

MOVED  
SECONDED  
VOTED AYE  
VOTED NAY

ROLL CALL WAS ANSWERED BY COUNCIL MEMBERS:  
RUBEN FALCON, BILLY JACKSON, ALLAN CHILDS,  
FRANK RODRIGUEZ & DINO RAMIREZ

MAYOR: JOE CHRIS ALEXANDER  
CITY MANAGER: RAUL B. RODRIGUEZ  
CITY SECRETARY: DELMA A. GONZALEZ  
CITY ATTORNEY: FRANK LACY  
MINUTES OF LAST MEETING:

Mayor Alexander called the Regular Meeting to order at 6:30 p.m. after declaring a quorum present.

Mayor Alexander gave the Invocation.

Mayor Pro-Tem Childs led the Pledge of Allegiance.

Mayor Alexander read the Mission Statement:

“The Mission of the City of Fort Stockton Municipal Government is to Promote & Value Public Confidence and Trust by the Accountable and Responsible Use of Community Resources; to Ensure Public Safety; Improve Public Services; Promote Local Recreation and Entertainment; and Generate Economic Development.”

**PROCLAMATION: Endorsing May 30, 2016 as “Memorial Day.”**

Mayor Alexander read the proclamation endorsing May 30, 2016 as “Memorial Day” and presented it to Pecos County Veterans Officer Joni McGee.

**PROCLAMATION: Endorsing May 15-May 21, 2016 as “National Police Memorial Week.”**

Mayor Alexander read the proclamation endorsing May 15-May 21, 2016 as “National Police Memorial Week” and presented it to Chief of Police Art Fuentes. He also acknowledged the officers from local law enforcement agencies that were in attendance.

Chief of Police Fuentes accepted the proclamation and thanked the men and women who serve the community of Fort Stockton.

**PROCLAMATION: Endorsing the Month of May, 2016 as “Huntington’s Disease Awareness Month.”**

Mayor Alexander read the proclamation endorsing the Month of May, 2016 as “Huntington’s Disease Awareness Month” and presented it to Huntington’s Disease Advocate Tanna Wheeler.

CITY OF FORT STOCKTON, TEXAS  
MINUTES OF: REGULAR CITY COUNCIL MEETING  
DATE OF MEETING: MAY 9, 2016  
TIME OF MEETING: 6:30 P.M.  
PLACE OF MEETING: CITY COUNCIL CHAMBER

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**PRESENTATION:** Recap on Status of the City's Production Permit Application with the Middle Pecos Groundwater Conservation District (MPGCD), as presented by City Water Attorney Harral.

City Water Attorney Harral explained that his presentation would be a recap on the Production Permit that the City of Fort Stockton applied for. The presentation was originally given during the Preliminary Hearing held on April 19, 2016 at the Middle Pecos Groundwater Conservation District Meeting.

**Topics To Be Covered:**

- Mission Statement of City's Water Utility
- History of the Water Use and Rights of City
- Application for 30 a-f Industrial Use and 960 a-f Public Use Production Permits
- Justification for 960 a-f Public Use Permit
  - The 2 unpermitted wells support water users across 10,240 acres;
  - The Pipeline between Fort Stockton and Belding is 20 years past useful life and will fail; it's just a matter of time.
  - The Production Permit is specifically designed to provide 3 months to fix any manmade or weather event to the community of Fort Stockton happening at the pipeline, R.O. Facility, or Storage Tanks.
- City's Growth is above Texas Water Development Board (TWDB) projections of 2012 as well as the existing water rights.
  - The City of Fort Stockton has an obligation to provide a 50 Year Water Plan, which needs to be done.

**Mission Statement of City's Water Utility**

Build and maintain a resilient infrastructure and legal rights to provide the lowest cost, highest quality water possible to our water users.

**History of City's Water Use**

The two (2) original water wells under this production permit were relied upon by the community since 1930's. When the developing well fields were established in the 1960's the original wells were maintained and were available to serve this community in case something happened in Belding.

The existing pipeline installation was funded by the county.

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This pipeline is 20 years past its useful life.

The City of Fort Stockton purchased the Stockton Farms & Blue Ridge Farms; the secondary well field locations, in the early 1990's.

The City does not own any of the pumps within the wells, nor do they use them. The pumps are leased to users responsible for acquiring production permits from the Groundwater District.

**Application for 30 a-f Industrial Use and 960 a-f Public Use Production Permits**  
The City built a water station before the 1960's to provide water to construction and oil & gas industries, which is where the 30 a-f in this production permit comes from.

A total of 36 water wells, located on property belonging to the City have been registered. The Middle Pecos Groundwater District (MPGCD) has documentation affirming such.

The City of Fort Stockton only applied for Historical and Existing (HE) Use Permits for 8,081 a-f. Those a-f were specifically registered for wells at Belding and were only registered for Municipal use, which is why the City is applying for the Industrial Use Permit.

The City Park wells have their own HE Permits.

In 2005 there was a clerical error in which no one applied for the historical use permit for these two wells. Once this error was realized, City Manager Raul Rodriguez and City Water Attorney Mark Harral spoke with the Middle Pecos Groundwater District (MPGCD) and a permit was applied for within 24 hours, as the City of Fort Stockton did not want to be illegally pumping from those wells. The City of Fort Stockton has applied for Industrial Use for the existing water station, as it was not originally done. Municipal use for these wells were relied upon by the City as the main water source prior to Belding and have been used for emergency situations after the Belding Well Field was created.

The permit application includes 30 a-f Industrial Use and 960 a-f Public Use. This was the original well field that the City of Fort Stockton relied on.

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The Existing Water Station and Secondary RO Plant built in 2012 are both located in Pecos County; therefore, this application would not entail any water leaving Pecos County.

In 2012, the City and County worked with the tax payers and spent approximately 3.5 million dollars building a second RO Plant at this location. Therefore if the pipeline, storage tanks, or the well field in Belding were to fail for whatever reason the community has a back-up water supply.

The Customers benefiting from these wells would include Construction and Oil & Gas for Industrial Use as well as existing water users within this county.

The City of Fort Stockton received a State Grant to update one of the pumps.

City Water Attorney Harral inquired about the status of the updates to the pump.

City Manager Rodriguez responded that the improvements had not been completed at the time.

**Justification for 960 a-f Public Use-Perpetual Production Permit**

- City Water Attorney Harral reiterated the fact that there was a clerical error in which the City did not file for an additional Historical Use Permit.
- The City has consistently relied upon these wells for main water source since 1930's and emergency water needs for resiliency purposes since 1960's.
- The pipeline from Belding to Ft. Stockton is 20 years past its useful life and needs to be replaced. In fact a piece of the pipeline was placed on display towards the back of City Hall-Council Chamber for everyone to see the condition of disrepair it is in.

City Manager Rodriguez explained that the pipeline is called a Hansard Pipe. The pipe is concrete reinforced, which means it has a concrete lining on both the inside and outside of the pipe. The small rings are reinforcement rings around the pipe. Over the years the concrete lining has deteriorated on both the inside and outside, allowing the moisture to eat away the pipe. The section of pipe on display was from a previous failure (blow out) and the top of the pipe itself is

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currently as thin as foil. He advised everyone that this quality of pipe is what is in the ground right now.

**City Water Attorney Harral** inquired as to the predominant cause of failures.

**City Manager Rodriguez** explained that the most common reason for the blow outs is due to the age and the corrosion of the pipe. He elaborated that blowouts have occurred both while the plant was in operation as well as when it was not.

**City Water Attorney Harral** explained that Fort Stockton needs the existing 8,081 a-f Historical and Existing permit to meet near the term growth needs and long term growth needs of the City.

These wells have been relied upon to support water users across 10,240 acres. Every week since 2012 when the Second RO Plant was installed, 150,000 gallons are pumped into a storage tank in case of an emergency.

When an emergency exits, 500,000 gallons are produced a day from each well. In the worst case scenario, the City is looking at 1 million gallons a day.

These wells supply water in case of emergencies to:

- 16 sections-10,240 acres of land;
- Schools and governmental buildings;
- Pecos County buildings, including the PCMH and WRTTC;
- 3,600 meters equivalent to over 8,000 citizens

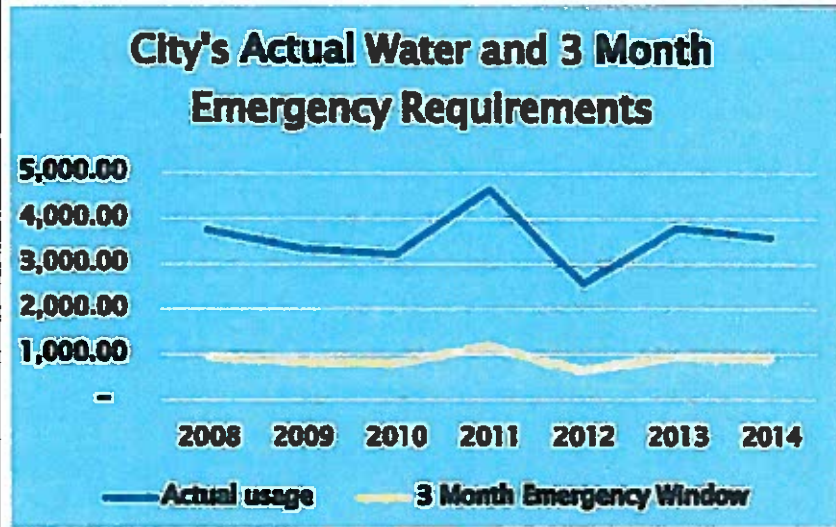
The data from 2008-2014 was reviewed in order to provide the following numbers:

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City of Fort Stockton's Emergency Water Needs		
Year	Actual usage	3 Month Emergency Window
2008	3,750.00	937.50
2009	3,343.00	835.75
2010	3,213.00	803.25
2011	4,640.00	1,160.00
2012	2,558.00	639.50
2013	3,801.00	950.25
2014	3,578.00	894.50
<b>7 Year Average Usage</b>	<b>3,554.71</b>	<b>888.68</b>
<b>7 Year Max Usage</b>	<b>4,640.00</b>	<b>1,160.00</b>

Time Period 960 a-f Public Use Permit Provides in Months		
Minimum	Average	Maximum
4.50	3.24	2.48

**City's Justifications for 960 Public Use Water Permit**

City must be prepared to meet the water needs of rate payers during an emergency situation. An emergency situation includes a complete loss of the Belding well field and pipeline from either a natural or manmade disaster. The City needs three months to completely recover from the above scenario.

City must be prepared to meet the maximum demand of citizens of Fort Stockton being the 2011 water usage amount of 4640 a-f which has a corresponding demand of 1,160 a-f. The requested permit will not meet the 2011 water need. However, the requested permit will meet the City's timeframe under most conditions based on historical data.

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The 960 a-f Production Permit would allow Fort Stockton to sustain the water needs of our community for approximately 4 ½ months using the information gathered for our lowest water year. However, if we have a larger water consumption year such as 2011, Fort Stockton would only be able to sustain the water needs of the community for approximately 2 ½ months.

An event such as a tornado could destroy the Belding Well Field or other assets. A loss that great could take approximately 3 months to restore operations back to normal. The goal is to be able to support the community's water needs in case of an emergency.

During the Hearing, City Manager Rodriguez spoke of the well that was retrofitted. City Water Attorney Harral asked City Manager Rodriguez to explain what was done.

City Manager Rodriguez explained that the electronics blew out in Well #1, which took three months to restore. He explained that this is why the three month time frame was used as the General Emergency Window. Keep in mind that the parts needed for these wells are usually custom orders, which take time to fulfill.

City Water Attorney Harral explained that 2011 was a rough year for the ranchers and community. During 2011 Fort Stockton used 4,640 a-f worth of water.

Even if the City of Fort Stockton receives the 960 a-f Production Permit, the City of Fort Stockton would not have enough water to sustain the community in the worst case scenario.

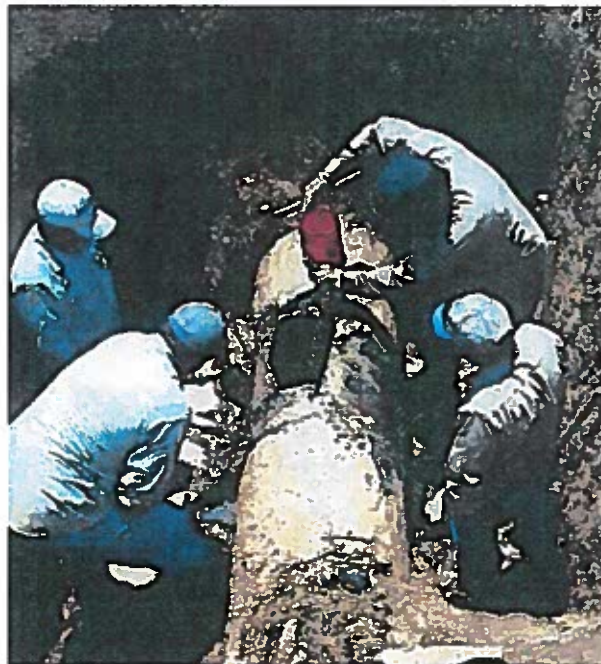
Photos were included of the pipeline past their useful life:

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*Depth the location has to be dug to access the blow out for repair.*



*Photo of blow out last June*



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*Photo of patch applied to a minor blow out that occurred last June.*

**City Water Attorney Harral** inquired as to the typical cause for a water hammer.

**City Manager Rodriguez** explained that a few years ago the water hammer resulted from running at full capacity and losing power to the plant.

**City Water Attorney Harral** explained that losing power from a legal perspective is an act of God. He elaborated by stating that you not control or even prepare for an Act of God. He explained that the City is trying to use these additional two wells as well as the secondary RO Plant to address the Acts of God.

**The City's Growth is above TWDB projections and existing water rights of the City.** The Texas Water Development Board (TWDB) projections are significantly lower than the current City's use of water. The City is growing between 9.66% and 7.55% annually, based on the Sales Tax Revenue Increases since 2001. The City's water usage is increasing based on Historical data, and comparing it to Rainfall between 2.73% to 3.25% a year.

By 2030 the some of the estimates show that the City may exceed 8,081 existing water rights. The pipeline should be replaced in accordance with the City's projected long term growth.

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**City of Fort Stockton Predicted vs. Actual**

Year	TWDB Estimates	CoFS Actual	% Difference
2008	3,267.00	3,750	15%
2009	3,267.00	3,343	2%
2010	3,267.00	3,213	-2%
2011	3,267.00	4,640	42%
2012	3,267.00	2,558	-22%
2013	3,267.00	3,801	16%
2014	3,267.00	3,578	10%

**Average TWDB Underestimates Actual Usage 9%**

City does not know what was predicted prior to 2010

TWDB predictions only right twice in 7 years

TWDB predictions was wrong by 42% in 2011

City's 2014 water usage was 3,578 despite receiving 22.39 inches of rain

The TWDB projections are not accurate as they were only correct twice in the last 7 years. The predictions were off by 42% in 2011. The City's 2014 water usage was 3,578 despite receiving 22.4 inches of rain. Even though it was a high rainfall year the City of Fort Stockton still consumed a large amount of water.

**TWDB Water Usage Predictions for Fort Stockton**

Year	Acre Feet Use	Growth Per 10 Years During Period	Annualized Growth During Period
2010	3267	3.98%	0.40%
2020	3397	1.88%	0.19%
2030	3461	0.58%	0.06%
2040	3481	-0.06%	-0.01%
2050	3479	-1.95%	-0.20%
2060	3411		

Last 7 years of actual usage data do not support predictions of TWDB

Predictions show very minor, no growth, or negative growth

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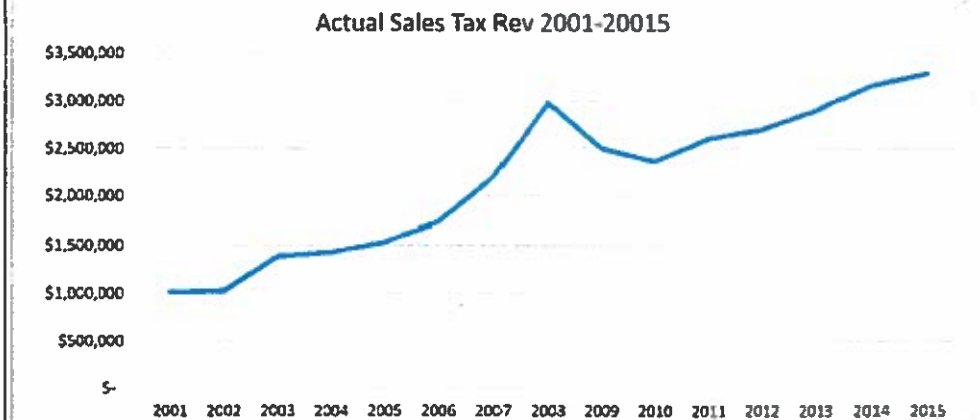
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The long-term Predictions were published in the Middle Pecos Groundwater Management Plan. City Water Attorney Harral clarified that the Middle Pecos Groundwater District was given those figures by the Texas Water Development Board. He stated that the City of Fort Stockton needs to do a better job at communicating more accurate numbers to the State of Texas. The 10 year growth between 2010 and 2020 was predicted to be at 4%, which would indicate a 0.4% growth a year. The predictions get progressively less as the years go on. The predictions are not supported by the historical data, which was pointed out during the hearing.

**Actual Sales Tax Growth Figures of City of Fort Stockton between 2001-2015**

Average Growth Rate of City of Fort Stockton	9.66%
Average Inflation of US	2.16%
Annualized Growth Rate for FS*****	8.79%
Average Growth Rate Adjusted for Inflation	7.55%



The City Sales Tax Revenue Increases were tracked from 2001 to 2015. Inflation was also incorporated. If you take out inflation of 7.55% annually, the City of Fort Stockton is growing. This could possibly be attributed to the Economic Development Corporation bringing in new revenue that is not just oil and gas related.

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City of Fort Stockton Actual a-f compared to actual rainfall		
Year	Actual	Rainfall
2008	3,750	5.55
2009	3,343	11.83
2010	3,213	17.36
2011	4,640	2.84
2012	2,558	13.14
2013	3,801	10.99
2014	3,578	22.39

Comparison Chart for Actual Usage of 2009 and 2013					
	2009	2013	Difference	4 Year Growth %	Annual Growth Rate
Actual a-f	3343	3801	458	13.70%	3.26%
Rainfall	11.83	10.99	0.84		

Annualized Escalation Rate Utilizing Actual 2009 and 2013 data					
	2009	2010	2011	2012	2013
a-f	3343	3,452	3,565	3,681	3,801
Annualized %	3.26%				

Comparison Chart for Actual Usage of 2010 and 2014					
	2010	2014	Difference	4 Year Growth %	Annual Growth Rate
Actual a-f	3,213	3,578	365	11.36%	2.73%
Rainfall	17.36	22.39	5.03		

Annualized Escalation Rate Utilizing Actual 2009 and 2013 data					
	2010	2011	2012	2013	2014
a-f	3,213	3,301	3,391	3,483	3,578
Annualized %	2.73%				

The City's water usage is increasing from 2.73% to 3.26% annually.

All the historical data of the actual a-f used by the City was compared to the rainfall. 2009 was compared to 2013, as there is only a difference of 1 inch of

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rain. The City of Fort Stockton went from using 3,343 a-f to 3,801 a-f in a four year period, which is a 13.70% difference. That is an annual growth of 3.26%.

2010 and 2014 were high rainfall years, with a difference of 5 inches of rain. The City of Fort Stockton went from using 3,213 a-f to 3,578 a-f in a four year period, which is a 11.36% difference. That is an annual growth of 2.73%.

The City is growing at a rate between 2.73% and 3.26%.

City of Fort Stockton's Projected Water Needs			
% Increase since 2010 w/o Outliers (4 years of growth after 2010)			11.36%
Annualized Projected Growth Rate based on Historical Data		2.73%	2.73%
	TWDB Projections	7 Year Average-3555 a-f	2011-4640 a-f
2010	3,267.00	3,554.71	4,640.00
2020	3,397.00	4,653.48	6,074.22
2030	3,461.00	6,091.87	7,951.77
2040	3,481.00	7,974.87	10,409.66
2050	3,479.00	10,439.90	13,627.29
2060	3,411.00	13,666.87	17,839.49

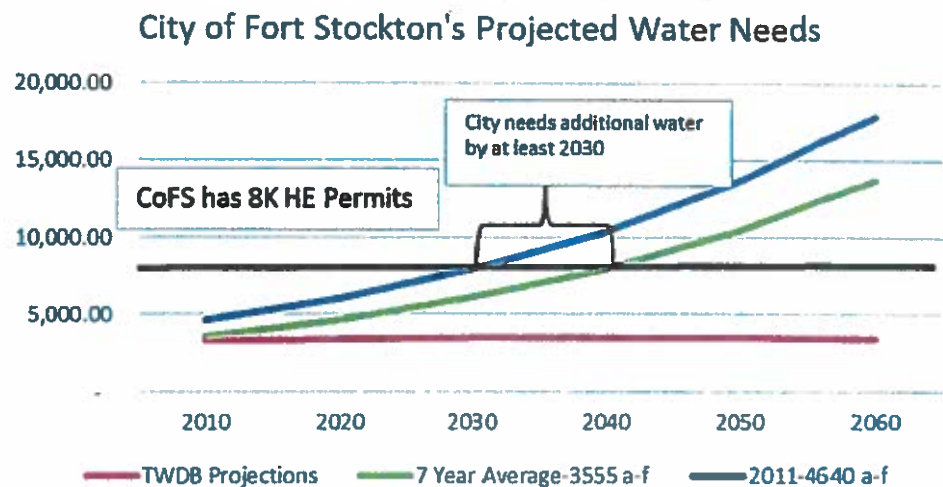
City's Assumptions
Average yearly increase is equal to 2.73% based on actual historical usage data from 2010 to 2014 growth rates. Growth rate is reasonable.
City must be prepared to meet maximum demand of citizens of Fort Stockton being the 2011 water usage amount of 4640 a-f

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Based on the actual historical usage data from 2010-2014 growth rates the average yearly increase is equal to 2.73%. By 2030 the City of Fort Stockton would be at its threshold of 8,000 a-f. One of the things that came up at the Middle Pecos Groundwater Meeting is that the City must be able to cover at least 85% of the water users in accordance with TCEQ Rules. If this is factored in, the dates move up by approximately 2 or three years.

Fundamentally this is what the City of Fort Stockton is dealing with. When taking the water needs of the community into consideration, you have to plan for high water usage which is the 4,640 a-f. That water is from the Belding Well Field and does not include the two wells within the city that were included in the Production Permit Application.

City Water Attorney Harral stated that they were available for any questions from any opposition as well as the MPGCD Board and there were none. No one opposed the Application. A separate presentation was prepared for the update on the Water Production Permit Application.

City Water Attorney Harral reiterated the Mission Statement of the City's Water Utility is to build and maintain a resilient infrastructure and legal rights to provide the lowest cost, highest quality water possible to our water users within this county.

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Important points to remember that became evident in the meeting were:

- The City of Fort Stockton believes the role of the MPGCP is important and must exist. The MPGCP is a critical component of how the county operates.
- The city only uses these wells for emergency purposes.
- The City and Community have utilized these wells separate from the Belding Well Field since 1930's.
- The City owns all the water rights and established its use of water since the 1930's. It isn't like the City just drilled two new wells and are pumping from them.
- The Production Permit from the MPGCD are permits to access the water, not the water rights themselves.
- The community needs the Belding Well Field 8,081 a-f HE permit for growth of the Community to meet its 50 year water plan according to Senate Bill 1. Eventually the City will need to acquire more water rights, which may entail drilling more water wells.

The most important point to remember is that the City's production permit application for emergency use has nothing to do with selling water to Republic Water Company. It was evident at the end of the hearing as well as upon reviewing the recording that this was the reason that the permit was not approved, which was never discussed in open session before the permit application was withdrawn.

Within 24 hours of realizing there was in issue, the application was submitted to the Middle Pecos Groundwater District to rectify the situation.

There has been some question as to why the permit application was withdrawn. City Water Attorney Harral stated that it was to avoid suing the Middle Pecos Groundwater Conservation District. He explained that the City does not want to be in that scenario. The City withdrew its application for Emergency Water Use after they were denied their State Office of Administrative Hearing Rights (SOAH), experienced a lack of support from the Groundwater Management Board and a lack of a recommendation in support from the General Manager.

Both the City and City Water Attorney Harral are unwilling to impair the water rights by combining these two wells under the existing 8,081a-f Historical and

CITY OF FORT STOCKTON, TEXAS  
MINUTES OF: REGULAR CITY COUNCIL MEETING  
DATE OF MEETING: MAY 9, 2016  
TIME OF MEETING: 6:30 P.M.  
PLACE OF MEETING: CITY COUNCIL CHAMBER

VOTED MAY  
VOTED AYE  
SECONDED  
MOVED

ROLL CALL WAS ANSWERED BY COUNCIL MEMBERS:  
RUBEN FALCON, BILLY JACKSON, ALLAN CHILDS,  
FRANK RODRIGUEZ & DINO RAMIREZ

MAYOR: JOE CHRIS ALEXANDER  
CITY MANAGER: RAUL B. RODRIGUEZ  
CITY SECRETARY: DELMA A. GONZALEZ  
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MINUTES OF LAST MEETING:

Existing Use Permits. The City has the water rights and has been using them since 1930 and should be able to access them.

The recordings from the MPGCD meeting are available on the City's Website and show that the MPGCD would have voted to reject the production permit, which would have left the City no other choice but to sue MPGCD, similar to the Fort Stockton Holdings case. That is the reason that the permit was withdrawn.

One of the things that was evident at the end of the meeting and became more apparent after reviewing the recordings was that there were definitely potential violations to the Texas Open Meeting Act made by the Middle Pecos Groundwater Conservation District. Sometime during the following week, City Council Authorized City Attorney Harral to perform an investigation into this matter and bring in third parties, if necessary.

City Attorney Harral sent a letter to the District Attorney's Office as well as the Attorney General of Texas requesting an investigation into the Middle Pecos Groundwater Conservation District. He explained that this was not something that the City wanted to do, but had to do.

In order for the City to be successful in the permit applications, it is imperative to know why they did not have the majority support of the MPGCD. That is why the request for the investigation was made.

This request was the result of two comments made by two of the MPGCD Board Members during the hearing. City Water Attorney Harral stated that his family boards their animals on 6 ranches with these two board members, so requesting this investigation was not something he wanted to do.

MPGCD Board Member Weldon Blackwelder stated after City Water Attorney Harral withdrew the application "bring it back and shoot straight with us but if you are after marketing water it's not going to fly"

City Water Attorney Harral asked if he was suggesting that the City was marketing water?

MPGCD Board Member Blackwelder responded "Yes, I have an email in my pocket that says that Republic is going to buy 4000 a-f from you."



VOTED NAY  
VOTED AYE  
SECONDED  
MOVED

ROLL CALL WAS ANSWERED BY COUNCIL MEMBERS:  
RUBEN FALCON, BILLY JACKSON, ALLAN CHILDS,  
FRANK RODRIGUEZ & DINO RAMIREZ

MAYOR: JOE CHRIS ALEXANDER  
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**City Water Attorney Harral** advised everyone that this topic was never brought up in open session. This statement calls into question whether the e-mail in his pocket was discussed in Executive Session. However, it is known that he had the email in Executive Session because it was in his pocket.

The questions that the City of Fort Stockton has are:

- Did anyone discuss this issue?
- Did this impact the production permit application?

In the recording closest to the presiding officer, John Dorris MPGCD board member can be heard, while Chris is discussing the need of this permit based upon the long-term projections on the official MPGCD open meetings recordings, whispering to either other MPGCD water board members or their water attorney "somebody needs to tell them why they are not getting the permit, just tell them."

**City Water Attorney Harral** stated that the City does not have an answer to this and it would be inadvisable for him as the City's Attorney to recommend that the City submit an application until an answer is given.

The specific sections that the Attorney General was contacted to investigate include Section 551.004 Open Meetings Required by Charter, and Section 551.071, Consultation with Attorney. During this hearing the City held off asking for a SOAH. A SOAH is where they bring in judges and have a hearing in the open meeting where they hear all the merits, make a decision and make a suggestion to the MPGCD on what to do. The City did not request a SOAH until four of the seven present MPGCD Board Members voiced their concern with issuing the permit and recommended that the City of Fort Stockton include these wells into the 8,081 a-f HE permit, which the City Council did not allow City Water Attorney Harral to do.

When the City of Fort Stockton requested the SOAH the MPGCD immediately went into Executive Session, which was not on their agenda. Furthermore, the only time you can meet with your attorney is when there is contemplated litigation, a settlement offer, or another issue that doesn't even apply to this situation.

**City Water Attorney Harral** stated that he was not sure whether the MPGCD meets those requirements, therefore the Attorney General was asked to investigate the issue. Another issue is the requirement to vote or take action in

CITY OF FORT STOCKTON, TEXAS  
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VOTED NAY  
VOTED AYE  
SECONDED  
MOVED

ROLL CALL WAS ANSWERED BY COUNCIL MEMBERS:  
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MINUTES OF LAST MEETING:

Open Meeting. The comments made by MPGCD Board Member Dorris and MPGCD Board Member Blackwelder call into question if the vote was already decided prior to reconvening into Open Session.

The permit application was withdrawn to make sure the City had their rights to request a SOAH and avoid having to sue the MPGCD.

The City of Fort Stockton requested records and received a portion of the Executive Session, more specifically the first minute of it. **City Water Attorney Harral** stated that he was not certain that it met the requirements of section 551.103, Certified Agenda or Recording Required and whether or not it was cut off after a minute on purpose or whether that is their general practice. However, in the background of the recording discussion can be heard about the basis of their claim, which would not qualify as any of the legal requirements needed to meet with their attorney.

The summary with all the facts, the agenda for the MPGCD Meeting and the Public Information Act Request, which was submitted immediately following the MPGCD meeting, were sent to Laurie English the 112<sup>th</sup> District Attorney. (Immediately after the MPGCD Meeting City Water Attorney Harral, along with Mayor Alexander, Council Member Falcon and City Attorney Lacy went to Bienvenidos where the Public Information Request was completed.) Laurie English has already forwarded the information to the Texas Attorney General.

One of the reasons the City of Fort Stockton requested that everything be discussed in Open Session was to ensure that any documentation and/or discussion is clearly documented. That way when the Attorney General investigates they can clearly understand what was going on.

One of the questions the City received was "What is the value of these two wells to the community?" The approximate value was calculated below:

VOTED NAY  
 VOTED AYE  
 SECONDED  
 MOVED

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 MINUTES OF LAST MEETING:

<b>Community's Combined Value of Water Rights &amp; Infrastructure for Emergency Water Use</b>	
<b>Community's Value in Water Rights for Emergency Water Use</b>	
Community's Water Rights for Emergency Water Use in a-f	960
Conversion from a-f to gallons (1 a-f = 325851.431889 gallons)	312,817,375
Commercial Rate for purchasing untreated water per 1000 gallons	\$ 0.50
Value of Community's Water Rights Annually	\$ 156,409
Discount Rate Based on Community's Cost of Capital	3%
<b>50 Year Value of Community's Water Rights for Emergency Use</b>	<b>\$ 1,144,411</b>
<b>Community's Value of Infrastructure Already Installed</b>	
Cost to Drill Two Replacement Wells	\$ 220,000
Cost to Install Second RO Plant	\$ 3,000,000
Cost to Connect Two wells and RO plant to water distribution system	\$ 200,000
<b>Value of Community's Infrastructure for Emergency Water Use</b>	<b>\$ 3,420,000</b>
<b>Community's Combined Value of Water Rights &amp; Infrastructure for Emergency Water Use</b>	<b>\$ 4,564,411</b>
<b>Loss to Each Water User if Permit to Access Water Rights Not Received (3,600 Meters)</b>	<b>\$ 1,267.89</b>

960 a-f was converted into gallons, which would be 312,817,375 gallons. 312,817,375 gallons were multiplied it by \$0.50 per 1000 gallons of untreated water and then looked at over a 50 year window. The Discount Rate based on the Community's Cost of Capital is 3%. The 50 Year Value of the Community's Water Rights for Emergency Use is equivalent to \$1,144,411.

Another significant factor to consider is that the community has invested a significant amount of money to install the second RO Plant and supply the community with back-up water. If the City was to replace the infrastructure already installed it would cost approximately 3.4 Million. The Cost to drill two replacement wells would be approximately \$220,000. The Cost to Install the Second RO Plant would be approximately \$3,000,000 and the Cost to connect the two wells and RO Plant to the Water Distribution System would be approximately \$200,000. The Community's combined value of water rights and Infrastructure for Emergency Water Use for this Production Permit is approximately 4.5 Million dollars. The loss to each water user if the permit to access water rights is not received is \$1,267.89 per meter.

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VOTED NAY  
VOTED AYE  
SECONDED  
MOVED

ROLL CALL WAS ANSWERED BY COUNCIL MEMBERS:  
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The City's General Response to anyone who is concerned, is to please listen to the official recordings and review the City's Preliminary Hearing Presentation that is available on the City's Website.

There was a Statement made by the MPGCD claiming "City records show that the City has been using these two wells for years, and in large quantities (2+ billion gallons during 2008-2014)"

**City Water Attorney Harral** responded that the number is actually 9 Million gallons and that the MPGCD overstated the usage by 22,222%. These wells are only used for emergency purposes. On a regular week 150,000 gallons are pumped and 500,000-1,000,000 gallons a day when an emergency situation exists.

There was another Statement made by the MPGCD "General Manager suggesting that the City could come into compliance by adding its two unpermitted wells to the City's existing permits, City Water Lawyer Mark Harral balked."

**City Water Attorney Harral** responded that he did not balk, he merely stated that the City needs the 8,081 a-f Historical Use Permit to meet the growth needs of this community. Fourteen years is not that far away, considering what the City has to deal with to rectify its current predicament. The City does not want to "kick the can down the road" to apply for a new permit. The urgency of the issues at hand are the result of previous administration deferring the issues. The City wants to take care of these issues now. The City needs the 8,081 a-f and doesn't want to compromise that by adding the two unpermitted wells to the existing permits.

The District Presiding Officer reminded City Water Attorney Harral that the City's application was uncontested, because no one showed up to challenge it.

**City Water Attorney Harral** responded that the District Presiding Officer wrongfully denied a proper SOAH request as he did not adjourn the preliminary hearing and start an uncontested hearing. He did not suggest that the City take the MPGCD take them to court.

The MPGCD claimed that the City considered this situation a dire emergency.

VOTED MAY  
VOTED AYE  
SECONDED  
MOVED

ROLL CALL WAS ANSWERED BY COUNCIL MEMBERS:  
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**City Water Attorney Harral** responded that he did not believe that anywhere in the recording he or any city official said dire emergency. He clarified that the City only uses these two wells for emergency purposes when the pipeline, well field, or RO Plant associated with the Belding Well Field fails. When another failure occurs, these wells and second RO Plant would be the only way to support the Community's water use. However, the City does not want to be pumping illegally. This community has spent a significant amount of money developing a means of supplying back-up water.

There was another MPGCD Statement made that City Water Attorney Harral withdrew the application, seemingly in consultation with Republic Water's lawyer and three Councilmen in attendance.

**City Water Attorney Harral** responded that Republic Water Company has nothing to do with the City's Production Permit request for emergency water use.

**Council Member Falcon** stated that this statement was a lie. He stated that there were two council members present, Council Member Falcon and Council Member Jackson. He further stated that they were sitting across the room and that neither he nor Council Member Jackson got up to consult with Republic's lawyer.

**City Water Attorney Harral** stated that he did not consult with Republic's lawyer. He clarified that he had spoken to Council and it was understood that if they ran into a situation in which the MPGCD was not going to approve the permit, he would request a SOAH prior to leaving the preliminary hearing. If the SOAH would not have worked, City Water Attorney Harral was to withdraw the permit. He reiterated that Republic Water had nothing to do with permit application. He stated that the MPGCD is continuing to rely on "emails in their pocket." He further stated that the City was never given the opportunity to address this email prior to withdrawing the permit application.

The disagreements between the City and the MPGCD are significant and require Third Party intervention. Therefore, the City has begun the following:

- Requested that the Texas Attorney General investigate the MPGCD for violation of the Texas Open Meeting Act;
- To Seek a SOAH to determine whether the City or MPGCD is correct.

CITY OF FORT STOCKTON, TEXAS  
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VOITED NAY  
VOITED AYE  
SECONDED  
MOVED

ROLL CALL WAS ANSWERED BY COUNCIL MEMBERS:  
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MINUTES OF LAST MEETING:

The City has two option for a SOAH;

- File a Writ of Mandamus in the 83<sup>rd</sup> District Court to compel the MPGCD to allow a SOAH as the City did properly request a SOAH during a preliminary hearing:
  - However, this lawsuit would drain the resources of both the City and the MPGCD at the taxpayers' expense.
  - Republic Water made it clear that they would be suing the MPGCD. This would be an additional lawsuit to the Fort Stockton Holdings case. If the City of Fort Stockton chose to file suit, this would be the third lawsuit which could void the director and officer's current insurance policy.
  - City Water Attorney Harral stated that he did not recommend filing suit as he did not want any of the Board Members to be personally hurt.
- City Water Attorney Harral recommended reapplying in June 2016 with the same production permit request with a preemptive SOAH request.
  - The MPGCD already declared the application administratively complete and would not be able to withhold a SOAH if the City reapplied, so long as the City preemptively made a SOAH request.

City Water Attorney Harral stated that these were the options the City has and emphasized that the discussion was done in open session so everyone knew what was being discussed. He asked if there were any questions for him and there were none.

**FIRST ORDER OF BUSINESS:**

**1. Public Testimony on Agenda Items only.**

**Public Testimony Forms were not received from those in attendance.**

**SECOND ORDER OF BUSINESS:**

**2. CONSENT AGENDA:**

**Minutes:**

- Special Meeting Minutes of Fort Stockton City Council, 04/22/2016

VOTED NAY  
 VOTED AYE  
 SECONDED  
 MOVED

ROLL CALL WAS ANSWERED BY COUNCIL MEMBERS:  
 RUBEN FALCON, BILLY JACKSON, ALLAN CHILDS,  
 FRANK RODRIGUEZ & DINO RAMIREZ

MAYOR: JOE CHRIS ALEXANDER  
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 MINUTES OF LAST MEETING:

- Regular Meeting Minutes of Fort Stockton City Council, 04/25/2016
- Regular Meeting Minutes of Keep Historic Fort Stockton Beautiful Board, 04/06/2016

Accounts Payable Total: \$ 525,298.70  
 Account Recap Report Total: \$8,193,891.99

FALCON  
 JACKSON  
 CHILDS  
 RODRIGUEZ  
 RAMIREZ

X  
 X  
 X  
 X  
 XX

Motion was made, seconded and carried unanimously to approve the Consent Agenda, as presented.

**THIRD ORDER OF BUSINESS:**

**3. Discuss/Act upon Financing Possibilities for Repairing or Replacing of the City's Water Infrastructure.**

There are three options for the City to consider, and marketing water to anyone isn't one of them. City Water Attorney Harral stated that the likelihood of somebody being able to market water with Edward's Trinity, doesn't exist...its extremely small:

- USDA Loan Financing at a 2 ½ % interest rate-The process would take approximately 1 ½ years.
  - One of the concerns with this option is that the interest rate might increase as time goes on. Mayor Alexander voiced that he believed the loan would be at a fixed rate once it was received.
  - An RFQ is required to hire an engineering firm to come in and tell the City how much it would cost to replace the pipeline, and build it. City Manager Rodriguez stated that the RFQ had already been approved and would be published in the newspaper for two weeks.
  - The goal is to have the RFQ selected and drawn up by the end of the summer.
  - Going through the USDA would take time.
  - The loan is at a low interest rate.
  - The term could be 30-40 years.
- The State Swift Fund-
  - The City would have to be able to show that there is a need for water.
  - Based on the statements made in the Press Release last week to the MPGCD, the City of Fort Stockton does not need the water.

CITY OF FORT STOCKTON, TEXAS  
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VOTED NAY  
VOTED AYE  
SECONDED  
MOVED

ROLL CALL WAS ANSWERED BY COUNCIL MEMBERS:  
RUBEN FALCON, BILLY JACKSON, ALLAN CHILDS,  
FRANK RODRIGUEZ & DINO RAMIREZ

MAYOR: JOE CHRIS ALEXANDER  
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MINUTES OF LAST MEETING:

- o The RFQ process would still need to be completed.
- o The City would be looking at an uphill battle that would take approximately 2-3 years.
- o **City Water Attorney Harral** stated that he does not believe the success rate on this loan would be very high, plus it would be well outside the timeframe as the pipeline is nearing 60 years life..
- The other option is to Issue a CO to replace the pipeline, at 3% Interest Rate given the City's current Credit Rating.
  - o The City originally had \$24 Million worth of debt and have successfully reduced it down to \$12 Million.
  - o The City is worth 320 Million.
  - o It is not inconceivable to get a CO to replace the pipeline and make these major renovations.
  - o The pipeline should be constructed to provide the water needed to fulfill the 50 year plan.

Keep in mind that the City of Fort Stockton is obligated to provide a 50 year plan regardless of the type of funding they choose to seek.

The CO would be based upon the City Water Rates.

The patches will not work long-term. The pipeline will need to be replaced.

**City Water Attorney Harrals** stated that he and City Manager Rodriguez would proceed forward, by looking into the USDA loan with a longer term at a 2 1/2% Interest Rate depending on when they could receive the loan. The other option would be to increase water rates.

The City of Fort Stockton is a Water Utility. Water Utilities typically have a reserve fund for major equipment improvements; however, since the issues were deferred for so long the City does not have time to gather pennies over an extended amount of time. The previous administrations have stripped the current City Council of that capability. The only way to do this is to raise water rates or a combination of figuring out how to do it equitably. City Water Attorney Harral and City Manager Rodriguez are working on plans, however it would not be until the middle of the summer that they would know what the costs would look like. These options should be taken into consideration.



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MINUTES OF: REGULAR CITY COUNCIL MEETING  
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VOITED NAY  
VOITED AYE  
SECONDED  
MOVED

ROLL CALL WAS ANSWERED BY COUNCIL MEMBERS:  
RUBEN FALCON, BILLY JACKSON, ALLAN CHILDS,  
FRANK RODRIGUEZ & DINO RAMIREZ

MAYOR: JOE CHRIS ALEXANDER  
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MINUTES OF LAST MEETING:

Mayor Alexander stated that City Council started looking into the USDA loan back in February to see if that loan would be feasible. He estimated that a CO could probably be done in 90 days.

Item was tabled.

Mayor Alexander introduced and congratulated Newly Elected Council Member Eric Dominguez. He also congratulated Frank Rodriguez III for being elected as Council Member and Billy Jackson for being re-elected as Council Member.

Mayor Alexander requested that everyone pray for City Secretary Delma A. Gonzalez and her family as her husband was very ill and was rushed to the hospital.

Mayor Alexander recessed from the Regular Meeting at 7:35 p.m. to convene into the:

**FOURTH ORDER OF BUSINESS:**

4. City Council may Convene in Closed Session in Accordance with Texas Open Meetings Act, Texas Government Code, Concerning Attorney-Client Matters (§551.071); Deliberation regarding Real Property (§551.072); Deliberation regarding Prospective Gifts (§551.073); Personnel Matters (§551.074); and/or Deliberation regarding Security Devices (§551.076):

- Ref: (a) Consultation with City Water Attorney Harral regarding the Status of Fort Stockton Holdings, LP's Litigation.
- (b) Consultation with City Water Attorney Harral regarding the Status of the Cooperation Agreement between the City of Fort Stockton, Texas and STW Resources Holding Corp. regarding Development of Water Well(s) in the Capitan Reef Aquifer Formation.

Mayor Alexander closed the Executive Session @ 8:14 p.m. to reconvene into the Regular Meeting.

**FIFTH ORDER OF BUSINESS:**

CITY OF FORT STOCKTON, TEXAS  
MINUTES OF: REGULAR CITY COUNCIL MEETING  
DATE OF MEETING: MAY 9, 2016  
TIME OF MEETING: 6:30 P.M.  
PLACE OF MEETING: CITY COUNCIL CHAMBER

VOITED NAY  
VOITED AYE  
SECONDED  
MOVED

ROLL CALL WAS ANSWERED BY COUNCIL MEMBERS:  
RUBEN FALCON, BILLY JACKSON, ALLAN CHILDS,  
FRANK RODRIGUEZ & DINO RAMIREZ

MAYOR: JOE CHRIS ALEXANDER  
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MINUTES OF LAST MEETING:

**5. Reconvene into Open Session Pursuant to Texas Government code Section §551.102 & Take Action, if any, on Matters Deliberated in Executive Session:**

**(4a) Discuss/Act upon the Status of Fort Stockton Holdings, LP's Litigation.**

**No Action Taken**

**(4b) Discuss/Act upon the Status of the Cooperation Agreement between the City of Fort Stockton, Texas and STW Resources Holding Corp. regarding Development of Water Well(s) in the Capitan Reef Aquifer Formation.**

**No Action Taken**

**SIXTH ORDER OF BUSINESS:**

**6. Questions from the Media on Agenda Items.**

**Fort Stockton Pioneer Managing Editor Lisa Hannon** inquired if the water increase projections were partly based on sales tax increase.

**City Water Attorney Harral** explained that the data reflects that the sales tax revenue is increasing above inflation; however, the water increase projections were based on the previous historical water usage. Rainfall was also taken into consideration.

**Fort Stockton Pioneer Managing Editor Hannon** stated that she had received several reports of serious water meter misreads. She requested an explanation.

**City Manager Rodriguez** accounted the water meter misreads to human error. However, he assured her that anytime a customer calls to report a misread the account is looked at and adjusted if warranted.

**Mayor Alexander** explained that a report is generated after the readings are input. If any of the accounts are abnormal the accounts are flagged and reread. City Council previously authorized City Manager Rodriguez to look into placing the meters on an automated reading system. This would give customers the ability to login to their account and view live data.

ROLL CALL WAS ANSWERED BY COUNCIL MEMBERS:  
 RUBEN FALCON, BILLY JACKSON, ALLAN CHILDS,  
 FRANK RODRIGUEZ & DINO RAMIREZ

	MOVED	SECONDED	VOTED AYE	VOTED NAY
FALCON	X		X	
JACKSON	X		X	
CHILDS			X	
RODRIGUEZ			X	
RAMIREZ			X	

MAYOR: JOE CHRIS ALEXANDER  
 CITY MANAGER: RAUL B. RODRIGUEZ  
 CITY SECRETARY: DELMA A. GONZALEZ  
 CITY ATTORNEY: FRANK LACY  
 MINUTES OF LAST MEETING:

There being no further business, motion was made, seconded and carried unanimously to adjourn the Regular Meeting @ 8:17 p.m.

  
 Joe Chris Alexander, Mayor

ATTEST:  
  
 Marina A. Cantu, Admin. Asst. to the City Secretary

FALCON  
 JACKSON  
 CHILDS  
 RODRIGUEZ  
 RAMIREZ