

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, October 26, 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, October 26, 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. Steve Green, Commissioner
Hon. Frances Luna, Commissioner
Hon. Freddie Torres, Commissioner

Also present:

Jay Rubin, City Attorney
Mary B. Penner, City Clerk

Absent were:

Hon. Evelyn B. Renfro, Mayor Pro-tem
Dave Weiser, City Manager

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

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

Mayor Montgomery called for the Pledge of Allegiance.

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

“Commissioner Green moved approval of the Agenda as presented.”

Seconded by Commissioner Luna.
Motion carried unanimously.

RESPONSE TO PUBLIC COMMENT: None.

COMMENTS FROM THE PUBLIC: Ms. Betsy Robertson came before the Commission with comments.
Mr. Jessie Schultz came before the Commission with comments.

Mr. Ralph Pack came before the Commission with comments, and presented the Commission with petitions.

Ms. Linda DeMarino came before the Commission with comments, and presented a brochure, Project NM Main Street Makeover to the Commissioners.

Ms. Nola Kent came before the Commission with comments, and presented the Commissioners with red ribbons celebrating “Red Ribbon Week.”

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 – October 12, 2010 and DAIC Monthly Report – September 2010.

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

Seconded by Commissioner Luna.

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 he would like to address the Airport Advisory Board minutes with some comments and some suggestions.

He stated #1 they talk about the Pippen Hangar building being available, and would like to suggest that the City Manager contact SCEDO to make sure that it is up on their website as a restrictive use building...since it is on airport property, and to include there is electric and water, and #2...he would like to set-up a standard operating procedure when someone flies into our airport, and thinks they should go the next step and say...Thank-you very much...we know they are going to visit us...how can they help them...would they like some information, and that they can e-mail them or send them a brochure of all our hotels, motels, RV parks in the area. And thinks they should have a kit...a press kit made up with all the brochures of what they offer...so when visitors come in they are given that information which might help them stay here longer, and indicated the minutes elude to a dirty dingy old building, and stated they do have some money in the gas fund, and he thinks that would be money well spent, and since that is the first impression thinks it is important, and stated his apologies to the staff at the airport if his suggestion the operating procedure for people asking for information is presently being done...he is not aware of it, and just wanted to make sure if it is not that it does get done and done properly.

BOARD
COMMITTEE
REPORTS:

& None.

PUBLIC
HEARINGS:

None.

CONSIDER

City Clerk Penner stated they were provided a letter from Mr.

REQUEST – MR. ASHBAUGH: Ashbaugh asking the City Commission to extend the Los Lomas Subdivision Master Plan for a period of one year to November 10th, 2011, and read letter in its entirety.

Commissioner Green stated the code allows him five years and then two follow-up years, and he thinks this is the 2nd or 3rd year they are into this.

City Attorney Rubin stated 5 years is how long the approval of the master plans effective for...and then they can grant them 2 additional year extensions.

“Commissioner Green moved approval of Mr. Ashbaugh’s request for the extension of the Los Lomas Subdivision Master Plan.”

Seconded by Commissioner Torres.
Motion carried unanimously.

CONSIDER – Ms. Nola Kent, DWI Coordinator came before the Commission and
DWI stated this contract is for a part time position for the Envision Your
CONTRACT: Future Program which they will be starting a pilot program in high school, and hopefully the middle school this year, and indicated Ms. Hohnke has her substitute teaching license which is a requirement of the high school and middle school for them to be in the classes doing prevention.

City Attorney Rubin stated this is the same standard form they have been using.

“Commissioner Luna moved acceptance of the DWI Program Contact as presented.”

Seconded by Commissioner Torres.
Motion carried unanimously.

FINANCIAL – Mr. Juan Fuentes, Finance Director came before the Commission and
REPORT – provided the Commission with the quarterly report for the period July
MR. FUENTES: 1st, 2010 through September, and stated they also have a detailed revenue and expenditure report generated by our accounting system. He stated the information is similar to what has been submitted to DFA which they are required to do on a quarterly basis.

At this time Mr. Fuentes went through the quarterly financial report in its entirety. (Complete copy attached hereto and made a part hereof.)

Mayor Montgomery commended Mr. Fuentes on an excellent job, and stated this is a lot more than they have received in the past.

Commissioner Green asked if he would be discussing the revenue reports.

Mr. Fuentes stated this is for their information.

Commissioner Green stated on of the pages it refers to a governmental tax of 5% at the airport...what is that?

Mr. Fuentes stated he does not have an answer at this time, and that he will look into it, and report back to them.

Commissioner Green stated in some departments they refer to full-

time wages, overtime wages, and standby wages, and his question... is a standby wage time and a half...is it considered over-time...is it a special category of wage...what is the difference between overtime and standby...is there a difference in dollar amount, and how does that work...who determines standby.

Mr. Fuentes stated he would get that information and get back to them.

APPLICANT
FOR SVHGB:

Mayor Montgomery stated they do not have the information from Commissioner Renfro as she is ill this evening, and would entertain putting this on the agenda for the next meeting.

“Commissioner Luna moved to place this back on the agenda for the next meeting.”

Seconded by Commissioner Green.
Motion carried unanimously.

APPLICANT
FOR P&Z
COMMISSION:

Mayor Montgomery stated they heard from the applicant’s prior to their meeting, and stated they had 1 no show.

At this time City Clerk Penner tabulated the results from the rating sheets submitted by the Commissioners.

Mayor Montgomery thanked the gentleman for applying for the Planning & Zoning Commission, and thanked them for their time for the interviews.

City Clerk Penner stated the candidate is Mr. Ronald Fenn.

Mayor Montgomery congratulated Mr. Fenn, and that they would see him at the next Planning & Zoning Commission.

“Commissioner Green moved the appointment of Mr. Fenn to the Planning & Zoning Commission.”

Seconded by Mayor Montgomery.
Motion carried unanimously.

RESOLUTION
#12-10/11:

City Clerk Penner stated this report is from the City Manager, and read the background information. The City has applied for Water Trust Board Financing in past years. Our most recent application was approved but then matching funds from the State were rescinded. The City asked for a modification of our application and the Water Trust Board suggested that they apply in the next funding cycle. This resolution completes their application for Water Trust Board funding. They have requested funding for the rehabilitation of the three water tanks as in the previous years, and if there is money left from this rehabilitation to start replacing the water line from the 200,000 gallon tank. The City’s match, to replace the State funding that was rescinded, could either come from the existing funds or from a low or no interest loan from NMFA, or a combination of the two. City Manager Weiser recommends approval of this resolution.

Mayor Montgomery stated they did have this money in place last year, and indicated when the State was looking for general fund money to take back...that was one of them they took back.

“Commissioner Green moved approval of Resolution #12-10/11.”

Seconded by Commissioner Luna.
Motion carried unanimously.

REQUEST FROM
SENATOR
UDALL:

City Clerk Penner stated they recently received the Fiscal Year 2012 Appropriations Request Form from Senator Udall's Office. They recently approved the 2010 to 2016 ICIP in which the closure of the Landfill Closure was #1 on the list, and the Transfer Station was #3. This is an opportunity to acquire funding for these two projects through the Federal Government. City Manager Weiser recommends approval to seek specific funding through the Fiscal Year 2012 Appropriation Request process.

Commissioner Green asked how much are they applying for?

City Clerk Penner replied "she was sorry but she did not know."

Commissioner Green asked if they are required for any type of match.

He stated he read under 8 (b), and does not think they qualify for that, and does not think that pertains to them.

Mayor Montgomery stated they need to task the manager to seek all opportunities for grants.

"Commissioner Green moved that they apply for funding through the FY 2012 Appropriation Request process."

Seconded by Commissioner Luna.
Motion carried unanimously.

RFP ON CALL
ENG. SERVICES:

City Clerk Penner stated the contract for engineering services has expired. They placed an RFP for these services and received 10 replies. The contract for these services is for one year, and they may extend the contract for three additional one-year time frames.

She stated the responses were scored by Andy Alvarez, Jesus Salayandia, and City Manager Weiser. He has enclosed the scoring tabulation sheet for their review. As you can see from the sheet the two top scores are from WH Pacific and Smith Engineering.

The recommendation from the City manager is that they sign the contracts with both WH Pacific and Smith Engineering. Both firms have worked with the City in the past and have performed their tasks well.

"Commissioner Luna moved that they follow the recommendation from the City Manager."

City Attorney Rubin stated...let me make one observation from the WH Pacific Contract, and indicated he brought this up, and he brought this up when a contract came before them before, and the Commission approved it, and he wants to make sure they are aware of this. He stated he was bothered by paragraph 13...Limitation of Liability...it has a \$50,000 ceiling on that...and of course he didn't want that, but they discussed it the last time this came up and he thinks it was decided that the risk of this ever coming up was...so the Commission went ahead and approved it but...so that was a concern he did raise. And what really makes it more concerning is paragraph 13 conflicts with the first sentence of paragraph 11...because they are

agreeing to indemnify them to the fullest extent in the clause, and he just brings that up, and he does not know whether it is worth trying to revise that, and wants to make sure the Commission is aware of that.

Mayor Montgomery stated the request tonight was for the RFP, and stated they would have the contract back before them.

Seconded by Commissioner Green.

Commissioner Green...Jay they are going to sign two contracts, and that the recommendation from the City Manager is to sign both of these organizations, and stated when a project comes up do they ask both of them to bid for the project.

City Attorney Rubin stated he thinks that is their option to do that.

Motion carried unanimously.

POLICE
CONTRACT-
VILLAGE OF
WILLIAMSBURG:

Chief Gallagher came before the Commission and stated since October 2007 a JPA has been in effect with the Village of Williamsburg and the City of T or C, and stated that agreement allows or provides for the City of T or C Police Department to provide police services for the Village of Williamsburg, and stated that is expiring.

He stated he has reviewed the JPA, and conferred with Jay Rubin and Manager Weiser and they agreed it was fine, and he also conferred with Mayor Mishler of Williamsburg, and that it was presented to the Williamsburg Trustees on October 14th which was approved, and for approval by this Commission.

Chief Gallagher reported that criminal activity and calls for service have remained consistent. He indicated the contract is the same, and the compensation is \$40,000 in which \$20,000 comes from Williamsburg and the remainder from LEPF that the T or C Police Department utilizes, and explained those funds are somewhat restricted, and limited to police equipment, training and planning.

Commissioner Luna referred to his letter about the clause, and asked that he explain that.

Chief Gallagher stated there is a clause that allows...if the consumer price index goes up or down that the contract and compensation can be adjusted accordingly to a limit of 5%.

“Commissioner Luna moved approval of the JPA between the City and the Village of Williamsburg.”

Seconded by Commissioner Green.

Commissioner Green...so Williamsburg gives them a vehicle?

Chief Gallagher stated that was the initial...they had their own police officer...he had a vehicle, and the initial year of the contract they gave them that vehicle, and stated it is in the contract...if and when it does end they want the vehicle back.

Motion carried unanimously.

OLD BUSINESS: None.

REPORTS:

City Manager – No report.

City Attorney –

City Attorney Rubin stated he wanted them to know he has not forgotten about the revisions to the Business Registration Ordinance, and stated he has been doing some research on that and found some interesting things that they probably want to incorporate, and anticipates it will be for their next meeting.

Commissioners –

Commissioner Luna stated she will save her comments for when Mr. Weiser is here.

Commissioner Green stated congratulations to the swimmers who put on the swim-a-thon, and thinks it is a great example of the community and private citizens partnering with the City...the government of the City in trying to help a project along.

He stated he would like to recognize the individuals who participated in the recent clean-up...Linda & Blair from Happy Belly Deli, John Mulcahy, and stated this idea came from him, and the Main Street Truth or Consequences Project from SCEDO, Davy Packard from the Computer Guy, Mark Gardetti from the theater, Greg Neal with HSLD, Judith Anderson, board member with Main Street Truth or Consequences Project, Jake Foerstner and Keith Peterson from Riverbend, and Ron Fenn, private citizen, and he would like to thank all of them.

Commissioner Green stated he thinks the government of Truth or Consequences has a responsibility, and that they have codes, and stated to get rid of this acceptance of mediocrity to get rid of this cultural of blindness...where they look at what they have and they accept it as the best it can be, and stated that is not what he sees for our community...I don't want it to be Santa Fe, Taos, or the town he left back east...where he wants it to be...is the best it can possibly be, and that's our charge....that is our challenge.

He stated he would ask the City Manager that they take a look at their codes...it's horrible to come into our community from exit 79, and drive down...the medians...he called NMDOT...those are our responsibility...”they will help” with some juice on the weeds.

Commissioner Green stated they have staff...that's an entry to our community...first impressions count the most...they have got to stop looking at our community as if they live here...they have got to start looking at our community if they are visiting, and what they see...is this pleasant...what does that say...how about some community pride...how about the business owners, and how about the land owners.

He stated he would like code enforcement...the City Manager to get on top of this...they have an ordinance...they should be sending out letters to every land owner that is in violation...the code says within 15 days after they receive that violation notice...the clock starts to tick...\$25.00 a day fine for each violation, after that a reasonable period of time the City has a legal right to go in and clean that property, and put a lien against that property...and that's what they should be doing, and should not allow the future of this community to be kept in the hands of people...who #1 don't know the ordinance, #2

don't live here, #3 don't give a damn...well guess what we give a damn...up here, and I know the majority of our citizens give a damn, and he wants them to start to enforce the codes that are in that black book.

Commissioner Torres – No report.

Mayor Montgomery stated that last week she attended the Mayor's Forum in Las Cruces for the personal and commercial space flight that was sponsored by NMSU. She stated the Mayor of Las Cruces, Hatch, T or C, and the Mayor from Titusville discussing how the Spaceport will affect the communities, and indicated it was a very good event that NMSU put on.

She stated she attended the dedication for the Spaceport runway last week, and indicated it was pretty impressive seeing the WhiteNight Two fly in, and that it was very well done.

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), 1. JPA – City of T or C & Spaceport.”

Seconded by Commissioner Luna.

Mayor Montgomery responded AYE to a Roll Call Vote
Commissioner Green responded AYE to a Roll Call Vote
Commissioner Luna 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 Purchase, Acquisition or Disposal of Real Property or Water Rights 10-15-1H(8) 1. JPA – City of T or C & Spaceport was discussed in Executive Session, and discussion ensued and no decision was made.”

Seconded by Commissioner Luna

Motion carried unanimously.

“Commissioner Green moved that as discussed they are tasking the City Attorney Jay Rubin to write a position letter to Executive Director Rick Homans and all of the Spaceport Authority Board laying out the position of T or C as a JPA being a legal binding agreement between the City and the Spaceport signed by all appropriate members.”

Seconded by Commissioner Luna.

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