



Agenda

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**PUBLIC UTILITIES COMMITTEE
MEETING
CITY COUNCIL CHAMBERS
WEDNESDAY, JANUARY 7, 2009
5:00 PM**

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF MINUTES FOR THE DECEMBER 3, 2008 PUBLIC UTILITIES COMMITTEE MEETING

INFORMATIONAL ITEMS

5. Update on Current Water Supply Status. (Michael Gonzales)
6. Update on Solid Waste Division. (Bill De Grande)

DISCUSSION ITEMS

7. Request for Approval of an Appeal to the City Manager's Decision to Uphold the Land Use Department Director's Decision to Deny the Transfer of Water Allocation for the St. Michael's Laundry at 1700 C. St. Michael's Drive (previous address was 1605 St. Michael's Drive). (Wendy Blackwell)
8. Termination of Jicarilla Apache Nation Water Lease Issues Summary. (Claudia Borchert)
9. Request for Approval to Allocate Recently Acquired Water Rights to Affordable Housing Pool for Water Demand Offset. (Dale Lyons)
10. Request for Approval of Bill No. 2009-_____. An Ordinance Authorizing the Execution and Delivery of a Water Project Fund Loan/Grant Agreement by and Among the New Mexico Water Trust Board and the New Mexico Finance Authority (The "Lenders/Grantors"), and the City of Santa Fe, New Mexico

(the "Borrower/Grantee"), in the Amount of Four Million Dollars (\$4,000,000) Evidencing an Obligation of the Borrower/Grantee to Utilize the Loan/Grant Amount Solely for the Purpose of Financing the Costs of Planning Design, Engineering and Construction of the Buckman Surface Water Direct Diversion Project Including an Intake Structure on the East Bank of the Rio Grande, Submersible Pumps, Sediment Removal Station, Booster Pumps, Two Water Treatment Plants and Distribution Lines Throughout the System, and Solely in the Manner Describe in the Loan/Grant Agreement; Providing For Payment of the Loan Amount Solely From Pledged Revenues; Certifying That the Loan/Grant Amount, Together With Other Funds Available to the Borrower/Grantee is Sufficient to Complete the Project; Approving the Form of and Other Details Concerning the Loan/Grant Agreement; Ratifying Actions Heretofore Taken; Repealing All Action Inconsistent With This Ordinance; and Authorizing the Taking of Other Actions in Connection with the Execution and Delivery of the Loan/Grant Agreement. (Alan Hook) (Councilor Wurzburger)

- a. Water Project Fund Loan/Grant Agreement, No. 134-WTB.
- b. General and No Litigation Certificate.

MATTERS FROM THE CITY ATTORNEY

ITEMS FROM STAFF

MATTERS FROM THE COMMITTEE

NEXT MEETING: WEDNESDAY, FEBRUARY 4, 2009

ADJOURN

SUMMARY INDEX
PUBLIC UTILITIES COMMITTEE
January 7, 2008

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
CALL TO ORDER	Quorum	1
APPROVAL OF AGENDA	Approved	1
APPROVAL OF MINUTES FOR THE DECEMBER 3, 2008, PUBLIC UTILITIES COMMITTEE MEETING	Approved	2
<u>INFORMATIONAL ITEMS</u>		
UPDATE ON CURRENT WATER SUPPLY STATUS	Information/discussion	2
UPDATE ON SOLID WASTE DIVISION	Information/discussion	2-4
<u>DISCUSSION ITEMS</u>		
REQUEST FOR APPROVAL OF AN APPEAL TO THE CITY MANAGER'S DECISION TO UPHOLD THE LAND USE DEPARTMENT DIRECTOR'S DECISION TO DENY THE TRANSFER OF WATER ALLOCATION FOR THE ST. MICHAEL'S LAUNDRY AT 1700 C., ST. MICHAEL'S DRIVE (PREVIOUS ADDRESS WAS 1605 ST. MICHAEL'S DRIVE)	Appeal denied	4-8
TERMINATION OF JICARILLA APACHE NATION WATER LEASE ISSUES SUMMARY	Approved	8
REQUEST FOR APPROVAL TO ALLOCATE RECENTLY ACQUIRED WATER RIGHTS TO AFFORDABLE HOUSING POOL FOR WATER DEMAND OFFSET	Approved	8

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
REQUEST FOR APPROVAL OF BILL NO. 2009- ____ . AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO WATER TRUST BOARD AND THE NEW MEXICO FINANCE AUTHORITY (THE "LENDERS/GRANTORS"), AND THE CITY OF SANTA FE, NEW MEXICO (THE "BORROWER/GRANTEE"), IN THE AMOUNT OF FOUR MILLION DOLLARS (\$4,000,000), EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF PLANNING, DESIGN, ENGINEERING AND CONSTRUCTION OF THE BUCKMAN SURFACE WATER DIRECT DIVERSION PROJECT, ETC.	Approved	8-9
WATER PROJECT FUND LOAN/GRANT AGREEMENT NO. 134-WTB	Approved	8-9
GENERAL AND NO LITIGATION CERTIFICATE.	Approved	8-9
MATTERS FROM THE CITY ATTORNEY	None	9
ITEMS FROM STAFF	None	9
MATTERS FROM THE COMMITTEE	Information/discussion	9-11
NEXT MEETING: FEBRUARY 4, 2009		11
ADJOURN		11

**MINUTES OF THE
CITY OF SANTA FE
PUBLIC UTILITIES COMMITTEE
Wednesday, January 7, 2009**

1. CALL TO ORDER

A meeting of the Public Utilities Committee was called to order by Councilor Rebecca Wurzbarger, Chair, at approximately 5:00 p.m., on January 7, 2009, in the Council Chambers, City Hall, Santa Fe, New Mexico.

2. ROLL CALL

MEMBERS PRESENT:

Councilor Rebecca Wurzbarger, Chair
Councilor Christopher Calvert
Councilor Matthew E. Ortiz
Councilor Rosemary Romero
Councilor Ronald S. Trujillo

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

MOTION: Councilor Trujillo, seconded by Councilor Calvert, to approve the Agenda as published.

VOTE: The motion was approved a voice vote [Absent: Councilor Ortiz].

4. APPROVAL OF MINUTES FOR THE DECEMBER 3, 2008, PUBLIC UTILITIES COMMITTEE MEETING.

MOTION: Councilor Calvert moved, seconded by Councilor Trujillo, to approve the minutes of the meeting of December 3, 2009, as submitted.

VOTE: The motion was approved on a voice vote [Absent: Councilor Ortiz].

INFORMATIONAL ITEMS

5. UPDATE ON CURRENT WATER SUPPLY STATUS. (VICTOR ARCHULETA)

A copy of the Weekly Water Report for the week ending , is incorporated herewith to these minutes as Exhibit "1."

Michael Gonzales presented the information contained in Exhibit "1." Please see Exhibit "1" for specifics of this presentation.

6. UPDATE ON SOLID WASTE DIVISION. (BILL DeGRANDE)

A copy of a Memorandum dated January 7, 2009, to the Public Utilities Committee, from William DeGrande, Solid Waste Management Division Director, is incorporated herewith to these minutes as Exhibit "2."

Councilor Ortiz arrived at the meeting

Mr. DeGrande reviewed the information in Exhibit "2," commenting that as of 4:00 p.m., they finally are caught up after the snow.

Councilor Calvert asked how long the staffing problem will persist.

Mr. DeGrande said he has another CDL retiring in March. He said they discussed this at the staff meeting this morning, and he is going to try to move some of these people. He said hopefully some of them will come back. He believes he will have problems for another two months until he can get two more people hired. Responding to Councilor Calvert, Mr. DeGrande said some are taking up slots and some of that will be resolved fairly soon. He said they are "busting" their budget on overtime right now.

Chair Wurzbarger said, in view of the restrictions right now, perhaps it would make sense for this Division to have a contingency plan that recognizes this as a permanent problem.

Mr. Buller said, as an initial matter, he is relaxing the hiring freeze as it pertains to hiring these

people, because we need to fill these positions. He said, beyond that, he thinks we could find a way to do the double filling. He said he's taking it one step at a time.

Councilor Romero said she is asking people to be patient, and believes Mr. DeGrande is caught up with the recycling. She usually sends things directly to the Division or goes through Sevastian Gurule. She doesn't think she has gotten any calls this week, noting she knew last week was bad by the number of calls she received.

Mr. DeGrande said they were also inundated with calls. He said some of the calls are legitimate and some are weather related. He said there are still some streets which are extremely difficult for them to maneuver, even with the recycling trucks which are lighter. He said some of the calls are a miscommunication, or the people are putting the recycling out late. He said he isn't making excuses, because their job is to pick up and that's what they want to do.

Councilor Romero suggested Mr. Buller work with Laura Banish to issue a PSA reminding property owners to work on their sidewalks, and reminding the people about the rules regarding pickup. She said 90% of those complaining have put their garbage and/or recycling out later than they should.

Councilor Trujillo asked if any employees are going for their CDL.

Mr. DeGrande said currently there isn't anyone working on their CDL. He said one employee got his CDL two months ago. Responding to Councilor Trujillo, Mr. DeGrande said he encourages the employees to work on their CDL, and offers the equipment to them. He said there is someone to teach them, and he provides space in the back in the yards where they can practice with the vehicles. Mr. DeGrande said, "We just don't have any takers right now." He said he reminds them all the time about this.

Councilor Calvert said after the snow, some of the recycling wasn't being picked up. He thinks when people are shoveling their driveways it gets close to the recyclables and City people don't see them. He said sometimes when people put the recycling out at night, it gets covered when the City is plowing snow. Councilor Calvert said, on those roads where we're plowing, he would like to see better coordination between Public Works and the Solid Waste Management Division.

Mr. DeGrande said this was discussed two years ago when we had the major storm, and one of the issues in plowing side streets is that you put the snow on the side of the street. He said the real damage is they can't use their automated trucks to go through the pile to pick up the cans. It really doesn't benefit them when they plow the side streets, and actually hampers them. Mr. DeGrande said commercial businesses hire individuals to come in and clear the snow with pickups and snow plows, and they push the snow in front of the dumpsters and then the City workers can't service it.

Councilor Calvert said if Public Works is going to be plowing side streets, it should be coordinated with Mr. DeGrande's Division so he could pick up on those streets early and they could plow later.

Mr. DeGrande said he will discuss it with Public Works and David Catanach. He commented that he often will ask them to clean a particular street, but they have their priority list and his request comes in 2nd or 3rd.

Councilor Calvert said he understands, but believes this can be worked out.

Chair Wurzburger said perhaps we need to discuss how "horrible is it if we don't do recycling when we have 13 inches of snow." She said as we move toward the discussion of service and looking at how we might change services, perhaps that would be one solution to this problem. It remains a "lose lose" situation, it is dangerous, etc.

DISCUSSION ITEMS

7. REQUEST FOR APPROVAL OF AN APPEAL TO THE CITY MANAGER'S DECISION TO UPHOLD THE LAND USE DEPARTMENT DIRECTOR'S DECISION TO DENY THE TRANSFER OF WATER ALLOCATION FOR THE ST. MICHAEL'S LAUNDRY AT 1700 C., ST. MICHAEL'S DRIVE (PREVIOUS ADDRESS WAS 1605 ST. MICHAEL'S DRIVE). (WENDY BLACKWELL)

The Committee members said they didn't need a full presentation, because the materials in the packet are clear and concise.

Wendy Blackwell said the property owner's Agent, Jeff McFall, as well as Antonio Trujillo and other Water Division staff, are in attendance to answer the more technical questions the Committee might have.

Councilor Ortiz asked, since this is in the nature of an appeal, if this is a quasi judicial hearing, and if we should afford the owner's agent the opportunity to present information and ask questions of staff.

Marcus Martinez, Assistant City Attorney, said, "Erring on the side of being conservative, I guess I would suggest that we do allow that, given the most recent uncertainties on the quasi judicial nature of these types of hearings."

Jeff McFall, Agent for the property owner, 1200 Arroyo Piedras, was sworn.

Chair Wurzburger asked Mr. McFall how much time he needs for his presentation.

Mr. McFall said not much. He said basically their case is stated in his letter to Jack Hiatt. He said the property owner is trying to transfer the water use from an existing laundromat to a new facility. He said because of the regulations in place, that would involve "purchasing 15 afy of water rights to donate to the City to do that for an existing business which is going to relocate with basically with the same number of machines she currently has."

Councilor Calvert said in Mr. McFall's letter to the City Manager, he says, "We are also planning to set the piping up to allow for connections to a water recycling system when that technology becomes available." Councilor Calvert said this technology is available now.

Mr. McFall said it isn't available to his knowledge. It is available for a commercial laundry which takes in clothes and launders them. However, in a public facility such as this one, where people come in off the street, they can use any detergent they have, and this particular technology can't handle powdered detergents. He said they looked into this early on. He said he believes someone will develop a way to filter the powders, and his client wants to go ahead and plumb for that technology when it's available.

Councilor Calvert said then the technology at Luna Laundry wouldn't work for Mr. McFall's client.

Mr. McFall said no, because the general public brings their own laundry detergent. However, if they could limit them to using a specific liquid detergent, then they could use that technology.

Responding to Councilor Calvert, Mr. McFall said the powder detergent doesn't filter out and it clogs up the filters. He said laundries which are doing this with the existing technology have a lot of expensive maintenance, and generally discontinue it. He reiterated that his client wants to do this.

Chair Wurzbarger asked if she can infer from his statement that the laundries that tried this couldn't require that people use a certain detergent.

Mr. McFall said yes, commenting that there would be great difficulty in monitoring or requiring people to buy something from the laundry.

Councilor Ortiz asked where the properties are located.

Mr. McFall said the existing property is the St. Michaels Laundromat by Batteries Plus, which will be moving across St. Michaels Drive and up Llano Street to the St. Michaels Village East Shopping Center. The proposed site currently is a vacant lot and they have a development plan.

Councilor Ortiz asked Mr. McFall if he is aware that if he was applying for a new development, because his commercial use exceeds 5 afy, he would have to bring water rights anyway.

McFall said yes. He said when they did the development plan, they expanded the use of the site and provided a water budget for new commercial buildings. He said they were told that even if they were all retail buildings, and even with the proposed restaurant, they were under 5 afy. He said they didn't require them to provide rights at that point. He said, "This triggers us to provide rights if we move her over and this isn't granted."

Councilor Ortiz recalled a request several years ago from the Archdiocese of Santa Fe, when Cristo Rey Elementary School was closed, to transfer the school's water use. He said according to the law and the legal opinion we received at that time, the City could not grant that move, even though it was the

same owner with the same use. The City couldn't transfer the use from one property to the other. He believes this case is factually similar to that one, and that this Committee has to uphold the City Manager's decision.

MOTION: Councilor Ortiz moved, seconded by Councilor Trujillo, to deny the appeal and uphold the City Manager's decision to uphold the Land Use Department Director's decision to deny the transfer of water allocation for the St. Michael's Laundry to 1700-C St. Michael's Drive from 1605 St. Michael's Drive.

FRIENDLY AMENDMENT: Councilor Calvert ask staff to amend the motion to direct staff to review this ordinance for the possibility of making changes in this regard. **The amendment was friendly to the maker and second and there were no objections from the other Committee members.**

DISCUSSION: Councilor Ortiz said he hopes we get the new ordinance passed and on line and not dally with it at the Planning Commission any longer.

Chair Wurzburger said this issue is addressed in the ordinance change.

Councilor Ortiz asked Mr. McFall if he would like to pull this request and hold it so he can fall under the new ordinance.

Mr. McFall said when he originally did the development plan for the shopping center, he proposed moving the laundromat at that time and was told he couldn't transfer water rights. He said he designed it as a retail store. He said, at the urging of the Land Use staff, he brought this request. He said Kyle Harwood assured him that this was possible. He said if it's not possible, he has just wasted a lot of his client's money for nothing. He was under the impression that the City Council does have the right under this law to make an exception.

Councilor Ortiz said yes, they do have the right under this law to make an exception, but he doesn't feel that we should in this case.

Mr. McFall asked if this is even though it is addressed in the new law.

Councilor Ortiz said the new law hasn't been passed.

Mr. McFall said, "As a policy, I would urge you to do that, because what happens is this laundromat can't be renovated as it is without closing down. So, if I can move her, I can put in new plumbing and solve a bunch of her problems, and at really no additional water usage to the City."

Councilor Ortiz said he is completely sympathetic to that particular cause. However, he thinks the law at this time, the way it's structured, binds this Committee. He said he would have voted to do this if it was possible for the Church and the Catholic School, but that wasn't possible.

Councilor Calvert said he would be willing to grant this appeal today, if Mr. McFall could assure him that he would install a water recycling system. He understands Mr. McFall is saying he doesn't think he can, but things change all of the time, and he believes there is someone selling this technology.

Mr. McFall said as of June 2008, he was unable to locate anyone to do powdered detergent recycling.

Councilor Romero said she understands Mr. McFall's frustration, and appreciates his statement that this is an economic development issue. However, she agrees with Councilor Ortiz with regard to the legal aspect. She said she appreciates the terrible situation this has put him and his client in.

Councilor Ortiz urged Mr. McFall to consult with his legal counsel and/or City staff to see whether or not he can put this on hold to see if the new law will take his matters into consideration. He said this is an option that Mr. McFall can propose. He reiterated that he can't see granting this appeal at this time.

Mr. McFall said it is his understanding that the new law will address this, and that's why "they" felt that as a policy measure it was decided, and I should go ahead and bring these appeals because Land Use wanted it to happen.

Chair Wurzbarger told Mr. McFall he needs to listen to what the policymakers are telling him and to make a decision as to whether he has comments he wants to make with respect to our decision today.

Mr. McFall said if denied, he assumes it would be allowed under the new law.

Councilor Ortiz said he can't tell him that for sure.

Mr. McFall said he has a construction schedule to meet and he has to decide what to do with this building. He said if it isn't available at this time, he just won't do it. He asked if this is the final appeal, or does it go to the Council.

Marcus Martinez said the Code does allow an appeal from the Public Utility Committee to the City Council.

Mr. McFall asked if the Catholic school appealed to the Council.

Councilor Ortiz said no, the school abided by the decision and offset its water use, even though they closed two schools to make the one school.

Councilor Calvert said although he can talk about what is proposed under the new law, but he really can't say for certain what the new law will or will not do because it's not enacted.

Mr. McFall said, "It won't be enacted before I have a foundation for it, so it's not going to be a question for us."

VOTE: The motion, as amended, was approved on the following roll call vote:

For: Councilor Calvert
Councilor Romero
Councilor Ortiz
Councilor Trujillo

Against: None.

**8. TERMINATION OF JICARILLA APACHE NATION WATER LEASE ISSUES SUMMARY.
(CLAUDIA BORCHERT)**

Councilor Ortiz asked if this is the amended version which was at Finance, or if this is the same version which was amended at Finance Committee.

Ms. Borchert said this is the same version that was at the Finance Committee, which was amended from what you saw at the City Council meeting.

Ms. Borchert asked if the Committee wants this to go to the Council for final decision, or if this is the final decision based on the fact that it was already at Finance.

MOTION: Councilor Calvert moved, seconded by Councilor Ortiz, to approve the version with the amendments we had at Finance and to move it forward to the Council.

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

**9. REQUEST FOR APPROVAL TO ALLOCATE RECENTLY ACQUIRED WATER RIGHTS TO
AFFORDABLE HOUSING POOL FOR WATER DEMAND OFFSET. (DALE LYONS)**

MOTION: Councilor Ortiz moved, seconded by Councilor Romero, to approve this request.

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

**10. REQUEST FOR APPROVAL OF BILL NO. 2009- _____. AN ORDINANCE AUTHORIZING THE
EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY
AND AMONG THE NEW MEXICO WATER TRUST BOARD AND THE NEW MEXICO FINANCE
AUTHORITY (THE "LENDERS/GRANTORS"), AND THE CITY OF SANTA FE, NEW MEXICO
(THE "BORROWER/GRANTEE"), IN THE AMOUNT OF FOUR MILLION DOLLARS
(\$4,000,000), EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE
THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF
PLANNING, DESIGN, ENGINEERING AND CONSTRUCTION OF THE BUCKMAN SURFACE**

WATER DIRECT DIVERSION PROJECT INCLUDING AN INTAKE STRUCTURE ON THE EAST BANK OF THE RIO GRANDE, SUBMERSIBLE PUMPS, SEDIMENT REMOVAL STATION, BOOSTER PUMPS, TWO WATER TREATMENT PLANTS AND DISTRIBUTION LINES THROUGHOUT THE SYSTEM, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT SOLELY FROM PLEDGED REVENUES; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT (COUNCILOR WURZBURGER). (ALAN HOOK).

- a) WATER PROJECT FUND LOAN/GRANT AGREEMENT NO. 134-WTB.**
- b) GENERAL AND NO LITIGATION CERTIFICATE.**

A copy of "New Mexico Finance Authority – WTB, City of Santa Fe, Net Debt Service Schedule," is incorporated herewith to these minutes as Exhibit "3."

MOTION: Councilor Calvert moved, seconded by Councilor Romero, to approve this request.

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

MATTERS FROM THE CITY ATTORNEY

There were no matters from the City Attorney.

ITEMS FROM STAFF

There were no matters from staff.

MATTERS FROM THE COMMITTEE

Councilor Calvert

Councilor Calvert said he received a complaint regarding new service. He said it his understanding that after a final C.O. is given, we leave it to the owner to find out how to apply for utilities – water/sewer/garbage. He would like more coordination in this regard, for example for staff to provide a Memorandum to the person with instructions as to how to do this.

Chair Wurzburger asked staff to look into this, see that this is done, and report back to this Committee.

Councilor Romero

Councilor Romero reported on the public meeting regarding the water rates. Councilor Romero said it was a well organized public meeting in a roundtable format. She said a lot of staff from different areas attended to answer questions. She said it was advertised so that people could ask any question they wanted, in addition to hearing about the water rate increase. She said it was well attended by City staff and City Councilors. However, there were only 10-15 people from the public who attended. She said people asked lots of questions about their bills and such. However, she said initially they didn't really understand what we were trying to do, and understood only that water rates were increasing. She said we need to look carefully at the information we're giving the public, noting it seemed we were "starting from scratch" in some ways to answer questions.

Councilor Romero said the questions asked were good and created a lot of discussion about the future, about water rate increases, why we are going in this direction and the overview of the scenarios. She said at the end of the meeting people didn't like the fact that their water rates are increasing, but she felt they had a better understanding of the reasons it is being done. She said the format used is a good way to get information to the public.

Councilor Wurzburger said she was unable to attend the meeting.

Councilor Trujillo

Councilor Trujillo said he agrees that not a lot of people attended the public meeting on the water rate increase, noting it could have been because of the very cold weather. He said the whole thinking was that the rates are increasing, but people didn't know the reason. He said Mayor Coss and Mr. Martinez tried to summarize what the Buckman Diversion will do, the cost and such.

Gary Martinez said Councilor Trujillo asked those in attendance to lobby their State and Federal Legislative delegation for funds for the City for this purpose, and he feels they understood that.

Chair Wurzburger/Items for the Next Committee Agenda

Chair Wurzburger would like a report from Nick Schiavo on the next agenda. She understands the Energy Audit Report is available, and she would like presentations by staff as well as the consultant.

Councilor Calvert noted an unfavorable article in the newspaper with regard to a serious problem for people who are doing an automatic debit. He asked if there is a way to programmatically prohibit one program from running before the other one to prevent this problem.

Peter Ortega said explained that there are processes in two different offices to do an automatic

debit. He said we need to do a better job of communication between those two offices. He said it's not a program problem, but it has to do with how people do their jobs. He said his group ran the billing when it was supposed to be done, but the direct debit part wasn't done timely because people were on vacation. He said people were sent reminders telling them that they were delinquent on their account. He said he takes full responsibility for the problem which occurred, and he is taking steps in this regard.

Councilor Calvert understands this isn't the first time this has happened.

Chair Wurzbarger said this is a Finance Department issue and, with the concurrence of Councilor Ortiz, the Finance Committee Chair, she asked that it be put on the Finance Committee Agenda at the next meeting if possible, for a complete report from Peter Ortega.

Councilor Ortiz said it needs to be a formal Information Item at the Finance Committee meeting, and should not be included under Matters from the Committee.

Councilor Romero asked, and the Committee agreed, that it should be an Informational Item at the next Public Utilities Committee as well as at the Finance Committee.

Chair Wurzbarger would like an item on the next Public Utilities Committee Agenda to present the proposed changes to the Water Budget Ordinance.

NEXT MEETING: WEDNESDAY, FEBRUARY 4, 2009.

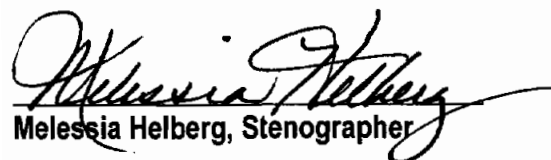
ADJOURN

There was no further business to come before the Committee, and the Committee completed its agenda.

MOTION: Councilor Trujillo moved, seconded by Councilor Romero, to adjourn the meeting.

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

The meeting was adjourned at 5:50 p.m.



Melessia Helberg, Stenographer

Rebecca Wurzbarger, Chair