

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, September 28, 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 28, 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, and asked that they remember the Cecilio Terrazas Family.

Mayor Montgomery called for the Pledge of Allegiance.

APPROVAL OF AGENDA: Mayor Montgomery called for approval of the Agenda.
"Commissioner Green moved approval of the Agenda."

Seconded by Commissioner Torres.
Motion carried unanimously.

RESPONSE TO PUBLIC COMMENT: None.

COMMENTS FROM THE Mr. Audon Trujillo came before the Commission with comments.

PUBLIC: Ms. Wendy Tremayne came before the Commission with comments.

Ms. Betsy Robertson came before the Commission with comments.

Mr. Ralph Pack came before the Commission with comments.

Mr. Tim Smith came before the Commission with comments.

Ms. Millie McLeod came before the Commission with comments.

Mr. Ronald Fenn came before the Commission with comments.

Mr. Brad Grower came before the Commission with comments.

CONSENT CALENDAR: Mayor Montgomery stated they have two items under the Consent Calendar – Minutes of the City Commission Meeting – Regular – September 14, 2010 and DAIC Monthly Report – 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.

Commissioner Green stated on the action minutes of Tuesday, September 7, 2010 from the P & Z Commission, and referred to page 3 under discussion – Variance request...near the bottom it talks about...Lee Foerstner stated that he agreed with the recommendation made by Fire Chief Paul Tooley, and a letter submitted to the P & Z Board, and that it eludes to a complete copy of Fire Chief Paul Tooley’s letter attached hereto and made part hereof, and is requesting that all the Commissioners get a copy of that letter.

BOARD COMMITTEE REPORTS: & None.

PUBLIC HEARINGS: None.

CONSIDER MOU & RE-APPT: - NM FILM DIVISION: – City Manager Weiser stated they were provided with a recommendation from SCEDO concerning the appointment to the Film Division, and that they voted to appoint “Jagger” Gustin to that position, and they also have the memorandum that has been approved in previous years.

Mr. Cary “Jagger” Gustin came before the Commission to request the re-appointment, and indicated he has been doing this for about 14 years. He stated the film office is at the State level and part of economic development, and that it filters down to our communities, and that some cities have their own film office such as Albuquerque, Las Cruces, and stated New Mexico has been in the spot light for about 4-5 years because the great incentive package

that they offer.

He stated there are approximately 300 businesses that are film related in the State which translates to about 10,000 jobs, and stated that Mr. Mulcahy, SCEDO Director will be involved.

Mr. Gustin stated their web-site will be updated with new photos, and that they have a post card that is still valid. He stated that he stays in constant communication with the film office, and is in good standing with area liaisons.

City Attorney Rubin asked if this is the same agreement that they have approved in the past.

Mr. Gustin replied that it was.

Commissioner Green stated the web-site was created with the use of public dollars, and indicated that the web-site was down, and that he has heard reasons why it is down, and suggested he get with Mr. Mulcahy...as that does not serve this community well, and stated once it is up and running he would ask that he get with Bob Hupp with the City, and Ruanna with Tourism to make sure there is a link to the City's web-site and the Tourism web-site, and would ask that they review that web-site, and that it might need some updating, and his last suggestion is that they get in touch with Ms. Stout the Director of the Film Office in Santa Fe, and invite her and her staff for a weekend for a visit of Truth or Consequences, and the entire county because they all gain...as there might be pictures of the lake and mountains, and to let them see what our assets are, and report back to the City Manager, and would appreciate that if that is okay with the Mayor.

Mr. Gustin stated they would do that, and that he was not aware that the site was down.

“Commissioner Renfro moved the appointment of Mr. Jagger.”

Seconded by Commissioners Green/Torres.
Motion carried unanimously.

“Commissioner Renfro moved the approval of the MOU.”

Seconded by Commissioners Green/Torres.
Motion carried unanimously.

RESOLUTION#11 -10/11: Mr. Juan Fuentes, Finance Director came before the Commission and stated the proposed resolution amends three sections of the existing resolution for per diem, and the three sections addressed is to clarify some language for compliance and consistency with the Per Diem and Mileage Act and DFA regulations.

Section 1. A – Salaried (paid) officers were amended to reflect ‘Public Officers’. B – Salaried officers were amended to reflect ‘Public Officers’.

Section 1. B – Officers were amended to ‘Public Officers’.

He stated the most significant change in this proposal is on the actual rate that the mileage was being paid at. The DFA Cabinet Secretary amended the section under the NM Administrative Code to pay out only 80% of the current IRS rate, and indicated in our existing ordinance it is .55 cents...and 80% of that should be .44 cents, and stated that is what should be paid out, however under our current ordinance it is actually being paid at 100%, so this resolution will amend that to reflect the changes in the NM Administrative Code to be consistent with that code which in essence the City has to follow DFA guidelines.

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

Seconded by Commissioner Green.
Motion carried unanimously.

UTILITY
SERVICES
HSLD:

– City Manager Weiser stated he was approached by Mr. Neal concerning the utilities within the Hot Springs Land Development area...roughly 9,000 acres. He stated there was a couple of issues that Mr. Neal wanted discussion over, and that there may be more after Mr. Neal’s presentation, and the two he had concerns about is...can the City or is the City willing to finance the infrastructure within the area, and Mr. Neal estimated that would be approximately thirty four million dollars for the streets, water, and sewer distribution and collection lines.

He stated in contact with NMFA they provided three alternatives... the first one is the formation of a public infrastructure district, and indicated this would take a considerable amount of time because they have to elect a board, and the board has to appoint a secretary and a treasure, and that there is a considerable amount of time before they could put that in place. The second option that they discussed was tax increment financing...and again this is relying on the difference between what the taxes are today and what the taxes are when the land is developed, and using that difference the City commits that difference to paying off that infrastructure, and they didn’t think there would be that cash flow there to handle that manner of financing this, and the third item is one that he proposed to them looking at the City’s bonding capacity, and then using the system development charges or the capital improvement charges to pay back the thirty four million dollars, and stated they don’t have a means of using capital facility charge or capital improvement charges to do that...and stated they did suggest the use of gross receipts tax...but cautioned that the coverage requirement would be 125% of the yearly debt coverage charge that they would have to have in a separate account to cover any shortage in gross receipts tax collection, and stated he just received that information late this afternoon from them, and does not think that is viable...and does not know they have that much capacity, and they didn’t either from looking at what they presented.

City Manager Weiser stated that is the financing issue, and he and Mr. Neal talked about the existing agreement that they have with HSLD as far as providing water and sewer capacity to the HSLD, and stated Mr. Neal expressed a concern when those negotiations took place...values for water rights from this area were about \$6,000 an acre foot, and that today they are much less than that.

He stated is speaking with the State Department of Engineering,

and while they wouldn't say...they don't have access to the kind of information that gives what values are for water rights, and they did note that the number of applications for new water rights or transfer of water rights has dramatically dropped over the last 18 months because of the economic climate in the area.

City Manager Weiser stated if they financed these improvements, and did use their connection charges...and what those connection charges would have to be, and if they can see from the figures it is considerable increase from what they are charging today...but again that's mute because of NMFA's reluctance to use that kind of method to re-pay that kind of loan.

Commissioner Green stated on tax increment financing on the land...that's the County that does that...not the City.

City Manager Weiser – correct.

Commissioner Green – so just to follow that scenario through... how do they get the County to give us all that money.

City Manager Weiser – the City does get some property tax.

Commissioner Green – yes but very little.

Mr. Greg Neal came before the Commission and gave a brief power point at this time, and prior to the meeting presented a handout to the Commissioners.

Commissioner Green stated for someone to walk into a City Commission meeting, and to be presented with Mr. Neal's presentation and expect them to digest this in 3-4 minutes of reading time, and to be able to talk constructively about that...he can't cotton to that...so he just wants to get that out, and in response to some of Mr. Neal's points that he has made...he would like to point out that the agreements that were signed were signed voluntarily by the City and Hot Springs Land Development, and that there is a contract in place that bears his signature and the signature of Mayor Montgomery.

He stated in relationship to infrastructure services, and read from #C on page 4 of the Option Agreement for Purchase and Sale of Rights. (Complete copy attached hereto and made a part hereof.) And would also like to bring to mind to you that he spent some time reviewing the minutes of their 7-hour marathon meeting, and one of the Commissioners...and that Jaime Aguilera is discussing the Master Plan, and the difference between a macro and micro plans...and he refers to roads and streets...and his exact words that he copied, and that there are some dots in the transmission because the speaker system was not the best, and that there were a lot of words in 7 hours...the developer is obligated to provide the infrastructure required for the next phase of the micro-plan, and another Commissioner asked of Mr. Aguilera...you referred to “the developer provides infrastructure...do I take that to mean...that the developer is responsible to build the roads inside the development, and then it's the responsibility of the City to maintain them...and that question is asked as a question...it's not the City that lays down the asphalt...it's the developers. Mr. Aguilera – I'm sorry...all of the cost of the development are born by the developer

within the project for all the infrastructure systems for wastewater, roads, and so forth. And it keeps on going on, and Mr. Maynard gets involved in this discussion.

A Commissioner asks just a quick question on building infrastructure, fire hydrants...and that whole list. Mr. Maynard – that’s a typical expense of the developer from with the neighborhood that he’s creating, and then Mr. Aguilera actually sums it up...actually Commissioner...the developer pays for all of the infrastructure...then there are 3 words that were not recorded because there were inaudible...water lines, sewer lines, fire hydrants, electrical system...everything that is inside the development...then Sam Senn who represented BASCOR...the developer will be responsible for providing infrastructure to the site, so he thinks it’s a little bit disingenuous of him to state that the City has fallen down on obligations...you can’t fall down on something that’s not their responsibility...this is the developers responsibility, and he is not against their development...he has some questions about it...as they might all, but he wants to see... and do what’s best for the City, but he also wants to have a level playing field, and in relationship to the refund...deposits are non-refundable to Hot Springs, and he assumes that meant Hot Springs Land Development...and if his memory serves him correctly...and he believes with their in concert with Hot Springs Land Development...with your approval...the City and Hot Springs Land Development went looking for water...and they took that \$200,000 and popped some wells, and drilled wells up around Cuchillo to find out if that was a viable water base to help support their development...so to stand here with a signed contract that bear’s his signature...and say that the City...they haven’t proved infrastructure...that’s not our dime...to say they want their money back...that’s not our fault...they have done nothing wrong, and they used that money because they went along with where they were going to put that money...what they thought would be good use...a search for water, and also the last thing...to say that the most precious commodity that exists in this State, and more precious than gold and silver...which is water has decreased in price is the most fallacious argument he has ever heard...very possibly some rancher came up with foreclosure, and had some water rights and someone came in and said on a fire sale...I’ll save your ranch, but I want a real deal on the water rights, and maybe they did pay \$3,000 for water rights, but that’s not the market, and stated it is unfair for him possibly to take one extraneous situation...and make that cover all situations.

He stated they voluntarily agreed to a price for sewage and for water...they voluntarily signed this contract...they voluntarily said City go ahead and use our money to find some wells...will work with you...so he finds that this presentation...even though is sincere on their part...he has a hard time finding out how he connects the dots.

Mr. Neal stated he would like to point out that on the Cuchillo drilling they also added another \$40,000 from Hot Springs...so he does not know if the \$200,000 was used to spend on the \$96,000 that was total on the well exploration for Cuchillo. And stated he completely agrees with his assessment about the utilities inside the development...the issue is how do they get the utilities from their existing plant...and looking at their current capacity 5 miles up the

road to the property.

Commissioner Green stated that is their responsibility...not ours... you signed the contract. And to put the onus on the City and look like the City is the bad guy here...is not fair...it's not right, and it's not legal.

Mr. Neal stated he didn't want to paint a picture that the City has been delinquent at all because they merely requested for a development of the plan for services to the property, and their estimates to bring those utilities from their existing plant capacity would be approximately fourteen to twenty million dollars, and stated they have no customers to serve in that 5 mile stretch either one of us...it's just going up either the Interstate or up 181, and stated it's not practical.

He stated former City Manager Jaime Aguilera was working with them at the time to develop a plant on the property...meaning water...well water on the property, and package plants that could ultimately be tied to their infrastructure at a later date, and stated that was the course of action that they were going to pursue...that they engineered for, and he thinks they can talk about the agreement...who's responsibility...they are not shirking that responsibility, and I've said that very clearly...they will pay for that infrastructure on the site...where does that service emanate...where does it begin, and stated they would like to do that on our property.

Commissioner Green stated it was their responsibility before they signed this contract to factor in the cost of what they are agreeing to.

City Attorney Rubin stated he should point out that he was not the one who drew up the contract...it was their counsel who drew this up.

Commissioner Green stated he wished them well as a business man and personally...he is looking at this strictly at what has been printed and what has been signed.

Mr. Neal...Commissioner Green that's fine but ultimately he would like to discuss the fact they continue to incur significant bills every month for trying to defend the City's code and ordinance and our own position within the County, and stated it's become absolutely impossible to move forward because of the frivolous lawsuits.

Mayor Montgomery stated she does not think anybody is questioning the fact on the lawsuits on whether they are frivolous or not, but that's part and parcel of doing business, and they all take on that responsibility when they choose to do whatever it is they're doing whether they're in business or doing a development or anything to that length of course there would be no way that the City would ever guarantee anyone that no one is going to sue them again...so I'm just throwing that out...it's unfortunate and it's costly, but there is not a darn thing they can do about it. And stated they will continue to have delays, and if they think de-annexation from the City is going to solve that...I hardly disagree with him.

City Attorney Rubin stated he has a question about that anyway... you indicated the ordinance that is before them...the de-annexation

is prepared by counsel...is it prepared by NM Counsel.

Mr. Neal – yes.

City Attorney Rubin – was it by the same attorney who is representing him on the case of the lawsuit...or somebody else...

Mr. Neal – an associate.

City Attorney Rubin – alright, and stated he spoke to Mr. Kelly this morning and actually he didn't mention anything to him about this, and pardon my ignorance but I'm not aware a statute that allows them to do a de-annexation.

Mr. Neal – there's not, and stated this is an ordinance...this is basically a resolution, and no there is no statute in the State of New Mexico for de-annexation.

City Attorney Rubin – if there is no statutory authority...how can they pass an ordinance?

Mr. Neal – they can do it through a resolution...he's told...and stated that it is how it was done by David Matthews in Sandoval County.

Commissioner Green...Jay a point of legal law...when a lawsuit comes before a judge and the judge reads the paperwork he's presented...the pros and the cons...does that judge he or she have the right at that particular point to say you know...this is BS...this is absolutely silly...it's frivolous, and take it and throw it out, or does everything have to follow the process until the judge makes a ruling.

City Attorney Rubin – well every case is different of course, and what they had here it wasn't a typical lawsuit...this was an appeal...an administrative decision...this wasn't a lawsuit where one person is suing another or something that happened between two private parties...this was an administrative appeal, and what happened is both parties filed their briefs...and yes I joined Mr. Neal in this...and yes they were hoping that there would have been a quicker decision but it didn't happen that way...there was a lot of motions filed, and the judge had the discretion to make the decision whether he wanted to entertain those motions or not, and he decided to hear those motions.

He stated the court did rule that both Hot Springs and the City...our motion for sanctions would be granted, and they hadn't got to a point yet of actually submitting the costs since the judge ruled in their favor on the motion for sanctions...they had a bunch of other motions filed since then that they are defending, and they want the court to dispose of all those motions first before they actually submit our claim for the actual amount that they feel they are owed...so that's where they stand.

Commissioner Green stated he wanted to refer to the voluntary agreement of imposition that has been attached to option agreement for purchase and sale of rights which was signed by both parties, and that some citizens were involved to come up with some... because they had specific knowledge of water...the last page...

Conditions subsequent to enforcement of additional conditions, and stated two things had to happen to make this all go away...#1, a petition for a referendum election on any of HSLD's application approvals granted by the City Commission at its meeting of August 18, 2008, is validated by the City...that never happened...so that takes #1 off the table, #2, a lawsuit is timely filed challenging the validity of any of those same approvals, whether or not such lawsuit includes unrelated causes of action. To exercise its right to withdraw additional conditions, HSLD shall give the City Manager written notice specifying the additional conditions it is withdrawing within 120 days of the filing of the petition or lawsuit, and his question is...to the best of his knowledge is he correct...that HSLD has never notified the City within that 120 day period from the first date of the filing of the lawsuit...is that a correct statement.

Mr. Neal – in other words to revoke that agreement...no they have not...because they again wanted to continue to try and work with the community in good faith...so they have not revoked that agreement which creates conditions on them to hold meetings and hearings, and all the things that they are prepared to do.

Commissioner Green stated he appreciates with wanting to work with the City because he has used the words more than one time, and does not think they are going to be in a position...I am not going to be in a position to entertain any thoughts about their presentation tonight.

Commissioner Torres stated he agrees with Commissioner Green, and he thinks they need more time to deal with our attorney.

Mayor Montgomery stated one of the questions she has is he referred to in the formal request letter about the entitlement to services, and in that she takes that to mean a true development that has been established and so forth, but he has also made reference that it hasn't even occurred yet...you haven't even done that...you may have done some preliminary work within their organization to do that but nothing formal has ever been presented.

Mr. Neal stated they have not brought them a subdivision or plat request to their Planning & Zoning...that is correct.

Mayor Montgomery – correct...so she does not know any business person that would say oh sure let's go ahead and build it and hope that they build it...will build it to there, and then they hope they build on it...that would not be prudent in anybody's eyes...so I just wanted to make that clear for the record.

Mr. Neal stated he was suggesting that they enter into a dual planning because again they have current capacity issues with their well field in Williamsburg...they have capacity issues with regard to the sewer, and is merely asking that the City put resources to that planning activity so that the two systems can be integrated if that is to happen, and stated that is the effort that needs to be put forth, and if they are to do it in isolation he would like to know that, and in their ability to go to the capital market and raise the kind of money that's required to do this, and stated they are looking for certain assurances with regard to time frame and execution and return on that investment, and stated that comes from...they have to charge in terms of rates, and they won't have control of any of those

things, so the conclusion is they have a large ranch in Sierra County of raw land and they will raise cattle...and that's kinda of where they are at.

Commissioner Green stated he personally thinks that one of the things that he would like his fellow Commissioners to take off the board immediately...he thinks it would be grossly irresponsible for them to indebt their citizens to the tune of thirty four million dollars, and thinks that should not even waste one second of their breath...there are of things they can spend time on...they got some things there of substance that they can discuss, but I for one are not going to discuss indebting this community to thirty four million bucks for a road to nowhere possibly, and with Mr. Neal as partners and Hot Springs Land Development...but for the City to go out and build everything, and then all of a sudden...your project...your end of it doesn't materialize...they have just built a phenomenal infrastructure out in the middle of the desert, and they are paying for it for 20 years.

Mr. Neal stated which is why they proposed de-annexing and doing it themselves so they are no longer a burden in terms of their planning capacity and terms of their actual service capacity, and that is why they are suggesting going out and doing it themselves.

Commissioner Green – and I would remind you sir...as per your signed contract that is your responsibility...so it's not like you're getting the off the hook...they were never on the hook in the first place.

“Mayor Montgomery stated she would recommend that they send this to the manager and Mr. Rubin and let them discuss it and bring it back with further information to them.”

Seconded by Commissioner Green.
Motion carried unanimously.

RESOLUTION
#10-10/11:

Mayor Montgomery stated this is the Resolution for the ICIP for 2012-2016 that was continued from their last meeting.

“Commissioner Sanchez moved that they accept the ICIP plan as presented.”

Seconded by Commissioner Renfro.

Commissioner Green...I would just like to...I thought Mr. Grower, and stated that was an interesting point about downtown and protecting that asset, and he would like to point out that on 2012, #6 says...Hot Springs Wastewater Drain/Storm Drain Improvements, and he takes that to be downtown.

Mayor Montgomery stated if they will remember her question was at the beginning...where is it and that's why...

Commissioner Green...well I'm glad it's already taken care of.

Motion carried unanimously.

CORRECTING
RESOLUTION

– City Manager Weiser stated he asked his Executive Assistant, Ellen Lindsey to contact the State Attorney General to ascertain answers

#07-10/11:

to questions that have been brought up concerning their attempts to memorialize our Inspection of Public Records Act and how they handle that.

He stated a couple of questions were brought up and she answered those in the memo that she provided for them, and thinks that a couple of things came out, and that they have to accept e-mail requests...and she did pose the question...what happens if their spam folder filters out their request, and their response was they indicate they did not receive it so please send it again, either by fax or e-mail or mail.

City Manager Weiser stated she did talk about the cost of reproducing photographs, and in the original document there was a charge of \$3.00 per page for the first 5, and .35 cents per page thereafter, and they felt those figures should be closer together, and staff recommends they charge \$1.00 per page, and they will charge .25 cents per page for transmitting electronically, and there is considerable amount of time that they spend researching and transmitting the records.

“Commissioner Sanchez moved to accept IPRA Resolution as presented including exhibit “A” & “B”.”

Seconded by Commissioner Renfro.

Commissioner Green stated on the photographs...\$1.00 per page... you can put 2 photographs 4 x 8 on a 8 ½ x 11...they also have paper up to 11x 17 which you could put 8 photographs, and it also says the State does not charge...talking about e-mail, but the AG’s recommendation was the municipality is free to determine a reasonable charge for this service, and he agrees with Manager Weiser...it is taking someone from a job and giving them another job...it’ disruptive...but from what little he knows about e-mails, once you find it you press the button and whether it 10 pages or 1 page it’s the same effort...so I’m questioning the justification for charging each page of an e-mail rather than one charge because whether it’s a 1 page document or a 10 page document the time to look it up is exactly the same, and on the photographs...can someone get 8 photographs for \$1.00 and to have the transmission for e-mail for .25 cents per document rather than per page.

City Attorney Rubin stated they discussed both of those issues.

Ms. Lindsey came before the Commission and stated on the photographs that is used by the police department, and that those photographs are 8 ½ by 11...one per page, and indicated that is where their recommendation comes from on that particular one.

Mayor Montgomery stated the comment she would have...and if somebody is requesting something by e-mailed to them, and they have to scan it an e-mail it to them...that’s a different story than just looking up a file and e-mailing it, and stated it is not that simple...if you have to scan it and put it into a folder, and then send it to somebody...you’re taking up memory on the computer also... so you may have a hard document...a hard copy of a document that somebody wants e-mailed to them...you can do that, but you have to put it on a computer which takes up space on the computer, and then you send it and then you have to remove it...if you so desire...

it's a little bit more complicated than just hitting a button.

Ms. Lindsey stated on the scanning e-mail they did the recommendation from staff...was .25 cents a page just like if they were making the copy.

Commissioner Sanchez stated her only concern having a pre-existing on the computer already charges...if they scan a 300 page document and they delete it...the next day someone is going to call and say they e-mailed this to so and so...can they e-mail it to them, and they are going to want the flat fee document charge vs. the .25 cents per page charge...and sees that being a problem.

Mayor Montgomery stated she thinks they should refer to the staff's recommendation on this, and if there is something that comes of this at a future point...they are certainly welcome to bring this back to them to say this is not working, and re-visit it later on.

City Manager Weiser stated if a citizen makes a record request to inspect public records they have the right to come and look at them, and then decide what they want.

Motion carried unanimously.

OLD BUSINESS: None.

REPORTS: **CITY MANAGER –**

City Manager Weiser stated he was asked a question several times this week concerning the street paving that is in progress, and if what they see on the ground is the final product...and stated no it is not. And stated what they are doing is pre-leveling to get the street ready for the final paving...whether it be asphalt or chip seal, and that it looks like they will begin early Monday afternoon of next week.

He stated they received a grant from the NM Environment Department, and indicated they were 1 of 3 cities to receive what they call...a Hub & Spoke Grant that has to do with our recycling activities, and stated they will be given equipment...a new bailer to facilitate putting together our recycled goods to sell them. And stated earlier this year they received a grant to construct a building, and that they will house that bailer in that building.

City Manager Weiser also reminded the Commission of the workshop tomorrow night at 5:30 P. M., at the County Commission Chambers on Van Patten Street.

He stated he was asked to see if the City was taking full advantage of the exceptions to paying GRT made available to cities, and indicated that the City was audited 4-5 years ago, and they found there were a few items that they weren't paying GRT that they should have been, and many items that they were paying GRT that they didn't have to pay, and stated the auditors spent a considerable amount of time with staff explaining the differences, and indicated it is not a simple process.

City Manager Weiser stated they have a memo in regards to Cecilio Terrazas funeral arrangements which will be held on Friday.

CITY ATTORNEY – No report.

COMMISSIONERS –

Commissioner Sanchez stated she has received 2-3 phone calls regarding the fire department sub-station at the airport, and wanted to know the status, and understands the repair work was done for the hangars, however the sub-station is not complete or the fire safety training trailer.

Commissioner Green congratulated Commissioner Sanchez on her wedding 10-10-10, and wished her all the health and happiness for her husband and daughter.

He stated for the Hot Springs Festival he would like to thank Main Street for putting this on, and City staff to help make that a nice event, and thank the attendees for coming, all the volunteers, and Gina for heading up the project, and Kori Mannon bringing all the runners from Elephant Butte the day before their event, and stated he drove the van for the Hot Springs Spa Tours.

Commissioner Green stated on the workshop for tomorrow night in relationship with a memorandum that the Spaceport is looking to sign with the County for a location of a visitors center...somewhere in Sierra County, and stated the enemy in the room is apathy on workshops...the public does not have a chance from what he understands to speak...but they can listen, and they can hear where there fellow City Commissioners and County Commissioners are coming on this particular subject, and stated it is an important possibility that on October 7th, and that memorandum which is a draft stage will appear at the 5:30 County meeting for further discussion and or a vote on the MOU, and if they don't exercise their rights to speak out...then they forfeit any bragging or complaining rights about the ultimate site that is chosen, and encouraged everyone to go to the workshop, and listen to what is being discussed so when they go to the County Commission meeting they will have an opportunity to voice their opinion and be heard by the County Commissioners and that is really important.

Commissioner Torres – No report.

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(2), 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(2), -City Manager - 6 month evaluation were discussed in Executive Session, and no vote was taken."

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