



# Agenda

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**AMENDED  
PUBLIC UTILITIES COMMITTEE  
MEETING  
CITY COUNCIL CHAMBERS  
WEDNESDAY, JULY 1, 2009  
5:00 PM**

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF CONSENT AGENDA
5. APPROVAL OF MINUTES FROM THE JUNE 3, 2009 MEETING

**INFORMATIONAL ITEMS**

6. Hospital Tank Litigation and Appeals Cost Summary. (William S. Cassel & Frank D. Katz)
7. Water Division Update. (Brian Snyder)

**CONSENT CALENDAR**

8. Update on Current Water Supply Status. (Victor Archuleta)
9. Update on Solid Waste Division. (Bill De Grande)
10. Request for Approval of Amendment No. 4 to the Professional Services Agreement between the City of Santa Fe and Alpha Southwest, Inc. for the Amount of \$242,100.00 Exclusive of NMGR. (Michael Gonzales)

**DISCUSSION ITEMS AND ACTION ITEMS**

11. Request for Direction on Recommendations for Wastewater Rate Adjustments. (Costy Kassiesieh)

12. Request for Approval of Resolution No. 2009-\_\_\_\_\_. A Resolution Urging the New Mexico Public Regulation Commission to Find That Third Party Developers Utilizing Solar Power Service Agreements Are Not Public Utilities and Not Subject to Regulation by the PRC Thereby Eliminating Market Uncertainty for Renewable Energy. (Nick Schiavo) (Councilor Calvert)

**ITEMS FROM STAFF**

**MATTERS FROM THE COMMITTEE**

**NEXT MEETING: WEDNESDAY, JULY 15, 2009**

**ADJOURN**

**PERSONS WITH DISABILITIES IN NEED OF ACCOMODATIONS, CONTACT THE CITY CLERK'S OFFICE AT 505-955-6520, FIVE (5) WORKING DAYS PRIOR TO THE MEETING DATE.**

SUMMARY INDEX  
PUBLIC UTILITIES COMMITTEE  
Wednesday, July 1, 2009

| <u>ITEM</u>   | <u>ACTION</u>          | <u>PAGE</u> |
|---|------------------------|-------------|
| CALL TO ORDER   | Quorum                 | 1           |
| APPROVAL OF AGENDA  | Approved               | 1           |
| APPROVAL OF CONSENT AGENDA  | Approved               | 2           |
| CONSENT CALENDAR LISTING  |                        | 2           |
| APPROVAL OF MINUTES FOR THE JUNE 3, 2009,<br>PUBLIC UTILITIES COMMITTEE MEETING   | Approved               | 2           |
| <u>INFORMATIONAL ITEMS</u>  |                        |             |
| HOSPITAL TANK LITIGATION AND APPEALS<br>COST SUMMARY  | Information/discussion | 2-3         |
| WATER DIVISION UPDATE   | Information/discussion | 3-4         |
| <u>DISCUSSION ITEMS</u>   |                        |             |
| REQUEST FOR DIRECTION ON<br>RECOMMENDATIONS FOR WASTEWATER<br>RATE ADJUSTMENTS  | Direction to staff     | 4-7         |
| REQUEST FOR APPROVAL OF RESOLUTION<br>NO. 2009- _____. A RESOLUTION URGING THE NEW<br>MEXICO PUBLIC REGULATION COMMISSION TO<br>FIND THAT THIRD PARTY DEVELOPERS UTILIZING<br>SOLAR POWER SERVICE AGREEMENTS ARE NOT<br>PUBLIC UTILITIES AND NOT SUBJECT TO<br>REGULATION BY THE PRC THEREBY ELIMINATING<br>MARKET UNCERTAINTY FOR RENEWABLE ENERGY | Approved [amended]     | 7-8         |
| ITEMS FROM STAFF  | None                   | 8           |
| MATTERS FROM THE COMMITTEE  | None                   | 8           |
| NEXT MEETING: WEDNESDAY, JULY 15, 2009  |                        | 8           |
| ADJOURN   |                        | 8           |

**MINUTES OF THE  
CITY OF SANTA FE  
PUBLIC UTILITIES COMMITTEE  
Wednesday, July 1, 2009**

**1. CALL TO ORDER**

A meeting of the Public Utilities Committee was called to order by Councilor Rebecca Wurzburger, Chair, at approximately 5:00 p.m., on July 1, 2009, in the Council Chambers, City Hall, Santa Fe, New Mexico.

**2. ROLL CALL**

**MEMBERS PRESENT:**

Councilor Rebecca Wurzburger, 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 Calvert, seconded by Councilor Romero, to approve the Agenda as published.

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

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

**MOTION:** Councilor Calvert moved, seconded by Councilor Trujillo, to approve the following consent agenda as published.

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

#### **CONSENT CALENDAR**

- 8. UPDATE ON CURRENT WATER SUPPLY STATUS. (VICTOR ARCHULETA)**  
A copy of "Weekly Water Report, Week of June 25, 2009, is incorporated herewith to these minutes as Exhibit "1."
- 9. UPDATE ON SOLID WASTE DIVISION. (BILL DeGRANDE)**
- 10. REQUEST FOR APPROVAL OF AMENDMENT NO. 5 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF SANTA FE AND ALPHA SOUTHWEST, INC., FOR THE AMOUNT OF \$242,100.00, EXCLUSIVE OF NMGR. (MICHAEL GONZALES)**
- 5. APPROVAL OF MINUTES FOR THE JUNE 3, 2009, PUBLIC UTILITIES COMMITTEE MEETING.**

**MOTION:** Councilor Ortiz moved, seconded by Councilor Calvert, to approve the minutes of the meeting of June 3, 2009, as submitted.

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

#### **INFORMATIONAL ITEMS**

- 6. HOSPITAL TANK LITIGATION AND APPEALS COST SUMMARY. (WILLIAM S. CASSEL & FRANK D. KATZ)**

William S. Cassel said he is in attendance to present information at the request of this Committee.

Councilor Wurzbarger said the report says, "Staff anticipates that the value of the remedy will far exceed the costs and expenses of litigation." She asked staff to comment.

Mr. Cassel said what he didn't put in the Memorandum was the breakdown. There are three matters, and two are currently pending. The one matter which isn't pending is the surety matter. This was litigated in the District Court where the City sought to enforce its right under a surety bond for performance, and the City lost in District Court. Two appeals ensued. The City lost in the Court of Appeals, and the

matter is now in the Supreme Court. A *Writ of Certiorari* has been granted which means the Supreme Court has exercised its discretion to hear the matter. He said we believe because of this, the Court sees something in the case which needs attention, although we don't know what that something is because there haven't been oral arguments.

He said the break-out of legal expenses to date is as follows: \$54,300 on the surety matter, \$17,500 on both appeals, and the City has spent \$45,200 on the Lone Mountain trial matter, the currently pending litigation. He said the Lone Mountain litigation is set for trial in early 2010, possibly in January. It is from this matter that the City would be getting a recovery which could be money or specific performance, for example, replacement or proper repair of the lining. There is also an opportunity, if the City prevails in the Supreme Court and the Court orders certain things, to actually recover something in the surety matter – that's the \$650,000 bond. He said one way or another, whether at the trial level or at the surety level, they anticipate a recovery in excess of the costs.

Chair Wurzbarger said it is important to get this information in the record.

## **7. WATER DIVISION UPDATE (BRIAN SNYDER)**

Chair Wurzbarger said she put this on the agenda because she thinks it is important to get the perspective of the new director, in terms of the future.

Brian Snyder said his visions and goals are broken into five categories, as follows:

- (1) **Rates.** In July, we will begin the water rate evaluation with Step Wise Utility Advisors, and Jason Mumm will be here for the wastewater rates. The initial focus of that is the low income credit and the high users 3<sup>rd</sup> tier, and staff should be before the PUC in August with recommendations. The other focus of the evaluation will be Utility Extension Charge, Cost of Service Evaluation and structure evaluation, and staff should be back to PUC with some more thoughts and recommendations in October/November time frame.

Councilor Calvert asked if Mr. Snyder will be looking at ways to structure the rates, other than by meter size.

Mr. Snyder said yes, that would be part of the rate structure evaluation in Fall 2009.

- (2) **Vision and Efficiencies.** He said one of his initial focuses will be to look at the Water Division big picture, the strategic plan and the missions, goals and objectives which were last updated in 2004, and to look at the critical staff which currently are in supervisory positions who weren't there in 2004. He wants to make sure everybody is on the same page and we are moving forward in a consistent direction and get their input. He said in terms of efficiencies, he will continue to work on Water Division general efficiencies which are teamwork, communication and various training.

- (3) **Program development.** Continue to keep focus on various Water Division program developments. Examples of these programs are non-revenue water audits and developing that into more of a program, rather than a project; water use in Santa Fe report, keeping it current and expanding the report; long range water supply plan, keeping that current; water conservation programs; and the water rights acquisition program.
- (4) **Key Projects.** There are numerous key projects which are the focus of various staff and engineering and water resources T&D and source supply as well as some conservation staff: the BDD construction which is a huge project we have working right now; integration of the BDD into our existing infrastructure; energy evaluations, noting he has received from Federal Stimulus Funding assistance which will be used for that; rehabilitation projects through the CIP program; the Canyon Road Water Treatment Plant Phase III renovations, took bids this month in June, and will be before PUC at the second meeting in July with recommendations for approval of those bids; and [inaudible] and will be before this Committee at a public hearing in August to move forward with this project with some recommendations.
- (5) **Policy category.** He said the Water Division will seek direction from the PUC on some policy issues. Examples, which he sees coming up as early as the next agenda, are: annexation integration, specifically the domestic well ordinance update and line extension policy update; the water in construction site sub-floors, can this be used for water in the river; exploratory well drilling in the Agua Fria are to evaluate the aquifer depth as well as the water quality in the lower depths of the aquifer; lease of San Juan Chama water rights to the Bureau of Reclamation; and the Berrendo/Ft. Sumner water project coming back for policy direction.

Chair Wurzbarger said she wants this report in writing.

## **DISCUSSION ITEMS**

### **11. REQUEST FOR DIRECTION ON RECOMMENDATIONS FOR WASTEWATER RATE ADJUSTMENTS. (COSTY KASSISIEH)**

Councilor Ortiz said he read the report, and Mr. Mumm did a wonderful job. He said what struck him about the report is that it reads like we have to do this because we don't have sufficient funds to operate the facility. He said we need to do some amount of rate increase for the current fiscal year. The way it is presented is that these positions were presented to us in the budget process, the budget that we just passed on June 10<sup>th</sup>. He does remember asking if this was a sort of *fait accompli* rate increase, noting this was in the June 3<sup>rd</sup> minutes, and they said no, it all depends on the budget that we passed. He said the Council adopted the budget, and it seems to him that we have to approve these positions, because these are all critical positions which need to be filled, reiterating these positions were included in the

budget. He said we included this in the budget without sufficient revenues, except for passing this rate increase.

Chair Wurzburger said there are two options and believes we need to discuss that.

Councilor Ortiz said it is the difference between an 18% and a 25% rate increase.

Chair Wurzburger said the main difference between the options does not have to do with the staffing, it is the second part dealing with the minimum with which we feel comfortable. She agrees with Councilor Ortiz on the staffing issue. She said in terms of reserve, we need to decide if we are going with Option A or Option B, and we need to discuss that – Option A or Option B, and the level of reserve with which we are comfortable.

Councilor Calvert said we want to hire these people, but questions whether we will be able to hire all these people in all categories, commenting some require a certain amount of training and recruiting. He said just because we want or need these people, doesn't mean that we will be successful in that endeavor. He believes that will impact the budget.

Chair Wurzburger said she was concerned about this as well, and what we would have to do.

Councilor Calvert the BDD will have a group on a temporary basis until we can get the people ramped up into the right position.

Councilor Ortiz said he read it the other way. He read it that the fact that we're doing mostly internal hires for some of these, gives us the ability to fill positions with existing staff, and not creating positions so much as moving people up in the organization.

Brian Romero said some have been advertised and some on the list of eligibles are people who already are in current positions, so they would move up the ladder, and then we'd fill those spots. He said we have been successful in recruiting people from outside the City at adequate levels and certifications as required by the job.

Responding to the Chair, Mr. Romero said he is more comfortable with Option B because it allows for more reserve in 2014, and the rates are minimal to provide that buffer, because it ends up in the last years that you get that reserves. He said Mr. Mumm probably can better explain his analysis.

Chair Wurzburger asked Mr. Mumm to tell the Committee why we should chose Option B over Option A, other than local preference.

Mr. Mumm said it really does come down to a local preference. He said there clearly are advantages to having a larger reserve. For example, it gives you room to buffer if rates or the GRT happens to "tank," as it has, then you would have a reserve to fall back on and not necessarily be in a rate making emergency. He said the difference between the two really takes place in later years in the financial

plan and not up front. He said the initial need for both alternatives is the same. He said, in terms of rate impacts, it's indifferent. He said, in looking at future years and projections, we have to keep in mind that these are estimates of what we think will happen, based on available information. He fully expects we need to relook in two years to be sure we are still on track with either of the recommendations. He said, in the short term, there is no difference between the two in terms of impacts on rates.

Councilor Calvert asked if we are just looking at the rate increase and not at the structure of the rates for wastewater. He said we've had a long-standing question about how we approximate the rates throughout the year based on winter water usage. He asked if that will be part of this.

Mr. Mumm said his scope of work includes updating the wastewater cost of service study, which is the allocation of the system costs to customer classes, and then updating the rates. He said wastewater isn't as fancy as water, and is straightforward. However, there are things you could consider which would give opportunities to do different things, one of which is the COD charge as it's called here. He said this is a charge to the entities that actually discharge into the system. He said this can be targeted with something like a COD charge, turning it more into an extra strength surcharge, and cast a broader net and capture kinds of industries and commercial activities which are making the discharges happen.

Councilor Calvert said there is a long standing question about how to charge people or wastewater. He said for example, if there is no usage in a month, we give them 6,000 gallons of usage, which didn't seem equitable if they were gone for only one month, and that fee carries with them for the whole year. These are some of the specific questions we want addressed as part of the process.

Mr. Mumm said this is part of the scope, and he addressed the zero read issue in an earlier memorandum. He said that issue has been examined closely, and the 6,700 gallons used now is the default, which seemed high to him, and he still believes it is high, and believes some adjustment probably is in order, pending moving on past the point where we are in agreement on revenue requirements for next year. Once that is done, they can then move into the cost of service allocation and address those issues..

Chair Wurzbarger thanked Mr. Mumm for his report, saying there is now much more clarity around the need for the increase, and the specific staff questions.

**MOTION:** Councilor Romero moved to approve staff and consultants to continue to work on Scenario B.  
**THE MOTION DIED FOR LACK OF A SECOND**

**MOTION:** Councilor Romero moved, seconded by Councilor Calvert, to direct staff to come back with another option which includes something between A and B.

**DISCUSSION:** Councilor Ortiz understands that ordinances have already been prepared which are tied to rate increases for wastewater, noting Councilor Romero introduced those.

**FRIENDLY AMENDMENT:** Councilor Ortiz suggested the motion be amended to provide that those ordinances be moved forward integrated with this matter, so we can have a full discussion. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER COMMITTEE MEMBERS.**

**VOTE:** The motion, as amended, was approved unanimously on a voice vote.

**12. REQUEST FOR APPROVAL OF RESOLUTION NO. 2009- \_\_\_\_\_. A RESOLUTION URGING THE NEW MEXICO PUBLIC REGULATION COMMISSION TO FIND THAT THIRD PARTY DEVELOPERS UTILIZING SOLAR POWER SERVICE AGREEMENTS ARE NOT PUBLIC UTILITIES AND NOT SUBJECT TO REGULATION BY THE PRC THEREBY ELIMINATING MARKET UNCERTAINTY FOR RENEWABLE ENERGY (COUNCILOR CALVERT). (NICK SCHIAVO)**

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

**DISCUSSION:** Councilor Ortiz said he understands that PNM will actively challenged this, and asked if we should add a paragraph to the Resolution to say that the City directs the City Attorney to actively represent our interests in whatever is happening.

Councilor Calvert said the City Attorney will be asking to file an *amicus* brief on behalf of the City in this matter.

Councilor Ortiz said he is isn't talking about an *amicus* brief, but about giving direction to the City Attorney that the City wants to be an interested party in this matter, and sort of force the issue. He asked Marcus Martinez if the City can force this issue.

Mr. Martinez said the City could file a Motion To Intervene as an interested party. He said the Order asks all public utilities and rural electric cooperatives to be parties and file brief, and it asks any other interested persons to file briefs in support or pro or contra this question.

Councilor Ortiz asked if that conversation would be sparked by the City's filing a motion as an interested party and forcing the PRC to change the paradigm under which it is operating, which is that only rural electrics and cooperatives are concerned about this and there is a local government interest, from the Order itself, which hasn't been considered.

Mr. Martinez said it is perhaps a very appropriate way to proceed in this matter. He said they were going to bring this issue to the Council on July 8, 2009, and ask for direction, at least to file a brief as an interested person.

Councilor Calvert said this Order really cuts government "out of the ball game."

**FRIENDLY AMENDMENT:** Councilor Calvert asked to amend the motion, that part of direction to staff, is that the City file a Motion as an interested party and add an additional paragraph to the Resolution that the City directs the City Attorney to actively represent our interests in whatever is happening in this matter. **THE AMENDMENT WAS FRIENDLY TO THE SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER COMMITTEE MEMBERS.**

**VOTE:** The motion, as amended, was approved unanimously on a voice vote.

#### **ITEMS FROM STAFF**

There were no items from staff.

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

There were no matters from the Committee.

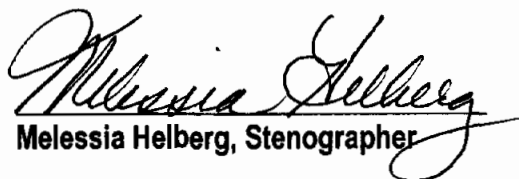
**NEXT MEETING: WEDNESDAY, JULY 15, 2009**

#### **ADJOURN**

There was no further business to come before the Committee, and the meeting was adjourned at 5:40 p.m.

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**Rebecca Wurzbarger, Chair**

  
**Melessia Helberg, Stenographer**