



**MINUTES OF THE MEETING OF THE MANAGEMENT BOARD OF THE
URBAN CONSERVATION ENTITY OF CONDADO DE ALHAMA, THURSDAY
20TH AUGUST 2020**

ATTENDEES:

Members of the management board

NEIL SIMPSON	PRESIDENT URBAN ENTITY
ANDY WATKISS	VICE PRESIDENT URBAN ENTITY (TEAMS)
BOB WHITTY	PRESIDENT LEVEL 2 JARDINES II
IAN WHYTE	SPOKESPERSON (TEAMS)
ALAN BURGE	SPOKESPERSON (TEAMS)
ANTONIO JOSE CAJA	URBAN PLANNING COUNCILLOR ALHAMA TOWN HALL (TEAMS)

Other attendees

MARK AMBRIDGE	VICE PRESIDENT LEVEL 2 NARANJOS II (TEAMS)
JORGE PEÑA MOLINA	VICE PRESIDENT LEVEL 2 JARDINES II (TEAMS)
MARK UNDERHILL	VICE PRESIDENT LEVEL 2 JARDINES II (TEAMS)
SVEIN GULBRANDSEN	VICE PRESIDENT LEVEL 2 NARANJOS I
JOSE MONTOYA DEL MORAL	URBAN ENTITY LAWYER (TEAMS)
ANTONIO CASTRILLO	ADMIBURGOS
ADRIAN ZITTELLI	ADMIBURGOS

The Management Board of the Urban Entity gathered in the meeting room of the Admiburgos office in Alhama de Murcia at 10.30 hours on 20th August 2020, duly summoned and under the following

AGENDA

- 1. Agreements to be adopted, if appropriate, as a result of the necessary application of the criteria set regarding the application of the coefficients for the Urban Entity in firm Ruling no. 176/2019, handed down by Murcia Administrative Court Number Six in ordinary proceedings 375/2018, instigated by Agrofruits Levante, S.L.**

2. Agreements to be adopted, if appropriate, regarding the Agreement adopted by the Governing Board of Alhama de Murcia council, dated 10th June 2020, regarding its decision to unilaterally assume the provision of the waste collection service as a direct result of the action brought against it by the Association of Residents and Owners on Condado de Alhama (AVPCA) in ordinary proceedings 292/2019, followed by Murcia Administrative Court Number Three, in which this Urban Entity also appears, as well as STV Gestión, S.L., as the current contractor privately providing the aforementioned service. Ratification of the decision of the President to appeal against the abovementioned Agreement.

“Decision on maintaining the system of underground containers within the new waste collection service, which must be provided by the Council.”

3. Urban Agreement with the Council. Decisions to be adopted.
4. Agreement, if appropriate, to allow the location of the pharmacy for Condado de Alhama complex on Urban Entity space.
5. Municipal Park. Decisions to be adopted as a result of the technical report requested by the Urban Entity and the situation created by the deficiencies in the implementation of the project.
6. Update on the financial situation as of 30th June 2020.
7. Update on agreements with the Council.
 - New irrigation supply pipe.
 - Delivery of the implementation of the landscaping plan once completed.
8. AOB.

1. Agreements to be adopted, if appropriate, as a result of the necessary application of the criteria set regarding the application of the coefficients for the Urban Entity in firm Ruling no. 176/2019, handed down by Murcia Administrative Court Number Six in ordinary proceedings 375/2018, instigated by Agrofruits Levante, S.L.

Mr. Montoya took the floor, explaining that as a result of the Ruling, we went ahead with recalculating the fees, and meetings have been held with both the Council and Agrofruits, looking at resolving the dispute in an agreed manner. In these meetings, the Council has indicated that it agrees with the calculations made by the Urban Entity.

Following the deadlines, the Council has passed these conclusions on to Agrofruits in order to make a pronouncement on what was carried out in July. In August, the Urban Entity went ahead with replying within the corresponding deadline and arguing for the application of the firm ruling in an effective and practical manner.

The Council must now respond within a timely deadline in order to be able to continue with the administrative claims and prevent the financial collapse of the Entity.

The Councillor took the floor and stated his cooperation with the Entity and his determination to resolve this dispute as soon as possible, facilitating understanding if possible, or by making decisions that the technicians consider to be appropriate.

Submitted to the consideration of the Management Board, the document presented by Mr. Montoya the Community lawyer to the Council, and granted a deadline of one month for the Council to respond either supporting (or not) the position of the Urban Entity in order for the Annual General Meeting of the Urban Entity to be able to be duly held, was approved UNANIMOUSLY.

The date of the ordinary meeting will be set once the agreed deadline has expired, in order to be able to approve both the affected accounts from previous financial years and the debtor balances affected by the aforementioned ruling.

2. **Agreements to be adopted, if appropriate, regarding the Agreement adopted by the Governing Board of Alhama de Murcia council, dated 10th June 2020, regarding its decision to unilaterally assume the provision of the waste collection service as a direct result of the action brought against it by the Association of Residents and Owners on Condado de Alhama (AVPCA) in ordinary proceedings 292/2019, followed by Murcia Administrative Court Number Three, in which this Urban Entity also appears, as well as STV Gestión, S.L., as the current contractor privately providing the aforementioned service. Ratification of the decision of the President to appeal against the abovementioned Agreement.**

“Decision on maintaining the system of underground containers within the new waste collection service, which must be provided by the Council.”

It was explained by this problem is a direct result of the legal claim promoted by Ms. Eugenia Mateo Torres on behalf of the AVPCA, by which the Council is obliged to comply with the ruling from 2014 and assume the provision of the waste collection service.

As a result of this contingency arising from the action brought by the AVPCA, the Council has recently handed down an Agreement which surprisingly dismisses the 2015 agreement due to administrative silence, expressly announcing its decision to assume the provision of the waste collection service.

This municipal Agreement could very seriously compromise the situation of the Urban Entity and the Communities, therefore, at the request of the President, an appeal has been brought against this Decision within the deadline granted.

In general, regarding the municipal decision to dismiss the proposal for the agreement presented in 2015, the members of the Urban Entity consider that it violates legal security and the principles of trust and good faith by which the Authority is bound, due to the long period of time elapsing and because this agreement has been the instrument which for such a long period of time has served to discipline the relationship between the Entity and the Council itself.

In particular, with regard to the waste collection service, it can be stated that the Council itself, at the request of this Entity, authorised in 2015 the private management of this and, supported in this express authorisation, the provision of the service was contracted with STV, and the initial contract was subsequently renewed. The Council then confirmed the validity and effectiveness of

this contract in express measures, issuing various favourable reports and ratifying the legality of the contracts with no objections. In addition, right from the signing of the contracts with STV, the corresponding item has been approved by the Entity in the budgets every year since 2015 in order to pay this company for the provision of the waste collection service, with the approval of the Council.

Similarly, in the administrative proceedings initiated by the Residents' Association against Alhama de Murcia council with regard to this issue, in which the Entity and STV appeared, there is a record of a report from the Council itself, reiterating the validity and effectiveness of the contracts and moreover warning that, in the municipal decision to assume the provision of this service, the validity of this must be weighed up to avoid any financial harm to the Entity. Therefore, The Agreement which has been appealed against for dismissing the agreement from 2015 due to administrative silence and which intends to provide the service concerned immediately fully contradicts all the express measures carried out by the Council itself in the last five years.

The Councillor took the floor indicating that the Decision proposed by the Council lawyers does not intend any harm to the Entity, but it is an appropriate political exit for the situation created. For the Council, the assumption of waste collection will be unprofitable, and a financial agreement will have to be sought between the parties in order for the process to be viable.

Regarding the negotiations with STV held by the Council, the Councillor asked if the Entity would accept to bear a part of the cost of the early termination of the contract with STV (up to 50%). It was clarified that what the Councillor is proposing is that the Entity pays 50% of a service that it is not going to enjoy, and at the same time owners on Condado will be charged for the waste collection by the Council.

The Entity replied that no, it did not consider this acceptable. In addition to the fact that Entity has not been party to this, nor has it been at all aware of the negotiations referred to by the Councillor, the proposal made by him is unacceptable as it only favours STV and the Council itself, as this company would receive financial compensation for a service that it would not be providing, and the Council for its part would also be charging for a service already paid for by the Entity. It was insisted that the Council itself has repeatedly and expressly confirmed the validity of the private contract between the Entity and STV and that while it is in force, it is not possible to ignore its existence to the detriment of the Entity. The only acceptable solution is, if the Council finally assumes the provision of the waste collection service in short order, for the contract binding the Entity to STV to be void without the slightest financial damage.

Submitted to the consideration of those present, it was UNANIMOUSLY agreed to ratify the decision to appeal against the aforementioned municipal Agreement that considers the agreement to be dismissed due to administrative silence, fully assuming the position upheld in the appeal brought in order to preserve the rights and legitimate interests of the Urban Entity and the Communities in this entire dispute, and the President was expressly authorised to use all resources within his reach, including legal means, in order to defend the Entity, specially empowering him to attend the Courts of Justice on its behalf if the claims of the Entity are administratively dismissed with regard to this matter.

The decision that the Council should continue using the underground containers when it assumes the provision of the waste collection service was also UNANIMOUSLY approved.

The Councillor indicated that this opposition was not necessary, and regarding the underground containers, he explained that in the rest of the municipality, they are on the surface due to the maintenance costs involved and breakdowns caused by these devices. He also made it clear that the aim is to reach an agreement between all the affected parties, as the previously agreed framework benefitted all parties, and the position adopted by the AVPCA will end up harming everyone due to the increase in price involved.

The Councillor proposed that part of the price that it will be necessary to pay should come out of the budget itself and the item provided for this purpose, passing the rest on to owners through the property tax (IBI).

The President stated his disagreement with this proposal, which will remain pending for when negotiations with STV are advanced, but it was put on record that it is not the solution, and that it will be difficult to go forward with this.

3. Urban Agreement with the Council. Decisions to be adopted.

In October 2018, the Administrator met the Councillor and the Mayor in order to negotiate a 4-year agreement instead of a one-year agreement, which had been the case up to that point.

The intention was to use the landscaping change as a basis for the Council to participate in the expenses for this work in order to facilitate its funding. A work that entailed progress in sustainability for the municipality, a commitment to the future and savings in water.

A proposal was presented in June 2019, and since then there has been no significant progress: fine words, but no action.

At the end of last year, the Entity was forced to sign an Agreement identical to those from previous years.

It is time for the Council to be aware of the position of the Entity, and the need for significant progress in September, in order to be able to sign an agreement which is more beneficial to owners on Condado de Alhama complex.

The Councillor took the floor, making it clear that the position of the council is to reach a 3 or 4-year Agreement, but firstly, we must reach an agreed decision on the issue of waste collection.

4. Agreement, if appropriate, to allow the location of the pharmacy for Condado de Alhama complex on Urban Entity space.

It was explained that the Councillor, members of the Council, and the pharmacy inspector visited some facilities similar to those that it is being proposed to build, and they were satisfied with the quality of the proposal. The project has now been drawn up and has been passed to the Council, it being pending for the Secretary of the Council to define the conditions of use for the public areas occupied by the pharmacy.

Submitted to the consideration of the Management Board, it was UNANIMOUSLY agreed to provide the land required to locate the pharmacy on the Urban Entity and to provide a necessary service for Condado de Alhama complex.

5. Municipal Park. Decisions to be adopted as a result of the technical report requested by the Urban Entity and the situation created by the deficiencies in the implementation of the project.

The position of the Entity was put forward, upheld by reports from specialist technicians, that the construction of the park shows initial constructive deficiencies which need to be resolved by the Council or by the building company.

The Council has responded by opposing this report from the Entity, therefore the latest technical response from the Entity expert has been passed to the Councillor, and the Councillor has been summoned to organise a meeting with all the technical and political parties once the Council technicians have been able to study the content of the latest report from the Entity.

In any case, the Entity expressly reserves the actions corresponding to it in law, as the defects presented by the park, which cause continued mudslides every time it rains with moderate intensity, creating an objective situation of risk, are not the result of deficient maintenance, but of an erroneous conception of the work and the use of inappropriate material, as it is completely clear from the expert report made at the request of the Entity. The Councillor was reminded the obligation of the Entity is to conserve what it has received in a good state of implementation, not to repair infrastructures that were poorly implemented at the outset.

6. Update on the financial situation as of 30th June 2020.

The Administrator explained that as of 30th June 2020, the situation of the Urban Entity is very delicate. On this date, it had 16,700€ in the bank accounts, against a debt with suppliers of 151,000€.

The debt contracted by associates was more than 970,000€, of which 40% corresponded to Agrofruits.

It is therefore of the greatest importance that the Council makes a pronouncement as soon as possible regarding the correction of the new criteria for calculating the fees proposed by the Entity in compliance with the Ruling handed down in the proceedings followed at the request of

Agrofruits, the Annual General Meeting of the Entity should be called, and the final debtor balances should be approved so that they can be claimed by administrative enforcement means.

The Councillor was asked whether, once the criteria to be adopted by the Council is resolved, the debt can be claimed by forced recovery. The Councillor commented that there are still problems with being able to claim these debts via enforcement means. All those present strongly and firmly asked the Council to determine, with total clarity, the obstacles to the Entity being finally able to resolve this.

7. Update on agreements with the Council.

- **New irrigation supply pipe.**

The Councillor confirmed that there was no progress with this issue, given that urban planning developments move slowly, and there will be no money for the pipe in the short or medium term. Those present insisted that the lack of this infrastructure constitutes a manifest irregularity occurring in the urban development process, which is causing serious damage to the Entity. The necessity of providing a prompt solution to this problem was repeated, also expressly reserving the corresponding rights and actions.

- **Delivery of the implementation of the landscaping plan once completed.**

Under way; once the end of the works are signed for, this will be passed to the Council.

8. AOB.

- It was proposed to organise regular meetings of the representatives of the Entity with the Council in order to try to move forward with these issues. The next meeting will be organised in September.
- Trees that are causing damage. The Councillor was asked to try and look at whether, for the most urgent cases, trees can be removed via a Responsible Declaration.
- Mr. Jorge Peña requested the collaboration and greater presence of the council in events on the resort; the councillor agreed to more collaboration and also commented that it is eligible for subsidies via initiatives presented to the council.

There being no further business, the meeting was adjourned at 15:10 hours, whose content I bear witness to and sign, with the approval of the president.

SIGNED: SECRETARY-ADMINISTRATOR

APPROVAL OF THE PRESIDENT