

CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, OCTOBER 10, 2018

A. CALL TO ORDER

The meeting was called to order by Mayor Steve Green at 9:00 a.m., who presided and Angela Torres, Acting City Clerk, acted as Secretary of the meeting.

B. INTRODUCTION

1. ROLL CALL

Upon calling the roll, the following Commissioners were reported present.

Hon. Steve Green
Hon. Sandra Whitehead
Hon. Kathy Clark, Commissioner
Hon. Rolf Hechler, Commissioner
Hon. Paul Baca, Commissioner

Also Present: Renee Cantin, Interim City Manager/City Clerk-Treasurer
Angela Torres, Acting City Clerk

There being a quorum present, the Commission proceeded with the business at hand.

2. SILENT MEDITATION

Mayor Green called for fifteen seconds of Silent Meditation and asked us to keep our veterans in our thoughts and prayers.

3. PLEDGE OF ALLEGIANCE

Mayor Green led the Pledge of Allegiance.

4. APPROVAL OF AGENDA

Mayor Green asked that approval of the agenda include Executive Session Commissioner Clark break at 10:00 a.m. for Executive Session and to move item moved to move the Executive Session to right after Public Comment and approve the amended agenda.

seconded the motion. Motion carried unanimously.

C. COMMENTS FROM THE PUBLIC (3 Minute Rule Applies)

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Mayor Green called for Public Comment, noting those wishing to comment would get three minutes, may only approach the podium once, and any material for the Commission was to be left in the black box by the podium.

Ron Fenn addressed the Commission related to:

- 1) Has a problem with the ad for the City Manager. He was appalled when he read it. This is one of the most ludicrous ads for employment that he has seen in a long time. The City of Truth or Consequences is being painted as some kind of recreation city. It is a retirement community. We have 2,000-plus seniors living in this community. The median age in this community is 55.8 years, which is nearly 20 years higher than the state's average. The City of Truth or Consequences is a poverty-stricken area by definition, with crumbling infrastructure or none at all for some of its residence. By this ad, you are looking for a resort manager when we should be looking for a disaster manager, because the city is headed for disaster, unless we do something about it, and it cannot be done in your, or my lifetime, or anybody else's. We have no long-term plans. The city needed a 50-year plan to start 40 years ago. That never was done. We have no plans. We just go on merrily from day to day spending money ludicrously while the city crumbles and decays. We have a budget of \$24 million. Nobody mentioned in this ad that there's a \$2 million-a-year budget deficit every year, and the money is thieved from the utilities to their detriment. This is truly a city where the blind lead the deaf and dumb.

Linda DeMarino addressed the Commission related to:

- 1) I would like to inform you that MainStreet's really excited. We just found out recently that we received the USDA grant for a customer service training program that will be starting in the winter. We're looking to provide that class for 100 customer service people, managers, and business owners. It will focus on customer service training skills as well as asset awareness, so we're looking forward to that.
- 2) MainStreet has a lot of events coming up. As you know, Trick or Treat Downtown will be on the 31st, which is Wednesday. Trick or Treat Downtown is 6:00 to 7:00 p.m. and there will also be activities at the Healing Waters Plaza starting at 5:00 p.m. We are partnering with CASA, and they're helping out with organizing the activities in the plaza, so we're excited about that.
- 3) Small Business Saturday coming up on Saturday, November 24th. We are partnering with the Chamber of Commerce, and we'll have more announcements later on about what the activities are for that.
- 4) I want to give everybody plenty of warning, Old Fashioned Christmas is coming up December 7th, including our Parade of Lights, and so I'm giving everybody plenty of opportunities to start getting their vehicles decorated for that. Thank you.

Mark Mijal addressed the Commission related to:

- 1) Thank you for the 180 seconds to put my two cents in. This is democracy at work.
- 2) Thank you to the Commissioners and public servants for your conscientiousness and honesty. That's not easy to hold the public trust with all the long, hard hours of decisions and ethics. There are many predators out there you endeavor to keep us from being preyed upon. Thank you very much.
- 3) I wrote this to the city paper about the ATV referendum. I think there will be a certain amount of off road vehicles that will be driven irresponsibly, endangering the streets, and making loud noises all the time. Since the off road vehicles are not allowed on the state routes, the local city streets will be noisy. One-third of T or C is senior citizens, including me. Also, vehicles can be a hazard to our quiet city. This is how democracy works. This is not the 11th hour, as a letter last week in Herald mentioned. This is the deadline status they want. All of our freedoms are costly. Why doesn't the City Council repeal the law and ask for more public input for a new law? What about common sense? The law was passed in good faith. Many citizens were not in agreement, and made a referendum. This costs a lot of money. Why don't you repeal the law, stop the referendum, then a new law can be crafted. Thank you.

Ike Eastvold addressed the Commission related to:

- 1) In circulating the referendum petition, we got a real cross section of the people that live here in T or C, and there are a lot of elderly, and sick people that are really in need here. We live on Silver across from Sierra Hills. We have one woman in a wheelchair that regularly comes to the head of our driveway to watch the rabbits and the quail, she says I just love nature. We are so close to the conservancy with the school and the healthcare facilities there, and the hospital, for that matter. We would like to link those together ultimately to give these people a sidewalk to wheel their wheelchairs on up to the conservancy where we have some perfect flat kind of peninsula projections that would make a good handicapped-access trail for these people to contact nature. That contact with nature is something that has really been taken from us in the modern world, and particularly people that are elderly and sick need that again. It's part of the healing. That's the motif here for this city. We are fortunate, nature has blessed us with this great pool of geothermal water, which is healing water, but we also have surrounding the city a healing landscape. People are coming out of the healthcare facilities to just contact it, and see the rabbits and the quails, but there's an opportunity there for the landscape to heal, too, and educate. We're right next to the Truth or Consequences Elementary. We're just across Date Street from the middle and the high schools. We can hook into those educational facilities, and make the conservancy an outdoor classroom. More than that, we showed some of you photographs of some of the properties that are still intact on the periphery of the city. Every plan is just lush and a perfect specimen to teach children and others about the desert. This is one area that's just covered now

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with Devil's Claw, and if you've seen those, they have the beautiful, yellow, orchid-like flowers. They're just exquisite.

Jeff Lawless addressed the Commission related to:

- 1) I've owned my place for 20 years. I am a senior, I am retired, and I'm a tourist. I want to thank the City Commission for passing the ATV Off Road Ordinance that allows vehicles on the streets of T or C. It is going to increase tourism, which the only thing I see T or C has going for it, as Ron Fenn said, retirees and tourists. The lake's a disaster and the Space Port is always next year. We need to increase the tourists, which helps the revenue to the city, and the Commission was right in passing this law, because we will have lots of tourists come. My daughter lives in Arizona. She drives her ATV to the grocery store in Phoenix. Gas in T or C is 30 to 40 cents a gallon more than all the surrounding cities, including Socorro, Las Cruces, and Albuquerque. ATVs are good on gas and they're very quiet. The people that are talking about this noise, they don't say anything about Harleys up and down the street speeding. They don't say anything about diesel trucks. All I hear is ATVs. ATVs are very quiet. From the factory, they come with spark arrestors, so you can drive in the Forest Service. It's the best way to see nature. I mean, the spots in town that you can see are not going to be affected by ATVs. I'm an ATV owner and I'm 70 years old. I'm not going to be spinning donuts on people's property, which leads me to the other thing on this petition. I would like, as a citizen, to ask the City Attorney to look into this petition, because the people were misinformed about this law. They were told that they can't drive on Date Street, they can't drive on Third or Broadway. They have to speed down Riverside. The kids would be doing donut on people's property and all this stuff. The petition, I feel, is illegitimate, because it does not have what they're even wanting. It has no reasons for rescinding this ordinance, and I think the City Attorney should look in. There has to be some guidelines. The people just can't go out and get a petition and give false information, and somebody sign it just because they don't like a law which is going to be good for T or C. It's going to help the tax basis and at some point, these people that are complaining, if we don't get the town going, as Ron Fenn said, our property taxes will go up, and me, myself, as a property owner, I pay quite a few property taxes, and I like T or C. I've been coming down here since I was 12 years old, and I really commend you for passing this ordinance. It's going to help the city. Thank you.

Sharon Eastvold addressed the Commission related to:

- 1) I'd like to thank a lot of people here that are really trying hard to make T or C a place to come to. We just don't see eye to eye on what that pathway should be, and I appreciate the Commissioners who met with us and shared their points of view. And to Mr. Lawless, I'd have to say you're the one that's misinformed. The petition merely asked that the people have a right to vote on this. We feel that our civil rights were violated in the process of information getting to the commissions in that the opinions presented to you were presented as equal. In fact, there were 15 to 18 residents who opposed this ordinance because they

wanted time to consider all the options. The 68 people were all from everywhere but here, so we felt it was the right decision to make to allow the city to vote whether they want this ordinance or not, so it was a legal path, Mr. Lawless, and we have taken that path, and we had less than two weeks to gather signatures, and we got well over the number, because people were very upset with this prospect. I think, rather than point fingers and get angry, and say that we're breaking the law, maybe we should all make sure we have the facts before we start pointing fingers and calling other people the citizens against virtually everything. We want what's best for this community. My husband and I have invested in a quiet, sustainable kind of future, and I know Commissioner Hechler feels that birding hasn't brought a lot of money, but there has never been a concerted effort to reach out to nature agencies, and let them know what we've got here. We've just seen hundreds of white pelicans, and when I try to put that in the E-Bird, it comes up as rare, and unusual, and we know that it's a common thing here. That's the sort of thing people would love to come to see, birds and nature, and that is sustainable. There's a place for OHV's, but I don't think it's on our city streets. And Mr. Lawless, Date and Broadway and Main are state highways, and it is against state law for OHV's to be on those streets, so get to know your facts. Don't make the people who don't agree with you your enemy, let's reach out and try to communicate, and find the best path forward for this community. Thank you.

Hans Townsend addressed the Commission related to:

- 1) I've got a couple of points I want to make, but I would like to just say sometimes these businesses seem to get like the Cavanaugh case, and that's bad that we can't see facts all the time. Noise is not an issue, as the previous gentleman said, motor bikes and trucks are a lot louder than any ATVs out there, and so the noise is not an issue. Maybe we should look at using certain streets that are not residential streets, and applying those as ATV streets, and mark them. People can drive down Riverside and they can drive down Austin. We've got streets that are not the highways that we could make the ATV streets, but that's not what I came for this morning.
- 2) I want you to look at your new phone books. You'll see on the first 18 pages its all tourism information, which was all taken out of the Visitor's Guide, and was reduced to pictures, but the text and everything is the first 18 pages of the phone book, so now the phone books will be advertising T or C in the hotels or wherever they're placed.
- 3) Second is the Copper Flat Mine. There's also a lot of noise about Copper Flat Mine that is not true. People obviously don't read the laws that are applied to the mine and the way that mining has changed over the years, and so I think that people should get facts on the Copper Flat Mine. All these people that complain about the streets, complain that we don't have things, we don't improve things, and we don't have money. That's why we can't do it. We're one of the poorest cities around, even though we got the utilities, because that's another thing. Sooner or later, the utilities are going to be in serious trouble, because we don't maintain it. We take all the money out of there, and we don't use money to

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maintain the utilities that we need. Power outages have killed four of my backups for the computer. They've killed three of my computers, and these come a lot of the time, because the equipment that we have is getting out of date and worn out, and we need to improve those instead of taking all the money, but if we don't take money, the city doesn't survive, so we need to improve the city. We need to grow, and Copper Flat Mine is one of the things that would help us a lot, so I am putting these in the box so you can read about what actually are the advantages, and let's have a serious look at things. I thank you for listening to me today. And people who want our streets to be repaired, instead of saying no to everything, this is not a retirement community. It's only become a retirement community, because we lose all our young people. There are no jobs. Thank you.

Walter Newling addressed the Commission related to:

- 1) I'd like to thank the Committee for letting me speak today. I speak on behalf of Mr. Jeff Lawless. He's my neighbor. I live at 1513 North Riverside Drive. I've known Mr. Lawless for quite a while now, and I've also been in this area since 1980 on and off, but I support Mr. Jeff Lawless in his plea for the ATV vehicles to be used in our community. I think all the things that he's spoken of are accurate and correct. And the petition, like he said, I think that is something to look at, because I haven't heard anything bad from it yet for anybody to even come forward with such a petition. I look forward to buying a vehicle like that one day, or being able to drive one like that in this community, and that's what I wanted to say today. Thank you.

Stanley Rickert addressed the Commission related to:

- 1) Last week the TV airways were down for Channel 13, KRTV, and it was down for a day-and-a-half when I finally said I better call the City Clerk's Office and see what's going on. So I called and I spoke to a girl named Lisa, and she did not know what the problem was, but she gave me a number to call, and that number was to Bo Easley. Bo Easley didn't have the answers for me, but he gave me a phone number also for a fellow named Scott that works for KRQE, and I talked to him, and he was just coming down off of Mud Mountain, and his statement to me was, that the transmitter box blew up, caught fire, and is no longer working. And they probably would not get it up and running until possibly Tuesday. It will cost quite a bit of money, he said, somewhere close to \$12,000, but he was hoping to get it back up and running before too long. Anyhow, he did a superb job. He was true to his word. He did have it up and running yesterday I think somewhere around 1:00 in the afternoon, maybe. It just impressed me to have somebody go forward with stuff, and of course, Bo Easley getting me the phone number for this person, and then Lisa, I don't know her that much or haven't ever heard of her, but she helped also, and I'm thinking to myself how come the Commissioners here, don't put forth the little effort like these folks do? So that's my question to you.

- 2) Now the other part is, it says we have comments from the public and then it says for their response to public comments. How come you folks never really respond to the comments? You know, each individual person comes up here and talks, and, pours their heart out on subjects, and you have nothing much to say to them, other than, oh, thank you, and that's it. I just wonder about these things, because you're not showing us that you care. You don't look like you care, other than you're sitting here listening to what we say. I think you should comment maybe at least for 50% of the people that get up her and talk, and have a discussion. You know, it would help.

Sara Frothingham 608 Pine Street addressed the Commission related to:

- 1) Thank you all for being here. Renee, let's get rid of Juan's ghost, and we'll just all work as a community for the pool. It's for the families, it's for the children, it's for the youth, and it's for the patrons. Mayor Green, I'm really glad you're here, because you make a huge difference. All of you make a huge difference. You've made a huge difference in T or C with what you've put forward over the years.
- 2) On Thursday when she was leaving the pool, she drove by the Brewery and discovered all the ATVs. They appeared all to be made from fiberglass. To me, I don't know how those are off road, how they could go anyplace but on the streets. And then I drove down a little further. I was at Mims Street, and I saw this great, big container for a semi that probably all the ATVs were in, and it appeared to be a "Wounded Warrior" semi on the outside of it. I drove around the corner, and it had Texas plates. Now we've been told that these were locals, but they were Texas plates on the vehicle that hauled all these ATVs into town, and my take from this was that if I'm not for ATVs, I'm against veterans, and I find that offensive. I think we can believe in the city, believe in veterans, and still not like ATVs in our streets. Especially ones that are made out of fiberglass that can't go off street. It was very interesting to look at. Thank you.

RESPONSE TO PUBLIC COMMENTS:

Mayor Green responded:

- 1) I'd like to just respond to one thing that I heard on Mr. Fenn's comment about the city being designated as a Colonias. There is a law that says that if you are in 150 miles of the border between Mexico and the United States, that you automatically would qualify if you have certain infrastructure issues, to be a designated Colonias, and when our past manager Juan Fuentes brought this to the Commission, there's this haul of oh, my God, people are going to think T or C is just all dirt roads, and outhouses, and they have no infrastructure at all. When we did our research, we realized that if we were to become a Colonias, it would open up a lot of additional funding opportunities to get money on grants to help with our infrastructure projects and problems. First example, we got over \$8 million from USDA, because we were designated as a Colonias to upgrade our Wastewater Treatment Plant which was out of compliance. That's number one.

- 2) Traci Burnette, who's our Grant Projects Coordinator, has made a presentation to the State Water Trust Board Colonias, asking for money to help with our infrastructure for our pipes that deliver potable water to our homes, so I don't want anyone to feel that because we went this route, that it casts a negative impression about our community. We would be a lot worse off, believe me, if this commission had not supported the recommendation of Manager Fuentes. I actually had spoken to Juan a couple of days ago and I informed him that Ron Pacourek had some very kind and thoughtful words about him. Mr. Fuentes asked me just to thank Mr. Pacourek if I saw him. He's not here, but I didn't want this to drag on and so I am mentioning it.

D. CONSENT CALENDAR

1. Airport Advisory Board Minutes, July 10, 2018
2. Public Arts Advisory Board Minutes, July 17, 2018
3. Accounts Payable, September 2018

Mayor Pro-Tem Whitehead moved to approve the Consent Calendar as noted. Commissioner Baca seconded the motion. Motion carried unanimously.

E. PUBLIC HEARINGS:

- a. Public Hearing: Final Adoption of Ordinance No. 699 pledging certain revenues to the repayment of a loan for the defeasance and refunding of the 2016 Loan from the New Mexico Finance Authority for the construction and improvement of the Sierra Vista Hospital. Renee Cantin, Interim City Manager:

Interim City Manager Cantin stated, the reason for this ordinance was to refund and restructure the current NMFA loan for the construction of the hospital, but they decided to revise the plan for the construction and will reduce the cost.

Luis Carrasco reviewed each section of Ordinance No. 699 for pledging certain revenues to the repayment of a loan for the defeasance and refunding of the 2016 Loan from the New Mexico Finance Authority for the construction and improvement of the Sierra Vista Hospital:

- The term, Governmental Unit in the loan documents, has now been changed to mean the Sierra Vista Hospital Governing Board and the Sierra Vista Hospital Joint Power Commission, so those collectively mean the governmental unit, and we made a revision in the ordinance title to reflect that.
- The participants means Sierra County, the Village of Williamsburg, the City of Truth or Consequences, and the City of Elephant Butte, so that's a separate governmental unit and the participants. That was most of what got changed.
- Section 2 ratifies any actions that the City or its staff have taken in furtherance of the adoption of this Ordinance and the loan.

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- Section 3 states that the project and the method of financing are authorized through the adoption of this Ordinance.
- Section 4 includes the Commission of making certain findings of the project that is needed, and the monies from the loan are needed to complete the project.
- Section 5 is the most substantive, in my opinion. It's the authorization of the loan and the intercept agreements, which I believe are included in your packets. In essence, this ordinance authorized the pledging of those municipal gross receipts taxed to the repayment of the this loan on T or C's behalf, and also approves the forms which we believe will look substantially similar to what is before you. You later on authorized certain members to make any necessary changes. We were fortunate to be able to work with the Finance Authority in the last week or so to get the loan and the intercept agreement in what we think is going to look almost final, but as closing approach, as things might change and you delegate certain authorities to the authorized officers, which is a defined term, to make any necessary changes. So it approves the pledge of the revenues and the form of the loan agreement, and the form of the intercept agreement, and authorized the execution and delivery of those documents. It specifies the uses of the loan fund, so the loan is going to be used to finance the completion of the hospital, fund the loan agreement reserve account, fund the capitalized interest account, and to make the deposit into the finance debt service account, which are all described in greater detail in the loan agreement. The loan agreement provides that the payments will be made beginning May 1st, 2019, principal payments on May 1st of each year, and principal interest payments on May 1st and November 1st of each year. As I said, you're approving the form of the loan and intercept agreements, provides that the loan is secured by the pledged revenues, and payable solely there from, and that this loan constitutes a special limited obligation of the governmental unit and the participants, and is not a general obligation. It provides that the holder of the loan can look only to the pledged revenues for the repayment of the loan, that this loan does not constitute indebtedness within the mean of any constitutional provision, and does not constitute a charge against the City's taxing power.
- Section 8 (I jumped a few sections) provides that the municipal gross receipts tax that T or C is pledging be paid to the Finance Authority to fund the Debt Service Account, and the Loan Account Reserve Account. The subsection B of Section 8 provides that once those payments of the pledge revenues equal amount that's needed to pay off the loan in its entirety, that there will be no longer any payments made to the Finance Authority, and any excess revenues will get sent back to the hospital for use in conformity with the provisions of the Joint Powers Agreement. As I mentioned, the City's municipal gross receipts tax is pledged to secure the loan, and the City may not place a lien on those revenues that are superior to the lien constituted by this loan.
- Section 10 deals with withdrawal from the Joint Powers Agreement and provides the City's acknowledgement that the term of the Joint Powers Agreement is at least until the loan is paid off, and that the City's withdrawal from the JPA must be in compliance with the JPA.

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- Section 11 describes the authorized officers, and the authorized officers includes them Mayor, the Mayor Pro-tem, the City Clerk, or the Deputy City Clerk of the City. They are authorized to execute and deliver the loan-related documents, and to do anything required by this ordinance, and the loan agreement and the intercept agreement, and to publish the Ordinance Summary, which is in Section 17.
- Section 12 describes the amendment of the Ordinance, and provides that this Ordinance can be amended or supplemented before closing on the loan, and any manner that's not inconsistent with the provision of this ordinance.
- Section 13 covers, once the loan closes, then the Ordinance is irreparable until the loan is fully paid off.
- Section 14 provides a very basic standard severability clause.
- Section 15 is the repealer clause and says that any inconsistent bylaws, orders, resolutions, ordinances or parts thereof that are inconsistent with this Ordinance are repealed, but only to the extent of such inconsistency. And Section 16 provides that the ordinance is effective upon the due execution of the Ordinance and publication/posting of the Summary of the Ordinance.
- Section 17 instructs the authorized officers to publish the notice that this Ordinance has been adopted in the newspaper, and once that occurs, the Ordinance will be effective.
- As I was looking at this document again this morning before I came here, I noticed a couple of typos that, with your permission, I am happy to change before we get the final signature page for you.
- On page two, the fourth Whereas Claus, it's describing the Joint Powers Agreement, and reads repayment of the loan will be secured in part by gross receipts, tax revenues imposed by the participants under the Joint Powers Agreement, amending existing JPA number 97059 adopted May 14th, 1998, revised July 15th, 2009, and April 19th, 2016. We added that April 16th date in, because that was the date the last of the participants adopted that amendment in 2016 to the JPA. We've made this change in the other ordinances that the other participants will adopt to use the date that the Department of Finance and Administration approved the amendment to the JPA, which is May 23rd, so with your permission, I'll make that change, changing it from April 19th to May 23rd, 2016.
- On page four in the Definition of Capitalized Interest Account, a typo. The Definition of Capitalized Interest Account says capitalized interest account means an amount not exceed the amount specified in Exhibit 8 to the loan agreement. It should say means an amount not to exceed the amount specified, so I'll just add, with your permission, that missing word.

Commissioner Clark stated she is concerned with how we are binding the Hospital Governing Board to the repayment of this loan. They're an appointed board, and that's my concern. I can understand binding with JPC and all of the entities, but can you explain that to me?

Luis Carrasco responded the governing board will also adopt a resolution that looks almost exactly like the document you have tailored to meet the circumstances of the governing board, and the JPC will do the same thing in a couple of weeks. They just don't have authority to adopt ordinances, so it's called a resolution, but they'll approve the document that makes the same representations and pledges and in their case, the net system revenues of the hospital as partial repayment for the loan.

Public:

Klaus Whittern asked if the bonds could be defeased at a later time. The reason for that is the interest rates are currently going up and they may come down again, and you would want to have the opportunity to defeased and refund the bonds. I think it's only possible one time, and this would be the one time. This would be a defeasance, so I'm concerned about it. The other thing that I believe is incorrect is when it was stated that this would complete the hospital, it will not. The hospital will ask for \$5 million contribution and that is a concern to me. Thank you

Hans Townsend's concern is, as Klaus said, there's going to be another \$5 million needed. The second concern is that this hospital won't be complete. The decision to cut back the size of the hospital is really concerning, because if Copper Flats is actually employing 270 people in the second most dangerous occupation that there is, and we have reduced our beds to 12 from the original 20, we won't have a hospital that's going to cope with any of that, and these things were pointed out to the board at the time they were doing it. The presentation to the board for the future of this community by the company that is now running the hospital were not given any information on Space Port, and, they were not given any information on Copper Flats. They didn't know anything about it so they made their presentation on the assumption that this is a retirement community going downhill, and that was the presentation they made, and unfortunately, well, fortunately in some ways, that may not be the case, and we will need those beds. If we need those beds, we need more money, and it upsets me, because this could have been avoided to a great extent if people on the board had listened to where that CEO came from who destroyed the financial status of the hospital. He'd done it already to two other places, and nobody would listen until it was too late, and the hospital nearly went bankrupt. All these financial things add up to the fact that we are now in a nutcracker, and sorry, but I feel that we've got to really think about this seriously how, if and when Space Port fly's. Those things are going to be thought about, and we're going to be stuck with a hospital that's not big enough or competent to cope with those things, and that's a concern to me.

Mayor Green closed the Public Hearing and called for Executive Session.

J. EXECUTIVE SESSION

Mayor Pro-Tem Whitehead moved to approve going into executive session at 9:30 a.m. to discuss Threatened or Pending Litigation (Augustin Plains Ranch, LLC v. Tom Blaine et al.) Pursuant to 10-15-1(H.7)

Commissioner Hechler seconded the motion. Roll call vote was taken by the Acting City Clerk. Motion carried unanimously.

Mayor Green reconvened the meeting in open session at 10:23 a.m.

**K. ACTION ON ITEMS DISCUSSED DURING EXECUTIVE SESSION, if any.
ADJOURNMENT**

Mayor Pro-Tem Whitehead certified that only matters pertaining to Threatened or Pending Litigation (Augustin Plains Ranch, LLC v. Tom Blaine et al.) Pursuant to 10-15-1(H.7) was discussed in Executive Session and no action was taken.

New Business:

G.2 Discussion/Action: Proclamation and Resolution No. 16 18/19 calling a Special Election to be held on January 15, 2018 related to the Referendum Petition for Ordinance No. 697 for the Off Highway Vehicles. Renee Cantin, Interim City Manager & Angela Torres, Acting City Clerk:

Interim City Manager Cantin and Acting City Clerk Torres reviewed the Proclamation and Resolution No. 16 18/19 calling a Special Election to be held on January 15, 2018 related to the Referendum Petition for Ordinance No. 697 for the Off Highway Vehicles. Attached is the final verification of signatures on the petition for ordinance 697. The final verification was done on October 5th which was the deadline to get it completed. The final numbers are 218 valid signatures. We had 71 invalid signatures with a couple different issues. Some were either not on the list at all or may have had an incorrect address on the voter registration list or it may have been unreadable, so we can't count those that aren't readable. The number of signatures required was 154, and as I said, there was 218 valid. Once the signatures were verified, the Commission is required to call for a special election. Acting Clerk Torres contacted secretary of state's office, and we determined that part of the new house bill includes that an election cannot be held within 70 days of an election, so due to the November general election, the dates that a special election for a municipality can be held is between January 15th and August 27th. That's one of the other reasons we chose January 15th because it's that first day that it would be allowed. We are working on a more-detailed calendar. Another thing that needs to be noted is that all special elections will now be required to be a by-mail ballot, there will be no absentee voting because all the registered voters will be mailed a ballot.

Commissioner Hechler moved to approved Proclamation and Resolution No. 16 18/19 calling a Special Election to be held on January 15, 2018 related to the Referendum Petition for Ordinance No. 697 for the Off Highway Vehicles and we notify Sherriff Department and State Police Department of the ordinance. Also Mayor Pro-Tem Whitehead seconded the motion. Roll call vote was taken by the Acting City Clerk. Motion carried unanimously.

Commissioner Clark left the meeting at 10:41 am.

G.2 ORDINANCES/RESOLUTIONS/ZONING:

Discussion/Action: Final Adoption of Ordinance No. 699 pledging certain revenues to the repayment of a loan for the defeasance and refunding of the 2016 Loan from the New Mexico Finance Authority for the construction and improvement of the Sierra Vista Hospital. Renee Cantin, Interim City Manager:

Interim City Manager Cantin stated she thinks they gave a good breakdown, and she thanked Mr. Carrasco for being here and assisting with that. With that being said, staff recommends that we proceed with the final adoption of the ordinance.

City Attorney Rubin stated that he just wanted to just emphasize something. Mr. Carrasco discussed some of the changes that had transpired from the original document to the final document, but as he understands, and I agree with you, it sounds like what you're telling me is that the changes were very minor in nature. They don't affect the substantive nature of the ordinance. Our figures for example was the same and the mechanics of how it's going to work is the same. So am I correct in that?

Mr. Carrasco responded that's correct. The substance didn't change. It was just some changes to the definitions of certain terms and the deletion of the processing fee with the substitution of the capitalized interest account. But beyond that, the ordinance does exactly what the published notice of adoption says that it would do. And with respect, I would just remind the council of those two minor typographical errors that I pointed out.

Mayor Pro-Tem Whitehead moved approval of Final Adoption of Ordinance No. 699 pledging certain revenues to the repayment of a loan for the defeasance and refunding of the 2016 Loan from the New Mexico Finance Authority for the construction and improvement of the Sierra Vista Hospital with amendments noted by Mr. Carrasco. Commissioner Hechler seconded the motion. Roll call vote was taken by the Acting City Clerk. Motion carried unanimously.

F. NEW BUSINESS:

1. Discussion/Update: McAdoo/Sims Infrastructure Improvement Project – Phase 1 identified as McAdoo Street between Daniels Street and Main Street. Traci Burnette, Grant/Projects Coordinator and Renee Cantin, Interim City Manager:

Traci Burnette, Grants Coordinator reported we have held multiple meetings discussing different options to proceed forward with the phase 1 at the lowest possible cost to the

respective departments. Unfortunately after meeting with the Finance Office the Water Department does not have the necessary funds to proceed forward with the project, and we did determine that Streets Department lacks the necessary equipment and some of the experience with some of the things that would be required by an engineer to proceed in-house, and so they would have to look at contracting a good portion out on the streets portion, and they don't have enough necessary funds to proceed forward at this time holding this as an all-in-one project. So what we are requesting to look at doing, we would be coming back to you guys next commission meeting to move forward with the appropriation funds that we received from the streets department. That grant specifies that those funds are to be used to plan, design, construct, and improve streets including curbs, drainage, and sidewalk accessibility in T or C; however, those funds were a direct result of a capital outlay request pertaining to project number 3 2019 on the ICIP that was described as reconstructing existing downtown municipal streets, and that scope of work would be consistent of subgrade preparation, placement of base course, placement of concrete or asphalt pavement, and could also include reconstruction of concrete curb and gutter, wheelchair ramps. Specifically on the ICIP we did list reconstruction to include cross-streets between Main and Broadway, McAdoo and Sims Street. So we would come back to the commission on the 24th to receive your direction. We would have cost estimates for the improvements to those streets that would be done by our streets department and include Sims, McAdoo, Daniels, Clancy, possibly Foch, and Benny may also add some other streets in there that may be within the city limits that he feels is a priority. And then we get your guys' direction on where you would like us to spend those capital appropriation funds. This particular grant expires in 2022; however, when I did go to the ICIP training, they're very specific. They'd like those funds expended within 16 months. The longer you take to obligate funds, the risk you have of the possibility of funds being frozen. With that being said, we just signed and sent off the grant agreement in September. We cannot file any notice to obligate any of those funds till we receive a signed grant agreement back from DFA, and when I looked at 2016 for the animal shelter, we sent off our grant agreement in September and we didn't receive a signed grant agreement back from DFA until December. So I'm estimating we're probably looking at December/January at the earliest to obligate any funds on this project. So we do have a little bit of time.

Commissioner Hechler asked that Finance be included on this project and when you bring this back and if we could have Benny maybe take a look at this budget and see, how much of that \$150,000 might be available for this downtown project that we're talking about right now.

Mayor Green agreed with Commissioner Hechler. He also asked that Ms. Burnette to maybe get with Linda DeMarino at a certain point because the MainStreet was successful as an applicant on the Great Blocks on Broadway grant. And the city has pledged a certain amount of money to that project. That's basically going to be on Foch. I just don't want to spend dollars on Foch Street where Main Street is going to come in with this entire plan on how to redevelop that area, that street. I'd rather wait until they get their finished product before we start allocating city resources and maybe work at cross-purposes with something that we're already investing.

Traci Burnette, Grants Coordinator stated as a follow-up, she met with Benny briefly, and unfortunately with the \$100,000 for the funds that we have to use, it's probably going to be used very quickly and not go nearly as far as we want it to as we have seen with the LGRF funds.

No action needed.

2. Discussion/Action: Setting Meeting dates for November & December Regular Meetings. Angela A. Torres, Acting City Clerk:

Acting City Clerk noted due to the holidays, we're requesting to cancel the November 28th regular scheduled meeting and hold one meeting for the month of November which will be on November 14th at 9:00 a.m. We're also requesting to cancel the December 26th regular meeting and only hold the December 12th meeting for the month of December. If any important issues arise, we can call a special meeting if needed.

Mayor Pro-Tem Whitehead moved to hold one meeting in the month of November to take place on November 14th at 9:00 am and to hold one meeting in the month of December to take place on December 12th at 9:00 am.

Commissioner Hechler seconded the motion. Motion carried unanimously.

3. Discussion/Action: Personnel Appeals Board Appointment and Terms of Members. Steve Green, Mayor:

Commissioner Hechler stated essentially what I'd like to propose is that the original personnel board was comprised of five regular members and two alternates which is a lot of people for this small community, when we're trying to fill all the other boards that need to be filled too. What I am proposing is that we reduce that number to three regular members with two alternates. I heard you speak a little bit a couple of weeks ago that they shouldn't be mayor-appointed, so perhaps we can have them appointed by the public just like we do some of the other boards, make recommendations, or they can fill out an application and request to be on that board. So we reduced that to three members from the public, and then we need to have city participation, and I would like to see two members come from the actual city employees, one from management and one from the staff, regular staff of the city employees, so we would actually have a total of five members. Then as we go forward, I wasn't sure on what we wanted this personnel board to hear, and so we already have a grievance board, and it's quite detailed, and it's a little cumbersome, and maybe down the road we can work on that a little bit. But I'm thinking that perhaps the personnel board, in the employee grievance procedures there is a place in there under 10.1 that says "Informal resolution procedures." Those informal resolution procedures perhaps can be diverted to the personnel board to deal with. I'll give you a definition here of the difference between a grievance and a complaint, and I think the personnel board should hear the complaints.

So a complaint is an issue brought forth by an employee concerning the workplace which may include but is not limited to working conditions, performance, policies, procedures, or problems with coworkers or supervisors. A complaint is not an issue that is a grievance as defined under the grievance definition. And here's a grievance; a complaint of an employee concerning termination of employment of that employee who has passed the introductory period of probation and/or concerning any other adverse employment action directly affecting the employee and which the employee believes is a violation of federal or state employment laws or regulations. So if we were to hold true to those definitions, then that would open up the possibility that a personnel board could actually hear some things that take place in the workplace, and we could still keep our grievance procedures in place for those things that fall under a grievance procedure. I think the first step is to define the board, which I've done here, and I can put this in final form and we can bring it before the commission next time to adopt, and then from that point ferret out what we want the personnel board to actually do, and that would be the next step.

City Attorney Rubin stated he seems to remember after the City Manager makes his final decision, he takes into account the recommendation made by the personnel board, and then the city manager makes his decision. Then the aggrieved employee, if he still feels aggrieved, can then ask that it be reviewed by the city commission, and the city commission I believe has several options. You can either hear the appeal in totality or you can just say, "We want to decide this on written brief," or you can reject the appeal altogether in which case then the aggrieved party would then have the right to file suit.

Mayor Green responded Right. The decision of the manager then would hold sway. And at that particular point, and if they disagreed with that, they'd have another option.

Mayor Green made a motion to authorize Commissioner Hechler to proceed with the information to create a personnel appeals board and to bring two different options of the makeup of that board back to the commission for discussion and action on October 24th, and it be followed up with the rules and procedures and responsibilities of that board and what their role will be. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.

4. Discussion/Action: Live/Work Special Use Permits on Commercial Buildings. Steve Green, Mayor

Mayor Green stated the last two or three meetings, we have approved work permits for live-in in commercial buildings, and we have two of them now that we have approved on a special use permit. When Mayor Montgomery was up here, we started discussing what would happen if the businesses close and you have a commercial building in our historic hot springs downtown Main Street district with people living in the building which is good because we want activity and people, but we have the front part of the building not in commercial use, and we have blinds across the windows, and it is a residence. That has happened already in two buildings that we have in our historic downtown. And my concern is what happens if we keep on doing these special use permits. I think it's

great, don't get me wrong because I think we want people living downtown, but we want business to be downtown also, and if you take the available commercial buildings and make them into residences, where are the businesses going to locate that generate the GRT that help run the city?

When Mayor Montgomery was on the Commission, we were talking about if the applicant closed their business, they would have 90 days to open up another business and/or vacate the premises because residences don't help us generate GRT. It's businesses that do, and of course it's the people. So I wanted to just talk about this to see if we could come up with a codicil on future special use permits that require them to have a business, the business must be open four to five days a week, you know, to do this and sell us this idea, and then we find out that they're open one day a month.

Mayor Green asked that this item be added to the October 24th meeting due to Commissioner Clark's absence.

D. REPORTS:

1. City Manager:

- She met with several departments and Streets took her around and showed her problem areas and such, tour of the pool, met with public works and parks and the airport, and I just want to say, one of the things that impressed me the most in my meetings with the parks is they all want to be the number one department in the city. She was pretty impressed with that. So she sees good things with all the departments.
- She attended her first governing board meeting and many other meetings.
- Her next priority right now is going to be that golf course plan. We've got to get moving on it, and I realize that. That was presented by Terry Taylor, and Commissioner Hechler was in on that with us. So that's one of my main priorities as soon as I can get to it.
- She is working on the budget adjustment and getting some things moved around so we can get that requisition and to get the test sample done for the water at the Airport. At the Airport Board Meeting, there was some other information that was provided. We also got a hold of was it Dan Dickson who was the former Airport Manager. He knew a lot about the well that was at the gun range which will help us tremendously because we think there's a big leak over there, so we're looking into that as well.
- Water leaks, I have a new list of the water leaks, so I'll mail that to the commission if you have any questions on that rather than go down the list.
- The Veterans Wall is moving along.
- Prior to my appointment as interim, I had a prior commitment to teach the Clerk's institute as I've done every year for quite a few years. There's three classes that I'll be needing to teach next week, so I'll be gone next week, but I should be okay on Wednesday if anything's needed, and Kristin can always send anything to me that needs a signature and such. So I'll be in constant contact at all times. If anybody needs anything, you can always call the cell.

2. City Attorney:

- No report

3. City Commission Reports:

Mayor Pro-Tem Whitehead:

- N/A

Commissioner Hechler:

- N/A

Commissioner Baca:

- N/A

Mayor Green:

- I would like to just make a point of OJ and his department spent a lot of time coming up with some type of a proposed plan for the Ralph Edwards Park, and when I was down at the farmers' market last Saturday, and Colleen Davis, who is in charge of the Farmers' Market, asked me about that, and if it would interfere with the farmers' market setting up next year, and if so, how the farmers' market could work with our Parks Department, because they're really enthusiastic about the presentation that OJ did. So what I would like to do, and what I told Colleen Davis is that I would ask you if that we could have a meeting after the farmers' market closes, so they could know what their roles and responsibilities are, what OJ would need from them. I'd like to have at that meeting present OJ, Colleen Davis, obviously yourself, and anyone else who you feel would add something to that because I've heard some wonderful comments about the proposed project, and if we could find the funding to phase that in via grants or self-fund it ourselves.

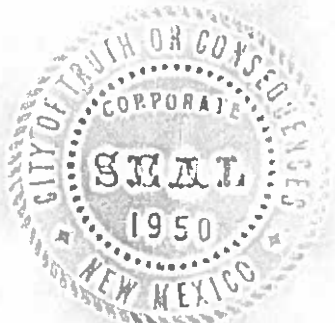
Interim City Manager Cantin and stated last week at the Recreation Board Meeting they called it as a public hearing so more people could come and learn about the project that's planned for Ralph Edwards Park as the Commission directed, and at that time he did indicate he was going to be contacting Colleen Davis on the upgrades and how to proceed and all of that.

- Mayor Green also thanked Linda DeMarino for the upcoming dog show. The dog show is open to the public and he encourages the public to attend.

L. ADJOURNMENT

Mayor Pro-Tem Whitehead moved to adjourn at 11:43 a.m. Commissioner Baca seconded the motion. Motion carried unanimously.

Passed and Approved this 12th day of December, 2018.



Steven Green
Steven Green, Mayor

ATTEST:

Angela A. Torres
Angela A. Torres, CMC, Acting City Clerk