

Las Cruces Utilities Board of Commissioners

Minutes for the Meeting on

Thursday, June 9, 2016

3:00 p.m.

Utilities Center

Conference Room 225

Board Members Present:

Gill Sorg, Chair

William Little, Vice-Chair

Steven Baumgarn, Commissioner

Jim Carmichael, Commissioner

Olga Pedroza, Commissioner

Board Members Absent:

Jim Ericson, Commissioner

Harry Johnson, Commissioner

Ex-Officio Members Present:

Daniel Avila, Interim City Manager

Jorge Garcia, Utilities Director

City Staff Present:

Susan Cerny, Business Systems Analyst

Carl Clark, RES/TS Administrator

Carol Conners-Lyons, Billing & Receivables Supervisor

Marcy Driggers, Senior Assistant City Attorney

Paul Edwards, Business Systems Analyst

Lucio Garcia, Gas Distribution & Construction Administrator

Luis Guerra, Water Quality Laboratory Manager

Klaus Kemmer, Solid Waste Administrator

Jose Provencio, Administrative Services Administrator

Mario Puentes, Gas Business Analyst

Joshua Rosenblatt, Regulatory Environmental Analyst

Alma Ruiz, Office Manager Senior

Dania Soto, Office Assistant Senior

Adrienne Widmer, Water Resources Administrator

Others:

Suzanne Michaels, Public Outreach Consultant

Jerry Uhlman, Mountain States Pipe & Supply

Dan Robillard, Parkhill, Smith, & Cooper

Chair Sorg called the regular meeting to order at approximately 3:00 p.m.

1. CONFLICT OF INTEREST

Chair Sorg: Is there anyone on the Commission or in staff that has any known conflict of interest in any of the items on the Agenda today?

There were none.

2. ACCEPTANCE OF AGENDA

Chair Sorg: The next item is the Acceptance of the Agenda.

Little: So moved.

Chair Sorg: Is there a second?

Pedroza: Second.



Chair Sorg: Moved by Commissioner Little, Seconded by Commissioner Pedroza. Any discussion, any changes. I will take a vote.

Roll call: Commissioner Carmichael – Aye; Commissioner Little – Aye; Commissioner Pedroza – Aye; Commissioner Baumgarn – Aye; Commissioner Johnson – Absent; Commissioner Ericson – Absent; and Chair Sorg- Aye.

The Agenda was Unanimously Approved 5-0.

3. ACCEPTANCE OF MINUTES

a. Regular Meeting of May 12, 2016.

Minutes approved on consent.

4. PUBLIC PARTICIPATION

Chair Sorg: Is there any member of the public that wants to speak to the Commission today? Seeing none, we'll go right to our Administrative Report.

5. ADMINISTRATIVE REPORT

Dr. Garcia: Mr. Provencio, please.

Provencio: Good Afternoon, Chairman and Commissioners. I will brief on the activity that is currently ongoing in the Billing & Collections or affects Billing & Collections. We're bringing in a new process to centralize data for water consumption and this involves the use by the Fire Department and Water Resources in their line flushing program. Non-revenue water consumption that is used for training by the Fire Department and those processes for cleaning out the lines. By bringing in this information into a central data base, we have means to report and record this consumption in a central database. We'll be installing some meters at the airport training site and gathering the amount of water flushed once a month and inputting this data into the UB (Utility Billing) module. End point of this whole process is to centralize this information and get a better idea of how we reconcile to total production. Within the next month or so, we will be able to collect this information by a new process that uses a Verizon or a cellular chip that records this consumption; making the collection of this information a lot more efficient. The whole end game here is just to get this information off separate data bases, and into a central database going forward.

Little: Question.

Chair Sorg: Commissioner Little.

Little: Are you also going to meter the East Mesa site?

Provencio: Chairman, Commissioner, the East Mesa?



Little: On the East Mesa, south of HWY 70 and north of North Rise, you'll often see fire trucks with hoses out and so on.

Provencio: For the time being, Commissioner, the Fire Department records this information by amount of flow, times the amount of hours and minutes that they use that. We still get that information. This will collect the information that is metered. We still will get to that point and that's still another opportunity we will look at to gather this information less on estimates and more on meter data.

Little: Thank you.

Chair Sorg: Dr. Garcia, you want to add?

Dr. Garcia: Just add that as we move into the new technology, the idea is to get really real time data when it's being used, number one. Number two, the Streets sweeper trucks; right now we're estimating and we have a measure but if we could have real time data as it gets used out of the system and relay back to the database, then we have good information, on any of these uses. It's a similar use to the Fire Department, the Streets cleaning system or our line flushing. It's just better accounting and more new technology in the acquisition of this data.

Chair Sorg: Do the Streets sweepers tap the fire hydrants for the water?

Dr. Garcia: Yes, they need to fill in and keep track of the data. If we could have meters that they carry but we gather that information, then Streets sweeper 'X' can have this meter that is assigned to that Streets sweeper, and then we have a good account.

Chair Sorg: Thank you, I've often wondered where the non-revenue water use is.

Provencio: It's out there and we're consolidating all that reporting into one site as we move forward.

Dr. Garcia: I think we have Ms. Widmer next.

Mr. Chairman, Commissioners. I know Commissioner Carmichael, and maybe some of you in addition to him, have requested more information on Water Quality and the process of publishing the Consumer Confidence Report (CCR) at the end of this month. It's a good opportunity to talk to you about Water Quality, that's where this is coming from.

Pedroza: Thank you.

Chair Sorg: Thank you.

Widmer: Chairman, Commissioners. We thought we'd give you little bit of a Water Quality Brief, it's about that time of year again for the Consumer Confidence Report. When it comes



to Water Quality questions and other issues coming around, we thought we would kind of fill you in, because it can be a little bit confusing. This is just to try to give you a little bit of an idea of what Las Cruces Utilities is required to do and what we do. In the Primary Drinking Water Regulations, we do Coliform, which is bacteria sampling and we're doing 100 samples per month throughout the system. The Regulatory Lab group takes care of that for us.

There's another part of the Primary Drinking Water Regulations, it talks about Turbidity which is specifically for surface water. We don't need to do that because we have not surface water that we utilize.

We have Inorganics that we take once every three years at each well. NMED (New Mexico Environmental Department) actually does that and to give you an example of the Inorganics, it's typically Arsenic, Chloride, Nitrates.

There's also the Volatile and Synthetic Organics, those are also sampled each month by NMED. I gave you little bullets to delineate a little bit of the differences on how those are done depending on what's actually tested for if there's any kind of results. To give you an idea of what those are, there's things like Benzene, Toluene and of course we all are very familiar with PCE (Perchloroethylene).

In addition, there's also the Radionuclides, those are sampled at each well by NMED. I gave you bullets to help you understand how those are taken care of. It's hard to keep track of everything, especially when you have 20 to 30 wells online at once. That just gives you an idea of what it is that we're doing.

We also take a look at Disinfection By-Products and our Lab will do six samples per quarter for that within a distribution system.

There's also the Lead/Copper Rule. One of the main issues that was going on in the Flint (Michigan) area had to do with lead. Just to let you know, there's 50 sites that are taken every three-years in distribution samples and that is taken care of by our Lab.

Then there's the Secondary Drinking Water Regulations. Those are guidelines for quality and are considered aesthetic. There's six samples per quarter in the distribution system that the Lab takes. Items that fall into that are things like; Aluminum Chloride, Fluoride, Iron, Manganese, which we're all very familiar of, Odor, PH, total Dissolved Solids, that type of constituents.

The Consumer Confidence Report that goes out July 1st of every year is a requirement by EPA (Environmental Protection Agency). That's where we're providing information to everybody annually that talks about our Water Quality, the characterization of it, and any kind of risk associated. NMED is the police for EPA in New Mexico. NMED is the one that obtains all the results, they put it in to their database and then we pull up what it is that they're wanting us to go ahead and report on an annual basis. One of the fees that we pay to the state is the Water Conservation Fee, which is money that



goes to NMED so that they do have the funds to go out and actually take the samples that they're doing and, of course, to do all the administrative work associated with that.

We thought we would tell you a little bit about the typical items that are included in CCR's. Typical things that you're going to see in this area is Arsenic because that does show up now and again in this area, it is an Organic Chemical. You have Nitrate, as I suggested earlier, is also an Inorganic Chemical. There's Heavy Metals that are tested and those show up once every three-years at each of the wells, and those are sampled by NMED. There's the Fluoride that we discussed and then there's Cyanide, that's another one that's in there.

Just taking a look at the Consumer Confidence Report information that I provided for you, this is pretty much information that we received from the state and verified through Regulatory. That's going to be showing up in the Consumer Confidence Report. If you'll take a look at the first two sheets, it's required information that has to be in there, but as usual, at Las Cruces Utilities we like to go a little bit further and actually give additional information, which includes the majority of the primaries. Even though they're non-detect, we like to go ahead and provide that as well.

We have a lot of information on the website including things like the: Discolored "Red" Water Facts Sheet, Fluoride in Drinking Water, the Technical Memorandum that we did. We have the Brackish Water Desalination Technical Memorandum. We have water articles that are in there. We're also putting together a Lead-Free Drinking Water Technical Memorandum that will show up on the website. If you have anybody calling and asking you questions, you can always refer them to the website. They can pull up this information, that way it's just right there in their hands right away.

One of the things that we thought we would show you is, for instance, for lead reporting. As part of that, these are all the samples that we had taken for 2015. We only needed to do the 30 samples for 2015. These are the results from the 30 samples, you'll notice that there's two different numbers that are highlighted, the 2.7 and the 6.8. Out of all of those samples, the highest reading was 6.8, but the recording mechanism is based on the 90th percentile. I don't know why, but that's what the regulations call and so the 90th percentile is actually what's reported, which is number 27 because there's 30 samples, 90th percentile. You take the 27th and it's 2.7.

Chair Sorg: Those all are taken from Wells? The 30 Wells?

Widmer: Yes.

Little: No, from the customers.

Dr. Garcia: Customers.

Widmer: From the customers. That's in the system.



Dr. Garcia: Can I clarify something, Mr. Chairman?

Chair Sorg: Sure.

Dr. Garcia: Just to avoid confusion, and I believe Joshua can jump in. I believe that on the 2015 we're reporting 30 samples, that's why you have 30 points.

Widmer: Correct.

Dr. Garcia: But for the next year we'll have 50 samples.

Widmer: Exactly.

Dr. Garcia: The customers will see still numbers based on 30, I think there's a footnote that this is the last year of the 30.

Widmer: Of the 30 because we've gone into a new...

Dr. Garcia: Those are with the homeowner inside the house.

Widmer: That way, if we have a real high number, we can get with the homeowner to say, "There is high lead." We'll go out there and take a look to make sure that the waterline from their meter to their house where it's connected is not lead. If it is, we let them know, "You have a lead service line on your side," it gives them the opportunity to take a look at any other plumbing issues that they may have.

Little: Question.

Chair Sorg: Yes, go ahead.

Little: The Lead/Copper sampling, you pick the sample sites each year not returning to the same place? And you pick places where there's more likely to be Lead/Copper problems?

Widmer: I'm going to let the Regulatory group answer that question because they're responsible for it.

Rosenblatt: Thank you Chairman. The Lead/Copper Sampling Rule is very specific to all. It must incorporate all homes that were built within the 1980's range. Many of those are returned to, we don't randomly pick new ones. They're very specific that they incorporate buildings that are occupied that were built during the range where there may have been a higher potential of Lead and Copper use in the piping. Our system delivery is relatively young, we don't have back in the 90's when the Rule was passed, we don't have it present except for minor areas that they had already gone through and taken it back. If I get your question correctly, you're asking about any annual change. We don't have an annual change, because we're only required to locate



certain homes built at a certain age. That number now for next year will increase because the population has increased, so we're increasing to 50. The 2016 CCR actually is representative of all the sampling done in 2015.

Little: Right.

Rosenblatt: Have I answered you completely?

Widmer: We had to get permission.

Rosenblatt: Oh yes, we get permission from the occupants because they are the ones that sample.

Little: Right.

Rosenblatt: Then we collect the collected sample because it has to sit overnight. We want water that is collected from their taps when it's first drawn off in the morning after it sat all night, so it has the highest probability if there is a situation in the home. It's an extension of protection to our customers, not just sampling at the delivery system, but it's actually taken in the home by the homeowner or occupant first thing first draw of the morning.

Little: What about homes older than that?

Rosenblatt: They would be included. We capture the highest risk area first, so it isn't a random, it's very specific to making sure that we capture the highest risk areas first.

Little: But it's randomized within those risk areas?

Rosenblatt: Yes.

Little: Okay, that's what I asked.

Rosenblatt: We just randomize within all of the monthly sample that are within the 80's. I'm sorry, here's the guy in the field.

Guerra: Hello. I'm Luis Guerra, I'm the Laboratory Manager, at the Water Quality Lab here. I apologize, I just came in from the field. All the homes are required and approved by NMED, as you're asking, the 80's they call it the tier one, and they're the most probable homes that would have leaching of Lead and Copper. Anything from '83 prior we have to look at not only the build but proof through the Doña Ana Assessor, whatever the codes is for the home itself, but then we actually have to get it reviewed by NMED also and approved by them to make sure that we are picking a randomly scattered representative sample of the system.

Carmichael: Within that age?



Guerra: Yes.

Little: Okay, so it's '83 and earlier?

Guerra: Yes.

Little: Okay, I'm sure you're doing it right. I've been doing this for a while too, but what I was leading up to was, if someone believed their house was at risk, could they contact the Utilities Department and somehow or another be among the homes to be sampled in a future year?

Guerra: Like I said before, recently in 2016, just to back track a little bit and give you a little history on it. In 2016, NMED implemented a Distribution System Sampling Plan, which is required and looks at all these programs that Ms. Widmer was talking about a while ago. As you had mentioned for Lead and Copper, if a homeowner, because all of these have to be preapproved by NMED, if the homeowner wants to have their house sampled and put on the list, we have to go back and through Water Resources get the approval to put them on the list and then go through NMED to further that. But yes, I'm sure there is a means that there's something that could be done. Not only that, but there's approval through the Water Resources if they see it viable, I'm sure they have special sampling for us to go out there to take a look at it ourselves to reassure that the system is okay.

Little: Alright, thank you.

Dr. Garcia: If I may add, Mr. Chairman.

Chair Sorg: Go ahead Dr. Garcia.

Dr. Garcia: We do courtesy sampling not just for Lead, but sometimes we have concerns and we prove to customers that it's not Lead, it's Iron and Manganese and you need to flush your system a little more through the backyard. We can prove to them that the water is clean, so I think the question would be whether that customer can be in the program and that would have to go through NMED for future, but we do one time courtesy samplings for someone that calls downtown or the City Manager and says, "I have concerns, I just opened my faucet and it's red, it must be Lead". There's been quite a few of those lately after the Michigan issue. We do courtesy sampling when there is a customer concern of various kinds, and most of the time it's Iron and Manganese and stagnant water in their systems. People want to conserve a lot of water, and too much conservation can lead to Water Quality problems.

Chair Sorg: Okay, Commissioner Pedroza.

Pedroza: Thank you. I'm not sure that this is the right time, but I suspect that a lot of the homes in District 3 were built in the 80's, and so would there be any way to get some idea of the results from the checking of the nasty things in the water, so that then I can convey



that to the constituents of my District? I think like Bellamah and a lot of the different neighborhoods were possibly built in the 1980's.

Rosenblatt: Commissioner Pedroza, we're talking specifically to the Lead and Copper?

Pedroza: I don't know.

Rosenblatt: Because we have a combined system so the fact is that all of our 30 to 40 Wells that could be online at a time. There's no single area that's being distributed to a single section of town. All of the water from all of our Wells are distributed and blended in a combined system. The Lead and Copper that is taken at an individual's home, every individual that is on that sampling list gets the result, they get the result that's sampled. That is required. Even if it was a non-detect, they'll still say, "Thank you very much for participating in the sampling, and here are the results of that".

Pedroza: Are you saying that I could just wait and see whether the constituents communicate with me, instead of trying to say I'm going to give some sort of education to them?

Rosenblatt: Educational outreach can be provided, and also during the sampling events when they're exchanging the sample equipment and here's the bag you put it in and they come around. If anybody has a detection or elevated, or requests any information, we have websites and documents to provide them. They're standard, they were issued by the EPA and NMED and direct that homeowner or any concerned citizen where to find out more information about it.

Pedroza: Thank you very much.

Dr. Garcia: If I may, Mr. Chairman.

Chair Sorg: Sure.

Dr. Garcia: Commissioner Pedroza, you may get some questions after they get the Consumer Confidence Report.

Pedroza: I haven't yet, right?

Dr. Garcia: No, but it will be mailed by the end of the month. We need to post it at least by the end of the month and they may get it in the mail early July. If you get those questions I suggest you direct them to Joshua to the Regulatory and Compliance.

Pedroza: But this is an annual thing?

Dr. Garcia: Yes, any time of the year we can provide that. Usually the CCR document, when it gets in the mail, prompts lots of questions to Council and to us. I suggest directing the questions to Regulatory and Compliance and then we can provide additional information.



Pedroza: Thank you.

Dr. Garcia: I think that's the best way of knowing what information we're providing and where, and addressing the concerns. Some of them may say, "I have some concerns about this reddish water, can you come test it?" We will send Luis, he goes and does special sampling when there's concerns.

Pedroza: Okay.

Widmer: Mr. Chairman, Commissioner. When the CCR actually goes out there's contact names and telephone numbers on there that does refer them to Water Resources, and then we'll take it from there. That way, if you don't want, you don't have to get in the middle.

Pedroza: I enjoy that.

Chair Sorg: If we can go on to the next. Out of curiosity, what are the Copper levels? Are they different from the Lead?

Dr. Garcia: Yes, and it's below the limit.

Chair Sorg: I mean on the 30 home samples.

Dr. Garcia: There's a distribution similar to that one with other different numbers, but those are published next to the number. What are they? It's 0.14 versus 1.3, the actual number for Copper.

Chair Sorg: Thank you. Jornada Water Company.

Dr. Garcia: Mr. Chairman, Commissioners. Let's talk about process first. I think Vice-Chair Little said earlier, "It was a bombshell." And it was a bombshell for us when City Manager Garza was approached by Jornada Water Company saying, "Are you interested in buying our company? We're up for sale, we're asking you first before asking anybody else." That's what started the process and they requested confidentiality. We have an issue that our Utility Board recommends to the Council actions such as this. However, confidentiality was requested, and things have to be discussed in closed meetings. We're authorized to discuss issues in closed meetings usually under the closed meeting authorization, what is it Marcy?

Driggers: Opens Meeting Act.

Dr. Garcia: Section 10-15, page 8. But in this case it wasn't just water rights, it's a system. The Manager and I discussed well, we can't have this meeting and discuss more than water rights and comply with state law, because there is a system here that wasn't budgeted, wasn't discussed through the ICIP, or other things; to come first to this Board and then the City Council.



Second item is the request to take over the system using eminent domain and only the City Council can authorize that. A dilemma, what do we do? The Council can always say, "No, we're not going to proceed with this when we go to a Closed Session," and then the issue is moot. We started in this process contrary to what we've normally done in recommendations from the Board to the Council. We had a preliminary directive from the Council and then bring it to the public. This issue became public last week, when the staff of Jornada was told they were for sale. Before then it was kept confidential and only a few individuals were involved in this.

Let's start with Jornada Water Company. As you know, the City of Las Cruces is served by many water companies; Moongate, which you've heard a lot over the years from litigation, about the same size as Jornada, Mesa Development, we're acquiring Mesa Development, that one is fully inside City limits. We have other systems like the Doña Ana Mutual Domestic that we've had litigation with and now we have service areas. You recently approved a document formalizing some of the federal settlement areas, so there's a lot of water providers. Out of all those water providers, the only one that in recent years or for the last at least 20 years that I know of they've been building things to City standards is Jornada Water Company.

Jornada Water Company has approximately 3,500 customers, approximately 3,200 stubbed-out connections meaning that there are sub-divisions there with services ready to be provided. Approximately 5,900 acre feet of water rights. The reddish areas are some of the customer areas that are within City limits or adjacent to City limits. However, there's other areas here in the south valley that are already served and some of the Las Alturas has developed since. These are some old maps that I had staff plot. The blue lines are the place of use, the different water rights that add up to 5,961 acre feet. Mostly residential customers, a few commercial customers, no big industry. I believe four schools: Tombaugh Elementary School down by Carver Road, Onate High School, and the two schools on the Holman Road.

It's a family business and they run the 3,500 customers with two owners and four employees. Three of the employees are field people and one employee is an office manager; that is Jornada Water Company.

Just to give you a background, City Administration was approached, there was a request for confidentiality until such time as City Council considered the proposal. We did the preliminary appraisal of the system, Jornada did their own preliminary appraisal with an appraiser out of Texas. Obviously when you do these things you have a wide disparity of numbers, that is not uncommon. Marcy is familiar with the many trials we did with Mesa Development and we had even the University involved in reconciling some of the appraisals in the many years of negotiation of that system.

I'll show you some of the numbers and variety of values depending on the techniques the appraisers use. Jornada wanted to move fast and get an answer because they were marked in their system, they were selling the system. It was not a question of us going to them, they came to City Management in person saying, "Do you want to buy



our system?”. They are for sale; if the City doesn’t buy them, someone else will. Probably an investment company, a national investor.

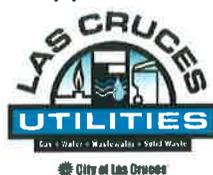
A key request, like I mentioned earlier, was that the City exercised eminent domain in the acquisition process. They didn’t want to spend many years addressing this issue through the PRC, they want the City to take over the system. We addressed on May 9th this with the City Council, we explained what had happened; the range of numbers, the appraisals, and the advantages and disadvantages. City Council concurred with moving forward, the question that was asked was, “Will it impact our current customers?”, and the whole point is trying to have no impact to current customers, that’s the key.

City Council gave direction to proceed and the question was, “What is the limit of funding, or debt service, that can be serviced with the system revenues?” The number is in the proximity of \$17 million. We directed that if there are any negotiations in the final agreement, that it should not impact existing customers and therefore the business plan needs to include only revenues from the system, which are in the range of \$1.5 million dollars a year at their rates. I will explain that, unfortunately our staff did the calculation of rates when I had already finished this presentation, but I do have something that I can show you on the screen that shows what the residential variations. To be on the safe side, if we use \$1.5 million as the revenue, that’s a conservative number because I think we can get additional revenues because our rates are higher at any consumption over 8,000 gallons per month.

The acquisition obviously will require some additional staffing, I disclosed that to the City Council, I didn’t want any surprises saying, “Why do you need additional crews?” We are absorbing 3,500 customers from Jornada Water Company, we cannot absorb 3,500 customers – there is no way. We will need a couple of crews; how we distribute those within the Water Utility we’re still thinking about that; we have to plan that currently. Given the revenues of \$1.5 million debt service running at about \$1.1, if we do have water rights fund revenues of about \$200,000 to \$250,000 to cover some of the water right portion of the debt service. We’re confident that we have between \$500,000 and \$600,000 a year to operate and cover the staffing cost. We are not going to make money on the system, but we’re not going to have the current customers subsidize the acquisition. That was an important item for the City Council.

A wide range of evaluation cost, interesting to note that one of the reasons of the great variability was that technically Jornada Water has made, a lot of their value that is not on the books, was contributed by developers. As you recall, some of your training in ratemaking, you cannot collect or put in rates some of those, the value of infrastructure that was contributed by capital. We call it contribution made in construction.

A lot of Jornada is contribution made in construction. The books, if you go to the PRC, the system actually, our appraiser valued this system lower than Mesa Development, which mathematically may be correct but from the physical point of view makes no sense. On the other end their appraiser, I think was too high just for the system, their



appraiser came up with \$15.14 million, ours was anywhere from \$5.6 million. There was a comparable sale in the Albuquerque area about 10-years ago for about \$8 million, a very similar system. A wide range of numbers. When we broke the numbers down, we said, 'We'll assign a maximum of \$9.23 million to the system for a total with water rights'. There's 5,900 acre feet of water rights, approximately a little less than 2,000 are being used, so there is about close to 4,000 acre feet available for the system so they can triple their size in terms of water rights.

The cap, since the Council said the limit will be what we can afford in system revenues and that's about \$17.1 million. \$16.4 was the settlement offer that is on the table right now, subject to a few things that I will discuss in a minute.

Just to give you an idea on a per customer, that comes up to \$2,600 per customer, but if I look at some of the average of our other methodologies in Mesa Development, like I said, this one came up lower than Mesa Development Company. By the time we're done with Mesa Development, that's going to be about a \$4,000 per customer because we're replacing the lines a few months after we take it over.

The number is reasonable, obviously we're not going to pay what their appraiser came up with, and they agreed with a number that is below the threshold identified in the closed meeting. In terms of formal action, I'm sure that the City Councilors that sit on this Board will entertain concerns, questions, and opinion of the Board. Nothing is done until City Council votes on two things. 1) condemnation of the system eminent domain, action on the system - number 1. That will require at least four City Council votes. 2) Council approval is the issuance of the Utility Revenue Bonds, that requires a supermajority vote; six out of seven Councilor's will need to agree. Any of those two things don't happen, and the deal is dead, it doesn't happen.

Even though in a closed session we have guidance to proceed with a negotiation, the City Council has to act in an Open Meeting on two different items. Once that is done then the Company has assurances that yes, the City will buy and they don't need to be marketing the property to anybody else. Right now they are on hold until those two votes happen. If either vote fails, and obviously we're going to go first with the condemnation. Marcy and I are meeting with the Company tomorrow to explain the process of the condemnation part. That one will go first and if that one doesn't pass, then the deal is dead, they'll proceed with marketing the property to someone else. If that one passes, the second one again is the Revenue Bonds. If the condemnation passes, we're anticipating that the Revenue Bond vote and ordinance, that requires an ordinance, that would be considered somewhere early August with a Bond Rating the first week of August and Bond sale the third week of August, around the 23rd of August. Then the funds become available a month later, so we're looking at some time end of September time transaction when the actual closing of the transaction and everything is fine.

Regarding water rights, I already have staff doing the due diligence with Jay's (Stein) office. I'm requesting that they look at every water right obviously, and make sure that



in the adjudication process there's no surprises. In other words, if there has been an offer of judgment that they signed off on the offer of judgment or if there's one needed, then we can go and ask for it because it's a list of water rights that they have adding up to 5,961. There's a lot of due diligence that we need to do on water rights, before of course, the transaction is done. That needs to be done immediately, in case there is some problem that they need to fix or we need to adjust the price because some certain water rights cannot be adjudicated or they've been cancelled. A first look at the paperwork I got looks like everything is in order, but it all depends on what's in State Engineers Office and not we got from the Jornada side.

After the filing for petition for condemnation with District Court, then we'll agree, then the process becomes an administrative process where we deal with some of the staffing in coordination of the system take-over with Jornada Water Company.

In terms of the staffing, one of the things that I mentioned to City Council and I mentioned to Mr. Avila and Mr. Garza, before he left, is we will make sure that we hire those four employees that are non-family, so no one will be unemployed in terms of a third-party being hurt by this eminent domain action. We need the historical knowledge of the system of that level IV operator, the other level II operators, and an office manager that will fit very nicely in Customer Service to work with the customers because they know their customers.

In terms of the public perception of the eminent domain action, those four employees will be on contract and later get them on as regular FTEs in our system as we move forward. I disclosed to the Council we'll need two crews. Eventually we'll hire and adjust and get the second crew going. Initially, I need those people transitioning to our system and they're the experts on their system. That's one way we can minimize problems with customers and have smooth service transition.

With that I'm ready to answer questions.

Chair Sorg: Are there any questions by anybody else? Commissioner Pedroza.

Pedroza: What's the main reason that Jornada wants us to exercise eminent domain, and will it have any repercussions or anything that will fall back on the City, even in terms of bad reputation for the City or anything like that from doing an eminent domain?

Dr. Garcia: Mr. Chairman, Commissioner Pedroza. I believe that as you well know, eminent domain is a process that supersedes or trumps over some of the PRC process.

Pedroza: And it's not very popular.

Dr. Garcia: It is legal, I believe that Marcy can discuss the legalities, all the way to the Court of Appeals. Jornada has had a bad experience with the PRC. A few years back we bought 700 acre feet of the West Mesa from Jornada and it took us about a couple of years in testimony and all that, and the PRC didn't treat them very well and the process



was unbelievable, so imagine selling now all of the assets that the company is closing. They don't even want to think what that would take. It would probably take a lot of money in attorney fees to go through that process alone so I imagine that one of the reasons to come to us was, number one, we're the logical buyer probably that can do it fast, simple, with an agreed number. Their experience with the PRC may be one of the reasons why they approached us first. However, if the City doesn't acquire them, someone will. It's a family business, I believe one of the brothers has two grown up young men that are professionals and they live in Dallas and they have their careers, recent graduates, and they started different careers. The other brother has daughters that are not interested in necessarily running the business. Both of the Rogers would like to retire so the family, it ends there and they want to sell to someone. They will sell to someone.

Pedroza: You said that our utility will probably have to have more employees, they will be hiring two crews?

Dr. Garcia: Yes.

Pedroza: Whereas right now the family is running the business with four employees total?

Dr. Garcia: Well they really have two crews, the two owners are field people, they do office work and they do field work. One of the brothers can operate the backhoe, Pat Rogers operates the backhoe, he's a level IV operator.

Pedroza: Okay.

Dr. Garcia: They do have two crews if you think about it.

Pedroza: I was thinking that suddenly we were just going...

Dr. Garcia: No, a crew of three people, so they have six people right now running the company. I believe some of the young girls that are still in high school or college, they help with some of the deposits and run to the bank. The family works on that but obviously the family is out, and we want to make sure we retain the outside employees that are four.

Pedroza: Okay.

Chair Sorg: We attempted a condemnation here a few years back, not too many, I was still on the Council at the time. Do you remember if it was Jornada or was it Moongate?

Little: Moongate.

Chair Sorg: Moongate.

Dr. Garcia: Mr. Chairman, it was Moongate, and that was a recommendation of the legal strategy to either go through condemnation or try to settle. I personally believe that having that



Resolution in place approved by the City Council helped us in achieving a couple of years later a settlement. That was actually recent. But it was Moongate.

Chair Sorg: Okay, I just wanted to make sure.

Dr. Garcia: The reason we did condemnation, just to clarify, Mesa Development was because of the legal subdivision. The problem was the subdivision of land. Mesa went through the PRC process and that took a couple of years adjust for 300 customers.

Chair Sorg: I think we had a terminology that seemed to work well, wasn't it called a friendly or something like that, friendly condemnation?

Dr. Garcia: Mr. Chairman, what we're going to do is talk tomorrow with the Company and come up with the language that will be acceptable to the City Council in terms of eminent domain.

Chair Sorg: Very good.

Dr. Garcia: You recommended language change in the eminent domain action on Mesa Development, so we want to make sure that when we prepare the document we have language, and the Company wants to make sure that the language is satisfactory to them and everybody else.

Chair Sorg: Sure. Well, I recall and Commissioner Pedroza may too, at that Moongate situation we had them (Moongate customers) even get up out of their chair at City Council meeting or stood up in their chair and said, "We don't like Las Cruces water, it makes us sick". Now we all know that's not true, but there is a perception of course and I hope we don't run into that with Jornada, I doubt it but it could happen. There's another thing that I want to be prepared for and that is the rate changes for the water. You say that our rates are higher at uses above 8,000 gallons. What are their rates do you know off hand?

Dr. Garcia: Mr. Chairman, the difference between our rates and theirs, like I said, the rates are almost identical for the average customer, so an average residential customer of about 8,000 to 9,000 gallons' annual average.

Chair Sorg: 9,000?

Dr. Garcia: Yes, nine units at 9,000 gallons. That's where the lines cross. I was telling staff this morning that I wish we could adopt their rates and drop the ones we have, but again from the conservation point of view, you would not agree and certainly the UCAG (Utility Customer Advisory Group) wouldn't agree or the RAC (Ratepayer Advisory Committee) wouldn't agree. We're probably the only Utility and I'm going to brag a little here, in the Southwest that has an access charge that has a single digit.

Chair Sorg: That makes sense to me.



Dr. Garcia: They have \$12, we have \$6.82. We've had \$6.82 since 1995 and in the rate cases everybody wants to lower that volumetric charge, but when we conserve more, and more, and more water, your revenue drops, drops, drops, drops because you don't have a base of money. They charge twice what we charge for the access charge, it's in the \$12 range, the volumetric charge is lower - it's just one number - and then they have a surcharge for electrical, similar clause, a rider.

Chair Sorg: They don't have a graduated rate change?

Dr. Garcia: No, it is not a conservation rate, if you want to look at it that way, but it is a stable rate that relies on the \$12 plus dollars per month per customer instead of \$6.82.

Chair Sorg: That's the residential, would commercial be different?

Dr. Garcia: I believe that, we'll need to explain that, I will ask my staff to check the residential rates because most is residential. I believe they may have only one rate I'm going to see if they have another second rate for the schools. I still need to research that but the majority of the customers is residential so I suspect that they could be applying the residential rate to some small businesses like they serve that area on South Main, there's an Auto Zone and something else on South Main by Tortugas, they serve that area. Further south of it, Carver Road, there's a couple of businesses, I believe those may have the rates and again until I get their customer list and the details of the usage and the distributions of usage and all of that, we can't.

We will have to amortize that once an acquisition happens, those customers fall back into the City rate system. Then we can show that the average customer or the average usage will not have a change, but some are using three times more than the average, they'll pay much more with us than what they pay with Jornada and that's the nature of the rate design.

Chair Sorg: That's why I was wondering about Onate High School.

Dr. Garcia: Yes, we're going to look at the schools but again, we have other high schools in our system so the school system should not be surprised that our rates are more conservation oriented in the sense that we have the steps at least two blocks terms of in our volumetric charge in the summer it's larger, it's \$2.08, theirs is less than \$1.00 I believe on the volumetric side.

Chair Sorg: Yes, thank you.

Dr. Garcia: It's a flatter curve, but it starts at \$12.60 instead of the \$6.80 that is ours.

Chair Sorg: Thank you, that helps a lot. Commissioner Carmichael.



Carmichael: In regards to the size, Dr. Garcia, in the Revenue Bonds. Could you talk a little bit about what you know right now, so far anyway, regarding the condition of their system? The potential for the need for additional funds for upgrade and that kind of thing? And can that be, whatever our assessment of that turns out to be, does that get rolled into the Revenue Bonds?

Dr. Garcia: Mr. Chairman, Commissioner Carmichael. Thanks for the question. Yes, obviously we know the age of the system based on the subdivisions. Some are brand new and some of the best areas of this town in terms of quality development on the Jornada system more, so than the City, other than the Sonoma Ranch area probably. One of the things that I've asked the Bond Advisors in the analysis is when the City Council approves a bond issuance is a not to exceed amount, so if I ask them to not to exceed amount be \$17 million, the agreed upon price assuming all the water rights are verified and everything with the \$16.4 million, I'm asking for an additional \$300,000 for initial "cash" so to speak to do a couple of things: number one, any unknown impact of things we need to do, but more so instrumentation. I will bring that system into our SCADA (Supervisor Control and Data Acquisition system) immediately, tank levels, pressure transducers, that we can do immediately. Deploying that is one thing. The second thing is any compliance with the vulnerability assessment that is part of the Homeland Security Act and EPA comes down harder on Municipalities than they do on private water companies. For example, if there's a wellsite that is not properly fenced that we don't think meets the Homeland Security requirements, we are going to put a chain-link fence and put a lock on it, things like that. Yes, some initial funding so that we don't have surprises that would impact the customers.

Carmichael: What about the cost of acquisition? It's unclear to me how this is going to be a costly thing in terms of attorney fees and interface with the State Engineer and all the things your staff has got to do. Could any of that be covered through the Revenue Bonds system?

Dr. Garcia: Mr. Chairman, Commissioner. I don't anticipate any outside costs. I have an attorney here; they have to hire an attorney. They have an attorney on their side, for all the paperwork they are hiring their own attorney, I think it's going to be Mr. Holt, what is the new firm name?

Driggers: It used to be called Holt and Babington.

Dr. Garcia: We got the Babington part of it, Mr. Holt is the attorney, so they are paying their own attorney. The paperwork with the State Engineer and the due diligence with Mr. Stein, I've asked their junior attorney to work with our staff, so I don't anticipate that to be a big issue but on their side they have to do this with an attorney so that all the documents are there, and they are paying for their own. Everybody pays their own but we have our own stuff so we're doing everything in-house, we're setting up a technical team that will do this. This is not just going to be Adrienne, we're going to bring everybody including Klaus and others to do different parts of this and Carl because they all looked at me like, "You must be crazy, we're not even taking over the Mesa



yet.” But again, we could have said, “We’re too busy,” first of all we didn’t have the authority to say “No, we don’t want it”, it’s up to City Council to take the facts and the offer, and the Council could have said “No, we don’t want to do this”. A few years back some of you remember we went to Council and discouraged them for acquiring Picacho Hills because of the issues with wastewater. I had no problem with the water system, but we had issues with the wastewater and some of the nitrogen contamination in groundwater. We had concerns so we expressed those concerns. We don’t know any of those concerns that are with this company.

Carmichael: Last question. We intend to have a Water Rate Case in the near future, it’s very important that we do that, if we decide. How do you reconcile that? This is probably going to be drawn out to some extent beyond or right in the middle perhaps of the time frame that we’d be looking at that. How does that impact anything?

Dr. Garcia: Mr. Chairman, I anticipate that by the time we have the system, again, subject to Council approval of the Resolution and the Ordinance, I anticipate having these customers in our portfolio prior to a case being drafted coming to you.

Carmichael: That would certainly be preferable.

Dr. Garcia: I don’t want to be adjusting the rates or affecting the rates with 3,500, that’s 10% of our customer base so it makes a big difference. We need to have those customers in, we’ll have the distribution of customers, how many are residential, Commercial, etcetera and we’ll figure those in, in the rate analysis. That’s the intent because you ask a good question, “What happens if we get those in the middle?” Someone is going to say, “How about the impact of those who are just coming in?”. We need to have that in our calculations and I anticipate that. My next topic is going to be discussing, as you know, the next steps of the Rate Review, so I’m hoping to have this done when our consultant comes and asks you how we’re going to do this and what methodology we’re going to use. We should have 3,500 customers in our customer base.

Carmichael: Thank you.

Chair Sorg: Okay.

Little: Question.

Chair Sorg: Go ahead.

Little: You showed us about 300 of their customers being inside the City limits at this point in time. Where are the other 3,200 customers?

Dr. Garcia: Mr. Chairman, there’s more than that, let me go back to the map, inside City limits. I’ll get a good distribution of inside and outside City limits when we get the customer distribution list, which we don’t have right now. What we’re showing here is the service area, goes all the way to the south valley. If you see the subdivisions that are down



south Main, off Carver Road, Rios Encantados all of that is Jornada service area. In addition, Jornada sells water to the Village of San Pablo because I think they had some back-up issues and things like that, so I know that they have that customer. On the East Mesa all of the Hacienda Acres, a little bit north of Highway 70 and everything side of Highway 70 inside City limits is Jornada. So there's more than the 300 - I misspoke and I'll have a good number of inside and out. You bring a good point here, what is going to happen is this will make us really more of a regional utility just like Wastewater and Gas.

I will venture to say, and I'm guessing until I see the actual addresses, but all of this area here of Hacienda Acres and all of Las Alturas inside and outside City limits is already gas utility customers. I will venture to say that about anywhere in the 70% of their customer base are probably already gas City customers. If you recall before the split with Rio Grande Natural Gas, Zia Gas kept some of the valley area down here and then the north valley, and we kept the East and the West Mesas inside and outside City limits and we served all the way to Organ in terms of the Gas utility. This would make us more of a regional utility just like we are with Gas, in the Mesas we are the Gas utility, and in Wastewater we serve San Pablo, we serve Tombaugh Elementary School, we serve the Rios Encantados area, the portion that has sewer. We already serve all those areas.

Chair Sorg: And Solid Waste too.

Dr. Garcia: No. The future question will be, and that's a policy decision that you'll have to make, is whether you want to offer Solid Waste services. Solid Waste services are mandatory for customers inside City limits. The policy question is going to be whether you want to offer, a customer that already has sewer, water, and gas inside or outside City limits, offer them the access to Solid Waste. That's a different discussion that we don't want to have right now, and that's a policy decision but Mr. Kemmer asked this morning because he always looking for more business.

Kemmer: That's right.

Dr. Garcia: But it's a policy decision because there's two things: we already have a Memorandum of Understanding in corporation, and some of you may remember that this Board approved that and the Council approved the South Central Solid Waste Authority. They have the right to collect not only at the landfill but also do collection of Solid Waste in the County. With a joint venture with South Central yes, we could collect garbage today if we wanted to. We haven't done it because Mr. Peck has other things that he's doing, recycling and the landfill and things like that. There's that consideration, there's other considerations of any franchise issues with the County and things like that. In the policy decision as to if and when we move in that direction, at least to offer, we couldn't mandate like we do inside City limits but we could offer.

Chair Sorg: Okay, anymore?



Little: Along with that, where are their wells?

Dr. Garcia: Where?

Little: Yes.

Dr. Garcia: They have wells in the valley and wells in the Jornada. They are small wells, there's approximately 20 wellsite's, they are small 4-inch, 6-inch, 8-inch wells. There is one that is a 12-inch well, I believe. The concept for us would be to run the systems the way they are by zones right now, and the next step is saying "How can we tie the systems to our big pipes to run everywhere else?" Let me give you an example, I do know from my historical knowledge of having worked on the design of the North Zone 1 system and the North Zone 2 systems on Holman Road, I do know we could serve those two schools almost overnight with an 18-inch transition. I know where the line is and I know where the schools are. Areas of Hacienda Acres and north of Highway 70 could be easily converted to our system, abandon the little tank and the little well and not worry about that and have them as backup, or using as observation wells, which is what we're doing with old wells. We putting instrumentation and see what the water levels are.

Some things can be done immediately but the Las Alturas area is different because we have the University in between us and Jornada, in terms of bringing transmission lines that would serve those areas too. They have a system that is a zone-type system, distributed system. We have a system that is all integrated. We have a system that we can move water from the west to the east and vice versa, we can bring water from the east and to the valley. Their system is by zone and they have two or three wells as backup in different zones that are almost parallel and the pressure is also very nicely distributed but they're not fully integrated; they back each other up with values, but it is a distributed system, versus an integrated system. As a big Municipality, the economies over time need to come from integrating into the bigger pipes that we have.

Little: Also being able to back off on pumping from the Jornada.

Dr. Garcia: Correct.

Little: Thank you.

Chair Sorg: Shall we go on?

Dr. Garcia: I think I have the next item Mr. Chairman. We will keep you posted as the progress comes to us of course, now it becomes a briefing issue for the Board.

Little: There is one other question.

Chair Sorg; Go ahead.



Little: When will we have something to do?

Dr. Garcia: About this?

Little: Yes.

Dr. Garcia: Shortly after the Council votes and the transaction in the administrative process we might need certain actions. For example, when we acquire the system now, we need to do certain things with additional funds. We need to acquire the SCADA system, we need to retrofit. You may have to approve anything that is over the Manager's limit and things like that.

Little: Okay.

Dr. Garcia: We need to get to that point. Today even though it's a public process, City Council has not bound themselves until they in open session would vote on this. Certainly if we don't get the Council votes, you will be the first ones to know.

Chair Sorg: Okay.

Dr. Garcia: I believe the next item is the Rate Setting Process. City Council approved May 16th, the recommendation, we had a Work Session if you recall. We had several Work Sessions from the Board, we finally got a packet to the City Council and City Council agreed. There were no changes to what we presented to the Council, so what you saw in your last Work Session and your approval on the Resolution is exactly what City Council approved on May 16, 2016.

Step one in the process and I paraphrase that, establish the requirement for rate review. Our utility has to submit a request, we will submit a request and we may identify the industry accepted methodology we recommended. You may change that and then you will have to concur. The intent is to have a Board concurrence via Resolution before we start the process.

Just to give you a brief, and some of these slides you've seen them three times already. The FY17 (fiscal year) budget as you know increased slight increases in operating expenses, but it also assumed some increase in revenue. You've seen some of these graphs, we have the revenue project of about \$15.3 million and our expenditures went from \$12.87 million to \$12.89 million. In the personnel we're a little higher because of the split of the two utilities, we presented this to you in the budget, this is what is approved in the budget. Any rate review does not impact FY17, I want to clarify that, there's no provision in this budget that requires that we get through. Any monies in a Rate Review would be effective the next FY or whenever we decide it will affect it, but the budget is not predicated on those being approved or any rates being approved, I want to clarify that.



Operating Fund Balances, we brought you some concerns even though the Water Fund Balance in the Operating Fund is \$1.1 million, that's this number here, and it's higher than the prior year where we ended up the prior year. That is partially one of the concerns of the parameters for Rate Review because I showed you in this other graph too where we have the 1/12 reserve and the 2/12 reserve. This is the 1/12, the red bar, this is where we are, but this is where we should be according to the rate process and the financial criteria that we adopted and now City Council adopted, so that's the target, it's \$2.49 million. It should be a target for a utility that size with that Operating budget, that's one concern.

You may argue that the Wastewater utility needs a review too, but we think we can wait and do one at a time and I'll show you some other graphs. This again is all in your budget documents, they have exactly the same numbers but I decided to bring those slides again to refresh your memory.

The concern is the Capital Fund Balance is pretty low even though they're a little better, if it's not borrowed money, the Capital Fund Balance in Water is only \$200,000. For the Water Utility, that's very low. The other consideration in terms of fund balances is the Equipment Fund Balance. One thing I can tell you today is that Water Utility has only \$69,000 to buy vehicles in FY18. They're going to buy not any more than one pickup truck probably. There are fund balance issues, not necessarily FY17 budget issues, that would prompt us to make a decision on Rate Review for the Water Utility. It's more having the necessary reserve to move forward in a safe manner.

One of the things that we had discussed in this new rate process is that the Board must evaluate the need for a Utility Rate Review, even though unofficially we discussed this in the budget for the last two years, you all would have to act on a Resolution. If you direct us today saying, "Yes, we think we need to look at this, bring us a Resolution with the necessary justifications at the July Board meeting," we need to bring you a Resolution that says "We need to initiate a Rate Review for the Water Utility." That's step one.

Step two is the consultant selection, and that's going to be staff working with and requesting through the City Manager that the City Council appoint the Utility Customer Advisory Group because the Ad Hoc Board will help hire this one consultant. Remember we got rid of the attorneys, if anybody has legal questions Marcy will answer for everybody and we'll have one consultant. We've agreed that the Ad Hoc Board will have a seat at the table selecting the consultant, so we all can work with one consultant. I will go and request through Mr. Avila a memo to the Mayor, and Marcy usually does the Resolution appointing an Ad Hoc Board for the Rate Review of all the utilities, so we need to have that Board in place for step two, so that we can have representation from staff and representation from the Ad Hoc Board in the selection of the consultant through the City procurement process. We will act in step two once you tell us that we are moving on a Rate Review. I don't want City Council appointing an Ad Hoc Board and you decide that we're going to wait for next year to do a Rate Review, there's no point of doing that.



Step one obviously has to be executed in the July Board meeting, and then step two shortly after that, I'll work with Marcy and Mr. Avila to request that the Council appoint the Ad Hoc Board. Usually it's the Mayor's appointment with advice and consent of the City Council.

Chair Sorg: Commissioner Pedroza.

Pedroza: I thought that there had already been some investigation with the help of others to locate people who might be willing to serve on the Ad Hoc Board?

Dr. Garcia: Mr. Chairman, Commissioner Pedroza. I believe some of the members of the former RAC are still willing to serve.

Pedroza: Yes, that's what I thought.

Dr. Garcia: Not all of them, but I think some of them, and then we will recruit some other good volunteers to help us with that.

Pedroza: Yeah for volunteers. Thank you.

Dr. Garcia: That's where we are and if you concur, then we'll bring you a Resolution next month to begin the process, because I will feel more comfortable with a formal action initiating the process just for the Water Utility for now. I think we can wait for the Wastewater Utility for FY18.

Carmichael: Does that require a motion?

Chair Sorg: No.

Dr. Garcia: No, if you don't have an objection you can still discuss it and vote on it later, but I don't see anybody saying, because we discussed it for two years already during the budget process. In fact, I've had a few of you ask me when are we going to do this? I think it needs to be a formal action as part of the process.

Chair Sorg: If nobody else has a question, you will bring the reasons why a Rate Case is necessary with this Resolution?

Dr. Garcia: Yes, what I verbalized today will be in the reasons why we need this, Fund Balance and Operating is not meeting the criteria. Fund Balance and Capital Fund is not adequate for the size of the Utility, and certainly the Vehicle Acquisition monies and Fund Balance for future years is not in place. We need to replenish those funds. We've got far enough in using Fund Balance to make the budget.

Chair Sorg: Okay, thank you.



Dr. Garcia: Those reasons will be in the Resolution.

Chair Sorg: Thank you.
Little: A comment.

Chair Sorg: Sure, Commissioner Little.

Little: I think it's a good idea to begin now. We are almost surely underestimating the time it's going to take to get this UCAG in place and to hash out a Scope of Work for a consultant, so the sooner the better.

Chair Sorg: Good point. Next.

Dr. Garcia: There's no updates on the original action case, but I'll let Marcy update on Mesa Development. She has some new developments today; I think we finally finalized the plats.

Driggers: In fact, the comments that Dr. Garcia is referring to today is we finally worked out, we filed a document that's called a plat of surveys, which sets out the legal descriptions for the parcels that we are seeking to acquire. We're actually seeking to acquire four parcels: two are the wellsite's that Mesa could not validly convey to us, and the other two parcels are designated because they're rights-of-way adjacent to the wellsite. We are only interested in the wellsite's. We were going to acquire them as just two parcels right-of-way and the well but City staff said "No, split off the right-of-way acquisition," so the City will just get the deeded wellsite and Mesa will deed their right-of-way acquisition to the City.

I thought attorneys had technicality objections but surveyors really had technicality objections, and we've worked out and in fact the plat of survey was prepared by Mesa's engineer, and on further review Mesa's attorney who has a technical background noticed some minor discrepancies and we ran them through the City surveyor who acknowledged them, that maintain that compared to where we were, which was Mesa's conception. That's all about a chain link fence around the wellsite, that makes it a legal parcel. We are hundreds of light years ahead of where we were before, so our City surveyor said these are minor technical objections. He appreciates them having to draw to our attention so we accepted the form, it means that the plat survey does not have to be amended and refiled, which Fernie will be glad because he had to take it over and file it and the County Clerk's office required that there be a stamp on there that pretty much said this isn't an attempt to create a subdivision, these are just designating legal descriptions for parcels.

We couldn't file a petition until we had those legal descriptions because there're going to be four exhibits to the petition. Then they send us a stipulated proposed judgement for us to approve and we'll tweak that a little bit. They had a provision in there that basically Mesa would be paid within 90 days of the judgement being entered, and we want to put in that they'll get paid within 90 days of the judgement being entered and



Mesa complying with all the other conditions of the sales agreement, which ever comes later, so that's the only suggested change of that. Hopefully the petition should be filed next week.

Chair Sorg: Thank you.

Driggers: Certainly.

Chair Sorg: Very good.

Dr. Garcia: Mr. Clark is next I believe.

Clark: Chairman, Commissioners. I'm going to give you the June 2016 Projects Update. The two projects I selected are the Shadow Run Force Main Reconstruction and the Terrace Hills Mobile Home Community Gas and Water Rehabilitation Project.

The Shadow Run Force Main Reconstruction project. The contractor for this project is DuCross Construction. The contract cost is approximately \$323,800. The contract time is 120 working days and we had a start date of May 16, 2016. This is run by my project manager in-house here. The estimated completion date is November 2, 2016. They're about 30% complete with the construction right now. This project basically consists of approximately 3,500 lineal feet of 4-inch force main that is installed in that area, we're replacing existing 3-inch force main. There's also a few bore crossings that were done and some clean-out vaults and such. We'll be working on updating the current lift station adding in some valving and parts that are needed within that lift station. The project itself, all the bores are completed, that was the most difficult portion of this project was boring across University Avenue. There's high pressure gas, low pressure gas, all kinds of utilities under the ground there, so that portion has been completed. The contractor has completed the bore crossing at Geothermal Drive as well as Luke Drive so the hardest part is out of the way, the contractor is currently working south towards the lift station, it's adjacent to Las Alturas Avenue just south of Geothermal Drive.

Chair Sorg: Thank you.

Clark: He's completed already 1,100 lineal feet of that 3,500 lineal feet of line so we're moving along quickly. Any questions?

The next project is Terrace Hills Mobile Home Community Gas and Water Rehabilitation Project. The contractor is Morrow Enterprises with the contract cost of \$508,602.96. Once again, has a contract time of 120 working days with a start date of April 25, 2016, and estimated completion of October 12, 2016. This project is being project managed by Public Works, they handle a lot of our Gas rehab type projects for us. The percent complete is 20% based on observed construction. The gas main within Terrace Hills Mobile Home Park is completed. Just to give you a couple facts, we have about 4,600 lineal feet of 2-inch polyethylene pipe that's going to be installed, and 2,000 lineal feet of ¾ HDPE water service line that's being installed. We're not



replacing any water main, only the water services in that area. They were rather shallow and so we're correcting that issue with this project. They're currently working on all the service lines, the gas service lines and the water service lines as well as the private gas line that's being installed because in certain instances we're relocating the meter location within our current standards that we have with meters relative to openings on the buildings on the homes.

Chair Sorg: Is this Terrace Hills off Del Rey?

Clark: Yes, it is. We've seen a couple of emails from you regarding a constituent.

Chair Sorg: I apologize for this one individual.

Clark: No need to apologize, we understand. Public Works has had contact with this person, has explained several things to this person, and so hopefully they're understanding at this point in time.

Chair Sorg: Having a completion date of October 12th, is a little bit disheartening. I hope most of the disturbance will be done well before then.

Clark: Yes, Chairman. You are correct, it's a little invasive but this is a smaller project in the way of inconvenience. Smaller trenches, we're not replacing the water line itself but just the services. I believe they already completed the water replacement, I believe it was 162 or something like that was the lot number, Mr. Veach. I believe they've completed that water service there and they will be working on his gas replacement.

Chair Sorg: Yes, concerning the gas. He said his meter is in the back of his trailer house and he needs to move it to the front? Is that correct? It needs to be moved to the front and then he has to make the connection.

Clark: Yes, I spoke to the project manager earlier and it's on one side of his mobile home, on the long side, they're flipping it over to the other side and getting it away from windows and stuff.

Chair Sorg: So he's not broad side to the street?

Clark: Right.

Chair Sorg: He's perpendicular to his street.

Clark: That's correct.

Chair Sorg: Let's not go any further. Thank you.

Clark: He's been taken care of, I know the inspector that's involved with this and he's really good and the plumber as well.



Chair Sorg: I'm sure he is.

Clark: That's where that project is at, it's moving along smoothly, like I said I had contact with the project manager and everything else is good there. Any other questions?

Chair Sorg: Okay, moving on to Resolutions.

6. RESOLUTIONS FOR DISCUSSION

Chair Sorg: The first Resolution on the Agenda for Discussion is **Resolution 15-16-LCU024**. A Resolution Repealing Las Cruces Utilities Board Resolution No. 08-09-024, which Adopted Ratemaking Procedures; Resolution No. 08-09-039, which Amended the Ratemaking Procedures Adopted in Las Cruces Utilities Board Resolution No. 09-09-024; Resolution No. 08-09-066, which Approved Interim Rules for Rate Proceedings; and Resolution No. 10-11-031, which Approved Rules for Rate Proceeding and Indirectly Repealed the Interim Rules in Order to Implement the New Rate Setting Process Approved by the City Council.

Carmichael: Move to approve.

Little: Second.

Chair Sorg: Moved by Commissioner Carmichael, Seconded by Commissioner Little. Explain please.

Dr. Garcia: I'll give you just a summary. This will undo the prior process since now we have a new process in place and that requires in order not to have conflict, we rescind this Resolution so that now we all work and live by the new process adopted by the City Council and proposed by you and others on the Board. Marcy, any other details?

Driggers: We could've done it as four separate Resolutions, but we decided to save paper and consolidated into one mega repeal instead.

Chair Sorg: Very good thank you.

Dr. Garcia: That's all it does, it just cleans up so that we can move on the new one.

Chair Sorg: Any questions about this? If not, I'll take a vote on it.

Called for the roll on the Motion to Approve **Resolution 15-16-LCU024**. Commissioner Baumgarn-Aye; Commissioner Pedroza-Aye; Commissioner Little-Aye; Commissioner Carmichael-Aye; and Chair Sorg-Aye.

The motion was Unanimously Approved 5-0.



Chair Sorg: Next Resolution is **Resolution 16-17-004**: A Resolution Awarding a Contract for the Automatic Meter Reader – Fixed Network Solution – Pilot Study, Project No. 16-17-004, to Mountain States Pipe & Supply Company, of Colorado Springs, Colorado, for a Total Award Amount of \$601,362.65.

Pedroza: Move to approve.

Baumgarn: Second.

Chair Sorg: Moved by Commissioner Pedroza, Seconded by Commissioner Baumgarn. Any more information on this one?

Clark: Mr. Chairman, Commissioners. As you are all aware, we already started moving forward with the AMR (Automatic Meter Reader) system. We started on the commercial side with Gas and Water. Gas is complete with all their ERTs (Encoder Receiver Transmitters) or updates to their system and Water is still working on their commercial side, they're almost complete. They have a lot more work than Gas had to do to correct a meter and they're on it.

This is kind of a next step, next generation step where those systems that I was just talking about. Operations or the Meter Readers drive by and pick up the reads. They don't have to go physically read it, they just drive by and it jumps into their handheld or to their mobile device and now they're bringing it back to base and load it up. This is a little different because now we have this new Pilot Study will use these little devices here on top of the street lights, a receiver and a collector.

One thing to point out too is that the stuff that we currently installed is not a stranded asset, it can be used with this system as well, so we just make a formal change with the handheld and it changes the way it transmits they call it the Encoder Receiver Transmitter (ERT), and so that sends out the signal and says what the meter read is. Now those will be converted over if we go to the whole fixed network. These are kind of neat because you can do islands to where this is set up on the poles and it dials up to the cloud and sends the information to the cloud, and we just get on the network to go to the cloud and pick up all the information.

This project basically is the installation of approximately 1,600 ERTs as well as 1,600 Water meters up on the East Mesa. This area is going to be the area we're covering, it's including Gas and Water. We'll be purchasing approximately 945 gas ERTs for that area as well. It'll have 10 repeaters and two collectors in that site and all the necessary software and the upgrades that we need for our system in order to start using the cloud information, and pulling information, and setting up the billing, and do kind of instantaneous billing with this type of information. We gather the information instantaneously.

What's neat about this system is these ERTs will now start to feeding back information every five minutes, so we have five minutes of real-time information all the time, 24



hours a day. We'll have opportunities for customers that want to know what they're using to log into that site too and look at their stuff.

Chair Sorg: You won't be out there every five minutes to collect this, will you?

Clark: No, this will do it all for us.

Chair Sorg: So that's put on the truck?

Clark: This is put on the street lamps.

Chair Sorg: Okay, that's what you implied.

Clark: Placed up high on the street lamps and now the little ERTs that are down on the ground are talking to this constantly, every five minutes it's sending information, "Hey, we just moved two gallons."

Chair Sorg: How many meters will that one cover?

Clark: This covers a range, I'm not sure what the range is exactly. I do have the Mountain States representative here, he's also the rep for Itron, which is obviously the company here that we're using their electronic equipment. Jerry Uhlman is the Mountain State Representative in the back, do you know what the mileage coverage?

Dr. Garcia: Jerry, please come up and state your name for the record, please. This is a good opportunity for the Board to meet you.

Uhlman: I'm Jerry Uhlman from Mountain States. This collector and repeaters will, these are just basically little computers, and it will collect thousands of reads. One collector will probably read the whole City, which if it can get us close enough to them, lots of information in one collector.

Chair Sorg: How far is its range?

Uhlman: How far?

Chair Sorg: Yes.

Uhlman: Probably half a mile.

Chair Sorg: So we'll have to have one every mile or so?

Uhlman: That's about right, yes. In that area we have 10 repeaters and two collectors.

Chair Sorg: Any other questions?



- Pedroza: I have a question. All of those areas in red are the ones that are going to be getting those? It doesn't seem to be in the City and I'm wondering why not?
- Chair Sorg: Gas customers.
- Clark: Chairman, Commissioner Pedroza. Those in the red are Gas customers, so we had some gas customers outside the City limits.
- Pedroza: What about the Gas customers inside the City limits?
- Clark: Chairman, Commissioner Pedroza. This is a pilot study, we selected a specific area where we wanted to try this product out.
- Pedroza: Alright.
- Clark: We're going to give it a shot, try it out for several months, see how it works, see if it meets our needs and see if this really can do everything we want it do.
- Pedroza: Okay.
- Dr. Garcia: If I may, Mr. Chairman. I want to emphasize this is a pilot project. The issue that we're replacing all meters in Mesa Development is one of the factors that contributed to this. We are doing heavy replacement of Gas meters on the East Mesa because it used to be former Rio Grande Natural Gas. It's the furthest point away from here. There were several conditions that led us to say, "Let's use that as a pilot area because we're doing lots of changes." I want to emphasize the second thing that Carl already mentioned as we are retrofitting AMR for the truck driven collection, we said "Well, let's start exploring with the newer technology that uses the same machines," but instead of driving by once a month, this is a fixed network and many Municipalities are going to now a fixed network. It's a pilot area, eventually we need to see how we expand this to the rest of this area.
- Chair Sorg: They're are Gas and Water AMR's out there now? Or you're going to have to replace them first?
- Dr. Garcia: No, they're already in. We have quite a few already in.
- Clark: Gas has done a really great job of putting these ERTs into their Gas system out there, so we'll be picking up a lot of stuff that's already out there.
- Pedroza: I just wanted to say one thing that I'm sure that everybody in this room has heard me say before. I think that labor-saving devices are very good, at the same time we have to be cognizant of the fact that it's going to affect employment, and we need to keep in mind how we're going to deal with the unemployment. I'm not trying to sound negative or depress anybody's thinking, but we do need to think about job differences and how to care for those folks. It happened years ago and it constantly happens, the more automation, the more robots.



Dr. Garcia: Mr. Chairman, let me put something on the record. The City has never fired anybody through RIFs (Reduction in Force) ever in the last 26 years and 6 months that I've been here, I want to say that. The second thing, I've said this before when we went to AMR, we have some staff already in Meter Reading that is on contract or they are through a temporary agency, they're not FTE's (Full Time Employees) so any reductions of staff would be through either natural attrition, retirements, which is happening a lot lately, and/or retraining to other jobs within the Utility where we can use them.

Pedroza: That's exactly what I think needs to be done, that consciously we say, "This is the way we're going to handle that". Thank you.

Dr. Garcia: You brought it up when we first started AMR a couple of years ago, so the same applies to this.

Pedroza: Alright, thank you.

Dr. Garcia: We do it in a planned fashion so that if there's retirements, then you don't fill those positions because we're shifting to driving around now and you need fewer people.

Chair Sorg: Actually, I had a similar type question. How many employees and how many wages are being replaced? I concur with Commissioner Pedroza.

Dr. Garcia: None.

Chair Sorg: None?

Dr. Garcia: Until we have retirements.

Clark: Chairman, it's a small project.

Chair Sorg: That's another thing too, over half a million dollars for a small project?

Clark: Yes.

Chair Sorg: It's that expensive? Is that what it's going to cost per mile of City?

Clark: Chairman, no. We pay for a lot of infrastructure up front, so a lot of the software and the upgrades that are made to the system carry on when we start moving forward with the remainder of it.

Chair Sorg: Okay.

Clark: We don't have to pay for it again.



Chair Sorg: Okay.

Clark: We already paid, it's out of the way.
Dr. Garcia: It's an initial cost.

Clark: An initial cost up front. That's the large portion of the cost, software rates, getting the Munis and our system talk together.

Chair Sorg: Thank you. Any other questions?

Little: I have one.

Chair Sorg: Go ahead.

Little: Is any of this likely to light up the concerns of those people who don't want the new meters around their homes?

Chair Sorg: Are you referring to the radio waves?

Little: Yes.

Dr. Garcia: Mr. Chairman, we already have a policy from this Board in place that in if some places someone signs up to pay more and have a manual read, you already have a process in place. I don't believe that anybody approached us, Joe?

Provencio: We've had one customer.

Dr. Garcia: One? One customer actually paid? Most likely that customer is getting the alleged radiation from their own cellphone anyway or the neighbors AMR, but we have a policy in place that would apply to this too.

Little: I remember the policy all right.

Dr. Garcia: And the extra cost.

Little: And I remember the people that who came and talked to us long before that but my question was, is any of this activity likely to light up those concerns again?

Dr. Garcia: It is possible. The AMR in the meter is not changing. I don't believe someone may allege that this hanging on top of a pole is causing health issues. I haven't heard that, it is possible I guess.

Little: Okay.

Dr. Garcia: But the AMR, Mr. Chairman, Commissioner Little. The issue deals with the unit being in the front of the house at their meter, so if they want that removed they have to pay



extra and sign up for exception, and you'll already have an exception. I anticipate that yes, someone people may say, "I still don't want it," or more people may say as they find out that we have more automation, etc., some people don't want it and they don't believe the science that is behind this, and cellphones have more impact than these units.

Chair Sorg: Thank you. Any other questions by the Commission? I guess we'll vote.

Called for the roll on the Motion to Approve **Resolution 16-17-004**. Commissioner Carmichael-Aye; Commissioner Little-Aye; Commissioner Pedroza-Aye; Commissioner Baumgarn-Aye; and Chair Sorg-Aye.

The motion was Unanimously Approved 5-0.

8. OLD BUSINESS

Chair Sorg: Old Business.

Dr. Garcia: Nothing from staff, Mr. Chairman.

Chair Sorg: Old Business from the Commission?

9. NEW BUSINESS

Chair Sorg: New Business?

Dr. Garcia: Alma has an issue.

Ruiz: We are preparing for our Annual Report and we would like to get an official group photo of the Board of Commissioner Members, so next month we will have PIO come here after the meeting or before the meeting, whatever your preference is, set up, and ready to do a group shot.

Chair Sorg: Hopefully we'll all be here.

Ruiz: Yes.

Dr. Garcia: Yes, because we're running out of time.

Ruiz: We're going to email this information out as well.

Chair Sorg: Good.

Ruiz: If you guys have a preference between before the meeting or after, just let me know.

Pedroza: Before.

Little: Before would be best.



Chair Sorg: Okay.

Ruiz: Okay, we'll have them set up before, thank you.

Chair Sorg: Any other New Business?

Dr. Garcia: That's it from staff Mr. Chairman.

11. BOARD GENERAL DISCUSSION

Chair Sorg: Any discussion from the Board?

Pedroza: I have something.

Chair Sorg: Go ahead, Commissioner Pedroza.

Pedroza: I've been going to more of the water related meetings and I was at one, I guess it was last week, Adrienne I missed you terribly, because they were asking questions about City conservation and I answered the best I could but neither Commissioner Garrett, Adrienne were present. In fact, at one point the Chairman, Greg Daviet, he said, "Well, there's nobody here from the City," and I said, "Well, I'm here." Maybe a little more preparation would be what I would need, because it felt almost as if, oh my god, I have no idea why people weren't there. Maybe it was just not an important issue.

Dr. Garcia: Mr. Chairman, I'll let Adrienne speak but if there's any information we did not provide, I want you to answer whether we provided all the information on water conservation for them and all that and if we haven't, we need to. Tell us what meeting was it and why we were not there.

Widmer: Mr. Chairman, Commissioner. I believe the meeting was of the Steering Committee. They were trying to finalize some information to send out to the ISC (Interstate Stream Commission) and that's the first I heard that they needed additional information other than they were just having a discussion. We had provided all the information that had been requested. They did have an actual public meeting, that was yesterday or day the before and Commissioner Garrett was there, I was there, the majority of the steering committee was there to obtain getting additional comments, providing additional comments, and ISC is trying to finalize their Regional Water Plan now.

Pedroza: Good, I'm glad that happened then because I felt a little tiny bit uncomfortable not being able to answer fully all of their questions. I answered them as best I could.

Dr. Garcia: Let me add one more if, I may, Commissioner Pedroza. What we may do is make sure that the ISC has everything they need from us because that's where the information is going, correct?

Widmer: Right.



- Dr. Garcia: We'll make sure that they have, since you have the contact person, you've been in contact yesterday with her, right?
- Widmer: Mr. Chairman, Commissioner. Rosemary Romero is kind of like a liaison between ISC and the Steering Committee.
- Dr. Garcia: We'll make sure they have all the information.
- Pedroza: Okay.
- Widmer: Yes.
- Little: And the contractor from Socorro?
- Widmer: Than would be D.B. Stevens (Daniel B. Stevens).
- Little: No, it's not D.B. Stevens. They're from Socorro and it's an international company, but believe it or not they have an office in Socorro. They were the technical advisors to that Steering Committee. Since I'm not on the Steering Committee, I may or may not have that contact information, but certainly sending it to Ms. Romero should cover the same bases.
- Widmer: Mr. Chairman, Commissioner. It would be interesting to know who was asking the questions and if you want we can talk a little bit afterwards just so we're on the same page. The City of Las Cruces Utilities has provided every single bit of information that has been requested, so there's absolutely no doubt about that.
- Pedroza: That's good to know, thank you.
- Chair Sorg: I'll add just a point too. I've been attending those Steering Committee meetings, and what you are saying is correct.
- Pedroza: Right but you weren't there at the last meeting.
- Chair Sorg: I couldn't, I was out of town. Sometimes they have their meetings at the same time the City Council meets, they did move that.
- Pedroza: I also wanted to say that I attended the garden education thing and it was excellent and in today's newspaper, New Mexico Department of Agriculture and NMSU put out a very informative flyer insert in the Sun-News, which is very informative, so I think we are reaching out as much as we can and a lot of other people are also reaching out with education for the public so, thank you.
- Chair Sorg: Anything else? I have one quick question; short answer will do. What happened to this water line leak detector system that we started earlier this year?



Dr. Garcia: Mr. Clark.

Clark: Chairman, Commissioners. You're talking about the Echologics test that we did. They came out and they used their echo devices in the Pines, Vista de la Luna, and Vista de la Montaña. They found only four leaks out in the Vistas, they didn't find any in the Pines, and those leaks got repaired but this system we learned too is specific to when it was done. It's doesn't tell you what's going to happen a month down the road, it's not a crystal ball, we did have another leak that showed up in the Vista so that got corrected. It didn't come up in the test that we did so that kind of gives me some idea of the next step that I'm going to do when I put together contracts for those areas to get the patches corrected. I am going to go back and replace the services because we're going to fix the patches, and then we're talking about doing a cape seal on that roadway so I want to make sure we don't go back and disturb that cape seal after we completed that project.

Chair Sorg: I think you need a reconstruction.

Clark: Yes.

Chair Sorg: It's got to be close to replacing all those pipes now.

Clark: You are correct, that is why I'm going to go back and replace, make sure I replace all the services before we walk away from there.

Dr. Garcia: Mr. Chairman.

Chair Sorg: Sure.

Dr. Garcia: Clarify Carl for the record that you're talking about the Pines area.

Clark: I have three subdivisions, the Vista de la Montaña.

Dr. Garcia: Yes, but let's talk about Vista de la Montaña and then the adjacent subdivision.

Clark: Vista de la Luna.

Dr. Garcia: Yes, that's the one.

Clark: I know the Vistas have had over 50% of the services replaced, so we're going to complete the remainder with this next project.

Chair Sorg: What about the adjacent one?

Clark: Vista de la Luna. It's Vista de la Montaña and Vista de la Luna that are adjacent to each other.



Dr. Garcia: Yes.

Chair Sorg: That they're north and south of each other rather than east?

Clark: I think they're east and west from Porter going east up to Holman, more or less.

Chair Sorg: Well, there's some new construction going on there just to the east of Vista de la Montaña, where it has the chili pepper names to the streets; habaneros and so forth.

Clark: Yes, Jalapeno, Habanero.

Chair Sorg: I haven't noticed many breaks in there, have you?

Clark: I believe Chairman, I thought the chilies were part of the Vista de la Luna area as well.

Chair Sorg: And that's still problematic?

Clark: Not as much as the Vista de la Montaña.

Chair Sorg: That's what I thought, too.

Clark: They're smaller, but there has been one or two, but I think those were due to driveways being located in weird situations; they moved the water lines, not necessarily a leak.

Chair Sorg: Okay, thank you. If there's no other business, then I'll call for an adjournment.

12. ADJOURNMENT

Baumgarn: So Moved.

Little: Second.

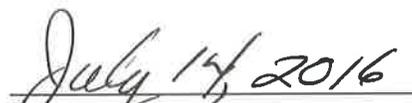
Chair Sorg: All those in favor say aye. Meetings adjourned.

The motion to adjourn was Unanimous 5-0.

Meeting adjourned at approximately 4:52 p.m.



Gill Sorg
Las Cruces Utilities Board Chair



Date

