

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Monday, November 1, 2010

SPECIAL 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 Special Session in full conformity with the law and ordinances of said Commission in the Commission Chambers of said City, on Monday, November 1, 2010 at 5:30 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: Mayor Montgomery stated all of the Commissioners have signed the acknowledgement of said meeting and that all of the Commissioners are present.

Mayor Montgomery stated they have one item on the agenda:

1. Discussion and possible reconsideration of appointment to the Planning & Zoning Commission.

She stated they have documentation in front of them and will give them a minute to look at those if they haven't already, and stated she will open it up for discussion.

Mayor Montgomery stated they have a copy of the minutes when they established the process...

Commissioner Green...excuse me Madam Mayor do they not have to approve the agenda item.

Mayor Montgomery – no.

Commissioner Green – this is not a regular meeting...

Mayor Montgomery – a special meeting called only for this purpose.

Commissioner Green – okay.

Mayor Montgomery – there is nothing else on the agenda except that item.

Commissioner Green – okay...thank-you for the clarification.

City Manager Weiser – March Of 2009.

Mayor Montgomery – okay March of 2009 minutes...where they discussed and adopted the process on the rating sheet for the Commission appointments for the boards that were in question at that time which were the hospital governing board, and the planning and zoning commission, and indicated they have those in front of them, and a copy of the rating sheets from last week from

the individual commissioners, and they have the ordinance on the Planning and Zoning Commission, as well as a couple of e-mails that have come into their boxes since last week.

Commissioner Green – may I ask who called the meeting.

Commissioner Torres – I did I think.

Commissioner Torres – well my vote was thrown out.

Mayor Montgomery – yes sir.

Commissioner Torres – I know they discussed interviewing but they never did change the process of voting, and thought that was the reason they have a 5 member board...so they have no ties, and then went on the rating...they discussed it but it was never changed in the minutes.

Commissioner Renfro – and the motion here shows that it was for interviewing...and it addresses absolutely nothing about the scoring...that was suggested by Commissioner Green, but it was not included in the motion or do I see a motion where it stated that there had to be a rating sheet.

Commissioner Torres – for him personally and then make a vote, after the rating they never called for a vote.

Commissioner Renfro – I see where the one name was circled on the rating sheet so to her that's an indication that was the person that would have been chosen by the person submitting that.

Commissioner Green – I understand the agenda...the discussion and possible reconsideration of appointment...what I would like to ask Commissioner Torres...what is the rationale...I understand the purpose what you want to try to accomplish, but what is your rationale for calling the special meeting...I mean why are they here.

Commissioner Torres – why are we here...because I don't think they should of thrown my vote out...I think it was complete confusion of the way it was voted and carried out...I got a vote I was elected by the people to represent them, I voted and my vote was thrown out, and I wasn't very happy with that...what gives anybody the right to throw my vote out...I've got a vote on this Commission.

Commissioner Green – stated they have used this process, and from his mind it should not be about personalities...this is about a legal process that this Commission decided to use, and it was process...it was procedure...it was voting, and then as another safeguard there was a motion that had to carry the day for the entire system...so it's a four point project...but are you telling me that we have used this process three or four times before...are you telling me that on the other three or four times you never put down numbers.

Commissioner Torres – I don't think...I don't know of any time that we've done that and they have always taken the recommendation of a board, and stated the last time they put somebody on the Planning & Zoning Board was Ruffini, and they made a motion to take the recommendation from the Planning & Zoning.

Commissioner Green – when they did it for the hospital last month did you put down numbers on your scoring card.

Commissioner Torres – I don't think they even had a rating.

Commissioner Green – Yes it did.

Mayor Montgomery – well let's focus on the Planning & Zoning Commission...

Commissioner Green – what I'm talking about is that I understand that maybe...I understand your sentiments...but I'm talking about a process and you can't change a process...it's like tomorrow if someone goes in and votes for a Probate Judge and writes in their name but doesn't circle the circle...you don't get a do over...you have every opportunity to vote the way the other three Commissioners did.

Commissioner Torres – when did you change it?

Commissioner Green – we never changed it sir to my knowledge...when did they change not handing these things out...I mean we handed them out for the hospital when they interviewed the two people for the hospital...did you use those numbers.

Commissioner Torres – no I didn't because I have a vote...I got a vote, and I exercised my vote and that's the way I'm gonna vote...that's why we got 5 members on this Commission.

Mayor Montgomery – so what you're saying is that the rating sheet has nothing to do with...

Commissioner Torres – with the way you vote.

Mayor Montgomery – to give you an opportunity to write down notes and then you...

Commissioner Renfro – for your personal use.

Commissioner Green – then how about the motion that was passed unanimously...do you want to throw that out also...

Commissioner Torres – well certainly...because like I say...this was a total...

Commissioner Green – I mean you had a chance when they had the motion...I think I made the motion, and the Mayor seconded the motion if my memory serves me correctly and it was unanimous.

Commissioner Torres – was there a vote call...no...they didn't call for the vote.

Commissioner Green – it was a motion...if I'm not mistaken...Jay help me out here...did not the Mayor or someone turn to you...or did you not say I think we need a motion here.

City Attorney Rubin – reluctantly I have to agree with you...what happened as I recall...I understand the concerns of Commissioner Torres and Commissioner Renfro...I understand all that I really do, but after they discussed the rating sheets I said to Madam Mayor you need to call for a vote...and they did, and she said all in favor Aye, and I guess 3 of you spoke up and I guess Commissioner

Torres didn't say anything...all opposed and nobody said anything.

Mayor Montgomery – correct.

City Attorney Rubin – on the rule 18...they do everything by motion, and I didn't know what those tally sheets said...I do now...I have them in front of me, but it really doesn't matter to me because the motion is what controls. However, actually it's a two part question. The other thing they can do...I don't have a problem with actually being on the agenda tonight. Rule 27 does allow for a reconsideration of motions that were done...action that was taken before. However I will tell you when you get to that I am concerned if you do change your mind you have an ordinance regarding removing someone from the board for cause...so that's a legal problem I see at this point.

Commissioner Green – and Madam Mayor that is my concern...I'm not here to do battle with Commissioner Torres, and they are trying to get unity...move this community forward get beyond it. I would like to point out though, and I don't know if this would appease Commissioner Torres or not, before I became elected...I was the City's Ron Fenn along with a few other people...

Mayor Montgomery – you know I don't want any names...I understand how everybody feels about certain things...this is about the process and the procedure.

Commissioner Green – okay well if this is about the process...the process was done according to our rules and regulations that they all agreed upon...they've used it during the interview for other positions...the hospital as they talked about here...we have a chance to vote twice...once numerically, and once through a motion, and he thinks that the bell was rang and you can't un-ring the bell...I think it just opens up this community for animosity for ranker just when it seems that they have kinda may be gone over the hill, and maybe there is a little bit of smooth sailing ahead, and I don't see the purpose of what is to be gained...now if you think the system is unfair...then maybe they might want to take a look at the system...

Commissioner Torres – I want to talk about my vote that was thrown out...maybe you were wrong and I was right.

Commissioner Luna had a question...Jay at what point does an appointment...if they look at the regulations regarding the P&Z Commission...it says the City shall have the authority to remove any member for cause with a cause, and then it says that that they have to be appointed, and then take the oath of office within 10 days...is when they take that oath make them a member, or does once their appointed make them a member...

City Attorney Rubin stated he saw that...that's an excellent question...I understand that can be a concern, and I guess if they were in court, and I was defending the City that's the position I would take. But I was concerned about what was the intent of the motion. If you're were gonna say...well we're gonna say we're gonna make this motion, and then come back later and give ourselves that out because...unless they have cause to do that...that's the thing I'm still stuck on.

Commissioner Luna – here's my thing they the Commission before

she was on it decided to make Cedar, Riverside, Austin...they decided not to let traffic go two ways on that road anymore...our constituents spoke up...said no that was not the best thing for this community as a whole...I think our constituency has spoken up, and said they do not feel this a valid good thing for the community as a whole, and I think they were put here by their constituents to represent our constituents, and I'm sorry but I didn't get a single phone call saying that this would be a good appointment...I got 105 phone calls saying this would be a negative appointment, and if him taking the oath of office makes him a member, and he has taken the oath then I say there is nothing they can do...their hands are tied, but if he hasn't taken that oath I will make the motion to rescind their appointment and let's go. Let's go back out to bid and while they are at it I think they need to throw this away, and one of them need to nominate somebody...the rest of them need to vote aye or nay on it...and that's the way that needs to go.

Commissioner Renfro stated she agrees with Commissioner Luna, and specifically on the scoring...although when she looks at the scoring I mean it was basically in favor of the other person, or at least there was two ties...or one tie on him, and so the other applicant would actually score higher if they would of gone by the scoring sheets...but I think they need to do away those, and if they are using them they should be for their personal use, and not used for casting of a vote or as indication of a vote...I think if I want to score what I thought of them during the interview...I can make notations on my sheet...then it's mine to keep...I don't think they should be turned in, and definitely shouldn't have a name on them...why should anybody know what anybody is thinking.

Mayor Montgomery asked City Attorney Rubin what his opinion on that...I mean when they look back at the minutes it was not reflected that they were adopting that...

City Attorney Rubin – I agree...and actually I kinda need support to my argument and actually that's why the motion that was done subsequent actually what controls even more...certainly for future meetings...I agree I think it's a bad process, but I'm going on what they did on that previous evening. I think tally sheets are a bad idea...I'm not basing my opinion on the tally sheets...I'm basing my opinion on the motion that was made after that.

Commissioner Torres – one commission carried the whole vote.

Commissioner Green – It was obviously pretty close...if you're gonna talk about something...Commissioner Luna it was a one point difference...the Mayor it was a tie...that means she thought...both Commissioners thought that it was almost a toss-up...okay and the only reason...I'm not saying this is a perfect system don't get me wrong, however you can't get zeroes because if they give a point for a city resident, business or property owner...you have to score a point, education 1, 2, 3 and up to 4 points...it is what it is, and basically why I scored it a little bit higher than everyone else because on the last question that I asked...why...what makes you tick, and when he heard...I just don't want to see the City to continue to try and put #4 a big square peg into a small round hole...you stop the process...you get some rules and ordinances that makes sense, and you move on...I didn't get the feeling that the interviewee was anti- anything...he was pro government, being right, transparent and for the people, and he thinks this is such an abuse of that process that they have. If they feel on reflection that the process is wrong they can change it for

the future...yes they did change a vote on Austin Street and that was because the phones started ringing...I don't think that's a valid argument...and the reason it isn't...

Commissioner Torres – you yourself alone elected that man...if they would have scored even...

Commissioner Green – are you telling me that Commissioner Luna and Mayor Montgomery had the opportunity to score any way they wanted.

Commissioner Torres – it's not right I have a vote too.

Commissioner Renfro...Jay what was your answer to Commissioner Luna's question...she asked you about the appointment verses the oath.

Mayor Montgomery – is the person when they are selected by the Commission, or are they on the board when they take the oath.

City Attorney Rubin – when the oath of office occurs that's what the ordinance says.

“Commissioner Luna moved to rescind their motion for the appointment of Ron Fenn.”

Seconded by Commissioner Torres.

Commissioner Green stated he thinks this is opening up new wounds that there is no win out here for this City...there is no win for this Commission...okay and just because your phone rings...I understand where they are here to serve the people, and I am just as mindful of that as anyone else...probably even more so “the new kid on the block”, and I am the outsider, however process...legal process you don't change in the middle of an event...you change it either before the event happens or after the event. And stated there is a president-elect...and maybe that might be important because what they are talking about is someone who had an opportunity, volunteered...the four of them had an opportunity to express their opinions twice...once by a motion.

Mayor Montgomery – I have a motion to call for the vote.

All in favor – Commissioners Luna, Renfro, Torres.

Opposed – Commissioners Green & Montgomery.

3-2, motion carries.

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.

ATTEST: LORI S. MONTGOMERY
MAYOR

MARY B. PENNER, CITY CLERK

