

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, July 13, 2010

REGULAR MEETING

Minutes

TIME & PLACE: The Mayor and the City Commission of the City of Truth or Consequences in the County of Sierra and State of New Mexico met in Regular Session in full conformity with the law and ordinances of said Commission in the Commission Chambers of said City, on Tuesday, July 13, 2010 at 6:00 P.M.

PRESIDING OFFICER: The meeting was called to order by Mayor Montgomery who presided and Mary B. Penner, City Clerk acted as Secretary of the meeting.

ATTENDANCE: Upon calling the roll the following Commissioners were reported present:

Hon. Lori S. Montgomery, Mayor
Hon. Evelyn B. Renfro, Mayor Pro-tem
Hon. Steve Green, Commissioner
Hon. Frances Sanchez, Commissioner
Hon. Freddie Torres, Commissioner

Also present:

Dave Weiser, City Manager
Jay Rubin, City Attorney
Mary B. Penner, City Clerk

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

CEREMONY: Mayor Montgomery called for fifteen seconds of Silent Meditation.

Commissioner Sanchez called for the Pledge of Allegiance.

APPROVAL OF AGENDA: Mayor Montgomery called for approval of the Agenda, and stated there is one correction, and on F-3...indicated it should be **summary re-plat**...not summary plat.

“Commissioner Green moved approval of the Agenda with the correction on F-3 to reflect **re-plat**.”

Seconded by Commissioner Renfro.
Motion carried unanimously.

RESPONSE TO PUBLIC COMMENT: None.

COMMENTS FROM THE PUBLIC: None.

CONSENT CALENDAR: Mayor Montgomery stated they have two items under the Consent Calendar – Minutes of the City Commission Meeting – Regular –

June 22, 2010 and Accounts Payable – June 2010.

“Commissioner Sanchez moved approval of the Consent Calendar as presented.”

Seconded by Commissioner Green.

Commissioner Green referred to page 2 he noticed that they are paying Bank of America, and stated he received something in the mail called world points rewards, and that it is a Bank of America/American Express Credit Card, and that for every dollar they charge on the card...the dollar is equated to points and at the end of the year they get 1% of the points back in money, and would like staff if his fellow commissioners think it is appropriate to call Bank of America and check into this.

Mayor Montgomery stated she thinks there would be some kind of limits on government entities.

Commissioner Renfro referred to page 1 stated she noticed that they have Morgan Street Dam transfer funds...\$700,000...do you know what that is about, and didn't think they had \$700,000 budgeted in Morgan Street Dam...I know we didn't.

City Manager Weiser...I think the \$700,000 is the funds that they had to transfer to make the payments on the Broadway and Main Street re-paving...I'll have to check on the Morgan Street Dam.

Mayor Montgomery stated if they would follow-up on those two items.

Motion carried unanimously.

DRAFT
MINUTES:

Mayor Montgomery stated the following are draft minutes from various boards provided to the Commission for their information, and are non-action items.

BOARD
COMMITTEE
REPORTS:

& Consider Board Appointment/Re-appointments –
Public Utility Advisory Board –

City Manager Weiser stated they have a recommendation from the Public Utility Advisory Board for the re-appointments of Alvin Siffring, Bill Jacka and Mike Potia.

“Commissioner Renfro moved the recommendation from the Public Utility Advisory Board for the re-appointments Mr. Siffring, Mr. Jacka and Mr. Potia to the board.”

Seconded by Commissioner Green.

Motion carried unanimously.

Veteran's Park Advisory Board –

Commissioner Renfro stated her motion did not include the second paragraph from the Public Utility Advisory Board.

City Manager Weiser stated they have a recommendation for the Veteran's Advisory Board for the re-appointment of Merry Jo Fahl citizen at large, Carol Wilson of the NMSVH, and the appointment of Jim Ferrell from VFW Post #3317 and Travis Jackson as the alternate.

“Commissioner Renfro moved approval of Merry Jo Fahl, Carol Wilson, and Jim Farrel to the Veteran’s Advisory Board.”

Seconded by Commissioner Sanchez.

Motion carried.

Mayor Montgomery abstained on the appointment for Ms. Wilson as it was based on her recommendation as the Administrator.

Public Utility Advisory Board – For solar facilities –

City Manager Weiser stated they previously had a presentation and workshop on solar power by Mr. Sam Senn, and indicated he also presented this information to the Public Utility Advisory Board and their recommendation is that they go out for an RFP.

Commissioner Green stated they should go out and see what is available, and what will work for our City, and see if it is doable...financially and land wise, and bring it back to the Commission.

Commissioner Renfro agreed.

City Manager Weiser stated they have looked at the possibility of using solar power at some of the pumping stations...especially the ones at the golf course, however those generally operate at night so it would take considerable battery power...battery back up to use that, and stated they would look at that part as well.

Mayor Montgomery stated they had asked Mr. Senn if there was a sample RFP from another community, and if he had provided anything.

City Manager Weiser stated he had not but he would.

City Attorney Rubin stated he contacted him today and that he would get something to him by tomorrow.

“Commissioner Green moved approval for staff to go forward with the recommendation submitted by the Public Utility Advisory Board.”

Seconded by Commissioner Sanchez.

Motion carried unanimously.

Planning & Zoning Commission – Summary Re-plat, Teston –

“Commissioner Renfro moved approval of the Summary re-plat as submitted by the Planning & Zoning Commission, as described in the recommendation.”

Seconded by Commissioners Torres/Sanchez.

Motion carried unanimously.

PUBLIC
HEARINGS:

None.

RECOGNITION –
SANITATION
DEPT.:

City Manager Weiser stated they were very fortunate this last year to be the only City to be recognized for the Sanitation and recycling efforts that our community has done, and indicated that our sanitation crew has been very pro-active in this, and have had wide community support from the Bountiful Alliance. And stated they

have two awards to present at this time...the first one to the City Sanitation Department.

Mr. Leonard Carrillo and members from his staff came before the Commission and were presented an award from Mayor Lori Montgomery.

RECOGNITION – City Manager Weiser stated the next award if for the Bountiful
BOUNTIFUL Alliance, and stated they have the community support from the
ALLIANCE: Bountiful Alliance, and that they were one of the recipients of this award.

Ms. Sandi Gardner and Mr. Phil Duncan came before the Commission and were presented an award from Mayor Lori Montgomery.

RESOLUTION City Manager Weiser stated this is an action that they are required
#01-10/11 to take each year to reaffirm the Open Meetings Act, Section 10-15-1 et seq. NMSA 1978.

“Commissioner Renfro moved adoption of Resolution #01-10/11.”

Seconded by Commissioner Green.

Motion carried unanimously.

RESIGNATION – City Manager Weiser stated they received the resignation of Judge
HAWKINS & Hawkins, and they researched the possible actions by the City
REPLACEMENT: Commission, and that they have in place an alternate judge...Bobbie Sanders. He stated she can continue in that position, or they can appoint her as the Municipal Judge or advertise the position and seek other applicants.

He indicated they have had several people inquire about the position, and whoever they appoint will serve until the next Municipal Election in March 2012.

Commissioner Torres – is she willing to serve.

City Manager Weiser – replied “yes.”

Commissioner Renfro stated she thinks for as long as Ms. Sanders has served as the alternate judge, and the job she has done she thinks it would be fitting to appoint her if that is what the Commissioners wishes.

“Commissioner Renfro moved to appoint Ms. Bobbie Sanders as Municipal Judge.”

Seconded by Commissioner Green.

Motion carried unanimously.

RESOLUTION City Manager Weiser stated this Resolution is for funds for
#02-10/11: participation in the local government road fund program to lay down additional asphalt on Foch Street from 5th Street to 802 Foch Street, approximately 1200 linear feet.

Mayor Montgomery stated this is the local government road fund program that the City enters into each year with the State of New Mexico with the portion from NMDOT of \$32,939.00 and from the City of T or C matching funds of \$10,980.00.

“Commissioner Renfro moved adoption of Resolution #02-10/11.”

Seconded by Commissioner Green.

Commissioner Green stated he would like to suggest that once the street crew gets up on Foch and starts to lay this down...that they use a little bit of the loan money and finish Foch.

Motion carried unanimously.

PROPOSED ORDINANCE – City Manager Weiser stated our City Attorney was going to review this further.

UNIFORM TRAFFIC CODE: City Attorney Rubin stated he did some double checking on this, and indicated usually what he does is prepare a summary of the actual proposed changes, and that this year the changes are very inconsequential, and what the legislature did they re-codified by numbers, and did not make any substitute changes to the law, and in fact the ordinance that is in your packet he patterned almost plagiarized from the Municipal League, and thinks they can go forward with this and go to publication.

“Commissioner Renfro moved approval the proposed ordinance for publication.”

Seconded by Commissioner Green.

Motion carried unanimously.

LEASE – CITY & C of C: City Manager Weiser stated the City has had a lease with the Sierra County/Truth or Consequences Chamber of Commerce to provide them office space. He indicated this is the start of the second 4-year period.

He stated as they were reviewing the lease they found a couple of inconsistencies that they attempted to mediate in this version, and referred to page 1 **under consideration**, and the language originally stated that the lease agreement was for \$600.00 a month, and they changed that because later on in the lease it indicated \$450.00 a month, and stated they changed that to...per the terms in exhibit “A”, and the next change is in the **use of premises**, and City Attorney Rubin felt that it really didn’t state in the lease what the premises were to be used for...so they added the phrase...**use said offices for Chamber of Commerce purposes**. And stated they had a couple of spelling errors, and the final changes were in exhibit “A”, and the major changes were in the very last page was to perform in exchange for the lease on the building, and they changed those hours around, and reduced the total in-kind projected annual in-kind services...and reduced that down to \$13,086.00, and if they look at the original lease of \$600.00 a month which is \$7,200.00 a year, and the Chamber is providing in-kind services of \$13,086.00, and those are the changes in the proposed lease for their consideration.

City Attorney Rubin asked if he could go over the \$600.00 figure on exhibit “A”, and how does that play into this.

City Manager Weiser stated his understanding...the first year of the lease the Chamber provided some improvements...some construction improvements to the office, and stated that was in exchange for the first years lease, and after that in exchange for subsequent leases that the Chamber agreed to provide certain services such as man hours, and that the offices were to be manned so many hours a day 5 days of week, and provide services such as tourist packets to off set that lease amount.

Commissioner Sanchez asked if they pay for the utilities for space they rent because she does not think it is in the same agreement that they afford to Domestic Abuse.

City Manager Weiser stated they do provide utilities to some of the spaces they rent such as to SCEDO at the Civic Center, and to the Tourism Board, and also provide utilities to the Boys "N" Girls Club, and the Youth Center.

"Commissioner Green moved approval of the lease agreement between the City of Truth or Consequences, and the Truth or Consequences/Sierra County Chamber of Commerce."

Seconded by Commissioner Renfro.
Motion carried unanimously.

WORKSHOP:

City Manager Weiser stated at their last commission meeting Commissioner Green brought up the idea of holding a workshop/s to look at guidelines, goals for the City to look at for next year and coming years and to help in the preparation of the 2011/2012 budget.

He stated they have looked at this in the past and that there have been concerns raised about the cost if they were to have a facilitator, and rent a space, and they think they can handle this within existing budgets, and hold it in a city facility. And indicated if they wanted to have an all day workshop, and suggested they consider having one in the evening, and one during the day, or perhaps a weekend.

City Manager Weiser stated they could get with the five of them and see how their schedules are, and maybe not specific dates or hours of the day, days of the week that they prefer to have it or not to have it.

Commissioner Green stated in relationship to a facilitator, and indicated there is a president of the Greater Las Cruces League of Women Voters who set up a table at the Farmer's Market, and stated they have facilitators that are free, and that might be something they may want to consider because it is someone who is not from our community, and they have done this in the past, and they would set up ground rules so everyone is comfortable...but a constructive event that they hear from the community, and interact with the community and listen to their suggestions, and it ties into where are they going and how are they going to get there, and what is their plan, and their strategy, measurable, realistic and achievable, and stated he would like to start the process.

Mayor Montgomery stated she thinks in addition to looking at budget and financial issues...stated they need to revisit the comprehensive plan and the strategic plan. She thinks there needs to be a series of workshops that they need to do, and commit the time and do it and get as much as they can get done.

She thinks the manager can poll the commission and see what days work for them, and thinks they can have one or two before the end of the year, and wait a period of time, and have one after the beginning of the year.

City Manger Weiser stated they would work on that.

BUSINESS

City Manager Weiser stated he has been approached several times

LICENSE:

with questions about the business licenses, and that he included the section of our code for their review, and the main part of the questions concern sections 7-32, and in part it states **shall apply and pay a business registration fee for each outlet, branch or location within the municipal limits of Truth or Consequences prior to engaging in business.**

He stated he can understand outlet and branch, but when it states location...that is where he has some questions...does that mean if an electrician comes to his house from Elephant Butte...is his house a location for that person...or are they just talking businesses that are actually located within our corporate limits.

Commissioner Renfro stated she thought at one time it had always been that they get a business license, and not like they needed a business license for each location, and if they do business within the City...

Mayor Montgomery stated if a person is doing business within the city limits they need to have a business license in the City of T or C.

Commissioner Renfro – well that says it all right there.

Mayor Montgomery stated she does not think Coca-Cola does not need one because they are delivering at Bullock's, Alco and Wal-Mart...I don't think they need 3...they need 1.

Commissioner Torres stated the ones he has a problem with is the ones that comes from out of town and sell hats and shirts, and that they get a business license and it is good for all year. He stated he thinks they need to change that fee every time they set up because they are losing gross receipts.

City Manager Weiser stated they can research a vendor's license.

Mayor Montgomery stated she thinks a vendor's license should be per event.

City Manager Weiser stated the other issue that came up is the \$75.00 penalty.

Commissioner Torres stated there should not be a grace period...when it's due it's due.

Mayor Montgomery stated they should not be losing money if they are filing in Court...so whatever the fee is they need to come up with an average and that needs to be the penalty.

City Manager Weiser stated at one time anybody selling merchandise to the City had to purchase a business license.

Mayor Montgomery stated she would think it would be the retail business turning gross receipts tax in your community.

City Manager Weiser stated they would do further research and make some changes and bring it back to the Commission.

REPORTS:

CITY MANAGER –

City Manager Weiser stated a brief update on where they are at on a couple of properties that they have been in negotiations with

bringing their properties up to code. And the first one is the Conoco Station on 3rd & Date, and that they have a vendor that is coming in...they had the State Ecology Department come down to look at the tanks and measured what was left in the tanks, and stated one of them is bone dry, and there is liquid...gasoline and or diesel in the other two, and they have a vendor who is coming next week, and they will pump those two tanks out, and they will get back with the Ecology Department.

He stated they have looked at the cost of dismantling the station, and digging out the tanks, and having the tanks disposed of properly, and when they get the costs they will bring that back to them, and when they do that the Ecology Department...first of all they have to be on site when the tanks are dug up, and they will do some testing on the site, and if it is found when they do the testing that there is hazardous material has leaked into the soil, and to what extent, and stated there is a state fund that is available, and that there is a \$10,000 co-pay if they will that the City will have to pay, and then the State will pay everything after that to clean up the site.

City Manager Weiser stated they would have to remove the pumps, all the piping that is in the ground, and then they can place a lien against the property and foreclose, and eventually get our money back, and there will be an investment that the City will have to make to do that. He stated the propane tank located in the back was removed, and the 150 gallon oil collection tank will be removed.

He stated the next property he wanted to bring them up to date on is the Buckhorn Tavern, and that they met with the representative from the State Historical Society as this is a historical site, and that the state group will meet in August and they will discuss whether or not to take it off the historic register, and if they take it off they can proceed further with being brought up to code or demolished, and will keep them up to date.

City Manager Weiser stated Leonard with the sanitation department brought up a couple of months ago an amendment to the solid waste rates, and the Commission enacted part of that dealing with the companies that dispose of their waste at the County landfill, and the Commission asked that they look at the rates and see if they could come up with an overall cost, and they will be re-working the ordinance and bring it back to them for their consideration.

He indicated that the County Administrator has been laid up because of surgery, and stated she is now back at work, and that they will be meeting next week to discuss how they are going to move forward in a joint effort to provide a solution with both of the landfills closing, and will keep them up to date on that issue.

CITY ATTORNEY – No report.

COMMISSIONERS –

Commissioner Sanchez – No report.

Commissioner Green stated, “thanks to the friends at the lake”...great fireworks show, July 4th. He would like to thank past Commissioner Jimmy Rainey, and LaVerne Walker and committee, and that our Mayor was the official ribbon cutter at the Lee Belle Johnson Dedication...the Senior Recreation Center re-naming it...it was just a wonderful event, and they did a great job, and my congratulations and compliments to that entire effort.

Commissioner Torres – No report.

Commissioner Renfro – Asked about the pump at the Ralph Edwards Pond...

City Manager Weiser – Stated they have 3 pumps, and that all 3 of them are out and being repaired...and the first one they will have back on Thursday...and should be operational Monday or Tuesday.

Commissioner Renfro – If they have 3 pumps why were all 3 allowed to be out at the same time.

City Manager Weister – I don't have an answer to that...but I will get an answer.

Commissioner Renfro – We need to try and prohibit that from happening in the future.

City Manager Weiser – And stated Peter looked at the cost of buying a new pump, and indicated he can get the 3 existing ones rebuilt for less than buying a new one.

Commissioner Renfro – I would like a report where they at with the projects...the tennis courts, swimming pool, lighting, and the paving.

City Manager Weiser – Stated they have a soil sample done on the swimming pool, and checking to make sure that is still viable for them so they can get going on that project...the lighting – stated he is meeting with them tomorrow to get that finalized from the state bid, and on the paving they are finalizing the bid on the contract for the materials, and that they will get stated on that soon.

Commissioner Renfro – And the tennis courts...

City Manager Weiser – Stated they could include that as part of the bid process for the tennis courts...that they do the soil samples, and they have some quotes...if they do the soil samples themselves they are about \$4,000 per sample.

Commissioner Renfro – But what's the hang-up...why isn't anything being done.

City Manager Weiser – It's been one of those times, and just haven't had the time to do it...but I will...this is now the time.

Mayor Montgomery – No report.

EXECUTIVE
SESSION:

“Commissioner Green moved that the meeting be closed for Executive Session – Purchase, Acquisition or Disposal of Real Property or Water Rights 10-15-1H(8), Business Park Proposal.

Mayor Montgomery responded AYE to a Roll Call Vote
Commissioner Renfro responded AYE to a Roll Call Vote
Commissioner Green responded AYE to a Roll Call Vote
Commissioner Sanchez responded AYE to a Roll Call Vote
Commissioner Torres responded AYE to a Roll Call Vote
Motion carried unanimously.

OPEN MEETING: “Mayor Montgomery stated that the Commissioner was now in Open Session.”

CERTIFICATION “Commissioner Green certified that only matters pertaining to Purchase, Acquisition or Disposal of Real Property or Water Rights 10-15-1H(8) – Business Park Proposal, and no decision was made.”

Seconded by Commissioner Sanchez.
Motion carried unanimously.

“Commissioner Green moved that they advise the City Manager to bring forth a proposal.”

Seconded by Commissioner Renfro.
Motion carried unanimously.

ADJOURNMENT: There being no further business to come before the Commission the meeting was adjourned.

APPROVAL: PASSED AND APPROVED this _____ day of _____, 2010, on motion duly made by Commissioner _____, seconded by Commissioner _____, and carried.

LORI S. MONTGOMERY
MAYOR

ATTEST:

MARY B. PENNER, CITY CLERK