

Minutes of the Special Meeting of the Gallup City Council, City of Gallup, New Mexico, held in the Council Chambers at City Hall, 110 West Aztec, at 3:00 p.m. on Wednesday, August 17, 2011.

The meeting was called to order by Mayor Jackie McKinney.

Upon roll call, the following were present:

Mayor: Jackie McKinney

Councilors: Mike Enfield
Cecil Garcia
Allan Landavazo
E. Bryan Wall

Also present: Dan Dible, City Manager
R. David Pederson, City Attorney

Presented to the Mayor and Councilors was the following Discussion/Action Topic:

1. Resolution No. R2011-25; A Resolution Approving and Authorizing the Execution of a Repayment Contract, Assistance Agreement and Right of Capacity Contract, and Authorizing the City to Seek Approval Through the New Mexico State Legislature for Authorization to Impose a Gross Receipts Tax of Up to One Percent (1%) to be Implemented in Whole or in Part, to be Dedicated to the Operation, Maintenance, Replacement and Expansion of the City of Gallup Water Supply, Treatment and Conveyance Systems, Including Costs Associated with Capital, Operations, Maintenance, Replacement and Expansion of Navajo-Gallup Water Supply Project Facilities – Lance Allgood, Executive Director, Gallup Joint Utilities Division

Mr. Allgood introduced the following team members involved with the Navajo-Gallup Water Supply Project: John Utton of Sheehan and Sheehan; Marc DePauli and Kurt Spolar of DePauli Engineering and Surveying, LLC; Paul Cassidy, Erik Harrigan, and Kevin Powers of RBC Capital Markets; and Robert Fowlie and Jake Boomhouwer of CDM. Mr. Allgood presented a power point presentation pertaining to the project overview, proposed construction sequencing of the project, estimated costs and cost allocation of the project and the required agreements and contracts for the project. A copy of said power point presentation, marked as "Exhibit A", is attached hereto and made a part of these official Minutes.

Councilor Landavazo asked about the status of the execution of the required agreements by the Navajo Nation and Jicarilla Apache Nation. Mr. Allgood said the Navajo Nation will not have a repayment contract since the Navajo Nation's repayment obligation for its share of the project is federally subsidized through the settlement of

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San Juan River water rights. The Jicarilla Apache Nation is currently finalizing their negotiations of the terms and conditions of their agreements with the Bureau of Reclamation (BOR). The Jicarilla Apache Nation prefers to have the Ability to Pay Analysis completed prior to executing a repayment contract. Federal legislation requires the City to repay between 25% and 35% of the allocated costs based on its Ability to Pay Analysis; however, the Ability to Pay Analysis for the City has not been completed. For the purpose of executing the Repayment Contract, the federal cost share is estimated to be 65%. The City has provisions under the proposed repayment contract for an adjustment process as the City's ability to pay will be revisited every five years until ten years prior to the completion of the project. Councilor Landavazo asked if all of the agreements that are to be executed by all parties, need to be in place prior to proceeding with the project. Mr. Allgood said all of the agreements required for the construction of the project have been executed with the exception of the repayment contracts. Under federal legislation, the project cannot move forward without the execution of the repayment contracts.

Mayor McKinney asked if there would be any protective mechanisms available to the City upon completion of the 40-year Water Supply Agreement with the Jicarilla Apache Nation. Mr. Allgood said the 40-year period of the Agreement begins the day water is delivered and there are provisions within the Agreement that allow for the extension of the contract. Mr. Allgood said there are alternatives available for the City to obtain additional water rights as the project matures.

Councilor Enfield asked if the west and east reaches flow through the Gallup Regional System. Mr. Allgood responded yes and said the Right of Capacity Agreement provides for the delivery of water through Gallup's infrastructure to the surrounding Navajo Chapters. Mr. Allgood demonstrated on a map how water will be delivered through the reaches and outlying communities located on the Navajo Reservation. Councilor Enfield asked if the County has any obligation to the project. Mr. Allgood responded no since the County is not a water purveyor and does not possess water rights. Mr. Allgood explained the process of building a customer base for a regional plan in order to connect the unincorporated areas of the County to the project in the future.

By approving the terms and conditions set forth in the Repayment Contract, Mayor McKinney asked if the City would be "cutting its nose off" since the City has argued with the BOR for a lower re-payment percentage of the allocated costs of the project. Mr. Allgood responded no since the Repayment Contract has a stipulation for amending the ability to pay provisions at a minimum of every five years. Since the ability to pay has not been determined at this point, the federal cost share for the project has been established at 65% in the contract and once the ability to pay has been determined, the numbers within the contract will be refined.

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Councilor Enfield asked about justifications for amending the ability to pay provisions in the Repayment Contract. Mr. Allgood said the BOR does not have a formalized standard for amending the ability to pay provisions; however the BOR has utilized common industry standards.

Councilor Landavazo asked if the City will begin its repayment obligations once water is flowing from the San Juan River through the water supply system. Mr. Allgood said the City's repayment obligations will begin once it is able utilize the initial facilities of the system that will be constructed to transport existing ground water. The City will be able to pre-pay towards its obligation, which will be addressed during RBC Capital Markets' presentation.

Councilor Enfield asked if the BOR and the Bureau of Indian Affairs will have to approve the rights-of-way to the project reaches on Indian Trust Land. Mr. Allgood responded yes as a project consultant is working diligently on acquiring the rights-of-way where needed. Federal legislation requires the project to be conducted on land owned by the Navajo Nation, Jicarilla Apache Nation and the City, as the majority of the main pipeline will be located on Indian Trust Land.

Councilor Wall asked if the pipeline will be sufficient in the event the City outgrows its capacity of 7,500 acre feet per year and is able to additional water rights. Mr. Allgood said federal legislation allows for unused capacity to be used for other purposes; however, the unused capacity cannot interfere with capacity dedicated to one of the project participants. Mr. Allgood also said the size of the pipeline is based on the current demand projections. Councilor Wall asked about the highest capacity of water ever used by the City. Mr. Allgood said about 4,000 acre feet per year based on the City's water conservation efforts.

Councilor Enfield asked what would happen if the City obtains the water from the San Juan River and is not able to deliver the water to the reaches in accordance with the Right of Capacity Agreement since the reaches lack the rights-of-way needed to enable the operation of the system. Mr. Allgood said the delivery of water is subject to the completion of the project, the City being able to receive the water and the reaches having the capacity of receiving the water from the City.

Mr. Allgood thanked all of the consultants for their time and effort in working on the project. Mr. Dible thanked Mr. Allgood for his exceptional work on the project.

Mayor McKinney called for a recess at 3:50 p.m.

At 3:55 p.m., Mayor McKinney called the meeting back to order.

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Mr. Spolar presented a power point presentation on the population, demand and production projections; the estimated operation and maintenance costs; and the estimated regional water resource capacities. A copy of said power point presentation, marked as "Exhibit B", is attached hereto and made a part of these official Minutes.

Mayor McKinney said the graphic images reveal that the City will be at demand by 2050. Mr. Spolar said the projected trend shows that the City will return to using ground water about 2036.

Mr. Cassidy provided an introduction of the overview and financing alternatives for the project. The primary task for RBC Capital Markets was to estimate the revenue requirement for the construction of the project and to provide the figures to CDM for the proposed water rates and alternative rate structure models. Messrs. Cassidy, Harrigan and Powers presented a power point presentation on the financing alternatives for the project. A copy of said power point presentation, marked as "Exhibit C", is attached hereto and made a part of these official Minutes.

In accordance with the 40-year Water Supply Agreement with the Jicarilla Apache Nation, Councilor Wall asked if the City will pay the Jicarilla Apache Nation separately or will it funnel its payments together with the costs of the pipeline. Mr. Powers said the financial alternatives will cover all of the expenses involved in the project, such as the cost of purchasing, delivering and pumping the water, capital costs of the project and the improvement costs for the system.

Mr. Boomhouwer presented a power point presentation on the proposed water rates and alternative rate structure for the project. A copy of said power point presentation, marked as "Exhibit D", is attached hereto and made a part of these official Minutes.

Councilor Enfield asked if the application of the additional gross receipt tax increments (.25%, .5%, .75% or 1%) would be applied to all sales or only utility bills. Mr. Dible said the rates would be applied to the entire tax base. Mr. Cassidy said the additional gross receipts tax distribution would be deposited into the water fund. Mr. Dible said a special provision of state law allows an extraordinary tax increase to be used for water supply purposes. Mr. Cassidy said the New Mexico Legislature would need to approve the implementation of the separate additional tax for the project. Mayor McKinney said the implementation of the tax would not have to occur all at one time. Mr. Dible said if the City imposed an additional gross receipts tax increment for the project, it would have a dampening effect on matters requiring voter approval. Mr. Dible is studying the possibility of delayed implementation of the gross receipts tax where the City would implement certain increments of the tax in certain years. Mr. Dible said the delayed implementation of the tax would lighten the blow to the taxpayers.

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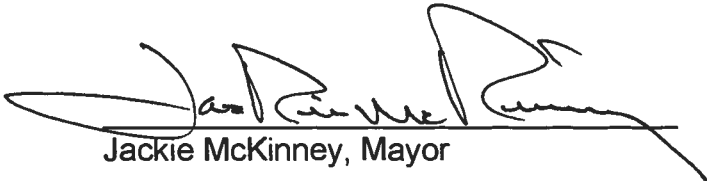
Mayor McKinney asked if the presentation emphasized the implementation of the additional gross receipt tax increments rather than increasing water rates. Mr. Boomhouwer said the figures in the presentation show what water rates would have to be under each gross receipts tax rate alternative for various years in order to meet the revenue requirements for the project.

Following the presentations, Mr. Allgood recommended approval of Resolution R2011-25 which would authorize the execution of the Repayment Contract, Assistance Agreement and Right of Capacity Agreement. The Resolution would also authorize the City Manager to seek approval through the New Mexico Legislature for authorization to impose a gross receipts tax of up to 1% for the Navajo-Gallup Water Supply Project.

Councilor Landavazo said the project will be the largest project in the history of the City and was appreciative of the thorough presentations provided during the meeting. Mr. Allgood also recognized Mr. Pederson and Stan Henderson, Executive Director, Public Works Division, as team members of the Navajo-Gallup Water Supply Project. The Mayor and Councilors commended all of the team members for their work in the project.

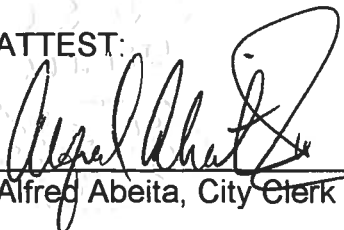
Councilor Enfield made the motion to approve Resolution R2011-25. Seconded by Councilor Wall. Roll call: Councilors Enfield, Wall, Landavazo, Garcia and Mayor McKinney all voted aye.

There being no further business, Councilor Landavazo made the motion to adjourn the meeting. Seconded by Councilor Garcia. Roll call: Councilors Landavazo, Garcia, Wall, Enfield and Mayor McKinney all voted aye.



Jackie McKinney, Mayor

ATTEST:



Alfred Abeita, City Clerk

Approved September 17, 2011