



Agenda

CITY CLERK'S OFFICE

DATE 10-28-09 TIME 1:25

SERVED BY Stephanie Lopez

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**PUBLIC UTILITIES COMMITTEE
MEETING
CITY COUNCIL CHAMBERS
WEDNESDAY, NOVEMBER 4, 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 OCTOBER 7, 2009 MEETING

INFORMATIONAL ITEMS

6. Presentation from Pecos Valley Artesian Conservancy District Board Members on Fort Sumner Pipeline Project. (Claudia Borchert)
7. Update on Las Campanas. (Marcos Martinez) **VERBAL**
8. Update on County Renewable Energy District. (Nicholas Schiavo) **VERBAL**

CONSENT CALENDAR

9. Update on Current Water Supply Status. (Victor Archuleta)
10. Update on Solid Waste Division. (Bill De Grande)
11. BDD Project Manager's Monthly Project Exception Report. (Rick Carpenter)
12. Request for Approval of the 2010 Meeting Schedule for the 2010 Public Utilities Committee Meetings. (Stephanie Lopez)
13. Request for Approval of RFP No. '10/09/P and Contract to Bohannon-Huston, Inc. for Engineering Design Services for the S-1 Southwest Tank Supply Pipeline (Part A) for the Amount of \$432,523.77 Exclusive of NMGR and Approval of Budget Adjustment Request for the Amount of \$1,871,763.00. (Robert Jorgensen)

14. Request for Approval of the Purchase of One (1) Roll-Off Refuse Collection Truck from Trucks West, Inc. (William de Grande)
15. Request for Approval of Resolution No. 2009-_____. A Resolution Amending Resolution No. 2009-83 That Adopted Standard Formulas by Water Use Category for Calculating Development Water Budgets. (Amanda King) (Councilor Calvert)
16. Request for Approval of Bid No. '10/13/B and Approval of Contract Agreement with Advantage Asphalt & Seal Coating LLC of Santa Fe for the Ferguson Well Wall Construction Project – CIP # 3032 for the Amount of \$81,532.08 Inclusive of NMGR. (Bill Huey)
17. Request for Approval of Resolution No. 2009-_____. 2378-ADW BDD-Photovoltaic Interface Project - \$141,000.00. (Alan Hook and Dale Lyons)
18. Request for Approval of Resolution No. 2009-_____. 2382-ADW Micro-Hydroelectric Generation Project - \$555,500.00. (Alan Hook and Dale Lyons)
19. Request for Approval of Resolution No. 2009-_____. 2383-ADW Water Harvesting Demonstration Project - \$126,250.00. (Alan Hook and Dale Lyons)
20. Request for Approval of Resolution No. 2009-_____. 2389-ADW Rebate Program to promote Water Conservation Technology - \$303,000.00. (Alan Hook and Dale Lyons)
21. Request for Approval of Resolution No. 2009-_____. 2393-ADW Monitor Energy Usage for Drinking Water System - \$78,806.00. (Alan Hook and Dale Lyons)
22. Request for Approval of Resolution No. 2009-_____. 2392-ADW Upgrades to Drinking Water System for Energy Efficiency - \$173,694.00. (Alan Hook and Dale Lyons)

DISCUSSION ITEMS AND ACTION ITEMS

23. Water UEC Rate Recommendations. (Brian Snyder and Jason Mumm)
24. Request for Approval of Recommended Changes to the Annual Christmas Tree Collection by the Solid Waste and Parks Divisions. (Bill de Grande)
25. Request for Approval of Bill No. 2009-_____. An Ordinance Repealing Chapter 27 SFCC 1987 and Creating a New Chapter 27 SFCC 1987 Regarding Telecommunications and Cable Services. (Maureen Reed)
 - a. Request for Approval of Bill No. 2009-_____. An Ordinance Granting a Non-Exclusive Franchise to Newpath Networks, LLC to Rent, Use and Occupy the City's Public Rights-of-Way

in the City of Santa Fe, New Mexico, and Fixing the Terms and Conditions Thereof. (Maureen Reed)

26. Request for Approval of Bill No. 2009-_____. An Ordinance Creating A New Section 25-1.2 SFCC 1987 Requiring All City Water Service Customers to Comply with Chapter 25 SFCC 1987 (Water) and Creating a New Section 25-1.3 SFCC 1987 Requiring Applicants for City Water Service to Comply with Chapter 14 SFCC 1987 (Land Development Laws). (Jeanne Price) (Councilor Ortiz)

MATTERS FROM THE CITY ATTORNEY

ITEMS FROM STAFF

MATTERS FROM THE COMMITTEE

NEXT MEETING: WEDNESDAY, DECEMBER 2, 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.

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**MINUTES OF THE
CITY OF SANTA FE
PUBLIC UTILITIES COMMITTEE
Wednesday, November 4, 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 Wednesday, November 4, 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

MEMBERS EXCUSED:

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

Councilor Calvert would like to hear Item #8 first on the Information Agenda.

MOTION: Councilor Calvert moved, seconded by Councilor Romero, to approve the Agenda, as amended.

VOTE: The motion was approved on a voice vote, with Councilors Calvert and Romero voting in favor of the motion, none voting against, and Councilor Ortiz absent for the vote.

Chair Wurzbarger noted that Item #25 is advertised as a discussion item only, not for public hearing, and she didn't realize that. She will ensure it is advertised as a public hearing at the next meeting.

4. APPROVAL OF CONSENT AGENDA

MOTION: Councilor Calvert moved, seconded by Councilor Romero, to approve the following consent agenda as amended.

VOTE: The motion was approved on a voice vote, with Councilors Calvert and Romero voting in favor of the motion, none voting against, and Councilor Ortiz absent for the vote.

CONSENT CALENDAR

- 9. UPDATE ON CURRENT WATER SUPPLY STATUS. (VICTOR ARCHULETA)**
A copy of "Weekly Water Report, Week of , 2009, is incorporated herewith to these minutes as Exhibit "1."
- 10. UPDATE ON SOLID WASTE DIVISION. (BILL DeGRANDE)**
- 11. BBD PROJECT MANAGER'S MONTHLY PROJECT EXCEPTION REPORT. (RICK CARPENTER)**
- 12. REQUEST FOR APPROVAL OF THE 2010 MEETING SCHEDULE FOR THE 2010 PUBLIC UTILITIES COMMITTEE MEETINGS. (STEPHANIE LOPEZ)**
- 13. *[Removed for discussion by Councilor Romero]***
- 14. REQUEST FOR APPROVAL OF THE PURCHASE OF ONE (1) ROLL-OFF REFUSE COLLECTION TRUCK FROM TRUCKS WEST, INC. (WILLIAM DeGRANDE)**
- 15. REQUEST FOR APPROVAL OF RESOLUTION NO. 2009- _____. A RESOLUTION AMENDING RESOLUTION NO. 2009-83, THAT ADOPTED STANDARD FORMULAS BY WATER USE CATEGORY FOR CALCULATING DEVELOPMENT WATER BUDGETS (AMANDA KING). (COUNCILOR CALVERT)**
- 16. REQUEST FOR APPROVAL OF BID NO. 10/13/B AND APPROVAL OF CONTRACT AGREEMENT WITH ADVANTAGE ASPHALT & SEAL COATING, LLC, OF SANTA FE, FOR THE FERGUSON WELL WALL CONSTRUCTION PROJECT – CIP #3032 FOR THE AMOUNT OF \$81,532.08, INCLUSIVE OF NMGR. (BILL HUEY)**
- 17. REQUEST FOR APPROVAL OF RESOLUTION NO. 2009- _____. 2378-ADW BDD-PHOTOVOLTAIC INTERFACE PROJECT – \$41,000.00. (ALAN HOOK AND DALE LYONS)**

18. REQUEST FOR APPROVAL OF RESOLUTION NO. 2009- _____. 2382-ADW MICRO-HYDROELECTRIC GENERATION PROJECT – \$555,500.00. (ALAN HOOK AND DALE LYONS)
19. REQUEST FOR APPROVAL OF RESOLUTION NO. 2009- _____. 2383-ADW WATER HARVESTING DEMONSTRATION PROJECT – \$126,250.00. (ALAN HOOK AND DALE LYONS)
20. REQUEST FOR APPROVAL OF RESOLUTION NO. 2009- _____. 2389-ADW REBATE PROGRAM TO PROMOTE WATER CONSERVATION TECHNOLOGY – \$303,000.00. (ALAN HOOK AND DALE LYONS)
21. REQUEST FOR APPROVAL OF RESOLUTION NO. 2009- _____. 2393-ADW MONITOR ENERGY USAGE FOR DRINKING WATER SYSTEM – \$78,806.00. (ALAN HOOK AND DALE LYONS)
22. REQUEST FOR APPROVAL OF RESOLUTION NO. 2009- _____. 2392- ADW UPGRADES TO DRINKING WATER SYSTEM FOR ENERGY EFFICIENCY – \$173,694.00. (ALAN HOOK AND DALE LYONS)
5. APPROVAL OF MINUTES FOR THE OCTOBER 7, 2009, PUBLIC UTILITIES COMMITTEE MEETING.

MOTION: Councilor Calvert moved, seconded by Councilor Romero, to approve the minutes of the meeting of October 7, 2009, as submitted.

VOTE: The motion was approved on a voice vote, with Councilors Calvert and Romero voting in favor of the motion, none voting against and Councilor Ortiz absent for the vote..

INFORMATIONAL ITEMS

8. UPDATE ON COUNTY RENEWABLE ENERGY DISTRICT. (NICHOLAS SCHIAVO)

A copy of the proposed Resolution, sponsored by Councilor Calvert, is incorporated herewith to these minutes as Exhibit "1."

Kathy Holian, Santa Fe County Commissioner, said at the last BCC meeting, they adopted the Renewable Energy Financing District Ordinance. She said there is a lot they know and a lot they don't know. Commissioner Holian said she will first speak to what is known:

- They know the kinds of renewable energy projects which will be included: solar, ground source heat pumps and wind energy projects.

- Any County resident can apply, homeowner or business, and they will allow people to apply retroactively if they submitted a proposal after July 1, 2009, the effective date of the bill.
- The County bill is based on SB-646, sponsored by Senator Wirth, which creates a Renewable Energy Financing District.
- Applicants for this project must be paying real estate taxes in Santa Fe County, and Pueblos can't apply since they don't pay property taxes.
- The County will have a requirement that anybody who is accepted to the program has to be current on their property taxes.

Commissioner Holian said what is not known:

- The County is unsure about additional requirements, but don't want a program where people will fail, so there may be additional qualifications.

Commissioner Holian said the County has issued an RFP and she hopes it will be out next Monday. The RFP seeks entities that can help the County set up the program and the program rules, assist in processing applications and can provide financing. There may be one entity to do this, or the County may choose three different entities.

Commissioner Holian said the County needs to establish the application process, noting there probably will be a web application. There will be a number of town hall meeting so they can explain the ground rules, as well as to help people to understand the bill, so they don't get into a situation where they will fail. The County absolutely wants to make sure this program is a success. She said, for the first few months, they may have a pilot program and limit the number of applicants to 50-100 to work out all of the "bugs."

Councilor Calvert asked if the financing will consist of short term and long term possibilities.

Commissioner Holian said the County is looking at 20 year terms. She said there is a company which does micro bonds for renewable energy project financing, which typically are 20 year terms. She said in the long run, they don't want to preclude other sources of financing. She said there is a lot of legislation at the federal level which will generate some interesting bonding possibilities – long term, low interest bonds. The County will write its agreement in such a way that there is maximum flexibility in finding funding sources.

Councilor Calvert said, as adopted, the Board is composed of County Commissioners, and asked her to speak to the issue of governance.

Commissioner Holian said, as currently written, only residents of the unincorporated areas of the

County can apply for the program. However, the municipalities and the Town of Edgewood could join the program if they adopt a resolution opting into the program. The County could amend its ordinance to replace some of the Board members with representatives from those areas opting in.

Councilor Romero said it is her understanding that the City will consider a Resolution opting into the program at the Council meeting on December 9, 2009. She said once the door is open, it will be "ya'll come," so she encouraged the County to determine its parameters for success right now. She said it is important to do the pilot program to iron out the bugs. She hopes the City and County will work together on the issue of governance.

Commissioner Holian said once the company is chosen to set up the program, she would like a representative of the City to be assigned to work with the County right from the beginning.

Kerry Weiner, City Renewable Energy Planner, distributed copies of the proposed Resolution [Exhibit "1"] to opt into the program. He said the stipulation is that the governance would be two Councilors and three County Commissioners. He said in addition to following District specifications for the renewable energy improvements, they also would have to comply with City Code.

Councilor Calvert said he is Introducing the Resolution [Exhibit "1"] today, but won't discuss it because it isn't on the Agenda, and he will introduce it at the Council meeting.

Councilor Calvert asked Commissioner Holian if the County specifies County Commissioners or just County representatives, and Commissioner Holian said it specifies the five County Commissioners.

Commissioner Holian said she is working with Peter Franklin from the Modrall firm who has written legislation on special assessment and public improvement districts. She suggested it might be worthwhile to ask him to look at the City's Resolution to see how it fits with the County's.

Chair Wurzbarger recommended that this Resolution not come back to the PUC, and to send it straight to the Council, and the Committee concurred. She asked to be added as a sponsor of the bill.

6. PRESENTATION FROM PECOS VALLEY ARTESIAN CONSERVANCY DISTRICT BOARD MEMBERS ON THE FORT SUMNER PIPELINE PROJECT. (CLAUDIA BORCHERT)

A copy of "Concerns of PVACD," distributed to the Committee by the members of the PVACD Board, is incorporated herewith to these minutes as Exhibit "2."

Claudia Borchert noted her Memorandum of October 26, 2009, which is in the Committee packet with respect to this issue. She noted there are a number of the members of the PVACD Board in attendance as well as other concerned stakeholders.

Councilor Romero said she offered the opportunity for the Board to present information to the Committee, but doesn't believe this was offered to anyone else.

Chair Wurzburger said she will allow the Board to speak.

Aron Balok, Water Resources Specialist, Pecos Valley Artesian Conservancy District [PVACD], introduced Bill Netherland, the Chair of the Board and Greg Alpers the Vice-Chair of the Board. He said Mr. Netherland farms in Artesia and Mr. Alpers farms in Roswell. He said they are in attendance to share their concerns about the proposed water transfer from Fort Sumner to Santa Fe. They believe it will have direct affects to the river and downstream users with far reaching consequences, both economic and ecological.

Greg Alpers, Board Vice-Chair, presented information from Exhibit "2."

Bill Netherland, Chair, and farmer in Artesia area, said the Committee has heard the technical part of the project. However, as New Mexicans, we need to work together to determine how to solve the water issues for the future for a growing population. He said we don't need to take water from an area where there already is a water shortage, and we need to find another source.

Chair Wurzburger thanked Mr. Balok, Mr. Netherland and Mr. Alpers and the members of PVACD for sharing their perspective with the City.

Councilor Ortiz arrived at the meeting during this presentation

7. UPDATE ON LAS CAMPANAS (MARCOS MARTINEZ)

Marcos Martinez said after meeting with representatives from Las Campanas, staff and the Finance Department, Las Campanas provided the City with some information regarding payments it had made. The Finance Department staff reviewed this information, but there is still a discrepancy between what the City believes Las Campanas owes in back payments and how much Las Campanas believes that amount to be.

Mr. Martinez said the next step is to request proof of payment on the various items which the City believes are still outstanding, and the reconciliation will continue.

Responding to Councilor Calvert, Mr. Martinez said this is in regard to Buckman Permit Groundwater.

Responding to Councilor Calvert, Mr. Martinez said the County Commission recently approved a bulk water service agreement with Las Campanas. There will be global discussions with staff from the County Attorney's office and other technical people about cost sharing on a pipeline dealing with the BDD,

and that discussion should dovetail with how that agreement will affect the City and who will participate in payments for a pipeline or how that will be shared. The next meeting is Monday, November 9, 2009.

Chair Wurzbarger said then at the next PUC meeting we will have a more definitive answer to this question, and Mr. Martinez said that is the hope.

Councilor Calvert would also like a report on how all of these arrangements impact all the agreements we're made at the BDD, and ensure all these things are worked out, so everyone is in agreement on how to move forward.

CONSENT DISCUSSION

- 13. REQUEST FOR APPROVAL OF RFP NO. '10/09/P AND CONTRACT TO BOHANNAN-HUSTON, INC., FOR ENGINEERING DESIGN SERVICES FOR THE S-1 SOUTHWEST TANK SUPPLY PIPELINE (PART A), FOR THE AMOUNT OF \$432,523.77, EXCLUSIVE OF NM GRT AND APPROVAL OF BUDGET ADJUSTMENT REQUEST FOR THE AMOUNT OF \$1,871,763.00. (ROBERT JORGENSEN)**

Councilor Romero said her concern is that other contractors bid lower than the one who was awarded the contract by the City. She is confused by a comment in the memorandum indicating Bohannon-Huston was selected because it was deemed to be the most responsive by the selection committee. She wants to be sure that Bohannon-Huston has an office in Santa Fe and it is using local contractors.

Brian Snyder said this was a Request for Proposals, not a Request for Bids, and there is a difference between the two. The Request for Bids is awarded to the lowest bidders. He said, regarding an RFP, the proposal is reviewed for content which is 20% of the overall score, and there are a number of weighted averages which are spelled out in the RFP. He said there were six proponents.

Councilor Romero said a bid and a proposal to her are the same thing.

Mr. Snyder reiterated that these are two totally different things. He said for a bid, detailed drawings, specifications and such are done. He said the outcome of this RFP is that the firm will put together construction drawings and a bid package will go out for bids, and the lowest bid will be selected.

Chair Wurzbarger asked if the FP was a competitive process between the six companies.

Mr. Snyder said yes.

Chair Wurzbarger said it is a contract in the sense that they want to get six other people to do the work on preliminary engineering, noting the language is confusing.

Mr. Snyder said there were six proponents, two of which qualified for local preference. He said in the public procurement process, this means when the proposals are reviewed and scored, the two proponents get a 10% local preference added to the bottom line scores. He said there is a weighted average score sheet for each of the proposals. He said this is a joint project between the City and the County, and a review committee was formed consisting of two County Public Utilities persons, two City Water Division persons and the City Procurement Officers. He said each proposal was reviewed individually, scored and then the review committee convened, tallied the scores, combined them and got an average. He said Bohannon-Huston of Albuquerque ranked highest, taking into consideration the local preference for the two firms which qualified for the local preference: Santa Fe Engineering Consultants, and Gannett Fleming West who have offices in Santa Fe that qualify for the local preference. He said staff is here tonight recommending Bohannon-Huston for this work.

Councilor Romero asked what was meant by "most responsive."

Mr. Snyder said there are 6-7 different review criteria, and based on those criteria, the proposal by Bohannon-Huston, a written document of 25-30 pages, which addresses each of the review criteria, was the most responsive based on the scoring.

Councilor Romero asked if the local preference would also have been considered in a bid process.

Mr. Snyder said the local preference does kick-in whether it is a bid process or a proposal process.

Councilor Romero said the Bohannon-Huston proposal was \$432,523.77 plus GRTs, and asked the difference between this one and Santa Fe Engineering and Gannett.

Mr. Snyder said he doesn't have those figures with him, but he can provide those figures, noting those have been tallied.

Councilor Romero said then here is a bid sheet showing how the proposals were scored/compared, and that would have been helpful.

Councilor Ortiz said in the past, the Committee has seen the bid sheets with rankings for the different groups, and asked if those could be presented in the next packet as this moves forward.

Mr. Snyder said yes, and staff can include the score sheets or present the results as a summary table.

Councilor Ortiz said the Committee has always seen the information in a summary table. He asked if there are time issues with this bid.

Mr. Snyder said there is. He said this project is critical to get the BDD water from the South Meadows/Agua Fria intersection to the southwest tank, which brings the BDD water into the heart of the City's system. He said this component needs to be designed, and then put out to bid for formal

construction bid to be constructed by Spring 2011 when the BDD goes on line. He said it is an extremely fast track schedule.

Councilor Romero understands the time constraints, but she is also sensitive as to whether items are RFPs or a Response to Bid, and the significant differences. She is worried about locally qualifying firms, and our efforts to keep money locally, which is important during these difficult economic times. She would like to know how many local staff Bohannon-Huston has, and how many contracts it has had with the City.

MOTION: Councilor Calvert moved for approval with the condition that the summary sheets on the process be included as it moves forward, that there are answers to Councilor Romero's questions, with direction to staff that this information will be routinely included for bids, response to proposals, etc. **THE MOTION DIED FOR LACK OF A SECOND.**

MOTION: Councilor Ortiz moved, seconded by Councilor Romero, to postpone this item to the next PUC meeting so we can see the bid sheets, and some options on how we can positively impact the procurement process to getting this kind of work to Santa Fe firms.

DISCUSSION: Chair Wurzbarger said, for the Community Convention Center, there was an out of state architect working with a local group. She would like to know if the City can, as part of the process, look at some kind of partnering as a criteria which would give a positive addition to the scores. She wants to know if local people or firms will be working on this project.

Councilor Calvert said he concurs. However, in terms of time sensitivity, this was identified at the BDD as a critical path project which already is behind, or will be shortly if we don't move forward.

Mr. Snyder said this is a critical path project to get BDD water into the City system. At this time, the schedule is very tight.

Chair Wurzbarger said we are on schedule, on time and on budget, unless something happened last week, so it's an operational definition of how critical it is, noting she is aware that it is a critical path item. She asked what will happen if approval moves to December.

Mr. Snyder said if it slips to December, this project may not be constructed by Spring 2011 when the BDD goes on line, which would mean that the BDD goes on line without this project., and we may not be able to distribute water into the system in the way it was intended to be distributed.

Councilor Romero said she understands the time sensitivity, but she thinks, "because of that, things get narrowed in a way as to who is selected so things keep moving forward." She is okay with postponing this a month to get the information we need, with the understanding there is a time sensitivity, and also recognizing there are number of people working locally.

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

DISCUSSION AND ACTION ITEMS

23. WATER UEC RATE RECOMMENDATIONS. (BRIAN SNYDER AND JASON MUMM)

A copy of the power point presentation "City of Santa Fe – Draft Findings and Recommendations," prepared by StepWise Utility Advisors, LLC," dated November 2, 2009, is incorporated herewith to these minutes as Exhibit "3."

Jason Mumm presented information regarding this matter via power point. Please see Exhibit "3" for specifics of this presentation.

Councilor Ortiz said he thought the UEC fees were raised in 2004-2005.

Mr. Mumm recalls that the impact fees for the whole City were addressed at about that time, and he did a draft study for the UECs for water at that time as well. However, he doesn't believe those ever were presented to the Council.

Councilor Ortiz asked if the units in the report considers those that come on line as the result of the Settlement Agreement with Santa Fe County.

Mr. Mumm said yes. He said the Land Use Plan that went into the study included all of the annexation agreements that the City has put together.

Councilor Ortiz said there are two different numbers – \$5,762 and then \$6,435, referring to page 7 of Mr. Mumm's Memorandum of October 9, 2009. He asked Mr. Mumm if he arrived at both numbers by looking at units which could come on line because of the Settlement Agreement.

Mr. Mumm said the number of units is measured based on capacity the City can serve, and then they back into a number of units that that capacity can serve. He said the capacity which is being added in the four categories is different, and he is adding a different amount of source of supply than they're adding in the pumping, storage and transmission systems. This is the reason the numbers look different. He said, "The units of capacity that are available to serve will come out in a number like 12 MGD, and we take that 12 MGD, Million Gallons Per Day, and we back that into the number of units that we can serve. Those tables are in your Memo too. But, we do measure them slightly differently for these categories of assets."

Chair Wurzbarger understands this item will come back to PUC in December.

Mr. Mumm said that can be done. He noted these results are draft and haven't been put into any kind of final report. He is looking for Committee feedback and reaction to what is being presented this evening. He said the final report isn't due to be compiled until December.

Councilor Calvert said he would definitely favor the phase-in approach on these amounts, especially since the building sector has been in a slump. He said if they are trying to come out of a slump and we hit them with it all at once that it will impact that recovery.

Chair Wurzburger asked Mr. Mumm if he could give a scenario for a phase-in of 2-4 years. She would like 2-3 additional options, and would like him to explain the impact of doing this.

It was the consensus among the Committee to postpone this item to the December 2, 2009 meeting and that Mr. Mumm will provide the requested information at that time.

24. REQUEST FOR APPROVAL OF RECOMMENDED CHANGES TO THE ANNUAL CHRISTMAS TREE COLLECTION BY THE SOLID WASTE AND PARKS DIVISION. (BILL DeGRANDE)

Councilor Ortiz assumed the duties of the Chair for this agenda item.

Councilor Calvert believes this is a better policy and a good approach to this issue.

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

DISCUSSION: Councilor Ortiz asked Mr. DeGrande how many calls he received that Christmas trees weren't picked up.

Mr. DeGrande said the City collects trees for a week and the calls start right after that. He said of the 5,000 trees collected, 2,000 of those were from calls after the week we tell people to put their trees out..

Councilor Ortiz said then people put their trees out later and we collect them.

Mr. DeGrande said he is recommending approximately 6 drop-off points, with 3 chippers that move once a day to each location, and that mulch will be taken to the City yards and used in park projects.

Mr. DeGrande said staff is recommending drop-off for everyone except those on the physically challenged and elderly route which will be picked up. Responding to Councilor Romero, Mr. DeGrande said it is a 500 resident list and isn't an issue for Solid Waste.

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

- 25. REQUEST FOR APPROVAL OF BILL NO. 2009- _____. AN ORDINANCE REPEALING CHAPTER 27 SFCC 1987, AND CREATING A NEW CHAPTER 27 SFCC 1987 REGARDING TELECOMMUNICATIONS AND CABLE SERVICES. (MAUREEN REED)**
- A. REQUEST FOR APPROVAL OF BILL NO. 2009- _____. AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO NEWPATH NETWORKS, LLC, TO RENT, USE AND OCCUPY THE CITY'S PUBLIC RIGHTS-OF-WAY IN THE CITY OF SANTA FE, NEW MEXICO AND FIXING THE TERMS AND CONDITIONS THEREOF. (MAUREEN REED)**

A copy of a two page document, entered for the record by Arthur Firstenberg, entitled, "November 4, 2009, Public Utilities Committee: Each of us came to speak against any possibility of City-wide wi-fi and against certain aspects of the proposed ordinances regarding City-wide wi-fi antennas," with signatures, is incorporated herewith to these minutes as Exhibit "4."

A copy of the draft Ordinance dated November 3, 2009, is incorporated herewith to these minutes as Exhibit "5."

Chair Wurzburger asked how this item came forward, who is sponsoring it and why is it here.

Ms. Price said this is a two-part item. The first is an amendment to City Code, and the second is a Franchise Agreement. She said the City Code was originally adopted in the late 1990s, and since that time, there have been changes in technology as well as in the federal law which applies. There also has been some case law on telecommunications issues, so the ordinance was out of date. The first item is a bill to update the Code regarding telecommunications and cable services in the community. The second bill is a request within the public right-of-way, and there are federal laws to comply in responding to applicants for these kinds of issues.

Frank Katz said a telecommunications franchising ordinance was adopted by the Council in the late 1990's, and the 10th Circuit declared substantial parts of it unconstitutional in 2004. He said the City was approached by a provider who wants to build a broad band circuit in the southern part of the City to serve internet customers. He said that person also could provide cable, but doesn't think he is planning on doing so. He said there is federal law which says the City has to act on a formal application within a certain period of time. He said we had a telecommunications ordinance which was no longer valid, so staff started working on a replacement ordinance. He said it is taken heavily from Albuquerque's franchising ordinance, which is before you.

Mr. Katz said, in the interim, the City has been approached by another person who wants to do a distributed antenna system for a cell phone provider. So, there are two entities wanting to do business in the City to provide residents with enhanced telecommunication services, and we first need to do the general ordinance. He said this ordinance will go to a number of committees, and then come back to this Committee for a public hearing.

Responding to Councilor Ortiz, Chair Wurzburger said this ordinance is sponsored by Councilor Dominguez, and was introduced at the last Council meeting.

Councilor Ortiz said this needs to be noted. He recalled former City Attorney Peter Dwyer doing a lot of work on this, and it was in reaction to the litigation mentioned by Mr. Katz. He said this is on the agenda to request approval to publish title and general summary. He said it has to be published and then we need to have a public hearing process.

Ms. Price said it was introduced last Wednesday at the City Council meeting by Councilor Dominguez, and this is the first stop. It will then go to Public Works, Finance Committee, and to City Council for a request to publish, and it would come back here. There will be a public hearing before the City Council in January 2010.

Councilor Ortiz said the last meeting of the Finance Committee is on November 30, 2009, and this won't be on that meeting schedule because it is full, and it won't be heard by the Finance Committee until January 2010. He asked if this means it won't get published for title and general summary until it is heard by the Finance Committee.

Ms. Price said she was unaware this would be excluded from the Finance Committee agenda, so this would change the timeline, noting the timeline was based on going to Finance on November 30th.

Councilor Romero asked how this will affect the applicants.

Chair Wurzbarger asked if the City is on a legal timeline to respond, and if we have only so much time to respond.

Mr. Katz said we aren't at that point, and the applicants have been kind to understand that this does take time. He asked if the Finance Committee meeting in early January is before the first Council meeting in January.

Councilor Ortiz said the Finance Committee will meet before the January City Council meeting, so it could go to Finance Committee in January, with a request to publish at the first City Council meeting in January, which would put the public hearing in February 2010.

Chair Wurzbarger asked if this Committee would like a public hearing at PUC in December, or wait until it goes through Finance, Public Works and comes back to this Committee in February.

Mr. Katz said if it isn't going to be heard by Finance in November, it could come back to this Committee on December 2, 2009, have the first hearing here and then go to Public Works.

Chair Wurzbarger said she wants to have a public hearing on this at this Committee.

MOTION: Councilor Ortiz moved, seconded by Councilor Romero, to postpone this item to the December 2, 2009, PUC meeting and ask staff to notice it for a public hearing, so members of the public can comment on the proposed ordinance as well as the proposed Franchise Agreement.

DISCUSSION: Councilor Calvert would like a more in-depth presentation on this issue in terms of the key points so there can be a more guided discussion.

Mr. Katz said the Telecommunications Ordinance is straightforward, and then two entities are requesting franchises. He presumes the details of those requests are of particular interest.

Councilor Calvert said yes, in terms of liability, termination clauses and such.

Chair Wurzbarger said in addition to the requests, the bill is out of date. She would like to have a list of the proposed changes, so we have a context of this request.

Mr. Katz said it isn't out of date, the Court declared it unconstitutional.

Councilor Ortiz said he would like a memorandum from staff in regard to the reason portions of the Ordinance are unconstitutional..

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

Betsy Millard said, "I just want to let you know that we thought this was going to be an action item tonight and I want to provide you with a list of the people who did come, because we all thought there was going to be action on this tonight."

Chair Wurzbarger said the Committee could have taken action, but we are not, because we want to hear public comment.

Ms. Millard said, "I understand, and I'm very relieved... I would like to leave this with you all to see our names, addresses and all the materials prepared for what we thought was going to be an action situation tonight."

Ms. Millard presented a large packet of documents which she wanted to give to the Committee members to study.

Councilor Ortiz suggested, because of the information which was presented to the Committee out of order by Ms. Millard, that Ms. Lopez save the information presented by Ms. Millard and present it to the Committee at the time of the public hearing, so that everyone knows – the proponents, staff and members of the public – that we have all of the information in the packet that we need to hear this particular Ordinance.

26. **REQUEST FOR APPROVAL OF BILL NO. 2009- _____. AN ORDINANCE CREATING A NEW SECTION 25-1.2 SFCC 1987, REQUIRING ALL CITY WATER SERVICE CUSTOMERS TO COMPLY WITH CHAPTER 25 SFCC 1987 (WATER) AND CREATING A NEW SECTION 25-1.3 SFCC 1987, REQUIRING APPLICANTS FOR CITY WATER SERVICE TO COMPLY WITH CHAPTER 14 SFCC 1987 (LAND DEVELOPMENT LAWS) (COUNCILOR ORTIZ). (JEANNE PRICE)**

Councilor Ortiz said this bill is substantially different from what he introduced with Councilor Romero as cosponsor. He thanked staff, the City Attorney's Office and Jeanne Price for reworking their idea and concept to make it a much better product.

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

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

MATTERS FROM THE CITY ATTORNEY

Marcus Martinez said a matter was before the Public Regulation Commission on renewable energy generation matter, and the Hearing Examiner made a Recommended Decision in that case which agreed with the City of Santa Fe's position, noting the final decision will be made by the PRC. He said PNM is requesting an exception to the Recommended Decision, and the City will be filing responses to that.

ITEMS FROM STAFF

There were no items from staff.

MATTERS FROM THE COMMITTEE

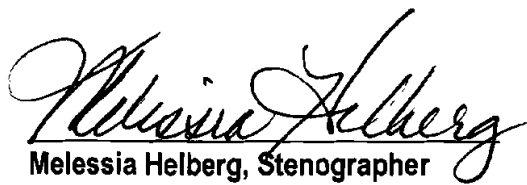
Councilor Romero thanked the people from Ft. Sumner who came a long distance to put their opinions before this Committee, noting the purpose of this item was to hear their concerns. She thanked Ms. Borchert for putting this presentation together.

NEXT MEETING: WEDNESDAY, DECEMBER 2, 2009

ADJOURN

There was no further business to come before the Committee, and the meeting was adjourned at approximately 6:25 p.m.

Rebecca Wurzburger, Chair


Melessia Helberg, Stenographer