy Efficiency bill which the Governor is trying to move forward. He said PNM would like to have incentives that would make conservation more beneficial than to build another coal or gas fired power plant. PNM is working on these kinds of incentives to do this.
- *What are the stores that give discounts?* Mr. C de Baca said Costco, and Home Depot in Santa Fe.
- *Is PNM working to get the small, local stores or local chains involved in the discount program?* Mr. C de Baca doesn't know, but he will find out and get the answer to the Council.
- *Is there is a site for the concentrated solar initiative?* Mr. C de Baca said there was a conference call on the study which was completed, and that study looked at several sites, but doesn't know if the site has been narrowed to 1-2. The site would be part of PNM's grid, and you look where there is the best sun and best availability of transmission. He understands that for each megawatt 5 acres of land is needed.
- *Is PNM mandated by the PRC to have an expanded renewable portfolio?* Mr. C de Baca said legislation was passed in 2007 which requires that 20% of the portfolio by 2020 be renewables. The legislation did not require a specific mix of renewables, but the PRC has passed a Rule requiring a certain amount for solar, geothermal, wind and such.
- *Is this mandate part of the justification for the rate increase?* Mr. C de Baca said no. He said many businesses have been testifying on behalf of the need for the rate increase because of the healthy utility aspect. It affects PNM's infrastructure ability to do things. To be a viable infrastructure, to provide the infrastructure to do what people want PNM to do, it needs to be healthy.
- *Is this the reason PNM is divesting itself of the gas utility?* Mr. C de Baca said no. It was a strategic decision to focus on the electric utility because of the huge investment PNM is having to make. The company purchasing the gas utility has a small electric utility in Texas, with 36,000 customers which PNM is purchasing as a part of the transaction.
- *Is PNM looking at building more coal fired plants?* Mr. C de Baca said no.

- *Are there regulations to prevent PNM from building coal fired plants.* Mr. C de Baca said no, but PNM is not looking at a major investment in coal at this time. It is very expensive, and investing in coal is very uncertain in the future because of the CO2 issue, and what Congress is going to do. Until the CO2 can be sequestered and the emissions mitigated, it is a very risky investment.
- *Are there plans for a nuclear power plant.* Mr. C de Baca said nuclear power is very cheap, has no CO2, but he is unaware of any future investments "that we're interested in." He observed that would be a twenty-year cycle, but he is not aware of any such plans.
- *Would it be possible not to have any more of the big transmission line poles?* Mr. C de Baca said the problem is the load center, noting that PNM doesn't build power plants near localities, and that has to be built where the population is sparse. However, that power has to be transported. He said PNM wants good reliability in the City of Santa Fe.
- *Are there plans for a transmission line in the Historic area?* Mr. Schiavo said at this time, PNM has no plans to put any transmission in the historic area. The transmission which has been discussed would be west of St. Francis on Baca street/Cerrillos.
- *Has the biomass plant received any tax incentives from the State?* Mr. C de Baca said PNM is only buying power from the biomass plant, noting Western Water Associates is the company trying to build the biomass plant. Western Water is trying to get tax credits, but there has been a problem with State Energy & Minerals certifying that, but he doesn't know the status, reiterating PNM isn't building the plant, and only would take power from it. It isn't an electric utility company, it is a generation company, and PNM has an agreement to buy power from Western Water if it is able to build the power plant.
- *Would the biomass plant become a third source of purchased power?* Mr. C de Baca said PNM currently is purchasing power from NM Wind Energy Center on a purchased power agreement, and Delta Station which is a peaking power plant in Albuquerque which is used about 6% of the time. He said PNM has not received any power from the biomass plant which it is yet to be built, but, if built, would be a third source of purchased power.
- *Is the biomass plant eligible for a tax credit?* Mr. C de Baca said it would, reiterating it applied for tax credit through Energy & Minerals which was denied, and Western Water is appealing that, noting he is unsure of that status.

Mr. Schiavo said if Energy & Minerals has had second thoughts about granting the tax incentives, he would want to know the reasons. His understanding from Energy & Minerals that the proposed biomass facility is having difficulty showing future biomass to the extent Energy & Minerals feels is sufficient, and Energy & Minerals is concerned about it being a true renewable. Without the tax credit, the cost per kWh could be beyond what is acceptable for PNM.

- *What incentives are there in addition to the Solar Tax credit?* Mr. C de Baca said PNM gives 13 cents per kWh to the customer who sells the power back, which is just for power, noting that generated power costs three cents per kWh. It helps make the return on the investment much better.
- *What kind of facility is in Valencia.* Mr. C de Baca said it is natural gas, and in the process of construction.
- *What are the next steps after the facilities in Valencia and the biomass in Estancia, to meet future demands?* Mr. C de Baca said there is an Integrated Resource Plan which is ongoing which involves stakeholders around the State helping PNM with what should be its supply side and demand side resources. In the future, PNM needs to make \$1.75 to \$2 billion in investment. He said natural gas power plants will need to be built somewhere, sometime. PNM hopes the Energy Efficiency Bill would be passed by the Legislature, and that would delay the investment in natural gas/fossil fuel type investment from having to be built over time. PNM is looking at solar, the biomass project, natural gas and other renewables, if possible.
- *Have other States been successful in their energy programs to achieve a negative energy use code in residential?* Mr. C de Baca said it has to do with the type of load growth in the service territory, noting currently PNM's load growth is 2.5% which is higher than the national average. He said in the best energy efficiency programs in the nation it is believed they can capture only at 1-1.5% of that growth, so supply resources will need to be made available. However, in a community where the load growth is shrinking and is only 1%, a utility might be able to capture the load growth with energy efficiency. He said he is speaking about growth outside of New Mexico.
- *Would it be possible to power the Buckman Direct Diversion by solar energy?* Mr. C de Baca said to make solar affordable, it is best for a larger project. He said "concentrated solar" has to do with the type of solar panels and troughs used. He said it is usually a much larger project, instead of the photovoltaic projects, such as the one at Algodones which is only 25 kW. He is unsure what is needed at Buckman, but he believes it would be a very expensive proposition.

Mr. Schiavo said concentrated solar uses the parabolic troughs, using the sun to heat the oil, then pump the oil and create steam which differs from photovoltaics. He said a concentrated solar project is usually about 100 MW.

Rick Carpenter said staff has looked at the feasibility of renewable power, including solar, at the BDD. It was determined that solar probably isn't right for the BDD, because the load is too big, and the peaking factor is far too large. However, they will be attempting some sort of LEED certification for the Administration building, if funds are available, and he envisions some sort of solar power for lighting and such.

- *Would it be possible to paint the "big ugly poles" along Rufina a different color, baby blue, so they would blend into the sky?* Mr. Martinez said there was a lot of advance research, and it was taken to the public. At the time, this was the pole that everyone thought would look the nicest, but it wasn't what they expected. He said at 80 feet, the background primarily is the sky, and it's not the brown color everyone anticipated would be more camouflaged.

It was the consensus among the Committee that the issue of the color of the poles be taken back to the public to go through another process to consider changing the color on the existing poles, with a request to involve the youth of the neighborhood. It was observed that staff has advised that there seems to be a much slower response from PNM to the requests the City makes, for example to repair the street lights.

- *The Chair noted that there is a stretch of street lights which are dark most of the time on both sides of Zafarano between Rufina and Cerrillos Road, and lights are out along Rufina as well.* Mr. C de Baca will follow up with Mr. Martinez.
- *Has the information on the rebate/discount been sent in the bills?* Mr. C de Baca said yes it has, and there also is information on the website.
- *Are the rates cheaper in a place like Palm Springs which is right next to one of the largest wind farms in the nation?* Mr. C de Baca said he believes the rates are higher in Palm Springs, and he will get this information back to this Committee.
- *What would be the cost of a photovoltaic system for an average household?* Mr. C de Baca said they are fairly expensive, and the payback would be over 15 years even with the tax incentives and the PNM buyback.

Chair Chavez asked staff to investigate the cost to repaint the poles to sky blue.

## **7. UPDATE ON SOLID WASTE DIVISION. (BILL DeGRANDE)**

Vivian Martinez presented information to the Committee from Mr. DeGrande's Memorandum of January 16, 2008.

Responding to Councilor Heldmeyer, Ms. Martinez said automation just won't happen in certain places because of the configuration of the street or other factors which prevent the automated trucks from being able to pick up, but they will do as much as possible.

Councilor Heldmeyer said she is surprised the City went to once a week recycling without coming first to this Committee. She asked why now rather than another time, and why once a week recycling, rather than waiting for other changes to the recycling program which would provide more "bang for the



buck" in the short term, such as commercial recycling, more recycling bins at State government offices and such.

Mr. DeGrande said when strategic planning was done, he laid out very clearly that he wanted to start weekly recycling on January 14, 2008. One of the reasons was to feed the MRF. He said today alone, the tonnage is 25% higher than in previous weeks. He wants to get to a plateau in terms of tonnages going into the MRF so we can have a reduction in tipping fees.

Mr. DeGrande said, In terms of commercial, this month he will begin with four schools – Santa Fe High, Chaparral Elementary, DeVargas Middle School and Atalaya Elementary. He said they are signing commercial accounts faster than in the past, although it isn't a huge number. He said with regard to the Legislature, they have to make an agreement with the Legislative Maintenance to collect, unlike with GSD for the other State buildings. He will definitely have that agreement by the next month.

Mr. DeGrande said he wanted to have residential recycling on a weekly basis in place before coming to the Council with volume-based billing proposal, to prove that people will recycle. He said they are doing it voluntarily right now and it doesn't cost anything. He said if people can see the rates will stay the same if they recycle more, we have to be able to provide that service.

Councilor Heldmeyer said the rates will stay the same if they can recycle more, but for others already doing it, it won't save them any money and this is what we discussed at strategic planning on Monday. She said for a lot of people, the amount they have is a function of green waste more than anything else.

Mr. DeGrande said this is correct, but he didn't mention that the goal at MRF is to have one commodity minimum a year, so that at some point they will be able to recycle more refuse. He said you can now recycle hard bound books. He said all of these things are tied together. He said perhaps this should have been presented to the Committee, but he believes he was very clear that this is where we would be going at the beginning of the year.

Councilor Heldmeyer said the discussion was always to ramp up recycling as quickly as possible, with a focus on commercial. She said it caught her by surprise, in terms of timing, that the emphasis was on residential.

Mr. DeGrande said he understands, and he is very well aware of what the consultant said in the BRRT study, because he worked on that with them. He said, with regard to the commercial recycling, at this time it is almost as expensive as it is for them to throw it away. He said what they tried to do was to tie everything together and do one ordinance change for volume-based billing, reducing commercial recycling rates so there is a bigger incentive for customers to recycle, and right now there isn't. He said the three things asked in the study were: volume-based billing, reduce commercial rates, and increase large item pickup rates. He has the first draft of the study. He has some issues with it and will be meeting with consultants next week and hope to have a final draft by the beginning or second week of February which will address commercial rates for recycling.

Councilor Heldmeyer reiterated that although this on the list of things to be done, she was taken aback that it wasn't presented to the Committee before it was done and the order in which it was being done, which wasn't what was talked about in the past.

Responding to Councilor Bushee said Mr. DeGrande said the rates aren't being raised for commercial recycling, and will be reduced to provide an incentive to do it.

Responding to Councilor Bushee, Mr. DeGrande said currently many commercial accounts are front loading accounts, and not billed by weight, but everything he takes to the landfill costs him \$25 per ton, and everything he takes to BRRT costs \$15 per ton. If he can take more commercial recycling to BRRT there will be savings. If he gets the volume up, then the \$15 per ton is reduced.

Councilor Bushee said commercial businesses are being rewarded with lower rates to get the recycling, but the City will charge residential more by volume to get recycling.

Mr. DeGrande said residential won't be charged more if there is more recycling, and if the recycling is kept at the same level, they will pay the same.

Councilor Bushee asked the commercial rates for just trash pickup.

Mr. DeGrande said it depends on the size of the container – the service utilized

Councilor Heldmeyer asked if there are small businesses which are treated like residential because it doesn't generate that much waste.

Mr. DeGrande said they have 90 gallon containers, which also can be used for recycling, but he won't be doing volume based with commercial, because commercial is already paying on the volume of the container and number of pickups.

Responding to Councilor Bushee, Mr. DeGrande said he can guarantee that the service now is reliable from his and the staff's point.

Councilor Bushee said she had a lot of calls this month about recycling not being picked up.

Mr. DeGrande said last week was the worst he's had in the Division. He said this week the Division provided better recycling service than we ever had. He said the problems last week were due to the weather, equipment, lack of staff showing up to work – the perfect storm.

Councilor Bushee said she thought Mr. DeGrande had a handle on the staffing.

Mr. DeGrande said he does, provided the people show up to work. If they call in sick, there is nothing he can do.

Councilor Bushee thought that used to be a frequent occurrence.

Mr. DeGrande said it was only that the employees didn't show up for work. It was icy roads which are still icy, equipment break-downs, the recycling trucks weren't received at the expected time and we still haven't received those. He said during the past three days, everything has been picked up.

Councilor Bushee said the people in Sierra del Norte or up in the hills haven't had a pickup since Christmas.

Mr. DeGrande said we can't get up some of those roads, but where they can, they will go up and pick up. He said the advertising starts at the end of the month so we would have three weeks to work out the bugs on the weekly collection. There are five vacant positions to fill, all of which will go to recycling. He said, "We are learning. For us to collect, right now, I have to take two rear loaders and two other trucks, and we collect commingle in the rear loaders and glass in the other trucks. Because the two trucks I'm waiting on can collect both, but right now, I don't have them."

Councilor Bushee asked if there is coordination between Robert Romero and the Division.

Mr. DeGrande said they were on flat areas today, and you can't get down the street. He said when a 60,000 pound vehicle starts sliding, people better get out of the way. He said they salt the main roads, plow the main roads, but that doesn't do him any good, because he's rarely on the main roads.

Councilor Bushee asked if different types of vehicles are needed.

Mr. DeGrande said no, unless the City wants to buy a snow cat with treads. He said he has small vehicles, big vehicles, vehicles with chains, four-wheel drive pickups, and they try to get up the streets with pickups. If they can't get the big truck up the street, they stage the big trucks at the bottom and make runs back and forth. He said it is difficult. He said they are sliding down the road on the south side.

Responding to Councilor Bushee, Mr. DeGrande said he is unsure he agrees that recycling isn't working, because it was just started, and believes it has worked well for that week. Mr. DeGrande said he made significant personnel changes in terms of hours of work. He said the incentive program was the death of the incentive program. He was very clear with staff that they are expected to do their job, and if they don't, then they won't be working for the Division any more. He is prepared to come back at the next meeting and detail what changes were made, the whole purpose of which was to improve service and to either get rid of the attitude or get rid of the employee.

Councilor Bushee asked if her dead end street and others will be automated.

Mr. DeGrande said it will, and her street is on the list for this month. He said he now has 2,200 carts assembled, so they will be attacking the problematic streets, such as hers, next week.

Councilor Bushee asked if it would be possible to have automated recycle pickup.

Mr. DeGrande said yes, but we are probably a year away with something he can bring to this Committee. The big issue is glass which will require two bins, or a split bin.

Responding to Councilor Bushee, Mr. DeGrande said her street will be automated, but it will be different from the other automation because it will be a rural loader with dual tippers, with staff rolling the carts out to the tippers.

Responding to Councilor Trujillo, Mr. DeGrande said he is waiting on two trucks to be delivered. He said the specifications were developed by somebody who is no with the City and there are no liquidated damages in the contract, noting this went through three vendors. He said it went to Kahn in Oregon, the bodies were then shipped to Hammond in Ohio, and it was a disaster. He said the new contracts include liquidated damages. He said one of the trucks will be here on Friday, and the company is flying a guy from Ohio to Albuquerque to finish the other truck, noting Delphi sent the wrong harness.

Councilor Heldmeyer would like the Councilors to see the consultant's report before it goes to BRRT. She said one of the pieces of information in the report is that unless there is a highly-motive community, commingle usually wins out over separate bins. She said BRRT is designed to take commingle recycling not to take single-stream recycling.

Mr. DeGrande said we really need to do some education, because they are picking up bins which are half commingled and half glass and it makes it extremely difficult to collect, but he has something in mind to deal with this. Responding to Councilor Bushee, Mr. DeGrande said BRRT stands for Buckman Road Recycling and Transfer Station.

Councilor Bushee asked about hazardous waste – ewaste and such.

Mr. DeGrande said he will be giving a report at Finance Committee next week on the possibility of a permanent facility for hazardous waste. He said ewaste is accepted every day at BRRT. He said Batteries Plus will take batteries every day, and people shouldn't put small ones in the trash.

Responding to Councilor Chavez, Mr. DeGrande said, beginning in the next two weeks, administrative staff will be following the recycling trucks and when we find a contaminated bin will be leaving a message on the person's door asking them not to do this, and instructions for recycling. He said they will have extra recycling bins to give people an additional bin for glass.

Councilor Heldmeyer said sometimes the contaminant comes from somebody else.

## **8. WATER RIGHTS TRANSFER AND ACQUISITION PROGRAMS UPDATE. (DALE LYONS)**

Dale Lyons presented information to the Committee from his Memorandum of January 9, 2008, which is in the Committee packet

Councilor Bushee asked the source of the water transfer.

Mr. Lyons said all of the water rights the City currently is accepting as part of the water rights transfer program are pre 1907 Middle Rio Grande Water rights.

Responding to the Chair, Mr. Lyons said the City's own acquisitions of water rights is separate from the water rights transfer program which is for developers.

Responding to Councilor Bushee, Mr. Lyons said Isleta Pueblo is in the Middle Rio Grande and is protesting water rights transfers from below the Isleta diversion on the Rio Grande, but aren't protesting transfer applications which are upstream of the Isleta diversion. The private landowner mentioned in the Memo is in the La Tierra Area, and is protesting because the water rights are being applied to be transferred to the City's Buckman Well permit for offset. The landowner fears that it will increase the City's ability to pump from the Buckman Wells which isn't true, because the water rights being transferred are for permit compliance to allow us to keep pumping at the same permitted rate.

Councilor Bushee would like a more complete Memorandum on this subject.

Responding to Councilor Heldmeyer, Mr. Lyons said it is up to the applicant to put together the OSE application, but it takes about two years from start to finish. He said part of the delay is caused by the protests.

Councilor Heldmeyer understands the City is entering into negotiations with various entities over protests and things to make the protests go away, and asked if the costs for this are paid by the applicant or the City.

Mr. Lyons said most of the protests are on transfers which the City is pursuing or is a co-applicant with the County, and this would happen regardless of the transfer program, and those are included in the negotiations. In some cases, some applicants are participating and actively trying to mitigate problems with protestants, and in that case the costs are shared.

Councilor Heldmeyer doesn't want the City to be a dumping ground for water rights which people know will have a problem so the City can deal with that. She said if the City is handling the protest, the question is whose responsibility is it to get good rights which will successfully go through the process to the City. She said it wasn't the intent of this ordinance for the City to pick up the burden.

Mr. Lyons said the City's review procedures are designed to weed out those "bad apples," and the City has turned away a number of water rights which didn't meet its criteria for those reasons.

Chair Chavez said the minimum purchase price is \$23,000 per afy, then it is brokered and the maximum paid by a broker can range from \$27,000 to a maximum of \$35,000.

Mr. Lyons said the average is \$27,000 per afy, up to a maximum of \$35,000.

Responding to the Chair, Mr. Lyons reiterated that he doesn't have all of the information to be able to do a statistical analysis.

Responding to the Chair, Mr. Lyons said he can provide these reports quarterly.

**9. PRESENTATION OF "QUANTITATIVE EVALUATION OF CITY OF SANTA FE'S DEMAND MANAGEMENT PROGRAM." (DANIEL RANSOM)**

Daniel Ransom presented information from his Memorandum of November 26, 2007.

Councilor Bushee asked if the new software will help to evaluate individual programs.

Mr. Ransom said yes, and the reason for the software is to track which programs are saving water and which are the best.

Councilor Bushee asked if we will be applying the rebate program first.

Mr. Ransom said staff is looking at WBO, including the toilet distribution programs, and evaluating those. The benefit of having all of these in the software is that staff can look at those who participated in multiple programs, and perhaps the larger benefit of participating in three programs.

Responding to Councilor Bushee, Mr. Ransom said all of the customers participating in the toilet retrofit program are in the program, and we are downloading all the water history so we can go back and evaluate that program.

Responding to Councilor Bushee, Mr. Ransom said the study looked at the overall water use and demand, and Norm Gaume helped staff to look at the water track software before purchase, and if it was in place, it would definitely have helped them with this report. It is planned to use it to evaluate the water retrofit program, and to accurately track the changes in water use from that program.

Councilor Bushee asked if there is interest of going to the 1.2 toilets, if these are available, and those be beneficial, noting Bernalillo County is giving away the 1.2 toilets.

Mr. Ransom said those are now available. He said we are always looking at the next step. Santa Fe has excelled in the retrofit and replacement. The next step is to look at lower volume toilets, also no water use toilets, waterless urinals and such to continue our water conservation efforts.

Responding to Councilor Bushee, Mr. Ransom said in the past the majority of conservation was in residential, but this year we are looking at outdoor programs to incorporate the outdoor water use efficiencies to save water and help with the peak demand.

Councilor Bushee asked about new programs for commercial customers to reduce water use.

Mr. Ransom said they are looking at this and the new programs will include both indoor and outdoor customers.

Responding to Councilor Bushee, Mr. Ransom said the software should be in place very soon, noting the contractor is still working with ITT on some of the downloads and information, and he will be following up on this week. He said this software is very new, and the contractor has worked with other

municipalities, and started locally where is located in San Francisco, Santa Cruz, so he has a lot in the works, so this is very recent software.

Councilor Heldmeyer asked if we are tracking Plan B's.

Mr. Ransom said he isn't familiar with the WBO program, but believes it is planned to look at everything in the WBO program, so he would believe that can be done.

Councilor Heldmeyer would like a report on the Plan B's at the next PUC meeting.

Responding to the Chair, Mr. Ransom said bear in mind that 100% of all commercial businesses retrofitted their toilets prior to the residential community becoming involved, noting residential has been catching up.

Chair Chavez asked if the program includes switching lavatories, fixtures, etc., for commercial.

Mr. Ransom said the program at the time inspected aerators, and they found few showers, and the problem is that they wear out or disappear, so it is an ongoing effort.

Chair Chavez asked about the motion sensor fixtures.

Mr. Ransom said this would be something to explore in the next step.

Councilor Heldmeyer asked if everyone in multi-family met the requirement in a timely fashion.

Mr. Ransom said yes, noting they concentrated on the largest complexes first, but haven't reviewed the smaller multi-family to see if they have met that deadline. He said there is a possibility that there are unknown multi-family units, although he believes they caught the majority.

## **11. REPORT ON BUCKMAN DIRECT DIVERSION PROJECT. (RICK CARPENTER)**

Rick Carpenter reported as follows:

- Bids were received on 9/12/07 from two firms, both determined to be responsive by a joint City/County procurement committee, but both bids were significantly more than the target \$155 million. Therefore, both firms were invited to participate in a best and final offer process. Subsequently, CH2 and Hill was the highest ranking bidder and invited to participate in contract negotiations beginning in December, and expected to conclude in late February 2008, with a contract presented to the BDD Board at its March meeting. If approved, design will begin immediately, to break ground in Fall 2008.
- Staff will be working with the Congressional Delegation and the lobbyist to get the BDD eligible for federal rural program assistance in the form of a federal loan guarantee to be

used to bridge the gap which may exist between available state and local funding and the final bid price.

- To date, approximately \$6.8 million state grant funds have been received, and recently learned we received \$250,000 in federal grant funding which is pending. There is a \$4 million request in the Water Trust Board which was recommended to the Legislature for funding.
- The recommendations to LANL by the BDD were sent by letter to LANL by the BDD, which addressed sampling, monitoring, techniques to stop or substantially reduce the transport of contaminants and an early warning system. Staff has been working with LANL to address these issues.
- The Corps of Engineer 404 Permit has been received.
- Staff has been working on various state and federal right-of-way permits, and he is happy with the progress.
- The draft EPA NPDS permit just received will allow the City to return sediment to the river as opposed to trucking it to the landfill. The conditions of approval seem workable, and more or less acceptable in draft form to staff.
- The final EIS has been received, and we received the Record of Decision in October 2007. The last step is the notice of availability, and he is told we should have this by January 18, 2008. This is a major milestone. There is a 45-day appeal period for the Record of Decision on a substantial issue which was raised earlier during the comment period. If the federal agencies determine this is a legitimate appeal, there is up to 30-days to cure that. The NOA is a trigger for a great many things, including NMFA funding, so it is a major milestone.

Councilor Bushee would like Mr. Carpenter to submit his statements in writing.

Mr. Carpenter will email it to her.

Responding to the Chair, Mr. Carpenter said the way the draft is written would allow the City, under most conditions, to return all or most of the sediment to the River, but at times it may be necessary to truck some out, but much less than before. He said the route would be up Buckman Road, through Las Campanas to Caja del Rio.

Chair Chavez asked if the conditions will be monitored which will determine when we need to truck.

Mr. Carpenter said it is part of the draft contract, and they want daily sampling, but it is somewhat vague at this time, although he believes we will be able to develop something which is workable.



Responding to the Chair, Mr. Carpenter said this is the first permit of its kind, and has never been done in this region before, this is the reason it has taken so long.

Councilor Bushee said she would also like the report around the energy for BDD.

Mr. Carpenter will provide this via email.

Councilor Bushee said the recreational proposal seems interesting, but she doesn't know much about it.

Mr. Carpenter said it is on the agenda for the BDD tomorrow, but it is still fairly conceptual.

### **ITEMS REMOVED FROM CONSENT FOR DISCUSSION**

No items were removed for discussion.

### **DISCUSSION ITEMS**

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MOTION: Councilor Heldmeyer moved, seconded by Councilor Bushee, to amend the agenda to hear Items #18, 19 and 20 next on the agenda, and to approve the agenda as amended.

VOTE: Motion was approved unanimously on a voice vote.

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- 18. REQUEST FOR APPROVAL OF RESOLUTION NO. 2008- \_\_\_\_ . A RESOLUTION TO LEASE 2,500 AFY OF THE CITY'S SAN JUAN-CHAMA PROJECT WATER TO THE BUREAU OF RECLAMATION IN EXCHANGE FOR A WAIVER OF THE CARRY-OVER STORAGE PROVISION TO ALLOW THE CITY'S 2007 SAN JUAN-CHAMA WATER TO REMAIN IN HERON RESERVOIR THROUGH SEPTEMBER 30, 2008 (COUNCILOR CHAVEZ). (CLAUDIA BORCHERT)**

Mr. Borchert said the Resolution is the solution to a short term storage problem, and provides a waiver to April while the City negotiates a lease of 2,500 afy for the silvery minnow.

Responding to Councilor Bushee, Ms. Borchert said they purchase the water from the City, and we allow them to purchase this quantity of water sometime in the next five years, although we will resolve the details of the lease over the next two months. The price is something around \$47 to \$53 per afy.

MOTION: Councilor Bushee moved, seconded by Councilor Heldmeyer, to approve this request.

VOTE: The motion was approved unanimously on a voice vote.

- 19. REQUEST FOR APPROVAL OF RESOLUTION NO. 2008- \_\_\_\_\_. A RESOLUTION DIRECTING STAFF TO STUDY AND MAKE RECOMMENDATIONS TO THE GOVERNING BODY REGARDING AN INCENTIVE PROGRAM TO USE STATE OF THE ART WATER CONSERVATION TECHNOLOGY IN THE CAR WASH INDUSTRY (COUNCILORS HELDMEYER, CHAVEZ, CALVERT, BUSHEE AND WURZBURGER). (DANIEL RANSOM)**

Daniel Ransom summarized the contents of the Resolution.

Councilor Bushee asked if this applies to the laundromat industry.

Mr. Ransom said one of the things we're learning with the laundry recycling, is that there is one very good installation of a recycling system at Luna Laundry which has been very successful. It is a 100% closed system, which recycles about 80% of the water, with most of the water loss due to the wetness of the clothes that come out and the flushing of the filtering system. There is a company that is funding the system, and the payback is about three years. The owner of Luna Laundry is paying less monthly to purchase the equipment than the water bill would be. He said a resolution on laundries already is going through the system.

MOTION: Councilor Bushee moved, seconded by Councilor Heldmeyer, to approve this request.

DISCUSSION: [Councilor Heldmeyer's remarks here are inaudible because her microphone was off.]

Chair Chavez said he was concerned about which is left on during the winter to prevent water from freezing. He believes they will need to do something else to keep the wand from freezing during the winter.

VOTE: The motion was approved unanimously on a voice vote

- 20. REQUEST FOR APPROVAL OF BILL NO. 2008- \_\_\_\_\_. AN ORDINANCE AMENDING SECTION 7.2 OF EXHIBIT A OF CHAPTER 22 SFCC 1987, TO CORRECT WAIVERS TO THE WASTEWATER UTILITY EXPANSION FEE FOR AFFORDABLE HOUSING (COUNCILOR WURZBURGER). (KATHY McCORMICK)**

Jeanne Price, gave a brief history of this matter, saying she is here this evening because it was her error, and she wants to deal with it, and explain this to the Committee.

Responding to the Chair, Ms. Price said on page 1 of the new bill she is adding the missing language.

MOTION: Councilor Heldmeyer moved, seconded by Councilor Bushee, to approve this request.

VOTE: The motion was approved unanimously on a voice vote

**16. REQUEST FOR APPROVAL OF SEWER SERVICE ONLY UNDER THE PROVISIONS OF SFCC SECTION 22-6.2 BY SCOTT HOEFT OF SANTA FE PLANNING GROUP FOR THE PROPOSED VILLAGE PLAZA PROJECT IN SANTA FE COUNTY NEAR NM 599 AND SFC 62. (STAN HOLLAND)**

A copy of the Vicinity Map for the Village Plaza, presented for the record by Scott Hoeft, is incorporated herewith to these minutes as Exhibit "3."

A copy of the Amended Master Plan for the Village Plaza, presented for the record by Scott Hoeft, is incorporated herewith to these minutes as Exhibit "4."

Stan Holland presented information regarding this matter to the Committee from his Memorandum of January 8, 2008, which is in the Committee packets.

Responding to Councilor Bushee, Mr. Holland said there is a well on the site which has been tested.

Councilor Bushee asked, if the City approves sewer, is there is a guarantee that they won't come back to the City for water, noting that there were concerns about other connections.

Mr. Holland said this could be imposed as a condition of approval. He said one of the conditions on the Master Plat is that if the County brings water they would be required to hook up.

Responding to Councilor Bushee, Mr. Holland said the recommended conditions of approval are on page two of the Memorandum.

Councilor Bushee said then they are following the Santa Fe Homes Program ordinance.

Responding to Councilor Bushee, Mr. Holland said the easement is through BLM which would let them get to the sewer line.

Councilor Bushee said if this is annexed, she would want to know the setbacks for their development plan, noting she is still in pursuit of a highway corridor plan ordinance.

**Scott Hoeft, Santa Fe Planning Group, 109 St. Francis**, said the plan approved in 1999 contemplated the highway corridor and has setbacks along the frontage road of 100 feet to the east. Mr. Hoeft distributed copies of the Vicinity Map and the Amended Master Plan [Exhibits "3" and "4"].

Mr. Hoeft demonstrated the subject site on the drawings. Responding to Councilor Heldmeyer, he said the Market Plaza is a small grocery store. He said there is quite a bit of open space to the North where it bisects with County Road 62, which deviates somewhat from the original master plan, and is an

improvement upon the original master plan. He said the building design, heights, landscaping, buffers are all included in the recorded master plan and the highway corridor was contemplated.

Responding to Councilor Heldmeyer, Mr. Hoeft said the intersection on 599 is an at-grade intersection, with a gas station at the end of an at-grade interchange. He said the MPO has been studying 599 for about four years and trying to decide where to add an interchange.

Councilor Heldmeyer said that interchange isn't a priority of the MPO. She asked what existing sewer line this will hook into, and who is already on that line.

Mr. Holland said there are no sewer lines in the village. He said there are two lines where he could hook in. He said the Santa Fe River trunk line runs along the Santa Fe River, immediately south of the site, which is a major trunk line and the City does have the capacity to handle this. There is another sewer line which runs up County Road #62, which could be used, but it is a little far out.

Councilor Heldmeyer said when this came to the Committee in the past, there were a lot of County facilities which were looking to hook up to water and sewer, and asked if they still want to do that.

Mr. Holland said they want to hook up to water, but sewer has been provided to La Familia and the Fire Station currently has a request, so an 8-inch sewer line was run from the River to terminate at the Fire Station up there. He said sewer service has been provided to those facilities.

Responding to Councilor Heldmeyer, Mr. Holland said La Familia and the community station are on sewer, and the Fire Station has a request in.

Councilor Heldmeyer asked how many lines the City will have out there.

Mr. Holland said it appears the best thing would be to extend an 8-inch line from the City's trunk line to their site, commenting that it basically is dedicated to this site and serves only this site.

Councilor Heldmeyer said there will be a grocery store, a restaurant, a gasoline station and a medical building, all of which are high risk businesses for sewer lines, and asked if the developer will be taking precautions to prevent the kinds of problems we experience in the City.

Mr. Holland said one of the recommendations in the Memorandum is that the applicant has to acknowledge on their plats that they will be following the City's Chapter 22 for sewer design, and guidelines of the City. He said water meters will be required on the commercial establishments so we can track the use, so we can bill them for what they are generating back to the City. They will be subject to the IP program for testing.

Councilor Heldmeyer said she is very nervous about building a gas station off #599 on a non-grade separated interchange. She said many developments have been approved for community commercial, but nobody moves into the space. She said she believes someone would move into the gas station, which could be problematic in terms of safety. She said there are only 41 households planned, and

questioned how much gasoline 41 households would buy. She said this is designed as a commercial development for people driving up and down #599, and it isn't just for these units.

Mr. Hoeft said it was designed as a neighborhood center and a mixed use development, and the phasing schedule may address her question. He said they can't put in the 75,000 sq. ft. of commercial until the commercial is complete.

Councilor Heldmeyer said she understands, but the reality is that 41 units won't support this level of commercial, so they clearly are trying to pull from all of the people who drive up and down #599, some of which may need services. She thinks this is an "iffy" place to put this.

Councilor Bushee asked if there are other residences in the area.

Mr. Hoeft said it is a very dense area. He said it is designed as a neighborhood commercial center, so there is office space, market, retail, restaurant and a gas station. It is a small development, and not a major commercial node.

Responding to Councilor Bushee, Mr. Kassesieh said he should be able to handle anything which would come to wastewater from this development.

Councilor Bushee asked if the gas station is intended to sell alcohol at any point.

Mr. Hoeft said he doesn't know, there is still a lot of work to be done with regard to this space. He said it went to the EZC in November and was approved to remove the condition related to City sewer and City water. One of the EZC Committee members recommended they go to the Agua Fria Water Cooperative Association and make a presentation, which they did. They came back and said they didn't mind the project, they were concerned about doing an on-site liquid waste disposal plant, and recommended that he come back to the City to request sewer.

Mr. Hoeft said, based on the density, they have to do an on-site plant, so they need community water and community sewer. Therefore, they asked us to come back here for the sewer. He said they aren't going north or to SR 62.

Councilor Bushee asked if there is any downside to approving this.

Mr. Kassisieh said if we do it, everybody who wants to build in the area would want to hook onto it, but he still wants all of the effluent.

**MOTION:** Councilor Bushee moved, seconded by Councilor Trujillo, to approve this request with the conditions as recommended by staff, with the additional condition that there will be no water hookup to City water, and that the condition will run with the land.

**DISCUSSION:** Councilor Heldmeyer asked if the applicant is being required to build a line which would be big enough for everyone to hook onto it.

Mr. Kasssieh said the ordinance requires him to build an 8-inch line which is big enough to handle everyone who might want to build in that area.

Responding to Councilor Heldmeyer, Mr. Hoeft said he met with Duncan Sill at the County program and Ron Pacheco with the City program, and submitted the proposal required to get this far with the plan. He said he is willing to agree to either program.

**Friendly amendment:** Councilor Heldmeyer would like a condition of approval that the developer will abide by the Santa Fe Homes Program. **The amendment was friendly to the maker and second and there were no objections by the other members of the Committee.**

**Friendly:** Councilor Heldmeyer would like a condition that the gas station will not be permitted to have a car wash. **The amendment was friendly to the maker and second and there were no objections by the other members of the Committee.**

**Friendly:** Councilor Heldmeyer would like a condition of approval that alcohol will not be sold at the gas station. **The amendment was not friendly to the maker, who suggested this should be a separate motion.**

Councilor Heldmeyer said the City is being asked to do a big favor by putting in this sewer line, and she sees real potential problems with this and she is trying to mitigate potential problems.

Chair Chavez said this project is in the County, and has gone through the EZC and the EZA, so for all practical purposes, the City is a silent partner, so people can pick and choose with which ordinance they will comply. The applicant is willing to follow the City's Homes Program. Chair Chavez asked what other City ordinances and policies apply to the development.

Mr. Holland quoted the eight Staff recommendations on page 2 of his Memorandum.

Chair Chavez said the impact fees and GRTs during the construction phase of this project are missing, and asked those amounts, commenting that he doesn't know how to capture that. He said we are applying City ordinances, even if we're not annexing.

Councilor Bushee doesn't believe we can impose impact fees when it isn't in the City. She said some time ago she put in an ordinance which provides that if you are going to have City infrastructure extended, you must follow the City Housing program.

Chair Chavez said he is suggesting, as a condition of approval, we should consider an assessment on what the impact fees on this project would be if it were in the City limits.

Responding to Councilor Bushee, Marcus Martinez said he doesn't know whether we can impose impact fees or prevent alcohol sales, but he can research this and have an answer by the time this is heard by the Council.

Councilor Bushee said the State extended the authority to the City to levy impact fees in the City limits within certain categories, and the City can't levy impact fees in County.

Councilor Heldmeyer said however, the City can ask for an amount of money which is equal to the impact fees.

Mr. Hoeft understood this goes next to the City Council, noting he has gone to the EZC and was approved, but hasn't gone to the EZA because he is awaiting a decision by the City Council.

Chair Chavez asked if this Committee would like a recommendation on considering the impact fees on this project.

Councilor Bushee said if we can get an opinion from the City Attorney's Office saying this can be done, between now and the Council meeting, she would be happy to reconsider that.

Councilor Heldmeyer pointed out that this is a discretionary decision on the part of the City, and the City is not required to extend water, sewer or anything else. She said when the City has discretion in land use cases, when there is a discretionary decision, additional conditions can be imposed on that discretionary decision.

Chair Chavez directed staff to treat this request as if it were going to be annexed and the City could impose affordable housing and impact fee ordinances. He wants to see those numbers just for purposes of discussion.

Councilor Heldmeyer would like to know if the City can impose a condition prohibiting alcohol sales.

Mr. Kassisieh asked if this request can be brought back to the PUC at the next meeting with the information from the City Attorney's Office.

Chair Chavez said we are expected to provide services, and he just wanted to raise these issues.

Mr. Kassisieh said they will be paying the UECs which replace the impact fees for wastewater, dollar for dollar.

Chair Chavez would like to see these numbers as well.

Councilor Heldmeyer said we are talking about 2,000 sq. ft. of commercial space for each house, so the neighborhood is more than just these houses.

VOTE: The motion, as amended, was approved on a voice vote, with Councilors Trujillo and Bushee voting in favor of the motion and Councilor Heldmeyer voting against.

- 17. APPEAL BY JAMES SIEBERT ON BEHALF OF VICTOR MONTANO OF WATER ALLOCATION OPTION B DENIAL. MR. SIEBERT REQUESTED TRANSFER OF HISTORIC WATER USE FROM 3964 AGUA FRIA TO 11 AVIATION DRIVE TO ALLOW HIS CLIENT, VICTOR MONTANO, TO CONSOLIDATE HIS BUSINESS. THE 11 AVIATION DRIVE SITE IS LOCATED IN THE COUNTY AND IS CONTIGUOUS TO THE CITY. PROVIDING WATER SERVICE TO THE 11 AVIATION DRIVE SITE WILL REQUIRE ANNEXATION OF THE PROPERTY. (ANTHONY TRUJILLO)**

Antonio Trujillo presented information regarding this matter from his Memorandum of January 7, 2008, which is in the Committee packet.

Councilor Heldmeyer said this Committee is only a recommending body for this appeal.

Mr. Siebert said that is his understanding and that this appeal ultimately will go to the Council.

Mr. Trujillo said the administrative regulations provide for the appeals process – it first goes to the PUC, and if denied by PUC, it then goes to the City Council.

Councilor Bushee asked if this was meant to go to the Planning Commission.

Mr. Trujillo said the administrative regulations do not provide that it goes to the Planning Commission, and provides that the appeal of any decision by the staff goes to the Land Use Director, and then any appeals from the decision of the Land Use Director go to the City Manager.

Councilor Bushee asked if it had gone through an EZC process, noting there is no history, nor real information about Option B.

Mr. Trujillo said the applicant historically has used water at a site – the City has been providing water to Mr. Montano's batch plant on Agua Fria in the County for quite a few years.

Councilor Bushee said there isn't enough information in the Committee packet for her to make a decision.

**MOTION:** Councilor Bushee moved, seconded by Councilor Heldmeyer, to deny this request.

**DISCUSSION:** Councilor Heldmeyer said there is no agreement from the applicant that they would use no City water at the other site, and asked if that is part of this. She said historically they have used 7 afy, a lot of water, at one site, and now they want to move it to the other site. She asked if they are saying, "We will ask the City for no other water at the initial site."

Mr. Trujillo asked the appellant to answer this question.

Mr. Siebert said when the appeal was first submitted, it was understood that we could come to the Committee and the Committee would have the authority to hear this request to transfer water from one



place to another. He said subsequently, he learned that under the ordinance, under an Option B, only the Planning Director has the authority to approve that. He said, "It's his determination that he simply does not have that authority to act on this particular request. It's for that reason that we had to go through this denial process in order to get before the Board, that's a purely legal situation. With regard to the actual water itself, the water has been used at this particular location since the 1950's, it's Mr. Montano's concrete plant. What he would simply like to do is take his...he has two operations. He's got one out on Aviation Drive, he's got one in Agua Fria. The one in Agua Fria has been encroached on both sides by residential development. It's probably no longer an appropriate spot for a concrete plant. So, what he would like to do is simply take his concrete plant, abandon that particular use there, and consolidate his operations at the Aviation Drive site. The answer to, is..will he stop use of the meter, the answer is yes, once he...he is already in operation, and once he has a meter at the new location, he just simply cuts off the water use. And, what will happen, any redevelopment of that site will be dependent on acquiring water rights and transferring them and going through a process, because he's within the Agua Fria traditional village. He will have to go that particular process. It will be almost identical to a case you heard recently, which was the Tavelli case. He would have to do that as a separate application."

Mr. Siebert continued, "With regard to land use...we haven't done..it's a chicken or egg. Mr. Montano feels like he really needs to have an idea whether he can get the water to the new plant, and then he agrees, that as part of getting that meter in...all this is contingent upon annexation, and with that annexation would be a rezoning, so he technically doesn't get the meter until he gets the annexation and rezoning, so there is a sequential process that has to still go through a development review."

Responding to Councilor Bushee, Mr. Siebert said there is an existing operation on Aviation Drive, and Mr. Montano gets the water from two locations. He said, "One is from a well, it's an on site well, and the other is treated effluent, and that's when he has two different kinds of concrete you can do, and the treated effluent comes from the pipe across the street, so it's very convenient. But, right now, he has to do certain batches under Code. You have to use potable water, certain, you can use treated effluent. So, you can see the kinds of problems he's having now with his current operations."

Councilor Bushee said then he wants water for all of his operations, he doesn't have any City water there.

Mr. Siebert said he does not have any City water at Aviation Drive.

Councilor Heldmeyer said, then the answer to the question is that this water would be transferred, but they probably would come back and try to get more City water for this space, but they would just do it under a different part of the law. The question is, what is the total amount of water they are using at the plant on Aviation Drive where they're using two kinds of water.

Mr. Siebert said he doesn't know the current water use, but his daughter Vicky is in attendance, and she might have some idea of the water use.

Vicky Montano said they are using two types of water. She said, "What Jim failed to mention is, we're transporting some water in from Agua Fria to Aviation and containing that in holding tanks, because we don't have enough water. We are using about 500,000 gallons of effluent and 500,000 of fresh water, for

about a million gallons per year. And, most of that, a lot of that, has gone next door to the Civic Center. Without that water, we couldn't have built that Civic Center. Does that answer your question."

Councilor Heldmeyer asked what does the General Plan say is the future land use of this piece of land which they have now, but want to annex into the City, and they want to get a rezoning on. What does the Future Land Use Map say is the intended use for this land.

Mr. Trujillo said he isn't familiar with that.

Councilor Heldmeyer said, given the ramifications, this isn't something this Committee really needs to be discussing, and staff is hearing the questions which need to be answered if this, as we've heard, is going to be appealed to the City Council.

Councilor Trujillo said he is hearing Councilor Bushee saying she needs a lot more information, and asked if this can be tabled until we get the information we need.

Councilor Heldmeyer said we can, or we can send it to the Council, whichever is faster.

Councilor Trujillo feels it is wrong to deny this because we don't have the information, and believes we should first get the information and then make a decision.

Councilor Heldmeyer said it is sometimes faster to deny it and move it forward to the Council, but she doesn't know which is faster in this case.

Mr. Trujillo said any land use questions can be answered by Jack Hiatt, and he had been here earlier, but left. Mr. Trujillo said he isn't familiar enough with the land use or Chapter 14 ordinances to address any of these questions. However, he could make it a point to ask Jack to attend the next PUC meeting or Council meeting.

Responding to Councilor Trujillo, Councilor Bushee said it would go to the Council at the end of the month.

Chair Chavez observed that there could be a long term benefit to the Village in moving this activity, but in moving it, there has to be concern about how it fits in the new place, commenting it is a better fit there than in the Village. It would also assist the Montanos in consolidating their business. However, we are crossing this line where we have been providing water to a property that technically is in the County, and we pick and choose what ordinances about which we are concerned.

**Friendly amendment:** Councilor Heldmeyer said there seems to be concern about using the word "deny" and asked if Councilor Bushee would amend her motion to pass this forward to the Council without recommendation. **The amendment was not friendly to the maker of the motion.**

Councilor Bushee said what she really wants is for the land use process to occur and then bring it back here, and we will have all of the details on which to make a decision on the water use.

Responding to the Chair, Mr. Siebert said this site, under the General Plan, is zoned as industrial and adjoins the same area the City recently annexed and zoned industrial.

Mr. Siebert said, "If we were to go forward with annexation and rezoning of this property, at what point would it be appropriate to come forward with this request for water. Will we do it concurrently, will we do it after annexation. I'm not sure. I thought I was following the proper procedure by coming before you in advance of the annexation and rezoning. But, if you consider that not to be the case, we'll back up and we'll take another look at this, but at what point do we present it to you."

Councilor Bushee said if they are annexed into the City we can say it's worth "our while" to extend our infrastructure, reiterating her concerns.

Councilor Heldmeyer said if they are annexed they have to come back to the City.

Councilor Bushee believes they have to come back with details on Option B, and wastewater.

Chair Chavez asked if they are using Option B.

Mr. Trujillo said, if they were to go through the process and be annexed, they would have to bring water rights to the table for that particular site. What they are proposing, is to come in with an Option B, which says, "no we won't bring water rights to the table, we'll go ahead and transfer the water rights from one site to the other..."

Councilor Bushee said there are no water rights, it's City water.

Mr. Trujillo said, "Right, well, we'll transfer that water use from one site in the City to another site."

Councilor Heldmeyer, referring to the earlier case, said an annexation and rezoning are discretionary decisions on the part of the Council. When those come before the Council, we negotiate all kinds of conditions. She said in this unusual case, if they came forward with annexation they would come forward at that time with their very unusual request for water which would be part of the annexation agreement and would be done at that time. And, it might not be necessary to call it a Plan B, but just request what they want to do and the Council could "vote up or down whether they wanted to do it." She said there is less discretion with a Plan B, if this is a Plan B.

Mr. Trujillo said when this was presented initially to him, Mr. Montano presented that he wanted some assurance that he could do this before going through the annexation process, and the reason this is before this Committee.

Councilor Heldmeyer said she is somewhat concerned that the water is being trucked all over the County. She doesn't know if this is a common practice, and we might want to think about this in the future. She reiterated that she believes the time to bring everything to the table is when you go forward with the annexation and rezoning.

Mr. Buller said once an annexation occurs, the City would be obligated to provide water. The only question at that point is how much water, commenting that this seems to be over 5 afy, so they would have to bring a water right at that time in order to get to the meter hookup.

Responding to Councilor Bushee, Mr. Buller said one of the reasons both he and Jack Hiatt denied it is because it is not a typical Option B, and it fell into a "crack," and doesn't fall into that sphere which the ordinance gives to Mr. Hiatt and his staff. He said once it is annexed, the Committee can make a decision as to whether to proceed with retrofits or something that's kind of like an option B.

[Too many people talking at once here to transcribe.]

Chair Chavez asked if there is another source of water at the site.

Mr. Trujillo said none of which he is aware.

Mr. Siebert said he would refer that question to Vicky Montano.

Ms. Montano said the Agua Fria site has only City water, and there is no existing well on the site.

Councilor Heldmeyer said this will be a consolidated site. If what is happening currently at Aviation Drive is also more than 5 afy, even bringing the 7 afy from Agua Fria wouldn't help. She asked how many afy is one million gallons, and someone from the audience said it is 3 afy. She said the numbers don't add up either.

Mr. Trujillo said the 7.16 afy was derived from actual water bills, and he one million gallons is incorrect.

Councilor Heldmeyer said she wants the current water use numbers at the Aviation Drive site, noting that if he is using more than 5 afy, in addition to the 7 afy, he may find himself needing to come up with water rights at annexation.

Responding to Chair Chavez, Mr. Trujillo said Mr. Montano currently is a City customer at the Agua Fria site and is being billed by the City, and believes it a commercial account.

Councilor Trujillo asked where they make more concrete currently.

Ms. Montano said the primary plant is at 11 Aviation Drive, and the plant at Agua Fria is considered a backup plant to Aviation Drive. She said they have tried to make the neighbors happy in Agua Fria, noting it is surrounded by houses and the neighbors don't want it there any longer.

Councilor Trujillo asked if the concrete now being batched out can be done with the effluent.

[Ms. Montano's response was inaudible because too many people were talking at the same time.]

Chair Chavez asked if Aviation Drive is the primary facility, and if they are mixing with both potable and effluent water.

Ms. Montano said yes, and there are certain designs for both kinds of water.

Councilor Trujillo noted they are trucking water from Agua Fria, and asked why they don't hook up to water on Aviation Drive.

**WITHDRAWAL OF THIS REQUEST [APPEAL]:** Mr. Siebert said he is withdrawing his request, and they are going to take a different approach on this.

Responding to Councilor Bushee, Mr. Siebert said the only thing there is a small office, so everything is on septic and leach field at this point, but when it is annexed it will have to go on City sewer.

#### **ITEMS FROM STAFF**

There were no items from staff.

#### **MATTERS FROM THE COMMITTEE**

There were no items from the Committee

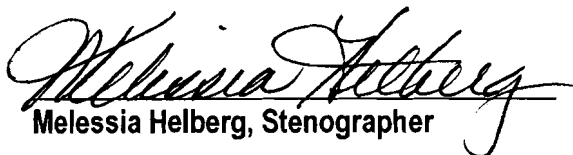
**NEXT MEETING: FEBRUARY 6, 2008**

#### **ADJOURN**

There being no further business to come before the Committee, and the Committee having completed its agenda, the meeting was adjourned at 9:00 p.m.

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**Miguel Chavez, Chair**

  
**Melessia Helberg, Stenographer**

