



Agenda

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PUBLIC UTILITIES COMMITTEE MEETING

And

SPECIAL STUDY SESSION

CITY COUNCIL CHAMBERS

WEDNESDAY, NOVEMBER 7, 2007

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 SEPTEMBER 5, 2007 AND
SEPTEMBER 19, 2007 PUBLIC UTILITIES COMMITTEE MEETINGS

STUDY SESSION – BEGIN (30 MINUTES)

6. *Long Range Water Supply Plan and Discussion and Potential Related Policy
Changes. (Claudia Borchert)*

END STUDY SESSION

INFORMATIONAL ITEMS

7. Update on Wastewater Treatment Plant. (Costy Kassisieh)
8. Rio Grande Cutthroat Trout Spawning Project Update. (Alan Hook)
9. The Ability of LANL Monitoring Wells in the Regional Aquifer to Provide
Representative Ground-Water Samples. (Robert Gallegos)(2 minutes)

- a. The Potential of LANL Contaminants to Impact the Buckman Wellfield. (Joni Arends, Executive Director, Concerned Citizens for Nuclear Safety and Robert Gilkenson, Registered Geologist)(5 minutes)
- b. Update on Groundwater Quality and Well Rehabilitation. (Ardyth Simmons, Program Manager, LANL Water Stewardship Program)(5 minutes)
- c. LANL Regional Groundwater Monitoring Wells – The New Mexico Environment Department. (James Bearzi, Bureau Chief, NMED Hazardous Waste Bureau)(10 minutes)

CONSENT CALENDAR

- 10. Request Approval of Contract Amendment in the amount of \$30,000 (exclusive on NMGR) to the Legal Services Agreement with Modrall Sperling (Rick Carpenter)
- 11. Request for Approval of the 2008 Public Utilities Committee Meeting's Schedule. (Stephanie Lopez)
- 12. Request for Approval of Contract Amendment No. 2 and Emergency Increase of Professional Services Agreement with Rhino Environmental Services in the Amount of \$14,948.08 for Water Treatment Plant Residual (Sludge) Transport and Disposal. (Robert Gallegos)
- 13. Request for Approval of Contract Amendment No. 4 to the Professional Services Agreement between Daniel B. Stevens & Associates in the Amount of \$20,000 for the Rio Tesuque Water Delivery. (Claudia Borchert)

DISCUSSION ITEMS

- 14. Request for Approval of Bill No. 2007-_____. An Ordinance Amending Section 25-4.2 SFCC 1987 Regarding Water Rate Adjustments. (Gary Martinez) (Councilor Chavez)
- 15. Request by James Siebert on behalf of Victor Montano to re-allocate his water consumption of 7.16 AFY from his batch plant site at 3964 Agua Fria Road to a consolidated site on Aviation Drive. The Aviation Drive is contiguous to the City and the applicant would like to annex to the City and maintain his allocated water use. (Antonio Trujillo)
- 16. Request for Approval for Sewer Service Under the Provisions of SFCC, Section 22-6.2 by Karl Sommer on Behalf of the Proposed Lexus of Santa Fe Dealership on Cerrillos Road. (Stan Holland)

17. Request for Approval of Bill No. 2007-_____. An Ordinance Creating a New Rate Schedule 10 of Exhibit B, Chapter 25 1987 Establishing a Special Charge for All Water Customers in Order to Fund Water Conservation Programs. (Daniel Ransom) (Councilor Calvert)
18. Request for Approval of Resolution No. 2007-_____. A Resolution Supporting a Partnership Between the City of Santa Fe and the U.S. Environmental Protection Agency Watersense Program. (Daniel Ransom) (Councilor Bushee and Councilor Calvert)
19. Request for Approval of Resolution No. 2007-_____. A Resolution Adopting the Electric Facilities Plan as an Amendment to the City of Santa Fe General Plan. (Nick Shiavo) (Councilor Chavez)
20. Request for Approval of Bill No. 2007-_____. An Ordinance Creating a New Section 14-6.2(F) SFCC 1987 Establishing Requirements Regarding Electric Facilities and Making Such Other Changes As Are Necessary. (Nick Schiavo) (Councilor Chavez)
 - a. Request for Approval of Resolution No. 2007-_____. A Resolution Adopting a Fee Schedule for the Review of Applications for Electric Facilities. (Nick Shiavo) (Councilor Chavez)
21. Request for Approval of Bill No. 2007-_____. An Ordinance Amending Sections 14-6.2(G)(6) and 14-6.2(G)(7) SFCC 1987; Making Clarifications to the Procedures for Underground Electric, Telecommunication and Cable Utility Lines. (Nick Shiavo) (Councilor Chavez)
22. Request for Approval of Bill No. 2007-_____. An Ordinance Creating a New Section 14-6.2(H) SFCC 1987 Managing the Placement of Electric, Telecommunication, Cable and Gas Lines Within City Parks, Open Space, Trails or Other City Owner Land. (Nick Schiavo) (Councilor Chavez)

MATTERS FROM THE CITY ATTORNEY

ITEMS FROM STAFF

MATTERS FROM THE COMMITTEE

NEXT MEETING: DECEMBER 5, 2007

ADJOURN

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PUBLIC UTILITIES COMMITTEE
November 7, 2007

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CONSENT CALENDAR LISTING		2
APPROVAL OF MINUTES FOR THE MEETINGS: SEPTEMBER 5, 2007		2
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<u>STUDY SESSION</u>		
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ITEM**ACTION****PAGE****DISCUSSION AGENDA**

REQUEST FOR APPROVAL OF BILL
NO. 2007- _____. AN ORDINANCE AMENDING
SECTION 25-4.2 SFCC 1987, REGARDING
WATER RATE ADJUSTMENTS

Approved [amended]

16-19

REQUEST BY JAMES SIEBERT ON BEHALF OF
VICTOR MOÑTANO TO REALLOCATE HIS
WATER CONSUMPTION OF 7.16 AFY FROM
THE BATCH PLANT SITE AT 3964 AGUA FRIA
ROAD TO A CONSOLIDATED SITE ON AVIATION
DRIVE. THE AVIATION DRIVE IS CONTIGUOUS
TO THE CITY AND APPLICANT WOULD LIKE TO
ANNEX TO THE CITY AND MAINTAIN HIS
ALLOCATED WATER USE

Withdrawn

19

REQUEST FOR APPROVAL FOR SEWER
SERVICE UNDER THE PROVISIONS OF SFCC,
SECTION 22-6.2 BY KARL SOMMER ON
BEHALF OF THE PROPOSED LEXUS OF
SANTA FE DEALERSHIP ON CERRILLOS ROAD

Sewer approved/water denied

19-21

REQUEST FOR APPROVAL OF BILL NO.
2007- _____. AN ORDINANCE CREATING A NEW
RATE SCHEDULE 10 OF EXHIBIT B, CHAPTER
25, 1987, ESTABLISHING A SPECIAL
CHARGE FOR ALL WATER CUSTOMERS IN
ORDER TO FUND WATER CONSERVATION
PROGRAMS (COUNCILOR CALVERT)

Approved

21-22

REQUEST FOR APPROVAL OF RESOLUTION
NO. 2007- _____. A RESOLUTION SUPPORTING
A PARTNERSHIP BETWEEN THE CITY OF SANTA
FE AND THE U.S. ENVIRONMENTAL PROTECTION
AGENCY WATERSENSE PROGRAM

Approved

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REQUEST FOR APPROVAL OF RESOLUTION

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
NO. 2007- _____. A RESOLUTION ADOPTING THE ELECTRIC FACILITIES PLAN AS AN AMENDMENT TO THE CITY OF SANTA FE GENERAL PLAN	Approved	23-26
REQUEST FOR APPROVAL OF BILL NO. 2007- _____. AN ORDINANCE CREATING A NEW SECTION 14-6.2(F) SFCC 1987, ESTABLISHING REQUIREMENTS REGARDING ELECTRIC FACILITIES AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY REQUEST FOR APPROVAL OF RESOLUTION NO. 2007- _____. A RESOLUTION ADOPTING A FEE SCHEDULE FOR THE REVIEW OF APPLICATION FOR ELECTRIC FACILITIES	Approved [amended]	26-28
REQUEST FOR APPROVAL OF BILL NO. 2007- _____. AN ORDINANCE AMENDING SECTIONS 14-6.2(G)(6) AND 14-6.2(G)(7) SFCC 1987, MAKING CLARIFICATION TO THE PROCEDURES FOR UNDERGROUND ELECTRIC, TELECOMMUNICATION AND CABLE UTILITY LINES	Approved	28
REQUEST FOR APPROVAL OF BILL NO. 2007- _____. AN ORDINANCE CREATING A NEW SECTION 14-6.2(H) SFCC 1987, MANAGING THE PLACEMENT OF ELECTRIC, TELECOMMUNICATION, CABLE AND GAS LINES WITHIN CITY PARKS, OPEN SPACE, TRAILS OR OTHER CITY OWNED LAND	Postponed to 12/05/07	28
MATTERS FROM THE CITY ATTORNEY	None	29
ITEMS FROM STAFF	None	29
MATTERS FROM THE COMMITTEE	None	29
NEXT MEETING: Wednesday, December 7, 2007		

ITEM

ACTION

PAGE

ADJOURN

**MINUTES OF THE
CITY OF SANTA FE
PUBLIC UTILITIES COMMITTEE
November 7, 2007**

1. CALL TO ORDER.

A meeting of the Public Utilities Committee, and Special Study Session of the City Council was called to order by Councilor Miguel Chavez, Chair, at approximately 5:15 p.m., on November 7, 2007, in the Council Chambers, City Hall, Santa Fe, New Mexico.

2. ROLL CALL

Roll call indicated the presence of a quorum as follows:

MEMBERS PRESENT

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

OTHER GOVERNING BODY MEMBERS

Mayor David Coss
Councilor Christopher Calvert

OTHERS ATTENDING

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

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 Heldmeyer moved, seconded by Councilor Trujillo, to approve the agenda as published.

VOTE: The motion was approved on a voice vote [absent: Councilor Bushee].

4. APPROVAL OF CONSENT CALENDAR

MOTION: Councilor Trujillo moved, seconded by Councilor Dominguez, to approve the Consent Agenda as presented.

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

CONSENT CALENDAR

- 10. REQUEST APPROVAL OF CONTRACT AMENDMENT IN THE AMOUNT OF \$30,000 (EXCLUSIVE ON NMGR) TO THE LEGAL SERVICES AGREEMENT WITH MODRALL SPERLING. (RICK CARPENTER)**
- 11. REQUEST FOR APPROVAL OF THE 2008 PUBLIC UTILITIES COMMITTEE MEETING'S SCHEDULE.**
- 12. REQUEST FOR APPROVAL OF CONTRACT AMENDMENT NO. 2 AND EMERGENCY INCREASE OF PROFESSIONAL SERVICES AGREEMENT WITH RHINO ENVIRONMENTAL SERVICES IN THE AMOUNT OF \$14,948.08 FOR WATER TREATMENT PLANT RESIDUAL (SLUDGE) TRANSPORT AND DISPOSAL. (ROBERT GALLEGOS)**
- 13. REQUEST FOR APPROVAL OF CONTRACT AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN DANIEL B. STEVENS & ASSOCIATES IN THE AMOUNT OF \$20,000 FOR THE RIO TESUQUE WATER DELIVERY. (CLAUDIA BORCHERT).**
- 5. APPROVAL OF MINUTES FOR THE SEPTEMBER 5, 2007, AND SEPTEMBER 19, 2007, PUBLIC UTILITIES COMMITTEE MEETINGS**

MOTION: Councilor Dominguez moved, seconded by Councilor Heldmeyer, to approve the minutes of the meeting of September 5, 2007, as presented.

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

MOTION: Councilor Trujillo moved, seconded by Councilor Heldmeyer, to approve the minutes of the meeting of September 19, 2007, as presented.

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

STUDY SESSION

6. LONG RANGE WATER SUPPLY PLAN AND DISCUSSION OF POTENTIAL RELATED POLICY CHANGES. (CLAUDIA BORCHERT)

A copy of a power point "Meeting Our Future Water Needs – Sustainability," dated October 3, 2007, is incorporated herewith to these minutes as Exhibit "1."

Ms. Borchert presented information via a power point. Please see Exhibit "1" for specifics of this presentation.

Chair Chavez asked if we should consider stormwater as a resource, and if there is a place for stormwater and stormwater management as part of our long range water supply plan.

Ms. Borchert said there is a place for it, and it is something which has not been considered too much to now. She believes there is a lot of opportunity in stormwater, especially in looking at the water rights portfolio as a whole. The traditional view of stormwater is that a surface water right is needed to divert it. The City has surface water rights, so perhaps in localized places, it makes sense to take some of our surface water rights, and divert water from storm flow to irrigate a park. She said we share in the water rights for the stormwater, and if we can determine the best way to use it and dedicate some of our rights to it, it is something we need to consider in the future.

Chair Chavez said it would follow along the lines of water harvesting from rooftops, as an example.

Councilor Heldmeyer said that is different.

Chair Chavez said is the same water that is falling, but it is a matter of where it is harvested.

Ms. Borchert said these are both pieces of a holistic watershed management approach which can begin with peoples' roofs and maybe extend it to public water as it is called once it hits the streets and arroyos, and there are multiple facets.

Chair Chavez said he is glad to see that effluent is in our portfolio so it can be part of our long range water supply plan.

Councilor Heldmeyer said there has been a problem in the Railyard in that the State Engineer says you can use water off the roof, but cannot use water on the ground.

Responding to Councilor Heldmeyer, Ms. Borchert said he didn't give a permit because we didn't apply for a permit.

Councilor Heldmeyer said perhaps at a later date, Ms. Borchert could provide a more comprehensive discussion about why those two things are different, and who can do what with which water where, commenting that it is complicated.

Responding to Councilor Heldmeyer, Ms. Borchert said, instead of thinking about it geographically, she thinks about it in terms of new customers we get each year, and this assumes that we will continue to grow at the current rate. She doesn't know whether we would take on a whole chunk of customers all at once if we annexed, but that would not be considered here. However, if the annexed land is largely unpopulated and continues to grow at the current rate of development, she believes it is incorporated in the map.

Councilor Heldmeyer said some of it may grow at a higher rate, given plans for some of it, there is also pent up demand in the sense of groups which are waiting to become customers once annexation takes place. She doesn't know whether they will do so, in terms of the finances involved, but they certainly have expressed interest.

Ms. Borchert said the growth rates used were from the Jemez Plan which is 1.3 in the short term and it drops a little, noting that this was their most likely scenario. She heard recently that Santa Fe is growing at a slower rate, even slower than that projected in the Jemez Plan. She believes there is a faster growth rate built into than may be reality, noting this is another way she believes this is conservative.

Councilor Heldmeyer said she is asking if it will need to be recalculated if we do any major annexation.

Ms. Borchert said yes, absolutely.

Chair Chavez said it seems that conservation is going to be critical to move forward, and asked if that is included.

Ms. Borchert said it is included and it is one of the strategies.

Councilor Dominguez, referring to page 2 regarding infrastructure, asked what she is talking about here, noting there is a suggestion that some of our infrastructure is substandard.

Ms. Borchert said the infrastructure would be any part of the delivery system – BDD, transmission lines, storage tanks and distribution systems. She said the City has an active CIP replacement program which looks at the infrastructure and identifies its weakest points and is actively trying to replace those.

Councilor Dominguez asked if there has been an evaluation of the existing infrastructure.

Ms. Borchert said yes.

Councilor Dominguez asked if there is a completion date to have that plan complete.

Gary Martinez said an RFP has been issued for a master plan for storage and distribution needs for the City. Right now, they are looking to award that proposal and send it for Governing Body approval, noting this is a new proposal. Under CIP, there are several projects listed which need immediate attention. One is the water treatment facility which is an infrastructure which was over 30 years old. They went

through three phases, and we are in phase three, looking at a sludge rehabilitation phase. Once that is completed, staff will be looking at the structure, the site layout and future potential process systems which may be required depending on the compliance.

Councilor Dominguez asked if there is a percentage of infrastructure which will be brought up to standard.

Mr. Martinez said it probably won't be 50% because there is an extensive, elaborate system. The master plan will identify the feasibility of the distribution system and storage needs for the water system, especially now that we implement BDD into the distribution system. He said we are looking at spending about \$1 million in CIP funds per year to rehabilitate some of the water lines, and they are focusing on the 2" and less lines, which mainly are galvanized lines which are deteriorating.

Councilor Dominguez said, then the leg of that stool is going to take a long time.

Mr. Martinez said we always have to have some funding to keep the system functional.

Councilor Dominguez said the public listed managed cost as the third most important aspect.

Ms. Borchert said there is a caveat to that. She said 30-50 people show up at these public meetings and they are the most interested public, and it's not like we did a survey of the entire community. There were three meetings, and they requested feedback at two. This is the interested public, noting that a scientific study has not been done of the public to find out which of these values they rank as most important.

Councilor Dominguez asked if this is something which needs to be done, and asked how accurate the data is. There are people in the community who are more concerned about putting food on the table.

Ms. Borchert said these were ranked. They looked at the ones which performed well and asked what these have in common in terms of strategies. She said as we move forward and look at the plan, it is important that the strategies chosen can be implemented in different ways. She said, for example, we can figure out ways to increase conservation which won't require the ratepayer to pay more. She thinks we can take each individual policy and determine the implications on someone who can barely put food on the table.

Councilor Dominguez, referring to page 7, asked if the potential policy changes include use of gray water.

Ms. Borchert said she has been involved with the Green Building group when it talks about water, and they are developing by performance standards and people get points for the choices they can make in their homes which are water wise.

Councilor Heldmeyer said in talking about increased use of BDD capacity we are talking about the potential to use unused capacity which is thought of as the County's capacity. The rights and capacity the

City has in the BDD will be equal from the beginning. To get additional capacity, it will be necessary to negotiate with the County to use some of the County's unused capacity, or reapply for permits to get increased capacity up to the capacity of the BDD which currently is more than the combined rights of all of the participants. She said the BDD wells are talked about differently in different meetings. The reality is in terms of growth, other people think of them as a consistent source of supply. She would like a clear statement of policy about these wells.

Councilor Heldmeyer said with regard to conservation, people have done a good job with conservation, but they want that water to go toward something they consider important, saying many don't consider a lot of new growth to be important. She said we are just beginning to look at business conservation of water. She said restaurants are still serving water without being requested to do so, noting many don't realize this is still the law. She believes we need to focus more on businesses so homeowners or home renters don't feel they are the only one this is being imposed upon.

Councilor Heldmeyer said the BDD is a very expensive proposition, for which the citizens pay through rates and City and County taxes. The reality is that water is going to become increasingly expensive, which may be reflected in rates, and may be even more if all of the regional section partners don't step up to the plate and do what they say they are going to do. The City can't promise people the water rates won't increase, because this is an expensive project.

Councilor Heldmeyer said one of the issues with Energy Star, is as long as you build a 15,000 sq. ft. house you will be considered energy efficient if you get the points. She asked if this is going to be the same with water star. She said we are annexing a lot of properties, some new, which may or may not have been built in an efficient and conserving way because the County rules have been different from the City's. She thinks people aren't going to be happy if we tell them they have to retrofit, so we need to come up with ways to make that more palatable – such as paying for savings, or giving rebates.

Councilor Heldmeyer said with regard to water rights for new growth for developments of a certain size, but under that, this isn't required. She has heard of developers carving its developments into different subsections to avoid the whole water rights thing. She thinks there needs to be a presentation in this regard to this Committee.

Councilor Heldmeyer said we need storage, but we opted not to have storage in a particular place because there were a lot of protests. She doesn't know if we'll ever again find a place for storage. She suggested perhaps coordinating with the County on storage so the BDD wells don't have to run all the time.

Councilor Heldmeyer said the questions from the public are: (1) if we conserve water, where is it going; and (2) if we conserve is the only thing it will do is to increase our costs. We need good answers for the public to these questions.

Councilor Bushee arrived at the meeting at this time

Mayor Coss spoke about a sustainable water system and need for 40 year planning for water. He

said the City inherited a sustainable water system as we came of age, and it is still sustainable. He said, with regard to growth and water, it is clear that Santa Feans want a healthy River. He said we use 2,000 afy less now than we did in 2000, and believes it is realistic to dedicate 1,000 afy of that to the Santa Fe River as a starting place. He said this community has changed the way it lives in many ways, and at least part of those savings should go to the River. He said as we go forward, conservation will be very important. He believes we can reduce our consumption even more. He said we need to look more at the issue of watershed management in the urban watershed, with regard to stormwater and if we are managing that resource adequately. He doesn't believe we are, and we need to be ready to do this in interaction with the State. He is hopeful that the Governing Body will adopt strong strategies for conservation for sustainability and for a living river which we can take to the State. He doesn't know that any community has ever approached the State with a long range water supply plan with water for the river for conservation in such a strong portion as the City of Santa Fe is going to do. He is hopeful about this plan and the community plan. He thanked Ms. Borchert and staff for their work on this.

Chair Chavez said it was always his understanding that there was water in the budget on the front end for parks, and this will hold true in the future.

Councilor Calvert said hopefully this will be a living plan, subject to constant review and reevaluation, because what is true today is dependent on the cost of water in a number of ways at this time. Things which aren't feasible now because of the cost, might become feasible as the cost of water is only going to increase.

Councilor Trujillo asked, referring to page 6 "Our Future," why is there a big slump between 2024 and 2027 for the City wells, and asked if we are resting the wells for those three years.

Ms. Borchert said this is just one of many scenarios staff considered for the future. In 2024, the Canyon Road reservoirs are down in that year in this simulation. She said it could be that in those years we could make up the difference in the decrease of canyon reservoirs with increased pumping – the intent is to stabilize so there is a steady supply where you use the Canyon Road when available, and in a year where it dips, you would fill that gap with the Buckman and City wells. She said in this sense, the graph on page 6 isn't illustrating what we really would do in that year.

Councilor Trujillo asked if we really are looking at how much Rio Grande water rights will cost in 2019, and is it feasible, asking the current cost of Rio Grande water rights.

Ms. Borchert said we are looking to increase water going through the BDD, but there are options of where that can come. It can come either from purchasing new water rights, or by routing our treated effluent to the Rio Grande and diverting that. We will be looking at what makes more sense: gambling on the water rights market from the Middle Rio Grande Valley or diverting our effluent for an equal amount of River water. She hopes, as we develop these further, that we know the pros and cons of these policies as we move forward.

Councilor Trujillo asked if there is any thought of refilling the two-mile reservoir. He has been told there is a fault there and the reason we don't use it.

Ms. Borchert said in looking at ways to make the Santa Fe River live again, staff has brainstormed 29 ways in which this can be done, and dedicating 1,000 ac is one, and using the two-mile reservoir as a reregulation reservoir could be another. She asked if he is speaking of this reservoir as a source of supply. She said it makes sense to store some of our spring water at the two-mile reservoir and use that to release water during the rest of the year. She said it was decommissioned in part because of what they thought was fault. She was on a field trip recently where geologists agree that what might have been interpreted as a fault at one time, is not a fault. So, there is no fault argument as a reason not to reconstruct the two-mile reservoir, and she believes this is a viable option.

Chair Chavez said PNM divested that property, and believes it is in a permanent trust.

M. Borchert said the City owns ½ of the property, including the dam; the Nature Conservancy owns 1/4 and the other 1/4 is owned by the Forest Service. The actual two-mile reservoir is split between three owners.

Chair Chavez said the water in that reservoir was transferred into the other two reservoirs, so we still have the same holding capacity.

Ms. Borchert said it would be necessary to determine how to do the permitting, and would be a new project.

Councilor Trujillo said the majority of the stormwater at Mark Brandt Park goes down Cerrillos, onto Siringo, and would like to look at capturing that water. He said the State Engineer said it just has to flow into the arroyo where it evaporates. However, Ms. Borchert said if we get a permit we can possibly use it to water some of the parks.

Mr. Borchert said we would have to either make a case for new appropriation which would be difficult, or dedicate some of our other surface water for those uses – a sacrifice of water rights somewhere else. She believes it is worth considering.

Councilor Bushee said her priorities for future water uses would begin with ensuring that the City preserves the public green spaces and the River at some flow into the future, and the next would be for affordable housing. She would like to look in the near term to have a balance between supply and demand. She would like to see incentives for green or sustainable building. She believes there will be state and national mandates in the near future to ensure sustainable water supplies. She wants to shape a policy where we shape and prioritize our uses as a community.

Councilor Bushee asked, regarding the feedback from public meetings, when people spoke to increased conservation okay, if specific options were proposed to people, and asked her to summarize that.

Ms. Borchert said it was just the concept of what were their values with regard to what the City should do with its water or how to meet its future water supply needs. The public at this meeting said meeting it through conservation was okay, and dedicating water or water rights to the river was okay.

Councilor Bushee noted we still participate in Jemez de Sangre, and asked if that item offers any real new policy implications.

Ms. Borchert said what is meant by that is when the City decides to adopt a policy, especially on sustainability, that we ask other regional entities to adopt or consider similar criteria. It doesn't do a lot of good for the regional aquifer if the City decides not to pump it if somebody else pumps it. Perhaps we can work with the County on this.

Councilor Bushee said she hopes at some point this Committee will look at how the policy of new customers bringing water rights has served us, and how we can make it serve us better in a comprehensive way.

Chair Chavez and members of the Committee expressed appreciation for the work of staff in this area.

THE STUDY SESSION WAS CLOSED

Chair Chavez said he has been notified that the applicant has requested withdrawal of Item #15 and place it on the next agenda. Mr. Buller said it's just withdrawn, and the applicant will come with an entirely different proposal, and that may happen at the next agenda.

Mr. Buller said PNM and staff have requested that Item #22 be postponed to next meeting.

INFORMATIONAL ITEMS

7. UPDATE ON WASTEWATER TREATMENT PLANT. (COSTY KASSISIEH)

A copy of "Section A. Limitations and Monitoring Requirements," is incorporated herewith to these minutes as Exhibit "2."

Mr. Kasssieh reviewed the information in Exhibit "2." He said the bottom line is that the plant is performing above and beyond EPA requirements. He was told by Juan Ibarra, an inspector from EPA that this plant is the best in New Mexico, and only Fort Worth and Dallas are better. He said the effluent from this plant is rated Class 1A, which means it can be used anywhere without restrictions. He said it is the operators and supervisors which are making this the best plant in New Mexico.

Councilor Heldmeyer said one of the reasons things work so well at the Treatment Plant is that Mr. Kasssieh has established a very good education program for staff, and that education allows them to move up in pay grade and responsibility. She would like to see this in other places in City Hall. She said these results speak to the usefulness of that kind of program.

Chair Chavez asked if the Class 1A effluent is okay to use on Parks, and asked if the application matters.

Mr. Kasssieh said it can be used on Parks, and no the application doesn't matter. He said last year treated effluent was provided to Parks which took it by trucks and sprayed it in the park.

Chair Chavez said then spraying the effluent at the parks is acceptable because of the purity of the treated effluent.

Mr. Kasssieh said yes, and as long as it is Class 1A effluent, there is only one restriction – don't drink it.

8. RIO GRANDE CUTTHROAT TROUT SPAWNING PROJECT UPDATE. (ALAN HOOK)

Mr. Hook presented information from his Memorandum of November 7, 2007 which is in the Committee packet.

Councilor Trujillo said he thought he was going to shock all the fish, relocate them, and then put in the trout.

Mr. Hook said that would be ideal, but because of the time, and because there is an abundance of trout at the hatchery they are trying to move forward on the process. There is mostly rainbow trout in there, but they want to go ahead and put the fish there to acclimate themselves throughout the winter, and in mid-May they will do the retrieval of the fish and the spawning. They will transport the other fish out at that time.

9. THE ABILITY OF LANL MONITORING WELLS IN THE REGIONAL AQUIFER TO PROVIDE REPRESENTATIVE GROUNDWATER SAMPLES. (ROBERT GALLEGOS)

A Memorandum dated October 31, 2007, to the Public Utility Committee, from Robert Gallegos, Environmental Compliance Specialist, is incorporated herewith to these minutes as Exhibit "3."

A document submitted for the record by Joni Arends is incorporated herewith to these minutes as Exhibit "4."

The text of a power point presentation, "Groundwater Monitoring at Los Alamos National Laboratory," dated November 7, 2007, submitted for the record by Ardyth Simmons, is incorporated herewith to these minutes as Exhibit "5."

Mr. Gallegos presented information from his Memorandum of October 31, 2007 [Exhibit "3"] to the Committee.

Councilor Heldmeyer left the meeting at this time

a) THE POTENTIAL OF LANL CONTAMINANTS TO IMPACT THE BUCKMAN WELL FIELD (JONI ARENDS, EXECUTIVE DIRECTOR, CONCERNED CITIZENS FOR NUCLEAR SAFETY AND ROBERT GILKENSON, REGISTERED GEOLOGIST)

Joni Arends presented information to the Committee from her handout [Exhibit "4"]. Ms. Arends said basically LANL isn't sampling in the right location, when it samples it isn't using the right techniques, it isn't doing the correct analysis, and in many cases the information isn't reported in a good way for people to understand it. She cited a letter signed last week by Commissioner Montoya from the Buckman Diversion Board to DOE and LANL addressing many of the concerns about which they have been talking. [Exhibit "4"]

Ms. Arends said their main concern is Well R-16 which is indicated on the map in the packet, saying they are concerned about the radionuclides Buckman Well fields which were reported by LANL in 2006, noting the issues are contained in the submittal to the PUC [Exhibit "4"].

Ms. Arends said the City reported plutonium 238 in Buckman Well No. 1, the well closest to the Rio Grande. She said she and Mr. Gilkenson have developed recommendations, and she reviewed those recommendations. [See Exhibit "4" for the 8 recommendations].

Ms. Arends said it is good to hear Mr. Gallegos say the City is doing quarterly sampling, which they have been requesting.

Responding to the Chair, Robert Gilkenson said Ms. Arends' presentation covered the issues, and he had nothing further to add.

b) UPDATE ON GROUNDWATER QUALITY AND WELL REHABILITATION. (ARDYTH SIMMONS, PROGRAM MANAGER, LANL WATER STEWARDSHIP PROGRAM)

Ardyth Simmons, Program Manager, LANL Water Stewardship Program, reviewed the information in Exhibit "5."

c) LANL REGIONAL GROUNDWATER MONITORING WELLS – THE NEW MEXICO ENVIRONMENT DEPARTMENT. (JAMES BEARZI, BUREAU CHIEF, NMED HAZARDOUS WASTE BUREAU)

James Bearzi, Bureau Chief, NMED Hazardous Waste Bureau, said there is a 20 page paper plus some recommendations before the Committee, and the Committee just heard "from one of the smartest people I know about a bunch of technical stuff," which is a lot of information for you and your staff to digest. Mr. Bearzi noted the information he submitted is in the Committee packets.

Mr. Bearzi said in the Concerned Citizens for Nuclear Safety [CCNS], there are requests for the City to ask NMED to rethink what it has done, or that it has failed in specific areas.

Mr. Bearzi said the following are things on which we all seem to agree and for which we need to seek some solutions:

- (1) There is a sense of urgency to make sure that the chromium contamination doesn't contaminate the drinking water, and to be sure there are ways to detect it before it gets there and to have ways to deal with it if it ever does get there.
- (2) The LANL groundwater monitoring program has experienced significant problems with one or more of the forty wells, and in some cases really bad problems with how they've implemented the drilling program on the hill – using organic drilling fluids and bentonite mud which somehow changed the chemistry, so you can't depend on the sample; the screens aren't in the right place; the construction is wrong; the locations are wrong.

Mr. Bearzi said the following are things we don't agree on:

- (1) The State, as the primary regulator, is the scope of the problem.

Mr. Bearzi said some say no well can supply any reliable data ever, and those who say it is perfectly fine, and the truth is somewhere in the middle which is that some of the wells probably are okay, some are not and need to be replaced, and some need to be rehabilitated or further studied to see if they can be used for anything at all. There is disagreement on the approach and the scope of that.

Mr. Bearzi said Ms. Arends' report says we need to take immediate action to do certain things. It also says they need to understand more about some aspect of the mineralogy or how the aquifer chemistry is affected by something or other. There are these two competing scientific interests – the need for immediate action, to do something now to address some of these problems, so we can continue to protect our water supply, and the need to do so in a deliberate, science-based way where we actually answering some of these questions, so we aren't throwing away a lot of money on installing new wells in the wrong locations with the wrong methods, etc. Both of these interests are correct.

Mr. Bearzi said what drives LANL to decide on remedies for its waste sites and address are its groundwater problems. As Ms. Arends points out, there are other interests – DOE Inspector General Reports, National Academy of Science weighing in on it, EPA.

Mr. Bearzi said earlier this year, the State expressed frustration with the pace at which LANL is correcting problems. In April, the State issued a letter to LANL asking it to move forward quickly on a monitoring well network for some of its different waste areas. This has driven a lot of work LANL has done lately.

Mr. Bearzi said the April 2007 letter set a lot of things in motion, all of which are under the consent order, and NMED considers all of these to be nonnegotiable from an enforcement standpoint, and if they don't do them NMED can assess penalties, take them to court and such:

- (1) Well Screen Analysis Report. This Committee has been asked to retract its approval of this report. He said NMED would urge the Committee not to do that, and would be foolhardy. The Report deals with one of the tools used by LANL to assess whether any of its wells are good, and whether decent data can be derived from that. It is something City staff is considering as well and should continue to do so. It will take a considerable time to do so. The NMED will assist in any way possible.
- (2) Establishing the monitoring well networks for different areas, such as Technical Area 54 or the LA Pueblo Canyon Area. He said the well evaluation reports are really work plans for things LANL is going to do in the future. For example, for Mortendad Canyon which contains TA 50 and some sites, is one of the pathways which might go to the Buckman Well Field if that is true. He said Secretary Curry has confirmed the need for sentry wells, and LANL hasn't argued with that. He said this has been approved, and includes for Mortendad Canyon, the installation of more monitoring wells in particular locations. He believes LANL gets the message that it needs to minimize the use of drilling fluids which it has done successfully recently. LANL needs to be careful about how it constructs wells and can't make the mistakes it made in the past.

Other plans are coming in for LA Pueblo Canyon for the groundwater there, noting the surface piece is of great interest to the BDD Board, and for Technical Area 54, the main waste management area of LANL, Technical Area 56, the main explosives research sites, and such. Mr. Bearzi said none of these things will happen overnight. LANL has turned a corner, and NMED recognizes LANL can't do everything, all the time, immediately. He said we have to prioritize our enforcement efforts and what we want LANL to do, and to do the most protective things first. He said LANL doesn't do anything in terms of groundwater monitoring without getting approval from the State first. This puts the State in the position of being the clearinghouse for all things groundwater monitoring, and for protection of that resource.

Mr. Bearzi said he offers himself and the Agency to the City, the County and the different government and nongovernmental organizations, to help to understand the issues. He said they hope to be accountable to the City and those who make the decisions on behalf of the citizens of New Mexico.

Questions and Comments from the Committee

Chair Chavez thanked Mr. Bearzi for his observations and his offer of assistance.

Councilor Bushee said it is hard to be patient when you [Mr. Bearzi] ask for us to hold you accountable, and asked what that means, noting she would hold NMED accountable for the last 20 years of these programs. She said one of the recommendations from the BDD is to get a third party report. She doesn't want "ifs." She doesn't know who to hold accountable. She said the City has a lot of money in the

BDD project. She said there is always fear in living downstream, down wind of Los Alamos. She said there is a lot of angst about this which gets passed to her.

Mr. Bearzi said until 2000, the State of New Mexico Regulatory Authority was "asleep at the wheel." He said Councilor Bushee has asked how she can be assured that the monitoring systems which have been in place for the past 10-20 years will be effective in the future. He said the answer is that they are not, and this is what needs to be addressed. He said there is a lot of redundancy built in. He said the process to accomplish this has to happen simultaneously. The Lab needs to aggressively address the sources of contamination on the hill, because we don't want continuing sources to continue leech down, contaminate groundwater.

Councilor Bushee asked who has allowed them to do this in the first place.

Mr. Bearzi said, "Who's allowed them to do this in the first place is all of us."

Councilor Bushee said you are asking us to trust you.

Mr. Bearzi said the federal government has allowed LANL to dispose of waste in an uncontrolled fashion over many many years, and didn't get a handle on that until the early 1990s.

Councilor Bushee asked if it isn't the same federal government that you say has expertise and they're on it, and we should trust.

Mr. Bearzi said they have turned the corner. The Consent Order, barely two years old, has really spurred a lot of work. This is the first time LANL has ever come under any enforceable document, where it actually is subject to harsh penalties for non-compliance with cleanup. The Environmental Department has shown that it isn't afraid to use that tool, and has levied more than \$1.4 million in penalties against LANL in the past 15 months for not adhering to the Consent Order.

Councilor Bushee said she still holds the fear that it's too little, too late.

Mr. Bearzi said he doesn't have a crystal ball and can't address that. He said in his line of work, he has to be eternally optimistic that his work isn't completely in vain, and it really isn't too little, too late. He said everybody needs to continue to work their tails off in the hope that it isn't too little too late and there is an impact we can have. He doesn't believe it is, because the drinking water supplies currently aren't affected. At the compliance sampling points, nothing is breaking a maximum contaminant level as set under the Safe Drinking Water Act.

Councilor Bushee asked if we all agree on that – CCNS, Mr. Bearzi and LANL.

Mr. Bearzi said he does agree on that, noting the City doesn't bust any of the maximum contaminant level, noting he reads the City's Consumer Confidence Reports. He believes this is a fact.

Mr. Bearzi said the question is how we keep water coming from the tap safe. He said one thing is

sampling, and if the City ever exceeds one of the MCLs, they need to increase monitoring, and the utility has ways of blending water to ensure the water which is delivered from the tap doesn't exceed some level the state and federal governments deem to be harmful. He said, additionally, the City has agreements with LANL to beef-up monitoring beyond that required by the regulations and the law for specific contaminants. He said Mr. Gallegos can tell you exactly what those are and what LANL has done there. He said there are five particular wells which are downstream from Los Alamos, at least operations, and between Los Alamos and the Rio Grande in a general direction toward the world of Buckman. These are listed on the map in the packets, and you also received that map from Ms. Arends. These are Regional wells R-10, R-13, R-16, R-23 and R-34. The sentry wells would pick up contamination in the aquifer before it gets to Buckman or anywhere else where someone might use it.

Mr. Bearzi explained that a monitoring well samples water from a specific portion of the aquifer, while a drinking water well is to suck up as much water as possible, and takes water over a broad column from lots of different strata in the aquifer. So if the monitoring well is installed in a good location, laterally as well as vertically, it will be good at early detection. However, some are not in the best locations, and some wells have problem with construction which inhibits its ability to yield representative samples which are representative of the aquifer conditions. He said LANL will continue to drill sentry wells. However, many of the sentry wells are located, and future wells need to be located on San Ildefonso Pueblo land. He said San Ildefonso Pueblo doesn't share its environmental data with the State, because there are issues of sovereignty and culture which it holds sacred. For example, the State has never seen data from R-10, and we may never do so. He noted that LANL has an agreement to share data.

Matt Johansson, of the U.S. Department of Energy, said the data comes out in its Data Summary Reports annually, so it isn't as timely as we prefer and require for wells which are on, for example, LANL land.

Mr. Bearzi said LANL needs to take action to define the location of the chromium, how big it is, where it is going, and if it is going toward a water supply. Then you look for the sources of the chromium, and if there is a continuing source of chromium which is contaminating the groundwater about which LANL doesn't know. He said LANL recognized many years ago that the chromate it was using to treat blow down water in its power plants is bad for you, and "let's stop using it." However, it discharged a tremendous amount of water into Sandia Canyon and others which are contaminated with chromium. He said while the source may be turned off, there may be a continuing source which is hung up in the sediments at the bottom of the Canyon, or somewhere in the subsurface.

Mr. Bearzi said we can't get all the answers immediately, which really is the problem. He said NMED assessed a heavy fine for the chromium contamination, and settled the litigation, and believes that part of the settlement set up reporting of groundwater contamination which should be transparent to the public, and timely to NMED. He said it all has to happen simultaneously, and scientifically based, and it has to happen quickly, and somehow it all has to be done at the same time.

Mr. Bearzi said he believes as long as the Consent Order is in place, and the State isn't afraid to use it and enforce it, that is what has changed since the last 20 years and now, the last 2 year. This perhaps, is the accountability desired by the City, County and other citizens organization can use for the

State – are we enforcing the Consent Order and are we making it happen. He said this administration isn't afraid to do it, and the City and other organizations need to keep asking NMED to do so.

Mr. Bearzi said this is the first time he's been asked to speak to the City during his eight years as the Bureau Chief. He is grateful for this opportunity, as well as that the City is taking the time to do this.

Councilor Bushee said we've been told there is no problem since she's been on the Council, noting she isn't unappreciative of the work of NMED. She wants to reemphasize this has been a problem for a long time and she wants to know being addressed. She looks forward to a response to Commissioner Montoya's letter to DOE.

Councilor Bushee asked Mr. Bearzi about an independent peer review.

Mr. Bearzi said he believes that would be an excellent idea, and could happen in a number of ways, noting this discussion happened before the BDD Board last month. He said the idea of an independent peer review is good because each entity has its own interests, as long as it has independence and doesn't have to go through another body to get its recommendations approved, has the right balance of scientists, water managers and engineers.

Councilor Bushee asked if any of the compliance funds could be used for that purpose.

Mr. Bearzi said no, because the penalties assessed under the Consent Order, by State statute go into a special fund with very limited uses by statute, and wouldn't include something like this. However, he will take this as a "homework" assignment and get back to staff.

It was the consensus among the Committee to place this as an information item on the Committee agenda on a quarterly basis.

Mr. Gallegos said he will continue to work with the State and the presenters with regard to this issue.

DISCUSSION AGENDA

14. REQUEST FOR APPROVAL OF BILL NO. 2007- _____. AN ORDINANCE AMENDING SECTION 25-4.2 SFCC 1987, REGARDING WATER RATE ADJUSTMENTS (COUNCILOR CHAVEZ). (GARY MARTINEZ)

Gary Martinez said Jason Mumm, consultant, has reviewed the draft ordinance which is in the packet and has made suggestions and recommendations regarding the draft.

Mr. Martinez said the draft has gone through many iterations. There have been suggestions from the Committee, many of which deal with conservation and institutions which has water as a substantial part of its finished product. They have looked at certain criteria which could be used to hold these businesses

accountable, mainly deal with water conservation. The draft ordinance before the Committee took all of these things into account. The consultant did a calculation of the financial impact, which is about \$300,000 maximum. There is a possibility of 100 accounts, if all apply, but probably only 1/4 of these would qualify based on the criteria and the language of the Ordinance.

It was the consensus among the Committee to go to questions from the Committee, rather than have a formal presentation by Mr. Martinez.

Councilor Dominguez asked if all recommendations are included.

Mr. Martinez said the draft is the most recent one and reflects all changes and recommendations.

Chair Chavez said Jason Mumm, the consultant, reviewed all of the changes and amendments to determine the fiscal impact.

Responding to Councilor Dominguez, Mr. Martinez said, if the draft is approved and moved forward to Finance, staff will provide an FIR, reiterating the impact is approximately \$300,000.

Councilor Bushee said she has attended some of the meetings as this moved forward. She said the Ordinance says, "The Water Division Director may approve..." This was one of the first issues of contention. She said, "I have been a little bit subjected to some legal yes no, yes no, on this, and I guess I'm wondering are we staying on the yes, or are we going yes no again.

Mr. Buller said there is no legal issue in allowing the division director to have the discretion we are discussing. However, if Councilor Bushee is asking if these changes can be made without an ordinance amendment, the last he heard from the City Attorney is that it does require an Ordinance amendment.

Councilor Bushee said we've been told this can't be done administratively, but this still gives the division director administrative powers.

Mr. Buller said these are two separate issues. He said he asked Frank Katz, City Attorney, whether or not an ordinance amendment is required to make the change which is being made by this ordinance amendment. The answer to that question was yes, but it's being done here. He said the City Attorney wasn't asked the question of whether or not the Water Division Director can be given discretion to do some things as a result of this ordinance amendment. However, he sees no issue in doing that.

Chair Chavez asked Councilor Bushee if she would rather someone else would have that discretion.

Councilor Bushee said no.

Councilor Bushee said some members of this Committee have been interested in helping special cases which had no options. She wants to ensure that Mr. Martinez is comfortable with this, and that the specific businesses about which we were concerned, fit the criteria in the Ordinance.

Mr. Martinez said it was the intent to address those issues without naming specific businesses in the ordinance. The other intent was to condense the 390 accounts, so it was condensed to a 1 in. meter to reduce the number which would be eligible, and this was thought to be 100 accounts. He said some of the businesses may have a 1 ½ or 2 inch meter, and may come before this Committee at some point in time. He said most of the customers of concern all had 1 in. meters or less, and use water on a continuous base throughout the day.

Councilor Bushee asked, on page 4 of the Ordinance, if the appeals are to be heard at this Committee which she believes more important.

Mr. Martinez said #6 was approved as to form and recommended by the City Attorney, but it can be changed if this Committee would like.

MOTION: Bushee moved, seconded by Chair Chavez as the main sponsor for purposes of discussion, approve this request, with the following amendments:

Page 4, line 11 "~~..governing body~~ Public Utilities Committee, an advisory committee of the Governing Body..."

Page 4, strike lines 13 and 14 "~~The rate adjustment shall be automatically revoked should the governing body adopt a revised rate schedule.~~"

DISCUSSION: Councilor Bushee would like the motion to be seconded by one of the other members and not the Chair.

Councilor Trujillo said he would second the motion.

Chair Chavez asked Marcus Martinez, Assistant City Attorney, if he, as Chair, can second a motion made by a Committee member.

Marcus Martinez, Assistant City Attorney, said the Chair can second the motion.

[Note: The Stenographer asked Marcus. Martinez, Assistant City Attorney, who would be the official second to the motion. Mr. Martinez advised it is the Chair, Councilor Chavez.]

Councilor Bushee said she is suggesting striking lines 13 and 14 on page 4, because when we adopt a revised rate schedule, we probably will take this matter up again.

Mr. Martinez said that may not be an issue because it is a 90 day opportunity period.

Chair Chavez said then Councilor Bushee wants appeals to go to the Public Works Committee instead of the Governing Body, and strike lines 13 and 14 on page 4.

Councilor Bushee said this is correct.

Responding to the Chair, Mr. Martinez said staff believes it has captured the group of concern. He said eventually we will be looking at a finance plan update which may or not involve rate changes or increases. That would be the appropriate time to address these kinds of things.

Chair Chavez said then if a business or businesses use this criteria, and qualify for a rate reduction, and we find later they aren't incorporating the conservation measures or not complying fully with what is being asked of them, then they can continue doing what they are doing.

Mr. Martinez said this is addressed on page 4, line 9. He said basically, if they aren't consistent with the initial application, a recommendation for revocation for the adjusted rate could come to the Water Division Director.

Chair Chavez said we need to monitor this, and if we depend on conservation as the bulk of criteria to be followed, then we need oversight to ensure conservation measures are in place, and working. He said the Ordinance has gone through an extensive review process, and he can support the amended version.

Mr. Martinez asked if the draft ordinance is approved, will it then proceed to the Finance Committee.

Councilor Bushee said it appears it goes to the Public Works Committee next.

Chair Chavez said it will go through the regular Committee process, first to Public Works and then to Finance.

Councilor Bushee said she will sign as a co-sponsor with these amendments.

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

- 15. REQUEST BY JAMES SIEBERT ON BEHALF OF VICTOR MOÑTANO TO REALLOCATE HIS WATER CONSUMPTION OF 7.16 AFY FROM THE BATCH PLANT SITE AT 3964 AGUA FRIA ROAD TO A CONSOLIDATED SITE ON AVIATION DRIVE. THE AVIATION DRIVE IS CONTIGUOUS TO THE CITY AND APPLICANT WOULD LIKE TO ANNEX TO THE CITY AND MAINTAIN HIS ALLOCATED WATER USE. (ANTONIO TRUJILLO)**

This item was withdrawn from the Agenda at the request of the Applicant.

- 16. REQUEST FOR APPROVAL FOR SEWER SERVICE UNDER THE PROVISIONS OF SFCC, SECTION 22-6.2 BY KARL SOMMER ON BEHALF OF THE PROPOSED LEXUS OF SANTA FE DEALERSHIP ON CERRILLOS ROAD. (STAN HOLLAND)**

Chair Chavez said on this item, there has been some confusion about the request and how it is stated on the agenda. The applicant is requesting sewer but would also like to discuss water service as well, even though not noticed on agenda.

Stan Holland presented information regarding this matter to the Committee for this request from his Memorandum.

Carl Sommer, appearing on behalf of the applicant, said the application was submitted two years ago for water and sewer, but it doesn't meet the requirements of the City's current policy for the extension of water. It is outside the City's municipal boundaries. The Resolution isn't clear as to whether staff has the authority to write a letter to the applicant stating it doesn't meet the requirements. He has learned, from Costy and Stan, that the City would prefer to accept the wastewater because the Arroyo Chamiso line runs right through this property. He said in anticipation of a denial of water service, the applicant drilled and permitted a well, and transferred water rights to that well. They have a final development plan approval from the EZA for this dealership on the basis of well water and on site wastewater treatment.

Mr. Sommer said he had assumed, based on the policies that the applicant would get a letter from City staff saying they aren't entitled to water and sewer service unless they are in the City. However, he believes the Committee has the authority to grant the sewer service and to accept the wastewater if they comply with City regulations with respect to the connection. He reiterated that the applicant, under any circumstances, does not qualify for the extension of water to the dealership. It doesn't meet any public policy standards. He reiterated that staff is uncomfortable in writing the letter to grant sewer but denying water, and would like the Committee, if it agrees, to grant sewer service, but not water service.

Chair Chavez said then we would approve sewer service, and denying water service, as the Committee has done in the past. He asked Marcus Martinez, Assistant City Attorney, to state his opinion for the record.

Marcus Martinez said, under the ordinance this Committee has the authority to grant sewer service and deny water service. Since the applicant already has water available through the groundwater well which has been permitted and transferred rights to, this is a formality to help the applicant comply with the ordinance. He would ask that the oral request for water service be recognized, and since it is going to be on the record, that the Committee can then deny water service and grant the sewer service.

Mr. Sommer, for the record stated, "We have before you, a written request for water and sewer service. It is a request that was submitted in September of 2005. I think, for reasons that maybe the application was lacking some things, and some confusion about staff's authority, it didn't get here until now. That's what we're here on. And we understand that we don't meet the criteria for water, though our request is in."

Responding to the Chair, Mr. Holland said the letter is not in the record, but it can be included.

A copy of a letter dated September 25, 2006, to Mr. Bob Jorgenson, Sangre de Cristo Water Division, from Karl H. Sommer, regarding Lexus of Santa Fe Utility Service Application, is incorporated herewith to these minutes as Exhibit "7."

Councilor Bushee asked Marcus Martinez if it would be correct to say that in the current Ordinance we cannot extend water to this business.

Mr. Martinez said he believes the City has the discretion to extend water to this property if it met certain criteria, and he would have to review the criteria in the ordinance.

Councilor Bushee said it could be granted if it is in the best interest of the community.

Mr. Sommer said this the overwhelming criteria, noting that the Council and this Committee has not seen auto dealerships as meeting this criteria. He assumed since they weren't doing any affordable housing or nonprofit activities, they didn't meet this criteria.

Councilor Bushee said water has been extended for fire purposes and such. She said his question then is whether they want water service.

Mr. Sommer said, "We do not want water service. The reason being that the City's water policy is we would have to annex in order to annex water service. And, we can't annex this property under the current regulations."

Councilor Bushee asked if there is no contiguity.

Mr. Sommer said, "It does have contiguity, but there are various aspects of this particular property that would prevent us from annexing, I believe. I think there is a lawsuit pending about the City's ability to annex this roadway. I would submit, for the record, we did not protest the annexation and we would agree that if the City pursued another annexation of this property, we would not object."

Chair Chavez said Mr. Sommer stated previously that there is a permitted well on site that will be used for domestic purposes.

Mr. Sommer said they don't want to be held up, it's the last thing they need.

MOTION: Councilor Bushee moved, seconded by Councilor Dominguez, to approve extension of sewer service under the provisions of Section 22-6.2 for the proposed Lexus dealership on Cerrillos Road and to deny the extension of water service.

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

17. REQUEST FOR APPROVAL OF BILL NO. 2007- _____. AN ORDINANCE CREATING A NEW RATE SCHEDULE 10 OF EXHIBIT B, CHAPTER 25, 1987, ESTABLISHING A SPECIAL CHARGE FOR ALL WATER CUSTOMERS IN ORDER TO FUND WATER CONSERVATION PROGRAMS (COUNCILOR CALVERT). (DANIEL RANSOM)

Daniel Ransom presented information from his Memorandum, with attachments, of October 30, 2007, which is in the Committee packet, noting this Committee heard it previously, but sent it back to the Water Conservation Committee. That Committee approved it and has sent it back to this Committee.

Mr. Ransom said the fund has been depleted, and to continue the programs and implement new programs, such as dealing with outdoor conservation, additional funding is necessary.

Councilor Bushee asked when are we going to do some of the outdoor rebates, such as Albuquerque did, in terms of conversion, and asked if this is in the budget.

Mr. Ransom said currently, the strong message is that they have no budget. He said there are a lot of great things we can be doing, but we need money to fund those.

Councilor Bushee said Albuquerque does this out of its utility funds, and not out of a conservation fee, and credit people on their water bills. She noted that at one point she brought forward articles from the Albuquerque newspapers with regard to how it does its programs, including rebates to seniors who inherited old lawns to convert those. She wants to know if we can put a program like this together see if we could find the money somewhere.

Mr. Ransom said this would be a separate issue. If they don't get funding this way, he will keep looking for ways to fund this.

Councilor Bushee believes we can do things on a larger scale than what is proposed.

Mr. Ransom said this is just the start of the list, and we are not limited to any of this. He said they look at programs and what would work for the City. He said Santa Fe is unique, and doesn't have the same landscaping as Albuquerque or Las Vegas, Nevada.

Councilor Dominguez asked, with regard to multi-family, residential service conservation fee, if the fee is per unit.

Mr. Ransom said multi-family is set up by meter size, but they did look at average amount of units per meter, noting there is a difference between multi-family and commercial. They also looked at the water use for multi-family versus commercial as well, and it is broken down on the average water use per meter for multi-family, commercial and residential.

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

DISCUSSION: Councilor Calvert said he has no further remarks.

VOTE: The motion was approved on a voice vote [absent: Councilor Heldmeyer].

Chair Chavez and Councilor Bushee asked to be added as sponsors.

18. REQUEST FOR APPROVAL OF RESOLUTION NO. 2007- _____. A RESOLUTION SUPPORTING A PARTNERSHIP BETWEEN THE CITY OF SANTA FE AND THE U.S. ENVIRONMENTAL PROTECTION AGENCY WATERSENSE PROGRAM (COUNCILORS BUSHEE AND CALVERT). (DANIEL RANSOM)

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

VOTE: The motion was approved on a voice vote [absent: Councilor Heldmeyer].

19. REQUEST FOR APPROVAL OF RESOLUTION NO. 2007- _____. A RESOLUTION ADOPTING THE ELECTRIC FACILITIES PLAN AS AN AMENDMENT TO THE CITY OF SANTA FE GENERAL PLAN (COUNCILOR CHAVEZ). (NICK SCHIAVO)

A copy of a matrix for the Public Utilities Committee Meetings, dated November 7, 2007, is incorporated herewith to these minutes as Exhibit "8."

Chair Chavez clarified that this is the Facilities Plan which is separate from the Franchise Agreement, and these are two different documents.

Mr. Schiavo said this is correct. He said this allows the City to provide siting guidance to the utility for electric projects. He said representatives from PNM are in attendance, noting Robert Gallegos has worked for some time negotiating with PNM on this, and as the new energy specialist, he is moving this forward.

MOTION: Chair Chavez moved, seconded by Councilor Dominguez, to approve this request.

DISCUSSION: Councilor Bushee asked, when this went to the Planning Commission, if there were several hearings or only one.

Mr. Schiavo said he understands there was only one hearing.

Councilor Bushee asked if the Planning Commission raised any concerns.

Mr. Schiavo said not on this item.

Councilor Bushee said the minutes aren't in the packet, so there is nothing to tell if there were concerns.

Mr. Schiavo said he was out of town, and Mr. Gallegos attended that meeting, but he understands the Planning Commission expressed no issues with the Facilities Plan.

Councilor Bushee asked if the Energy Committee reviewed this document, noting this was part of the purpose of forming that Committee.

Mr. Gallegos said at the time that the Energy Task Force was meeting, members of the Task Force sat in several of the negotiations with PNM for development of the Facilities Plan, so the Task Force had input.

Councilor Bushee asked if the issue of Arroyo Chamiso is adequately reviewed and covered, in terms of the City having an adequate review process.

Mr. Gallegos said the Arroyo Chamiso issue really drove this issue. Staff took the position to look at transmission lines, as well as to bring the review process to distribution lines as well, greatly expanding the role of the City's role in review and public input into this Plan.

Councilor Bushee asked if the very ugly poles in Santa Fe are covered under the Facilities Plan.

Mr. Schiavo said it is covered in the next item, the ordinance, noting a new section is being added to Chapter 14 which attempts to address that.

Councilor Bushee asked if it should be incorporated into this Facilities Plan, noting there is a chapter on esthetics.

Mr. Schiavo said most of those decisions aren't under PNM's jurisdiction, and PNM has to follow the National Electric Safety Code. He said he met with PNM and they discussed a better color selection.

Councilor Bushee asked if the poles have to be that tall.

Mr. Schiavo said yes, they need to meet the height requirements. Once the pole reaches that size, a metal pole is needed under the National Electric Safety Code.

Councilor Bushee said she had many constituent calls about those poles.

Councilor Bushee asked about abandonment of substation facilities, and who's responsible for what happens there, noting she wants to know what will happen there.

Mr. Schiavo said if new facilities are put in to make a particular substation obsolete, perhaps this is the kind of negotiation or talk we could have with PNM before it installs something new, to discuss what potentially could be abandoned.

Councilor Bushee said she is unsure of the appropriate venue for this, and although she isn't trying to hold this up, she is trying to cover all her bases.

Chair Chavez said this will be discussed later.

Chair Chavez said with regard to undergrounding utilities, that is a decision which the PRC will have to make as well. If we do decide to underground, the rate increase will be spread to all of the ratepayers in the City, and it won't be cheap and easy to underground.

Doug Campbell, PNM, said with regard the whole issue of substations, the biggest thing as part of the ten-year Plan is something called the Santa Fe loop, which will involve more "ugly poles" for high voltage transmission. He said once the higher voltage power is coming into Santa Fe, some facilities, substations will be retired. Typically they treat substations like any other private land owner, they clean it up, remove the facilities and then sell it.

Councilor Bushee asked if PNM would consider selling it to the City first.

Mr. Campbell said, "We could consider that."

Councilor Bushee asked if we could working something out in the Franchise Agreement.

Mr. Campbell said he is not sure the Franchise Agreement is the right location for that.

Councilor Bushee spoke about the substation in her District which is near the River Trail and Alto Park, and the whole Barrio Canada entrance. The neighborhood has asked her about this. She said the rumor is that it is going to be abandoned.

Mr. Gallegos said depending on the route of the transmission loop, it could be that the substation on Camino Alire could be retired, and the only one to which he can speak.

Chair Chavez asked if this fits in the Facilities Plan or the Franchise Agreement, saying he believes this is mixing "apples and oranges."

Councilor Bushee said it is mentioned on page 12 of the Plan.

Mr. Schiavo said he doesn't see the exchange of land or negotiating property with PNM to be in the Franchise Agreement or the Facilities Plan, but he doesn't know how to accomplish that.

Councilor Bushee said she could include a bullet which says, "When abandoning substations, the City will begin discussions with PNM with regard to disposal of that property."

Mr. Gallegos said he has no objection to that.

Mr. Schiavo said he believes it would be more appropriate to include that in the ordinance, which is the next item for discussion.

Chair Chavez asked, with regard to undergrounding some of the high voltage lines, what would be the difference with regard to Electro Magnetic Frequency pollutions. He said we wouldn't see the poles, and asked if the pollution is any greater underground or overhead.

Mr. Campbell said it is offsetting. He said there is the advantage of having the visual impact mitigated, but the actual EMFs typically have higher a higher spike within right-of-way, with a higher exposure at ground level. He said the fields aren't effectively lessened by covering it with dirt, and it is a similar EMF as if the line was in the air, but six feet above the ground.

Councilor Bushee asked if members of the Task Force were in agreement with the Plan.

Mr. Gallegos said they did sit in, but doesn't recall in any of their writings where they had any objections in their final report. The two members who sat in were Kim Shanahan and Steve Michael.

VOTE: The motion was approved on a voice vote [absent: Councilor Heldmeyer].

20. REQUEST FOR APPROVAL OF BILL NO. 2007- _____. AN ORDINANCE CREATING A NEW SECTION 14-6.2(F) SFCC 1987, ESTABLISHING REQUIREMENTS REGARDING ELECTRIC FACILITIES AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY (COUNCILOR CHAVEZ). (NICK SCHIAVO)

Mr. Schiavo said this would provide a process to PNM to construct infrastructure within the City, and also provides a process for staff to review those projects before they go up. He said this is where he has added language in light of Councilor Bushee's resolution. On page 8, Section 9 of the proposed ordinance he has added Section 9(a). He said currently the Planning Commission does the review and the Governing Body has the ability to pull any of those and make recommendations or changes. He said he is recommending with this change, for any of the transmission lines 115 kV and above, that the Governing Body be a part of that review process and get to see the simulations of what will occur, prior to approval.

Councilor Bushee asked if there are plans to put them in the Historic District.

Mr. Schiavo said they are talking about a downtown loop which would be a 115 kV loop in the downtown area. He said when he drafted the language he was concerned about adding more work to the Governing Body. However, as he has reviewed the Facility Plan and the proposed projects over the next ten year, you probably are looking at only three transmission projects within the City over the next 10 years.

Councilor Bushee asked if we should include the Historic Review Board where necessary.

Responding to the Chair, Councilor Bushee said she would propose to include that in the same Section as Paragraph 9.

Councilor Bushee said yes.

Chair Chavez said on page 9, Section 10, Historic District review is included.

Councilor Bushee said it refers to being replaced but doesn't talk about "new." She suggested adding language to page 9, Section 10B, to include "new" transmission poles as well as replaced.

Mr. Schiavo said Councilor Bushee wanted to add an additional section which provides that when PNM land became available, the City would have first opportunity to purchase, and he sees that as a new section.

MOTION: Councilor Bushee moved, seconded by Chair Chavez, for approval of the Ordinance with the recommended changes.

DISCUSSION: Responding to a question from Stephanie Trujillo, Councilor Bushee said her suggested changes are under Historic District Review, to add "new or replaced poles or electric structures shall be reviewed by the HDRB," and the lawyer will come up with language that City has right of first refusal on any substations, buildings or infrastructure which are abandoned.

VOTE: The motion was approved on a voice vote [absent: Councilor Heldmeyer],

a.) REQUEST FOR APPROVAL OF RESOLUTION NO. 2007- _____. A RESOLUTION ADOPTING A FEE SCHEDULE FOR THE REVIEW OF APPLICATION FOR ELECTRIC FACILITIES (COUNCILOR CHAVEZ). (NICK SCHIAVO)

Councilor Bushee asked about the source of the numbers.

Mr. Gallegos said these were negotiated between City staff and PNM.

Councilor Bushee how they compare with the fee schedules of other communities for similar items.

Mr. Gallegos said these fees are higher than the City of Albuquerque, but he doesn't recall comparing these with Las Cruces and other cities. He recalled that the only two cities with Facility Plans are Santa Fe, after this is adopted and Albuquerque. He will look into that and have an answer by Public Works.

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

DISCUSSION: Chair Chavez said usually fee schedules are negotiated between the City and PNM. He asked if the cycle we would want for adopting or revising the current fee schedule would be for two years, and asked the standard negotiating cycle.

Mr. Schiavo said he spoke with Ms. Price who said all of the ordinances containing a fee structure are reviewed annually.

Chair Chavez asked how we will flag that review.

Mr. Buller said Ms. Price and her division have set up a system to track these, and it isn't completely in place, but it is on the computer.

VOTE: The motion was approved on a voice vote [absent: Councilor Heldmeyer]

21. REQUEST FOR APPROVAL OF BILL NO. 2007- _____. AN ORDINANCE AMENDING SECTIONS 14-6.2(G)(6) AND 14-6.2(G)(7) SFCC 1987, MAKING CLARIFICATION TO THE PROCEDURES FOR UNDERGROUND ELECTRIC, TELECOMMUNICATION AND CABLE UTILITY LINES (COUNCILOR CHAVEZ). (NICK SCHIAVO)

Mr. Schiavo said the modifications which have been made are to clarify the waiver process for undergrounding.

Councilor Bushee said most of these ordinances were not introduced at the Council level, noting she and Councilor Ortiz sponsored the original ordinance, and it would have been nice if staff had come to the sponsors to suggest why this language is necessary. She asked why it is necessary and who suggested adding that language.

Mr. Schiavo said this is staff's language, in particular Jeanne Price, which was made to clarify about the process of a waiver for undergrounding.

Councilor Bushee asked if there are administrative procedures which follow, noting she doesn't see how this clarifies it and doesn't understand why we are opening an Ordinance.

Mr. Gallegos said he didn't have a lot of involvement on this, but he could try to answer any questions.

MOTION: Councilor Bushee moved, seconded by Councilor, to postpone this item to the next meeting of the Committee, until staff can explain why this is being done by ordinance.

VOTE: The motion was approved on a voice vote [absent: Councilor Heldmeyer].

Chair Chavez stated, for the record, that although there may be confusion on this item, all of the other items went through the Committee process and were introduced at the Council level. He asked Mr. Schiavo to work with Councilor Bushee to answer any questions, and hopefully to bring it back to the next PUC.

22. REQUEST FOR APPROVAL OF BILL NO. 2007- _____. AN ORDINANCE CREATING A NEW SECTION 14-6.2(H) SFCC 1987, MANAGING THE PLACEMENT OF ELECTRIC, TELECOMMUNICATION, CABLE AND GAS LINES WITHIN CITY PARKS, OPEN SPACE, TRAILS OR OTHER CITY OWNED LAND. (COUNCILOR CHAVEZ). (NICK SCHIAVO)

This item was postponed to the next meeting of the Committee.

MATTERS FROM THE CITY ATTORNEY

None

ITEMS FROM STAFF

None.

MATTERS FROM THE COMMITTEE

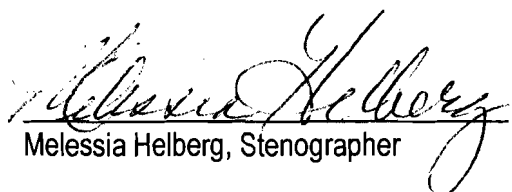
None.

NEXT MEETING: Wednesday, December 7, 2007

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.


Miguel Chavez, Chair


Melessia Helberg, Stenographer