

CITY of ALBUQUERQUE

SEVENTEENTH COUNCIL

COUNCIL BILL NO. FSO-06-34 ENACTMENT NO. _____

SPONSORED BY: BENTON

1 **ORDINANCE**

2 **CREATING A NEW SECTION 2-12-2 ROA 1994 INSERTING DEFINITIONS;**
3 **AMENDING SECTION 2-12-1 ROA 1994 TO RESERVE 3% OF THE GENERAL**
4 **FUND CAPITAL IMPROVEMENTS PROGRAM FOR ENERGY CONSERVATION**
5 **AND RENEWABLE ENERGY PROJECTS AND INCLUDE ENTERPRISE FUND**
6 **PROGRAMS IN THE ENERGY SET-ASIDE; AMENDING 14-8-5 ROA 1994**
7 **RELATING TO THE ENERGY CONSERVATION COUNCIL TO CLARIFY THE**
8 **POWERS AND DUTIES OF THE COUNCIL AND CHANGE THE NAME OF THE**
9 **COUNCIL.**

10 **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**
11 **ALBUQUERQUE:**

12 **SECTION 1. FINDINGS.**

13 **The Council finds that:**

14 **(A) In Fiscal Years 2004 and 2005 energy costs comprised an**
15 **average 27.5 million dollars of the total city budget including the enterprise**
16 **and general funds.**

17 **(B) There is a greater awareness by the citizens of Albuquerque of**
18 **global warming and its potential impact to the region's quality of life and the**
19 **importance of conserving energy and using renewable energy to reduce**
20 **global warming.**

21 **(C) The Mayor of Albuquerque, in concert with the City Council,**
22 **has in four years signed into law and implemented the nation's first municipal**
23 **capital set-a-side for energy conservation, restarted and strengthened the**
24 **Energy Conservation Council, signed into policy a comprehensive renewable**
25 **energy program, initiated an urban tree program partially for the purposes of**
26 **reducing "heat island effects", worked to retain and develop the City's**

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1 renewable energy firms, convened an energy summit to develop realizable
2 goals and objectives for renewable energy and seated an Energy
3 Sustainability and Adjunct Technical Committee.

4 (D) The projects funded through the 1% for Energy Conservation
5 Set-A-Side program have paid for themselves in General Fund savings within
6 two years creating an annual \$650,000 savings to the General Fund, reducing
7 city fleet fuel use by 8476 gallons a year, eliminating over 2200 tons of air
8 pollutants per year and saving over 4.8 million gallons of water in the
9 production of electricity.

10 (E) The Federal Governments Standards for projecting energy
11 costs based on anticipated supply and demand in the future should be
12 adopted by the City. The method of pricing the utility of energy conservation
13 projects based on historical costs of conventional energy, currently required
14 by City Ordinance has underestimated the savings achieved through energy
15 conservation due to the declining availability of fossil fuels and subsequent
16 increases in energy prices.

17 (F) The Enterprise Fund Department's capital program should be
18 included in the 3% Set-A-Side program for Energy Conservation and
19 Renewable Energy. Converting biomass to electricity and recycling the
20 material will provide substantial long-term savings in energy costs and
21 provide the Department with an additional revenue stream.

22 (G) New Mexico is a leader in the development of renewable
23 energy technology. The manufacture, installation, and maintenance of
24 renewable energy systems will create and maintain high wage jobs in the
25 region.

26 (H) The City desires to be a leader in developing a sustainable
27 community for generations to come and should be a model for conserving
28 energy and using renewable energy to protect the environment.

29 (I) Section 14-8-5-1 ROA 1994 of the Albuquerque City Code
30 recognizes that conserving energy in residential, commercial, industrial,
31 transportation uses and energy generation is an important community goal. It
32 is the intent of Section 14-8-5-1 ROA 1994 to provide for the public welfare by
33 developing and implementing a community-wide effort to conserve energy.

1 The City's role is to provide a mechanism for community leadership in
2 reducing fossil fuel based energy consumption, to facilitate public
3 involvement in energy conservation, and increase the effectiveness of
4 programs carried on by other entities.

5 (J) Policy 3-D of the Albuquerque Bernalillo County
6 Comprehensive Plan declares that, "Public and private planning decisions
7 should promote energy management and efficient use of energy-related
8 resources to ensure the community is served with a balanced mix of
9 affordable energy supplies."

10 (K) Section 14-8-5-2 ROA 1994 creates the Energy Conservation
11 Council, consisting of nine members who have responsibility for effecting
12 energy conservation programs within the residential, commercial, industrial,
13 transportation, and utilities sectors of the community or who have leadership
14 roles within the community. Members represent the community at large and
15 are appointed by the Mayor with the advice and consent of the Council.

16 (L) Global issues pertaining to energy supplies and air quality
17 have impacted the Community and the Council finds that the role and duties
18 of the Energy Conservation Council should be amended from solely Energy
19 Conservation to include Best Energy Practices.

20 (M) A committee comprised of city technical staff, with
21 consultation from the Energy Conservation Council (to be renamed in this
22 Legislation the City of Albuquerque Energy Council), shall approve
23 expenditures for the 3% for Energy Conservation and Renewable Energy Set-
24 Aside.

25 SECTION 2. Insert a new Section 2 "DEFINITIONS" to Article 2-12 ROA
26 1994 reading as follows and renumber all subsequent paragraphs accordingly.
27 "[+2-12-2 DEFINITIONS.

28 For the purpose of this article, the following definitions shall apply unless
29 the context clearly indicates or requires a different meaning.

30 BEST ENERGY PRACTICES, Management of energy production and
31 consumption to reduce energy use and costs, implement renewable energy,
32 promote clean energy sources and the efficiency and maintenance of the
33 city's energy infrastructure,

1 ENERGY CONSERVATION. Building materials, equipment and machinery
2 and supplies that reduce energy costs for Enterprise and General Fund
3 Programs by demonstrably reducing energy consumption or by further in the
4 implementation of renewable energy sources.

5 RENEWABLE ENERGY. Any energy resource that is naturally regenerated
6 over a short time scale and is generated by use of low-or zero-emissions
7 technology with substantial long-term production potential or generated by
8 renewable energy sources that may include (1) solar, wind, hydropower and
9 geothermal resources; (2) fuel cells that are not fossil fueled; and (3) biomass
10 resources, such as agricultural or animal waste, small diameter timber, salt
11 cedar and other phreatophyte or woody vegetation, landfill gas and
12 anaerobically digested waste biomass and new technologies as they emerge.
13 Renewable Energy, does not include electric energy generated by use of fossil
14 fuel, waste products from fossil sources or nuclear energy.+] “

15 SECTION 3. Section 2-12-1 ROA 1994 is amended to read.

16 " §2-12-1 CAPITAL IMPROVEMENTS PROGRAM INTENT; SCOPE;

17 (A) The Capital Improvement Program (CIP) plan shall include, and
18 take as a starting point, an inclusive perspective of all capital expenditures
19 regardless of fund source (including, but not limited to City, State, Federal
20 funds, and private contributions-in-aid) including those expended by the City
21 directly and those undertaken by other public agencies within the city limits
22 that are related to the City's adopted goals. The City-funded public purposes
23 capital improvements shall be considered as a component of this over-all
24 perspective.

25 (B) The Capital Improvement Program shall be linked to the City's
26 adopted Five Year Goals, Program Strategies, and to the Performance Plan of
27 city departments.

28 (C) The Capital Improvement Program shall be consistent with and
29 carry out the policies contained in the City/County Comprehensive Plan.

30 (D) The first priority of the City's Capital Improvement Program
31 shall be to rehabilitate, replace, and maintain in good condition the capital
32 assets of the City. Pursuant to this priority, facility plans shall be developed
33 and maintained by all City departments, coordinated according to a common

1 set of standards by the CIP office. These plans shall include the condition of
2 the City's major capital assets and a program of necessary annual capital
3 expenditures to restore, replace, and maintain the facilities, vehicles and
4 equipment in good condition. These inventories and plans shall be completed
5 by the 2003 CIP. The plan for streets and hydrology shall be based on the
6 Planned Growth Strategy findings.

7 (E) City-funded public-purpose capital improvements are
8 undertaken in order to implement the city's adopted goals and objectives:
9 normally, these have been adopted in city plans for urban development and
10 conservation. In order to maximize the effectiveness of capital improvements
11 in advancing such goals and objectives in a coordinated manner, and in order
12 to efficiently use public funds, the Mayor shall develop and submit to the
13 Council a proposed Capital Improvements Program, which shall include all
14 city-funded public-purpose capital projects proposed to be built within ten
15 years. The program shall include but is not limited to all projects financed by
16 general obligation bonds, revenue bonds, Urban Enhancement Fund monies,
17 Tax Increment Fund monies, Consolidated Plan monies, tax and rate revenues,
18 Federal and State grants, metropolitan redevelopment bonds and special
19 assessment districts. Projects built with industrial development bonds are not
20 normally included.

21 (F) The proposed Capital Improvements Program shall consist of
22 a ten-year plan of capital expenditures, including a more detailed two-year
23 Capital Improvements Budget. The proposed Capital Improvements Program
24 shall include a listing of projects in order of priority and proposed year of
25 construction or acquisition. Data on each project shall include:

- 26 (1) The anticipated capital cost of each project;
- 27 (2) The anticipated source of capital funds for each project;
- 28 (3) The estimated annual operating cost or savings for each
29 project;
- 30 (4) The estimated completion date of each project;
- 31 (5) The adopted plan or policy, if any, which each project would
32 help to implement;

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1 (6) The viable alternatives that were considered for each project
2 and the reasons the proposed project is the most cost-effective and practical
3 alternative for meeting the stated objective;

4 (7) The project's ranking in whatever sequencing/priority-setting
5 system is used as a basis for proposed programming; and

6 (8) The impacts of proposed capital improvements on user rates
7 (for enterprise fund projects); and

8 (9) The percentage allocations of each project as "growth",
9 "rehabilitation", "deficiency", and "mandate", which categories are defined in
10 Bill No. F/S R-37 (Enactment 118-2000), establishing priorities for the 2001
11 Capital Improvement Plan; and

12 (10) The capital projects of the enterprise funds shall be evaluated
13 by the Capital Improvements Program staff in a similar manner as those for
14 the General Fund.

15 (G) All assets included in projects to be funded in part or in total
16 from proceeds of general obligation bond issues or revenue bond issues shall
17 have a minimum service life expectancy at least equal to the term of the
18 relevant bond issue.

19 (H) All CIP project items with a two year programmed amount in
20 the General Fund and a one year programmed amount in the Enterprise Funds
21 of \$100,000 or more shall be included in the CIP bill as a separate line item.

22 (I) Separate bond issues shall be sold to fund vehicles and
23 equipment, the term of which bonds shall not exceed five years.

24 (J) Three percent of the CIP for the general fund in the 200[-3-
25][+7+], 200[-5-][+9+] and 200 [-7-][+11+] bond elections shall be reserved to
26 fund the [-purchase-of-] [+ design, installation, purchase, user training and
27 monitoring of Energy Conservation and Renewable Energy that reduce fossil
28 fuel based energy costs] [-Energy Conservation equipment and building
29 materials to reduce energy costs -] for General Fund [+and Enterprise Fund+]
30 Programs that will demonstrably reduce energy consumption. This fund shall
31 be known as the [-1-] [+3+] % for [+Energy Conservation and Renewable+]
32 Energy [-Conservation -] Set-A-Side for Capital Improvements. The Planning

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1 for the fund shall be consistent with the requirements [+set forth+] [~~-~~
2 ~~established-~~] in [~~-Paragraph (D) of this Section -~~] [+Article 2-12 ROA 1994+].

3 (K) The Department of Finance and Administrative Services will
4 budget [~~- 1 -~~] [+3+] % of the General Obligation Bond Program for the [~~- 1 -~~]
5 [+3+] % for [+Energy Conservation and Renewable+] Energy [~~-Conservation-~~]
6 Set-A-Side for Capital Improvements.

7 (L) Departmental applications for the [~~-1-~~] [+3+] % for [+the+]
8 Energy Conservation [+and Renewable Energy+] Set-A-Side for Capital
9 Improvements shall be submitted to the Facility, Energy & Security
10 Management Division. [~~- The Division Manager shall appoint a committee of~~
11 ~~staff technical experts who will approve the savings. The Manager for the~~
12 ~~Facility, Energy & Security Management Division shall chair the committee.~~
13 ~~The Committee shall establish criteria to select the projects that include but~~
14 ~~are not limited to -~~] [+A committee of City fiscal and technical staff shall
15 approve selected projects based on established criteria. The committee may
16 consult with subject matter experts outside of the City Government in the
17 selection of projects. Criteria shall include but are not limited to+]:

18 (1) The capital expenses of a project should be regained
19 from energy savings generated from the project within [+,the expected life of
20 the equipment and, projects using renewable energy shall have a lower life
21 cycle cost than a project using conventional energy +] [~~- 10 years using the~~
22 ~~average-~~] [+based on the projected+] cost per unit [+by year+] for an energy
23 resource [+as published in the United States Department of Energy, Energy
24 Information Administration, Annual Energy Outlook Report or other sources
25 identified by the committee. Preference shall be given to alternatives that meet
26 the energy cost criteria+]. [~~- The cost per unit will be derived by averaging~~
27 ~~the cost for the energy source(s) that will be conserved, over the previous~~
28 ~~three fiscal years prior to the submission of the application -~~

29 (2) If a proposal is for construction or installation, the
30 scope of the project shall only be for [~~- 1%e -~~][+E+]nergy [~~-e-~~]
31 [+C+]onservation [+and/+]or [+Renewable Energy in existing facilities+].

32 (3) The monetary amount allocated to any one project shall
33 not exceed 40% of the funding [~~-available in-~~][+ allocated to+] the [~~- 1 -~~] [+3+] %

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1 [+ Energy Conservation and Renewable+] Energy [Conservation-] Set-A-Side
2 [+,during any one bond cycle unless approved by the City Council+].

3 (4) The project shall be consistent with the requirements
4 set forth in Paragraph (D) of this Section. “

5 SECTION 4. Section 14-8-5-1 ROA 1994 "INTENT" for the Energy
6 Conservation Council shall be amended to read.

7 “§ 14-8-5-1 INTENT.

8 The City hereby recognizes that fossil fuel [+based energy+] conservation
9 in residential, commercial, industrial, transportation uses, city government
10 and [-utility-] [+energy+] generation is an important community goal. It is the
11 intent of §§14-8-5-1 et seq. to serve the public welfare by developing and
12 implementing a community-wide effort to conserve energy [+ and reduce the
13 use of fossil fuels in the production of energy and overall promote best energy
14 practices+]. The city’s role is to provide [-a-] mechanism[+s+] for community
15 leadership in reduction of energy consumption, to facilitate public
16 involvement in [+promoting best energy practices, conserving energy and
17 implementing renewable+] energy [-conservation -], and to increase the
18 effectiveness of programs carried on by other entities.

19 SECTION 5. A new Section 14-8-5-2 is inserted to read as follows.
20 Renumber succeeding section accordingly.

21 “ 14-8-5-2 DEFINITIONS.

22 For the purpose of this article, the following definitions shall apply unless
23 the context clearly indicates or requires a different meaning.

24 BEST ENERGY PRACTICES. Management of energy production and
25 consumption to reduce energy use and costs, implement renewable energy,
26 promote clean energy sources and further the efficiency and maintenance of
27 the city’s energy infrastructure,

28 ENERGY CONSERVATION. Building materials, equipment and machinery
29 and supplies that reduce energy costs for Enterprise and General Fund
30 Programs by demonstrably reducing energy consumption by furthering the
31 implementation of renewable energy.

32 RENEWABLE ENERGY. Any energy resource that is naturally
33 regenerated over a short time scale and is generated by use of low-or zero-

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1 emissions generation technology with substantial long-term production
2 potential or generated by renewable energy uses that may include (1) solar,
3 wind, hydropower and geothermal resources; (2) fuel cells that are not fossil
4 fueled; and (3) biomass resources, such as agricultural or animal waster,
5 small diameter timber, salt cedar and other phreatophyte or woody vegetation,
6 landfill gas and anaerobically digested waste biomass and new technologies
7 as they emerge. Renewable energy does not include electric energy
8 generated by use of fossil fuel, waste products from fossil sources or nuclear
9 energy.+]

10 SECTION 6. Section 14-8-5-2 ROA 1994 is amended to read.

11 “14-8-5-2 ENERGY CONSERVATION COUNCIL.

12 (A) There is hereby created the [+City of Albuquerque+] Energy [-
13 ~~Conservation-~~] Council which shall consist of nine members who have
14 responsibility for effecting energy [+management+] ~~[-conservation-]~~ programs
15 within the residential, commercial, industrial, city government, energy
16 conservation [+and management+] interest groups, transportation, and
17 utilities sectors of the community or who have leadership roles within the
18 community. No member shall represent a specific agency or organization, but
19 rather the community at large. All members shall be appointed by the Mayor
20 with the advice and consent of the [+City+] Council.

21 (B) The term of each [+City of Albuquerque+] Energy [-
22 ~~Conservation-~~] Council member shall be three years; of the members first
23 named three shall have terms ending April 30, 1981, three shall have terms
24 ending April 30, 1982 and three shall have terms ending April 30, 1983. The
25 Mayor shall determine which members shall have which terms.”

26 SECTION 7. Section 14-8-5-3 ROA 1994 is amended to read.

27 “14-8-5-3 MEMBERSHIP AND ORGANIZATION.

28 Except as provided in 14-8-5-1 et seq., the qualifications,
29 appointment and conduct of the members of the [+City of Albuquerque+]
30 Energy ~~[-Conservation-]~~ Council and the organization structure of the [+City of
31 Albuquerque+] Energy ~~[-Conservation-]~~ Council shall be governed by 2-6-1-1
32 et seq.”

33 SECTION 8. Section 14-8-5-4 ROA 1994 is amended to read.

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1 “14-8-5-4 POWERS AND DUTIES.

2 The [+City of Albuquerque+] Energy [-Conservation-] Council shall:

3 (A) Study energy uses and losses and means of reducing energy
4 consumption [+and implementing renewable energy+] in the city;

5 (B) Establish energy saving goals and a community wide energy
6 conservation program for the city;

7 (C) Work with citizens, city employees, organized groups and
8 businesses to develop and implement energy [-conservation-][+management+]
9 programs;

10 (D) Educate citizens, city employees, professional groups, the
11 business community, builders, educators, elected officials, community
12 organizations, and other key persons about [+best+] energy [+practices+] [-
13 conservation-];

14 (E) Promote cooperation and encourage coordination between the
15 city and other entities which are involved in [+best+] energy [+practices+] [-
16 conservation-];

17 (F) Advise the Mayor and Council on legislation, programs and
18 policies which would contribute to [+best+] energy [+practices+] [-
19 conservation-];

20 (G) Provide for evaluation of energy conservation [+and renewable
21 energy+] programs which have been implemented;

22 (H) Adopt and promulgate such rules and regulations as may be
23 necessary to implement §§14-8-5-1 et seq.;

24 (I) Form such committees as are necessary to carry out the [+City
25 of Albuquerque+] Energy [-Conservation-] Council's assigned powers and
26 duties from its membership and from the general public;

27 (J) Submit an annual written report on its activities and an
28 evaluation of the effectiveness of §§14-8-5-1 et seq. to the Mayor and Council;

29 (K) April 1st of each calendar year the Mayor and [+the City of
30 Albuquerque+] Energy [-Conservation-] Council shall communicate to the City
31 Council for Receipt an Energy Use Report for all City Programs including the
32 enterprise fund and the general fund. The plan shall include: 1) a ledger
33 itemizing for the last 3 years, at the department division level, the energy

1 consumed by type of energy source and the purpose for which it was
2 consumed, 2) a report of the reasons by department division level for
3 increases or declines in the consumption of a particular source of energy [+,+]
4 [-and-] 3) a list, by department division level of opportunities for [-e-
5][+E+]nergy [-c-][+C+]onservation [+ and the implementation of Renewable
6 Energy,+] and the cost to implement [+such technologies+] [-those energy
7 conservation strategies-].

8 (L) Perform all other duties delegated to it by the Mayor and the
9 Council.”

10 SECTION 9. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
11 clause, word or phrase of this ordinance is for any reason held to be invalid or
12 unenforceable by any court of competent jurisdiction, such decision shall not
13 affect the validity of the remaining provisions of this ordinance. The Council
14 hereby declares that it would have passed this ordinance and each section,
15 paragraph, sentence, clause, word or phrase thereof irrespective of any
16 provision being declared unconstitutional or otherwise invalid.

17 SECTION 10. COMPILATION. Sections 2 through 6 of this ordinance shall
18 be incorporated in and made part of the Revised Ordinances of Albuquerque,
19 New Mexico, 1994.

20 SECTION 11. EFFECTIVE DATE. This ordinance shall take effect five days
21 after publication by title and general summary.
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