

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, September 14, 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, September 14, 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 Renfro called for the Pledge of Allegiance.

APPROVAL OF AGENDA: Mayor Montgomery called for approval of the Agenda.

“Commissioner Sanchez moved approval of the Agenda.”

Seconded by Commissioner Green.
Motion carried unanimously.

RESPONSE TO PUBLIC COMMENT: None.

COMMENTS FROM THE PUBLIC: Mayor Montgomery stated there are two portions this evening, and if they have any comments that they would like to make about the ICIP for Resolution #10-10/11, for 2012-2016, and indicated this is

the opportune time to do that, and if there is anyone who would like to make a comment from the public...please step up to the microphone and that it is a 3 minute limit.

Mr. Ronald Fenn came before the Commission with comments.

Mr. Tim Smith came before the Commission with comments.

Ms. Linda DeMarino came before the Commission with comments.

Mr. Howie Tucker came before the Commission with comments.

Mr. Brad Grower stated he doesn't understand why they included the public hearing in the public section of the meeting...on the ICIP issue, and stated he does not understand why there is a need to secure and spend two million dollars on promoting connection for water for what will end up being the Motorplex Development, and thinks there is many, many more worthy improvements that can be made with that money in the City. And made additional comments.

CONSENT
CALENDAR:

Mayor Montgomery stated they have two items under the Consent Calendar – Minutes of the City Commission Meeting – Regular – August 24, 2010 and Accounts Payable – August 2010.

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

Seconded by Commissioner Renfro.
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:

& Planning & Zoning Board – Consider resignation for board member Raymond Ruffini.

City Manager Weiser stated at the last Planning & Zoning Board meeting...they considered the resignation of Mr. Ruffini, and accepted his resignation, and stated it is on the agenda for further discussion.

Golf Course Advisory Board – Consider increase in fees –

City Manager Weiser stated they have been provided with a recommendation from the Golf Course Advisory Board for an increase in fees, and indicated their last increase was in 2007. And stated they have before them the various fees of what they are today, and what they would be with various increases of 5, 7, 9, and 10% increases, and that the Golf Course Advisory Board is recommending a 7% across the board, and that members of the board are here to answer any questions.

Ms. Imogene Stark, Chairman came before the Commission, and asked if they had questions.

Commissioner Green asked if their advisory board checked with other communities that have municipal golf courses to see if this proposed increase is in line with what is out there, and stated if the Commission approves the increase...who gets that increase, and

what is that money used for?

Ms. Stark stated they did check, and provided them with a handout from the NM State University Golf Course with their rates. And stated it has been three years since there has been an increase, and that money would go for the upkeep and the operation of the golf course, and for the manager. She explained they still have the \$1.00 sign in fee, and stated that is for expansion and improvements, and that last year they had 10,893 sign ins for that fund.

Commissioner Torres stated they have a contract with the pro, and that the contract is coming up, and thinks that is the time to negotiate an increase for his salary.

Mr. Frank Beecroft came before the Commission and stated as far as the pro's income, and stated the contract calls for the normal income being \$85,000 is what they previously has recorded, and stated they are at least 25% below that as it stands now, and using his income for his employees and so on.

Commissioner Green...sir could you explain...the City has a contract with Mr. Tucker, and he assumed that was for services that Mr. Tucker was performing...and what I'm hearing from you it's paid to how much business the golf course does.

Mr. Beecroft stated Mr. Tucker does not get paid from the City, and that he gets paid from fees that he collects from golfers, and stated the original estimate of that income was \$85,000 a year which covered his two employees, himself, and his expenses.

He stated the contract which is \$30,000 is separate from that, and that it is operations and maintenance, but his income since Sierra Del Rio has opened has reduced by 25%, so the 25% reduction in income is not even close with the 7% increase in fees, and not even close to making up for the difference.

Mayor Montgomery stated a question I would have for Jay... would it be appropriate to look at this when they look at negotiating Howie's contract.

City Attorney Rubin replied "yes", I'm thinking the same thing.

Mr. Tucker stated his contract comes due in January, and to clarify a few things, and that his contract was made up before he came, and stated he receives an income but he pays for everything... except for \$30,000 that the City applies for fertilization, parts for equipment, refurbishing equipment...things like that...general maintenance, and that he has no retainer as far as any money that goes to him...my income is off golf course receipts only.

Commissioner Torres – and where would that be.

Mr. Tucker stated it was identified in the contract of the \$85,000 in green fees, and that it is about \$20,000 short.

Commissioner Torres – and how many rounds of play.

Mr. Tucker – about 10,900 each year.

Commissioner Torres – you had 10,000 rounds of golf.

Mr. Tucker – yes sir.

Commissioner Torres – and that’s at...what’s your daily fee...is that all membership or walk-ins...

Ms. Stark – it’s everything.

Mr. Tucker – its numbers...it’s the amount of people that play golf.

Commissioner Torres – that still doesn’t tell me how much he is drawing.

Mr. Tucker – last year I lost \$19,000, and that’s on my tax record.

Commissioner Torres – that’s the numbers I want to hear...we have to make the decision.

“Commissioner Green moved that they accept the suggestion/recommendation of the Golf Course Advisory Board for a 7% increase.”

Commissioner Renfro – I thought Jay recommended is that they wait until the look at the contract.

City Attorney Rubin – I would like to see that, and I didn’t realize this was on the agenda and was tied into the contract, and I apologize for that...but there was no indication that one was going hand in hand with the other...so I think they should take a look at that and have it on the agenda for the next meeting.

Mayor Montgomery stated she has a motion on the floor.

Mayor Montgomery stated motion dies due to a lack of a second.

Mr. Tucker stated there is no increase in the junior rates, and stated juniors that attend high school or school at this time do not get charged.

Mayor Montgomery stated they have heard some recommendations from the City Attorney that if they want to do anything on this that they wait until they negotiate the contract.

“Commissioner Sanchez moved that they wait on this item until the contract with Mr. Tucker comes up and discuss both at the same time.”

Seconded by Commissioner Renfro.
Motion carried unanimously.

PUBLIC
HEARINGS:

None.

CONSIDER
LETTER
TO
RUFFINI:

– City Manager Weiser stated at the direction of the City Commission he drafted a letter for their consideration to Mr. Ruffini. He indicated that the chairman of the Planning & Zoning Commission spoke to Mr. Ruffini, and at that time he indicated that

he was probably not inclined to change his mind.

“Commissioner Renfro moved that they send the letter.”

Seconded by Commissioner Sanchez.

Commissioner Green stated he thinks that possibly two things happened from the letter Mr. Ruffini sent to the Commission and the City Manager...it was either a well thought resignation, and if that was the case then he thinks they should accept it, or it was a snap decision out of frustration...and he can understand that and he can appreciate that, however Mr. Ruffini has had almost 6 weeks to re-think that snap decision, and I am going to vote that they do not send this letter, and he would like to express the reason why, and he understands that this City sometimes does not move as quickly as one would like it to be, and sometimes procedures and processes have a way of not necessarily running smoothly, and possibly some of the ordinances and regulations that they have on the books today don't suit them...for the society that they live in, and the times that they live in...that said he has a basic philosophical difference with Mr. Ruffini...because if you own the bully pulpit...you have the microphone, and you have the vote...then you don't resign...you sit there and you make the system better...so that's my position on that, and it has nothing to do with Mr. Ruffini's performance on the board...where he lives...nothing...he just...that's my basic position that kinda drives me in what I do.

All those in favor...Commissioners Sanchez, Renfro,
Torres, Montgomery
Opposed – we have one
So there is 4 Yes – 1 No

**PROPOSED
ORDINANCE –
BUSINESS REG.
FEES:**

City Manager Weiser stated he was going to defer this to our City Attorney.

City Attorney Rubin stated the current ordinance indicates that when they seek to try and collect the \$35.00 registration fee and someone is not complying...then if the matter is turned over to him then by ordinance they are authorized to charge an additional \$75.00 penalty.

He stated the problem is that the ordinance was written a long time ago, and since then they have had a lot of cases, and several cases where they had to do a lot of work, and sent a demand letter, and even go so far in certain cases and file criminal complaints. And explained when that happens the time they are putting into it actually exceeds the amount of money they are collecting for the penalty, so he had to make the recommendation that they need to revise the ordinance to call for an increase in penalties, and what he tried to do, and broke it down in two sections because what usually happens is after the City Clerk makes her initial attempt to try and collect the registration fee she will refer it to him, and what he does before he actually files a criminal complaint he will send a formal demand letter to the business owner seeking collection, and in that case he calls for the \$125.00 penalty as described in the ordinance, however if that attempt is unsuccessful, and have to go a step further, and file in Municipal Court then they should be entitled if the court feels it is reasonable that they should be paying an additional penalty so that is why it is broken down into two

sections.

Commissioner Green referred to page one third line down...starting the second line...in such event, the City Clerk, after giving reasonable notice, and stated he thinks that is too vague...it is open for misinterpretation...what does reasonable notice mean...he thinks that there should be a specific number...30 days...whatever it is...he thinks reasonable notice is opening them up for some world of hurt maybe.

City Attorney Rubin stated he copied that from the current ordinance, and stated the only thing he changed later on when he got down to the numbers.

City Clerk Penner stated they put reminders in the newspapers in January, and if they do not respond they send a second notice in February and a third notice in March.

Commissioner Torres stated if he does not pay his business license when it's due...I don't get to open my business, and I think that's the way this should be...if you don't pay when it's due...you don't open your business...I can't...and I'm just a business like anybody else.

City Attorney Rubin...Commissioner Green...in getting back to your question, and it sounds as to what Mary has described...it sounds like she is going the extra yard here before it even gets to me...so since that seems to be the practice...I think the court would determine that would be reasonable notice...so I think keep it the way I have it unless somebody has a real problem with that.

Commissioner Sanchez asked if there would be any penalty able to be claimed on the people who had business licenses at one point...closed down their business...we've sent them a notice, and they closed their business and not...because you're still putting in the time.

City Attorney Rubin stated it has happened a couple of times...and actually we don't...if someone closed their business and not operating during that period of time that we're sending the letter out...no we don't.

Mayor Montgomery stated she does not have a problem putting in a time period.

Commissioner Sanchez stated if it is due January 1 and they give them until March 16...that's 75 days, so why do they not say...if they...no later than March 16th, and then Mary can turn all those over to him that have not paid March 16th...and you can go...and that's reasonable notice.

City Attorney Rubin stated the only question I have about that...if you say that...doesn't that encourage someone just wait until March 14th before they pay.

Mayor Montgomery – so why isn't there additional penalties for being late?

City Attorney Rubin – it's basically because once it's referred to

him...

Mayor Montgomery – why isn't the City charging a business person a late fee for being late, and then if they don't pay the fee plus the late fee then they turn it over to him. Why don't they adopt the same thing...why don't they say the business licenses are due on January 1st...they have 15 days to pay it...that's a reasonable amount of time for a business person to pay it...they become delinquent January 15th, and the fee goes up through March 15th when it becomes truly delinquent.

City Attorney Rubin – I think they talked about it once before, and I understood...I didn't think they wanted to do that, but that's certainly a reasonable time.

“Commissioner Sanchez moved City Attorney Rubin go back make the requested changes and bring this back at our next meeting.”

Seconded by Commissioner Renfro.

Commissioner Green stated he does not think the late fee should be that heavy handed.

Mayor Montgomery stated she thinks it should be incremental...I think you should do the 15 days...the 30 days then go to 45 & 60, and do incremental increases at that point.

City Attorney Rubin...so you are wanting me to make incremental increases every 15 days through February 28th basically.

Motion carried unanimously.

RESOLUTION
#07-10/11 – IPRA:

City Manager Weiser stated this Resolution is an attempt for procedures listed in state law that they follow, and stated there has been a difference in fees that are allowed to be collected and major differences between the police department and other departments of the City.

He stated one of the major changes in this proposal in “exhibit b” on the fee per page, and that they have not been charging fees that are electronically transferred, and this does allow those charges to be made, and stated the time frames are very similar and appropriate for them to charge before those pages are sent.

City Manager Weiser stated this was on their last agenda and pulled as there was some questions raised making sure they were following state law, and researched that, and also corrected some spelling errors as well.

City Attorney Rubin stated the key is the text...the first 2 pages of what they have before them...patterned very closely the inspection of public records act which is state statute...so there really shouldn't be any dispute about that basically it's state law...it's the actual fees on the 3rd page which they might need to...

Commissioner Renfro stated on the criminal/arrest history she still does not understand why...if no record is found...\$1.00 per page and on the records found its \$5.00 for the first page...how come there is a difference in price there?

Mayor Montgomery – where did the fees come from?

City Manager Weiser – those came out of the state law.

Commissioner Green referred to “exhibit a” under #2, last sentence...A form is available in the City Clerk’s office or can be downloaded from the City’s website, and on the first page #1 (b), procedures for requesting inspection of public records...are the procedures up on the City website, or is just the form on the City website, because if it is not he would like to suggest that it be put on the website, and back to “exhibit a”, #3 & #7...#3 says 15 days, and #7 says 15 days twice...is that days of the week, or is it business days...because there is a difference in time, and whatever it is it should be spelled out...either 15 business days, or 15 days from when the request is made.

City Attorney Rubin stated the state statute says 15 days, and if you have a holiday or weekend you have until the next business day, and stated it is 15 calendar days unless the 15th day ends on a holiday or....

Commissioner Renfro stated she has a problem with #6 on “exhibit a”, and she does not think they should put anything in here that is giving anybody the opportunity to not provide the information that is being requested.

Commissioner Sanchez stated having been a requester...she understands both ways in what she is saying, but the example given to them was very sorry but poor. And stated they can’t make them create a document that does not exist...that is what #6 is trying to address...not that they have the right to deny a request because a list as he said a list of commercial utility customers doesn’t exist...that doesn’t mean they can’t give them the list of commercial utility customers, but if that list doesn’t exist...that doesn’t mean they can’t give them the list of commercial utility customers, but if that list doesn’t exist they aren’t forced to create a list to provide to them.

Commissioner Renfro stated but to her this could give somebody an excuse to say they don’t have the list...so it’s not available...instead of saying they don’t have a created list but they do have the commercial customers...this is what she is trying to avoid...I don’t want to give any opening for somebody to be able to say...

Commissioner Sanchez stated she thinks the main word in there is create.

Commissioner Renfro – so how are they going to fix it...Jay.

City Attorney Rubin – right...the reason why that is in there actually, and stated they prevailed recently on a inspection of public records case, and that is the reason why they won it because of this language...actually the court found they weren’t required to create a record that does not exist, so that is why he was trying to make that clear.

Maybe I’m misunderstanding...tell me why you don’t like this.

Commissioner Renfro – well I asked about that, and they said well just like...the manager...I’m sorry but...go ahead and state what

you stated.

City Manager Weiser – the example he gave was...at one time they were asked to create a list of the commercial utility customers... provide a list of the commercial utility customers, and they have a list of utility customers, but they don't have a specific list of commercial utility customers.

Mayor Montgomery stated she thinks the problem that Commissioner Renfro had was that they could put a list together of commercial customers for that person...there is not an existing list that says...that is headed...commercial utility customers that list all the businesses, but they have them through out all the utility lists that somebody could go and pull all the information and create a list.

Commissioner Renfro – and I'm not sure they don't have commercial customers listed separately from residential.

City Attorney Rubin – and I have no idea...how about this and change it to say...is not required to produce a record in which is not within our control.

Commissioner Sanchez – I have a question on #2 and #1. It says a written request...does that include e-mail because that is not really written.

City Attorney Rubin – I think it is included.

Commissioner Sanchez – they cover sending the requested information via e-mail, but does that mean that they accept an e-mail, because who is to say that a requested document doesn't go to a spam folder...a junk folder...there is no way for them to get a received copy to know that they actually got it...they have no proof...I mean you could generate a receipt saying that I sent it to you without having that hand to hand contact. And stated when she requests documents from the NM State Police she has to fax a request to Santa Fe...I can't send an e-mail it has to be the actual form sent in handwriting or typed with her actual true signature on that document.

Mayor Montgomery – so I don't know...so when you go from #1 to #2...the written request shall provide a name, signature, address and telephone number of the person requesting the records...so what are saying would be your recommendation would be the best way to handle it. That someone physically brings in the form or faxes the form...or has there true signature on it.

Commissioner Sanchez – I think that's what...in my definition a signature is...

Mayor Montgomery stated she thinks they run into problems when they accept e-mails from people.

City Attorney Rubin stated he thinks they can include that.

Commissioner Sanchez stated it covers the person requesting the information as much as it covers the City because they actually have a copy and know I gave it to Mary Penner...I gave it to Judy...I gave it to whoever...they know...then its date stamped...

time stamped right there.

Mayor Montgomery – so you want to re-word #1 or #2 or just leave #2.

Commissioner Sanchez – I think it is just #2.

Mayor Montgomery...delivered in person...via fax.

Commissioner Sanchez...a written request shall provide the name, signature, address, and telephone number of the person requesting review and records and will be accepted in person at the City Clerks office or via fax.

City Attorney Rubin – why don't they say...e-mail written requests will not be accepted?

Commissioner Sanchez...e-mail requests are not accepted.

Commissioner Renfro stated on the fees...criminal/arrest history...I think...

Commissioner Sanchez...\$1.00 per page.

Commissioner Sanchez – the photographs since they can be e-mailed...it says \$3.00 for 1-5 duplicates. \$0.35 each thereafter... how is that...I mean would it then fall under the digital transferred.

Commissioner Renfro – and the thing with these fees its like a lot, and what the city's policy has been in the past...you never went lower than what anybody else was charging because they didn't want to be in competition with the local businesses that do this, so if there is places that are charging 35 cents...then the City would want to charge 45-50 cents make it higher because that way they are not competing with the businesses in town for that purpose... because they do it as a request from somebody...you know if they want to pay more or whatever at least you're not competing.

City Manager Weiser stated they have in the past asked to copy personnel documents, but our fees our higher than what others are charging.

City Attorney Rubin – on #6 will read...The City of Truth or Consequences is not required to produce a record which is not within our control.

Commissioner Sanchez stated she knows that the state statue does say create...should they say create/produce.

“Commissioner Sanchez moved approval of Resolution #07-10/11 as amended.”

Seconded by Commissioner Green.
Motion carried unanimously.

RESOLUTION #09-10/11 BUDGET ADJ: – Mr. Juan Fuentes, Finance Officer came before the Commission to explain Resolution #09-10/11 – Budget Adjustment. He stated the budget adjustment is to increase the DWI budget, and indicated the City receives an annual distribution for the DWI Program activities,

and stated last fiscal year the City received \$72,080.76 however year to date expenditures were only \$48,783.65 a difference of \$23,297.11 which the City receives in advance, and since the funds were not expended at the end of the fiscal year it has to be returned to DFA.

He stated there is a process for re-applying for the reverted funds, and that they are in the process for applying for those funds, and that the budget adjustment will amend fund 48 which is included in the documentation, and the purpose of the resolution is to increase that line item by that amount, and the monies will be returned back to the State, and in the future there is an application for those reverted funds, and once the City receives notice that they have received the amount they will come back at a future date for a budget adjustment.

Commissioner Green stated they are in the process for applying, and on the paperwork they were provided from DFA...application must be received by 4 pm September 10th...so I'm assuming that has been done already.

Ms. Kent replied it has already been approved by the City Commission, and the application has been sent, and stated they are waiting for this money to come back before they okay it.

Commissioner Sanchez asked...has this amount of money ever been sent back...don't they usually try and keep it to nickels and dimes...not thousands.

Ms. Kent stated the problem with the distribution and explained at the last meeting...is they don't always know...they send them this money quarterly, and they tell her she can budget for a certain amount of money every year, but they usually receive anywhere from \$10 to \$15,000 more than what they tell her to budget however they don't know what that last check amount is going to be until May...which she can't expend in May...so throughout the year she tries to adjust her budget to project there is going to be a lot more money...especially since there is Wal-Mart and other businesses here it is higher and higher...because this is liquor excise tax money that is spent in the County so they receive a percentage of that...that's where this money comes from, and also they had two contracts that quit...one in February, and the other one they did not know. She stated it has been a large amount before when she started there was a great deal of money that was sent back, and the State for the last two years has let them reapply for these monies.

“Commissioner Green moved approval of Resolution #09-10/11.”

Seconded by Commissioner Renfro.

Motion carried unanimously.

RESOLUTION
#10-10/11 – ICIP:

City Manager Weiser stated they reviewed the ICIP at their last meeting, and the major changes were on the 2nd page, and there were questions concerning local grants, and he spoke with DFA directly, and the A-H listing were what DFA recommended be used as descriptions for the different funding that they have for the different projects, and the other changes were what they discussed at their previous meeting.

Commissioner Green...water well north 2 million dollars...could someone explain what that is...because he does not quite understand what that is...#2 priority for 2013, and understands the State does not have any money, and this is more in house for them forcing them to focus on things that need to be done.

City Manager Weiser stated he wished he could answer that specifically, and indicated it has been on the 6 year plans in the past, and thinks they divided the money up a little bit with what he said in mind with money from the State limited being available in the future, and stated that part of this has to do with some of the water infrastructure, and does not know if this was actually money to be put in there to...if they find water to the north being able to bring it into the rest of the City.

Commissioner Green stated they voted on putting money aside for a hydrology study, and would like for the Commission just for continuity...I mean I think this is just an exercise that they are going through that Santa Fe is going to file somewhere, but for continuity as they did in the hospital they changed the position of the hospital, and would like to see under 2013...he thinks either the Senior Citizens Complex was either ranked #1 or #2 last year, and he would like to put the Senior Citizens Complex up on higher protocol or a higher position for 2013...drop down the water well north until they found out what assets they have in the ground right now this does not hold a lot of no punt intent of water, and drop that down and move the solar plant down, and whatever the position the Senior Citizens Complex was when they last did the ICIP, and thinks it should be kept there in case someone reads it. It sends a message that this is an issue they are trying to solve and they can't solve it because they don't have any money but in the event someone finds a few million they are ready to go.

Commissioner Renfro stated she thought they had rated it one last year.

Mayor Montgomery – so 2013...one. #1 under 2013...not under the first year. The only thing they took to Santa Fe was the hospital.

Commissioner Green – then maybe it was #2...so...

Commissioner Renfro stated someone at City Hall could look at the ICIP.

Commissioner Green stated wherever it was last year...let's put it under 2013 and move everything down accordingly.

“Commissioner Green moved approval of Resolution #10-10/11.”

Motion dies due to lack of a second.

Commissioner Green – are they required by law of a certain date to get this into Santa Fe?

Mayor Montgomery – yes.

City Manager Weiser – the 30th of September.

Mayor Montgomery – is there something that the Commission is looking for different? So if they need to advise the City Manager they need to do it now. It will be on the next agenda.

APPT. – SVHGB: City Manager Weiser stated they have an application for the position on the SVHGB, and indicated since the Agenda they have received an additional application, and his recommendation is that they consider both of those at their next meeting for them to be interviewed. And stated they can do it during the meeting, or if they wish they can interview them prior to the regular scheduled meeting.

Mayor Montgomery stated what they adopted last time is that they interview those individuals, and that they did it prior to the meeting.

AGREEMENT – NMDOT & CITY: City Manager Weiser stated this agreement had to do with the Resolution which was approved at their last meeting which amended a previous resolution because of some wrong figures, and this is the agreement for the continued partial paving of Foch Street, probably between 6th & 8th depending on how far the money stretches.

Commissioner Green stated under the agreement itself in it doesn't say that, and that it does not elude or revert back to what they were talking about.

Commissioner Renfro stated that is handled administratively.

City Manager Weiser stated the Resolution did mention specifically.

Commissioner Green stated this document does not mention that.

City Attorney Rubin stated he thinks from the State's perception this contract is being passed in contemplation of the Resolution that has already been adopted.

"Commissioner Sanchez moved approval of the agreement as presented."

Seconded by Commissioner Renfro.

Motion carried unanimously.

SPACEPORT: City Manager Weiser stated after his statements at the previous meeting he met with the Spaceport Executive Director Rick Homans, and he asked that a committee of 2 and no more than 3 people to meet with him on a regular basis to discuss the issues surrounding the location of the welcome center, and he stated most of the time in Truth or Consequences once or twice in Sierra County.

He stated per his memo he is requesting permission from the Commission to approach the Sierra County Commissioners about...first of all appointing someone for that committee, and second asking them for a letter of support or resolution in support of siting the Spaceport Welcome Center in downtown Truth or Consequences.

City Manager Weiser stated in speaking with the County Executive and one member of the County Commission they are much in favor of doing something...a procedure of what is outlined here.

Commissioner Green stated he appreciates City Manager Weiser jumping on this, and would like to present a scenario to his fellow commissioners so they understand where he is coming from. And stated he has, will and always supports the Spaceport initiative, and stated things have been happening that are out of their control... first a bit of history, and that they were told that there would be a no build twenty air miles of Spaceport America...that was before the GRT vote...then they voted for the GRT with success, and then the next year they were told that they can't control what is happening in the County because there is no P&Z in the County... so if the ranchers want to sell their land they can't stop them...so they went from no build to now they can't stop them from selling their land, and stated before Mr. Landene left the last thing they heard was he was approached by a resort destination hotel and that they were looking out there.

He stated he does not want our City to become the town before Disney World...that's number one, and number two...this Commission and the past City Manager sweated through meetings after meetings negotiating with the executive director and his staff to come up with a JPA, and indicated it's a new ball game...it's a new time...no one has ever done this before, and that he is going to cut them some slack...however they have been danced around with the box step, and he thinks they have meant well...we worked...we signed the JPA...they signed the JPA, and went to DFA and they ripped it up, so they were back to square one.

Commissioner Green stated two things have been brought to their attention, and would like to compliment both newspapers for the reporting they have done to keep them abreast of what is happening, and with that said...the County has done two things that has been brought to his attention, and believes he is correct in reporting these...one that they moved to approve a new bond issue that will be supported by a higher GRT that is anticipated, and stated that is going to be phase two, and it was brought to his attention by Kathleen Sloan that in the wording of that bond is something called itinerant parking area...that means a place for private jets to fly in, in private planes, and if I remember right, and if you remember back Steve Landene and Greg Neal sat here and said...it is totally important that they swap out land...we're gonna build a FAA approved cross wind runway...this opens up the door...if they allow private planes out there...they're gonna allow commercial freighters out there...we're not gonna sell a dime worth of aviation fuel, or fuel out at the airport...they need every bit of revenue that is fair and reasonable for our airport.

He stated #2...an agreement that was not signed by Santa Fe, but that was sent down to the Spaceport Commission talking about the siting...the potential siting of where the Spaceport Visitor's Center should be...I appreciate the forward thinking and appreciate the jumping on top of this process...what the County has done, but he thinks that no one can speak for them...except us, no one should negotiate for us except us. So with that said...he would like to request a couple of things, #1...he would like to request a copy of the board minutes of the Spaceport Authority for the last year, and

would like to know what their thinking is...what their planning is, and that he does not want to be surprised, and #2...he would like for them to put us on their mailing list, and kept current on all of their board meetings...what is taking place...what is transpiring so they know what they are thinking...because they are walking into things blind, #3...and in all due respect to Jerry Stagner and Gary Whitehead...they were appointed by the Governor to represent Sierra County...they don't necessary represent the interest of Truth or Consequences...although they are the biggest asset in Sierra County, and wants them to become more proactive.

Commissioner Green stated what he has been given by Kathleen that MOU about increasing the GRT for the new phase two monies has been approved by the County...I'm assuming maybe Dona Ana, but it doesn't go into effect until the taxation board district of the Spaceport votes on it. He indicated that Sandy Jones is on that board, and he would ask our City Manager to reach out to Sandy Jones tomorrow and let him know that this verbiage in that bond issue is deleterious to the health and welfare financial being of Truth or Consequences and our airport.

He stated they want those people coming into our town, and he guarantees if there is enough business someone is going to get the idea...I'm gonna come up with a taxi service, and run from the airport out there, and stated they were told a lot of different things, and the game keeps on changing every single minute, and the last thing he was told by the Manager of Sierra County is that on October 7th...Rick Homans will be at their evening meeting at 5:30 to discuss this MOU, and strongly suggests that this Commission, and the County Commission have a workshop before October 7th so they all know that they are on the same page, and not contradicting one another, and supporting one another, and if the County is going to be involved as much as Mr. Homans wants it then they should set up some small...some type of a process and procedure where someone the Mayor the Manager or representative from this board...whatever meets with the County so they know what they are thinking is and marching forward.

Commissioner Green stated since the County is saying one thing a little bit differently than what Manager Weiser has just suggested that they can't look disjointed when this meeting happens, and thinks it would serve them...the County as well as the City to have a workshop to get a plan and action that they can all agree upon and move forward.

Commissioners Torres and Renfro agreed with Commissioner Green.

Mayor Montgomery stated that the City Manager could do a couple of things, and reach out to the County Commission through the County Manager, and see if they can set up a workshop to discuss the documents and the MOU.

City Manager Weiser asked what day, and they were aware that Thursday is not good for Commissioner Sanchez as she could not be available.

Mayor Montgomery asked if there was anything else that they want to address based on this memo, or do they think the workshop with

the County...it still does not really address the Visitor's Center.

Commissioner Green stated he has taken the liberty...and in his opinion he knows what he would like the resolution to look like, and would like to present it at that workshop with the concurrence of the board...of my fellow commissioners and Manager Weiser, and read a resolution.

Commissioner Sanchez suggested that the Resolution be typed up and passed around with our request for a workshop so that all the commissioners both City and County can bring their ideas to the table.

OLD BUSINESS: None.

REPORTS: **CITY MANAGER –**

City Manager Weiser stated in some of their previous discussions with Spaceport people he suggested that they schedule town hall meetings for the citizens and business owners from other parts of the community as well to express their feelings, and suggested on October 6th and October 20th, and that those are Wednesday evenings, and may change with the October 7th evening meeting depending on when they can get the County Commissioners to meet, and have two meetings relatively soon about two weeks apart.

He reported on the ball field lighting, and stated the bids are in and the contract will be awarded this week, and they have one concern about a placement of one of the poles so it doesn't interfere with other uses.

On the tennis courts stated there would be state bids awarded October 1st so they can piggy back on those, and some potential savings, and stated the savings on the ball fields are pretty substantial from what they originally talked about.

The RFP for the water engineering including the hydrology study have been returned, and have been reviewed by Jesus and Andy, and awaiting his recommendation, and stated they would be on the agenda for their next meeting for their approval.

City Manager Weiser stated he is meeting a week from Thursday with NMDOT to look at the Broadway speed limitations during storm water events, and indicated they wanted to meet on site to see exactly what he is proposing.

He stated the solar RFP has been out and due back soon, and that they had numerous companies approach them asking for the bid package, and that they will be responding, and stated the only concern he has is that some of the vendors are trying to short circuit the process, and wanting to speak to them prior to the bids being due in, and stated he is resisting that so he does not want those efforts to contaminate the process.

City Manager Weiser stated on the utility bills...Mr. Fenn asked about the writing on the utility bills, and that the old bill said that on the pass through as an example...the pass through said it was .

0414 cents, and taking literally means .000414 as the multiplier, and stated when you go from kilowatt hours to the cost. And stated what they did on this, and looked at changing cents to dollars...they looked at different ways of writing it, and decided that they would change it by dropping the word cents after the .0414 or any of those figures and adding the dollar sign prior to, so that is pretty definite as to what it means...it's .0414 dollars.

Swimming pool...He, Norman and Jimmy have been working on solutions to the problems of covering the pool will cause, and stated the biggest problem is the staggering increase in the operational costs. And stated Mr. Ragsdale presented them with figures that indicated that by being open during the winter would be \$100 to \$120,000 operating deficit, and they have spoke with people operating pools, and they feel that figure is rather conservative, and stated he is dealing with that operating deficit and trying to find ways of reducing that.

He stated one of those ways of reducing it is they were recently shown a newer technology on using solar heat...possibly replace the gas heating system during the summertime, and also another possibility they are looking at and want to explore that.

CITY ATTORNEY –

City Attorney Rubin stated he is pleased to announce that they had two successful results in Court last week. He stated the first one dealt with the Sheppard Highland's Zoning Appeal, and that they had one, but there was a request for reconsideration filed by the appellant, and they argued the motion on Wednesday, and the Court denied the motion...so the Court affirmed their previous decision.

He stated the second one involved the appeal concerning the licensing of Bartoo, and in that case he filed a motion to have that case dismissed on the basis that appellant's had not timely filed their statement of issues, and the Court granted the motion...so that's done

COMMISSIONERS –

Commissioner Sanchez stated she would like to commend Elephant Butte for their celebration, attended and represented the City of T or C, and that it was a very nice event, and that they had a fly over.

She stated she would like to see if they could find the money for a plaque to honor retired Judge Hawkins for his year's of service to show their token of appreciation.

Commissioner Sanchez stated she would like a report from the City Manager, and indicated during the budget process they approved the position for a grant writer who is to be crossed trained as the Assistant City Manager, and that they have not heard, or seen anything on that.

She stated she was glad Mr. Smith spoke about the pool cover, and stated they addressed the deficit...the operating expenses before the pool cover, before they approved it, before they said it would be ordered and up and ready by the end of the season...they discussed it during budgets, and specifically remembers saying...how can this

be right for the pool because they are going to be open year around, and she was told...it would be taken care of...it's no problem, don't worry. And so now the people who they have promised that it would be up, and should be able to enjoy year around swimming are having to suffer yet another year, and I don't think...they are dealing with \$120,000 deficit which they have known about all year long, and was told not to worry...I don't think that's the appropriate answer, and she thinks they need to deal with it immediately, and quit putting it off. It was first they couldn't find the right cover, and now this and that...they need to do something...they promised these people...they approved it, and paying interest on the money...it's time they do something. She stated solar pool covering is nothing new...she has a pool in her back yard and solar heated the pool for 3 years, and she would like to see them get something done immediately.

Commissioner Green stated congratulations to the Tourism Board and the Executive Director, Gina Kelley...for the last 5 year's Sierra County Tourism Board has been ranked in the top 3 out of hundreds of applicant's every year, and stated this year they came in #2, and the award was \$26,000, and the #1 award was Alamogordo for \$29,000.

He also congratulated the Bountiful Alliance, and stated City Manager Weiser was there, and Terry Bruner who is USDA Rural Development NM political appoint was here for a ceremony of the passing of the money, and that they will not open the Commercial Kitchen until possibly January, but they presented a plaque for \$98, some odd, and that process is moving forward which will have a great impact on our community and the entire county.

Commissioner Torres asked City Manager Weiser that during the budget hearings they talked about doing our own billing from the utility office, and wanted to know the status.

City Manager Weiser stated they spoke about it and haven't really been able to generate the time to get down to the nitty gritty as to how...if it's going to cost them 1 or 1 ½ additional people, or any additional people to do that in house. He stated one of the issues he has concerns with is they bill 4 times a month. And stated he would report back at our next meeting.

Commissioner Renfro – No report.

Mayor Montgomery – No report.

EXECUTIVE
SESSION:

“Commissioner Green moved that the meeting be closed for Executive Session – Personnel 10-15-1H(7), 1. Discussion – City Manager – 6 month evaluation.”

Seconded by Commissioner Sanchez.

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 state that the Commission was now in Open Session.”

CERTIFICATION “Commissioner Green certified that only matters pertaining to Personnel 10-15-1H(7), were discussed in Executive Session, and no decision was made.”

Seconded by Commissioner Sanchez.
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