

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, February 22, 2011

AMENDED

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, February 22, 2011, 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:
Jay Rubin, City Attorney
Dave Weiser, City Manager
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.
Mayor Montgomery called for the Pledge of Allegiance.
Commissioner Renfro led the Pledge.

APPROVAL OF AGENDA: Mayor Pro-tem Renfro called for approval of the Agenda.
"Commissioner Green moved approval of the Agenda as submitted."

Seconded by Commissioner Renfro.
Motion carried.

RESPONSE TO PUBLIC COMMENT: None.

COMMENTS FROM THE PUBLIC: Mr. Brad Grower came before the Commission with comments.

CONSENT CALENDAR: None.

**PUBLIC:
CONSENT
CALENDAR:** None

**DRAFT
MINUTES:** Minutes are to be filed as presented.

**BOARD &
COMMITTEE
REPORTS:** None.

**PUBLIC
HEARINGS:** None.

**OTHER
BUSINESS:** *1. CONSIDER-CDBG GRANT:*
Mayor Montgomery called for a postponement. As Tony MacRobert, SCCOG, was not in attendance.

2. CONSIDER-APPOINTMENT TO THE PLANNING AND ZONING BOARD:

City Manager Weiser noted Board Members had interviewed 3 of the 5 people which initially expressed interest the Planning & Zoning Board position. Two of the people that had applied had requested their names not be considered at this time. Interviews were completed prior to the meeting tonight. It is now the Commission's option to choose or not choose as they see fit.

Mayor Montgomery offered the options;
Turn in one of the papers that has the listings with the names on it, if you want to pick the individual you are interested in and select and give those to Mary, or I will entertain a motion for consideration.

"Commissioner Luna motioned to appoint January Roberts to the P & Z Board."

Seconded by Steve Green.

Mayor Montgomery called for other discussion.

Commissioner Green asked for a point of clarification; is this for a full term or the balance of someone's term.

City Manager Weiser stated it was for the balance of someone's term, which he believes will expire at the end of June; at that time Commissioners would have the option of reappointing or appointing someone else.

Mayor Montgomery called for further discussion. With no further discussion, Mayor Montgomery called for all those in favor of Ms. Roberts.

Commissioners Renfro, Green, Luna and Torres voted yes.
Mayor Montgomery voted no.
Motion carried.

3. CONSIDER/DISSION-REGARDING SVHGB APPOINTMENTS:

City Manager Weiser explained that the Commissioners had interviewed two people for the Hospital Board, and there are two vacancies on the Board, that are to be filled by the City of Truth or Consequences, NM. Mr. Cross has decided to withdraw his name from consideration. Manager Weiser brought this back to the Commissioners for discussion and possible appointment because the Hospital Governing Board is in the process of reviewing the recommendations for qualifications; there was a set of recommendations that actually were for requirements – they were provided by the Chairman of the JPC, those have been modified by the Governing Board at least twice, maybe three times. They made more recommendations, and the draft he had the Governing Board is to act on this tomorrow. In the draft it is pretty adamant in their feelings that a person who works for the Hospital should not be on the Governing Board, because they are overseeing the actions of the Executive Director-who is overseeing their actions. The person that is left is Dr. Elting, Dr. Elting does work part-time at the Hospital, and we now have two openings to consider. This leaves us with a couple of options; one is to re-advertise if you so desire-and obviously we are going to have to since we have two vacancies, we have only one person with interest now. The other option is to wait and see exactly what the Governing Board recommendations are as far as applications and criteria for applications or go forward and appoint Dr. Elting.

Mayor Montgomery opened the floor to discussions.

Commissioner Green asked if Mr. Cross had given a reason as to why he removed his name from consideration.

City Manager Weiser answered that not that he was aware of, he had not spoke to Mr. Cross as someone from staff had made the call.

Commissioner Torres recommended advertise or wait to see what the Governing Board was going to do.

Commissioner Renfro agreed. We could re-advertise and then maybe we'll get the guidelines by then.

Commissioner Luna stated in the advertisement, since we are not going to appoint anyone who works for the facilities, they need to make that clear so we don't waste any time.

Mayor Montgomery called for a motion direct staff to search.

“Commissioner Renfro moved to direct staff.”

Seconded by Commissioners Luna/Green.
Motion carried unanimously.

4. CONSIDER-RESOLUTION #17-10/11 – TO PROVIDE FINANCIAL ASSURANCE TO THE STATE OF NEW MEXICO FOR THE CLOSURE/POST-CLOSURE CARE OF THE CITY OF T or C LANDFILL:

City Manager Weiser presented Mr. Juan Fuentes, Finance Director.

Mr. Fuentes stated that the New Mexico Environment Department approved the City's closure and post-closure plans for the T or C Landfill back in March of last year. One of the conditions for the approval of the plan was that the City needed to provide a financial assurance of the liability the City will be occurring during lifespan of the closure of the landfill. One of the mechanisms approved is the financial assurance, and the way that the City can go about in

establishing that is by setting aside a reserve account as in the documentation provided to Commissioners. The estimated cost for the closure of the landfill is \$410,000.00. Currently right now the City has a certificate of deposit for about \$313,000.00, so the proposal for tonight is to adopt a resolution which is required by NMED and use those funds and set them aside for the closure of this landfill in a reserve account.

Commissioner Torres asked if we be drawing any interest on that money?

Mr. Fuentes said that is correct – that investment will remain in a CD, but it will specifically be dedicated for the landfill post-closure plan.

Commissioner Torres asked what grade of interest we are getting now.

Mr. Fuentes said it's less than 1% right now.

Commissioner Renfro noted that by State Statute the City Clerk is also know as the Treasurer, and this does not include her at all, and she has some responsibility and she should be involved in there – in fact in-lieu of the manager. Where it says City Manager – it should say City Clerk and Finance Director. As far as the CDs are concerned, those had always been purchased by the City Clerk/Treasurer.

Mr. Fuentes noted Commissioner Renfro was correct. The City Clerk is also the City Treasurer, and currently right now the process is when we renew any CDs or we make any changes the City Clerk is informed and usually when we deal with the bank she accompanies me to talk to the bank.

Commissioner Renfro said that is why she felt the resolution should include her (the City Clerk).

Mr. Fuentes stated he would propose an amendment be done to include the City Clerk's name as well in the resolution, so it can be the City Manager, Finance and the City Clerk/Treasurer.

Attorney Jay Ruben questioned if the form had come from the State.

Mr. Fuentes stated no, it did not come from the State. And again the City just recommended we adopt a resolution and this is a template from other communities.

Commissioner Green asked if we knew the duration of the CD. And what type of return our investment does the New Mexico investment pool get?

Mr. Fuentes noted the term on the CDs, for the most part, is one year. We have several CDs and they are staggered.

Commissioner Renfro noted that you can get them for 6 months – you can choose how much time to get them for.

Mr. Fuentes stated that currently right all of the CDs are being held for one year. With the New Mexico Local Government Investment Pool usually the interest rates are close to what the CDs are and we've explored that, when several of the CDs were coming up for renewal, however the rate were just about the same so we decided to renew them at the current bank.

Commissioner Green asked if they were in Local Banks.

Mr. Fuentes said that was correct. One of the benefits with going with

the New Mexico Local Government Investment Pool is that you can withdraw and you can invest money in the account without any penalties – down the road when the Landfill – when the City starts using these funds; it would be the best interest of the City to have these funds or some of these funds invested in the Local Government Investment Pool because we can always with-drawl those funds within a 24 hour notice, use the money for what ever expenditures is needed for this particular project and then continue to invest back in that account. But that would be down the road.

Commissioner Green requested to know if the total numbers are they including the total of \$410,685 – that's plus GRT or is GRT included in that.

Mr. Fuentes stated that this was just the preliminary estimate by the engineer of how much it would cost for closure of the landfill. This would be due in the last of that process.

Commissioner Green on attachment J.1-Closure/Post-Closure cost estimate summery, if you total the task subtotals, I don't come up with \$136,000 – I come up with \$206,000. He went on to add that he was missing something. And it would be about 60 to \$70,000 more. On attachment J.3, the next page – if you add up the entire task subtotals it does total \$237,000. Our numbers may be skewed.

Mr. Fuentes thanked Commissioner Green for bringing it to his attention, and stated that this is something that was prepared by Gordon Environmental, and he would certainly bring it up to their attention. These are the figures that were given to us also for the auditing purposes, as you can see in some of the attached documents that were used for the June 30th audit report and he will verify with Gordon Environmental what the actual figure is. Because you are correct because doing the math, of course the first page J.1-is going to exceed the \$149, just by that \$135 amount. And he will verify with Gordon Environmental to correct either - just let me know what the actual figure or if it's just a mathematical error on their part.

Commissioner Green went on to agree, and said everything would be changed, because then the 10% of administration costs would be higher and then your GRT is going to be higher, because you are dealing with a higher number.

Mr. Fuentes agreed.

Attorney Jay Rubin noted that if you take \$350,850 – I think the other numbers do add up to \$136,350.

Commissioner Green said he just thought it we should check it out, so we know how much money we need to accomplish what were are trying to accomplish.

Mayor Montgomery called for further questions or comments.

Commissioner Luna asked with that notation should we table this until we get verification.

Commissioner Renfro said the Resolution could also be amended and make certain that the City Clerk/Treasurer is included in there, definitely.

“Commissioner Luna made a motion that we table this until the next meeting so we can check mathematical and make the corrections on the Resolution.”



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Commissioner Green said "no where does it say that, as long as we are re-doing the contract we should make that clear that that goes into a separate fund.

Commissioner Torres noted that the 7% goes in the contract.

Ms. Stark noted the dollar fee was initiated after the contract was signed, it wasn't part of it.

Commissioner Green said that was the one where the City matches up to \$10,000.

Ms. Stark agreed.

Commissioner Torres asked when the contract runs out.

It was noted that it is on a fiscal year basis, thru June 30th.

Commissioner Torres noted that this would not have anything to do with the budget. We subsidize the Golf Course now about \$85,000.

Commissioner Green said that according to the paper it's \$65,000, how much of that do we actually contribute. I know we have some leases out there for golf carts and things such as that, but I think that was \$30,000 for maintenance and things. Does the Golf Course use that much of the commitment the City has made in its running.

City Manager Weiser answered that they are going to this year, with utilities and repairs.

Mayor Montgomery answered "with utilities alone".

Commissioner Torres asked how many rounds of golf they had last year.

Ms. Stark did not have the exact numbers – 10,000 and some odd....

Commissioner Green requested to know whether it was an increase from the year before.

Ms. Stark did not believe so. It's down because of the economy. Because the winter people haven't been coming down. We don't have near as many winter people as we have had.

City Manager Weiser also agreed it was down.

Commissioner Torres asked how much is the Golf Course generating, how much money, in cart fees, trail fees, green fees.

Ms. Stark did not have the information.

Mayor Montgomery, Howie has it; it was in the paperwork/packet.

Golf Course Pro Howie Tucker answered that it was \$47,000.00.

Commissioner Torres continued; asking Mr. Tucker what he paid out of his pocket, how many people?

Ms. Stark answered that Howie has two people out on the course and people in the pro-shop – making it 2 plus.

Commissioner Torres stated the Pro-Shop - he gets all the proceeds, doesn't have anything to do with that. He pays gross receipts.

Mr. Tucker stated he paid utilities. Some of the utilities.

Commissioner Torres asked how he had 10,000 rounds of golf at \$47,000, stating that it did not add up.

City Manager Weiser stated some of the fees, part of the \$47,000 are membership. So if a person that has a membership plays daily that's counted as seven rounds of golf. So the cost per round is considerable less than the number.

Ms. Stark noted that if you take your memberships and those people that play daily – you count the rounds but you divide the number of rounds into the membership and it does take the cost down.

Commissioner Torres requested to know if with a membership you can play daily for 18 holes or do you let them play all day long with a membership?

Terry Vandeventer requested to speak, stating that he is also on the Golf Advisory Board. He noted that what they are trying to say is if there were 10,000 rounds of golf played at \$17.50 a round – that should generate \$170,000 in revenue, which it doesn't. Mr. Vandeventer went on to say that he and his wife both play golf, it cost them approximately \$1,100 dollars to pay their membership and cart fees, the cart barn and everything like that. This last year between he and his wife they played practically 370 times – if you take that and divide it out into \$1100 it's not going to be very much, and there a lot of people that are in the same situation or the same circumstances that he and his wife are in.

Mr. Torres said he understood that, it just doesn't seem like he's generating enough. There are 10,000 rounds of golf and there is only \$47,000 – that's not a lot of money he is generating.

Mr. Vandeventer said what you have to do is stop and figure how many people are paying by the year, and like Ms. Stark said – there are a lot of people that pay so much by the year and then they will play 7 rounds a week, they will play every day. By the time you figure that in there, it's not generating as much as you think it is.

Commissioner Torres stated he was not against it; he is just trying to get it clear in his mind. That's a lot of golf for not much money.

Mr. Vandeventer noted that there is no way to figure what your trying to get to because of the fact of the yearly memberships and how many rounds your playing on these yearly memberships. If those were individual just walking onto the course, and paying green fees, then that's a lot of money, but it doesn't work that way. Most of your winter people they will pay for a month or three months or six months, how ever long they are going to be here, and they do the same thing and they'll play everyday.

Commissioner Torres stated that he is not against it. It's just that in his mind that's not very much money, with three people working out there.

Mr. Vandeventer stated he had questioned a lot of the golfers that he plays with and none of them are against a 7% increase.

Ms. Stark mentioned that it was 3, almost 4 years since there was an increase.

Mayor Montgomery stated that the document they have in their packets, had rounds – 11,342; is that what we are looking at? That's

what we are talking about. She requested Mr. Tucker step up to the microphone. The Mayor asked if the document that has "Certs, Rounds, Miscellaneous sales, City Fees, Deposit, Charges and Total Merchandise"?

Mr. Tucker answered that was correct.

Mayor Montgomery said the previous form said annual on it, so what is this form? Is it annualized? They are not totaled, so it's kind of hard to see. What is the second page that we just spoke of; the one with Certs, Rounds – so you have \$16,661.50?

Mr. Tucker was give the forms in question to review. He said that was Gift Certificates sold in the shop. Rounds of golf 11,342. The deposit was \$109, 511.09 – that's what was deposited in. That's for everything.

Mayor Montgomery requested clarification. So out of that \$109 is where you pay your help, your supplies, your merchandise, and etcetera – etcetera. The only other question the Mayor had was that Mr. Vandeventer said he had spoke to a lot of the golfers, and they are not apposed to a 7% increase, in the state of the economy right now, would we see a decrease even more over the last year in rounds if we do have a seven percent increase?

The answer from the Golf Advisory personnel was no, they didn't think so.

Mr. Vandeventer stated even with a 7% increase it was still very reasonable for an individual or for a husband and wife.

Mayor Montgomery asked for further questions/comments.

Commissioner Green requested to know if something on the Cart Shed sign as of 12/10; just initials HT. Someone was chomped in for storage – so that was a trade off?

Mr. Tucker stated the initials HT was his name. And that the gentleman had done work on the Golf Course – it was a trade off.

Commissioner Green was amazed that there are still 18 available slots for people to store their Golf Carts, is that typical?

Mr. Tucker went on to say that is not typical.

Commissioner Green asked if people pulled their carts out because of the economy?

Mr. Tucker said that people take them out because they are driving them on the streets. He also noted that they still take their carts home, then bring it on the Golf Course.

Mayor Montgomery asked if there were any more questions.

"Commissioner Steve Green moved for approval of the recommendation of the Golf Advisory Board, of the 7% increase across the board on course membership, car lease, trail fees and storage."

Seconded by Commissioners Renfro, Luna, Torres
and Mayor Montgomery.
Motion carried unanimously.

Before Mr. Tucker left the podium, he noted that the Committee or

Advisory Board has done a lot of work for this Golf Course. Saying "The people who spend their volunteer time, just like you do, we appreciate you guys, thank you."

Commissioner Torres stated that the course looks good now.

Others agreed.

6. CONSIDER GOLF COURSE LIQUOR LICENSE FEES:

City Manager Weiser noted that Mr. Tucker was still at the meeting to answer any questions they may have. When the lease of the liquor license was approved, Mr. Tucker started selling about the first part of April, you asked that it come back in 9 months for review of the lease payment on the liquor license, we brought for you. Mr. Tucker's figures show he had a gross income of well over \$14,000.00 and cost of goods sold was about 3,852; leaving a gross profit of \$10,249 after the 9 month period.

Mayor Montgomery opened the floor for discussion.

Commissioner Green asked Mr. Tucker, in the figuring of his numbers did he include the licensing fee, the \$250.00 for the City, insurance – is that reflected in that, because I couldn't make those numbers.....I think that you haven't deducted out of pocket costs and you are showing that as profit.

Mr. Tucker stated that is correct. He had not, he had put in the gross sales minus the cost of good sales. And that is net profit as far as what I've sold. And he hadn't subtracted the \$900 he paid for the lease either.

City Manager Weiser said that is why he listed it as gross profit.

Commissioner Green noted that there are expenses against that?

Both Weiser and Tucker said "Sure".

Commissioner Green asked what Mr. Tucker would incur, is the \$1600 is that a onetime fee?

Mr. Tucker responded that it was an annual fee.

Commissioner Green went on to note that if everything stayed the same Mr. Tucker would have \$3500 dollars of additional cost every year.

Mr. Tucker stated yes.

Commissioner Green stated "so basically every month".

Mayor Montgomery said the lease would be for a year, which would be another \$300.00. So it would be \$3,800 to \$4,000 per year addition. So you take \$4,000 off of \$10,2—and you get 62, right.?

Mr. Tucker answered that was correct, and that's not counting any employees.

Mayor Montgomery said that was correct, it no other additional costs.

Commissioner Torres noted he would let it go another 6 months.

Mayor Montgomery said she would go for a year.

"Commissioner Luna motioned to we leave the lease amount from Mr. Tucker to the City for \$100 per month for the liquor license."

Seconded by Commissioner Renfro.
Motion carried unanimously.

Attorney Rubin asked if Commissioners wanted him to prepare an extension agreement. And if it needed to come back to the Commission?

Several voices stated "just do it"

Mayor Montgomery said "JDI"

7. CONSIDER-JPA FOR ANIMAL CONTROL-BETWEEN COUNTY OF SIERRA & CITY OF T or C:

City Manager Weiser apologized that Chief Gallagher was not able to be here today, as the Chief was in Las Cruces. He noted that Captain Mullen to answer any questions they had. This is essentially the same agreement that you have approved in the past, his understanding was that in the past there was a question concerning the one hour response time, and also he understood that had been resolved to the satisfaction of everyone – that they would be able to meet that – as closely as they possibly could.

Mayor Montgomery asked if there had been any complaints about not meeting that time.

City Manager Weiser said he thought the only complaint he had heard was an issue with a skunk over at the Courthouse, that was resolved, they did respond – but they didn't take care of the problem.

Commissioner Green asked Mr. Weiser if he knew the amount of calls that were received out of the City?

Commissioner Renfro wanted the same information.

Captain Mullin answered that the averaged two a month, maybe - sometimes, it just depends - maybe 10 to 12 calls in a year average, we're not out there that often.

Mayor Montgomery called for further questions or comments.

"Commissioner Steve Green moved of the Joint Powers Agreement to provide animal control within the boundaries of the County of Sierra, between the County of Sierra and the City of Truth or Consequences."

Seconded by Commissioner Renfro.
Motion carried unanimously.

8. CONSIDER-COMMUNITY OUTREACH AD ENERGY EFFICIENCY PROJECT PLAN:

City Manager Weiser stated that before them tonight was an agreement to provide, to improve the energy efficiency in some homes and businesses within TorC. This proposal started with a phone call from the Council of Governments, they knew of some money available, other Cities had taken advantage of this program and essentially what it does is that the City agrees to look at a minimum of 60 homes and or businesses and we can either ourselves do an energy audit or contract

with someone to do an energy audit. We have roughly \$47,000 that we can spend to improve energy efficiencies in the homes or the businesses that works out to – if my math is correct – about \$725 per home or business. So there's not a lot that we are going to be able to do, because we have to do the 60 different addresses, but we can do things. There is part of this agreement, that Ellen worked so diligently on to get it on time and get approval right away, we talked about some of the things we would look at – caulking around doors and windows, energy blankets around electric hot water tanks, perhaps storm screening on windows, in some houses we would even look at programmable thermostats to regulate and control the heat and the cooling. If this plan is approved, we would advertise in the local papers for people to apply. We would take the first 60 or so that applied, we would ask that the applicants give us permission, because we have to monitor the progress and we'd ask that the residents give us permission to monitor their electric bills over time to see, and then we have to report back to see what kind of energy efficiency we show. It's not an exact science, this year – if we'd done this last winter or last spring – this year, I think, we would have seen a significant down turn or up turn in amount of electricity – so the efficiency wouldn't have shown it, because it is weather related. We've spoke with Ken Hughes, from the New Mexico Energy Department and they sent people down to explain to us how the program will work, and what steps we need to follow to make sure we are complying with the entire program.

Mayor Montgomery opened the floor for questions.

Commissioner Green noted that Mr. Weiser had mentioned that staff could do the appraisal, do we have anyone qualified to do an energy audit on staff? Because obviously it would be cheaper than farming it out to the outside world.

City Manager Weiser said we did not have one on staff that I'm aware of. We have that option of either doing it with in house staff or contracting.

Commissioner Torres thought it would be better off to contract it out.

City Manager Weiser said obviously there's going to be homes or businesses that will probably take several thousand dollars in upgrades to be totally energy efficient, so the contractor or whom ever does the audit is going to have to tell "well if you spend two hundred dollars in caulking you're going to save \$400 in electricity, but if you spend \$800 dollars on a programmable thermostat you might only save \$50 in energy, so that's the expertise we're going to need.

Commissioner said he saw that it was restricted to a geographic area – is there any income level restrictions?

City Manager Weiser answered NO. Because we did ask and we could quite easily go into a low income housing project and use up all of our 60 that we had to do, but we are not to differentiate with income levels and I believe it says in there we can only have up to 10% low income housing.

Mayor Montgomery said she understood we had 60 residences and 10 businesses.

Commissioner Renfro noted that the City wasn't going to be the one doing the work.

City Manager Weiser said that was correct.

Commissioner Luna questioned the \$47,690. Is that for the purchase, it

says here: "project material purchase, building assessment, and installation". So we're going to hire a contractor to go in there and assess it, and then a different contractor to go in there and fix it? Hopefully all 70 structures we can do in this with \$47,000. Doesn't the grant require us to do 60 homes and 10 businesses, and we only have \$47,000.

City Manager stated so we have to limit it for the roughly \$725 per structure.

Several Commissioners noted that wasn't very much, and would not go very far.

Commissioner asked if the monitoring would be done by staff or would it be the outside contractor.

City Manager said no, we would do the monitoring, and make those reports.

Commissioner Renfro asked if the areas where your planning on doing this?

City Manager Weiser said no.

Mayor Montgomery noted that Manager Weiser said they would advertise for people to come forward and pick the names.

Commissioner Green noted that on the time line it says due dates no later than February 15th, 2011 for the plan, have we taken that off our plate? They've got something somewhere that they know we're working on this.

City Manager said yes, we made the dates for the preliminary plan and we have approval of the preliminary plan.

Commissioner Green said it certainly not a lot of money and what ever it is, he thought it's a good start, and it will get people maybe conscious of conserving energy and how you can conserve energy and maybe we can turn this into a little bit of educational process for the Community as well. And it will be 60 homes and 10 businesses that will be better off for this.

City Manager said if nothing else it will make those people aware.

"Commissioner Luna motioned to go along with the Community Outreach and Energy Efficiency Project."

Seconded by Commissioner Green.
Motion carried unanimously.

9. CONSIDER-NM TOURISM DEPT., COOPERATIVE MARKETING GRANT AGREEMENT:

City Manager stated this was presented to us from the Department of Tourism; it has some different figures in it than what we experienced in the past. Department of Tourism is cutting back on some of their funds and we will be discussing another issue in the next meeting or two that we have coming from this, and we need to get this approved and back to them by the first of March, if you are so inclined to approve it. It shows here that we have eligible expenses of just over \$12,000 and they will reimburse \$6,018.92.

Mayor Montgomery opened the floor for any questions, comments or concerns.

Attorney Rubin noted that this was an agreement was prepared by the State, that doesn't leave a whole lot of lea way, to negotiate terms.

City Manager Weiser said that was correct.

Commissioner Green spoke of the way it hurts small rural Communities such are ours, especially it has a big tourism component to it. He hopes all will be vocal with our appointed legislators as we go forward for funding for Tourism and Tourism projects.

"Commissioner Luna motioned to approve the Grant Agreement with New Mexico Tourism Department Cooperative Marketing."

Seconded by Commissioner Renfro.
Motion carried unanimously.

***10. CONSIDER-PROPOSED ORDINANCE (FOR PUBLICATION) –
AUDIO VISUAL RECORDING IN CITY COMMISISON CHAMBERS:***

City Manager Weiser stated that he had been asked to prepare a Resolution or an Ordinance, and this started out as a Resolution and in talking to the City Attorney we felt that an Ordinance would be much more appropriate for this issue. It has to do with audio visual recording of City Commission Chambers, and this also does include a section that prohibits the audio visual recording of Executive Sessions. As you know we had a issue with that a couple of months ago and found that there really isn't any prohibitions against that, we thought it was important to include that in the Ordinance, what this does is allow for the placement of permanent cameras, either manned or unmanned, at locations that staff approves, that allows for the use of removable cameras and/or recording devices, but it gives an area in which those recording devices can be. It does talk about unobtrusive audio recording devices being allowed on this front table, as long as they are unobtrusive. We wanted to look at, and this goes along with State Law and City Ordinances as well, but we did look at view lines from the people in the audience, we looked at safety issues, and not wanting to block isles, so it was a little difficult to come up with a place, and that's why it was left a little generic as behind the press table, so that there are a number of areas to the side and behind the audience that can be used.

Mayor Montgomery called for any questions or comments.

Commissioner Renfro asked to clarify something that, and this is the second time the statements been made that someone recorded the executive session and I just wanted clarify that it was not any of the City Commissioners, or the Attorney, this was done by somebody else that left the recording device in the Chambers. I just wanted that clarified, because the one time that it was mentioned before I heard some giggles and laughs like we did it, and I wanted to clarify it was none of us, it was somebody in the audience that left the recording device in the Commission Chambers.

Attorney Rubin noted that arguably there is a Federal Statue that does prohibit this, but it was felt we should have something local also, that's why I put that sentence in there.

Commissioner Green requested the point of clarification , he can

certainly understand the executive session not being recorded – that’s an obvious, but he assumes that since the City does help the public access television initiative Channel 9, that you’re talking about line of site and he was trying to figure out where you could put a camera that could show the speaker who’s speaking at the front desk over here, and show the audience and not be intrusive other than where it is right now. Which seems to be out of the way and off to the side, so he understands the last line, he does not understand that someone wants to video tape and obviously they are not going to block any ones view or anything else like that, he is just wondering if they are just creating another layer that doesn’t need to be created.

Commissioner Luna stated she had serious concerns with the fact that someone is standing behind me, and my attention is to be directed out here, and yet I don’t know what someone behind me is doing, so I specifically asked that anyone/everyone be to where we could see them and them not be behind us. Because there have been too many Board Meetings around the Nation that have been attacked by people with guns, and I’d like to go home to my family at night. I would just like, if someone’s going to shoot me – I’d like to see them do it.

Commissioner Green said that’s not an unreasonable request.

Mayor Montgomery noted that now Commissioner Green had his reason.

City Attorney Rubin mentioned that this is the Publication.

“Commissioner Renfro moved to go to publication.”

Seconded by Commissioner Torres.
Motion carried unanimously.

11. CONSIDER-APPLICATION FOR LEPF, FY 2011/2012-CITY OF TorC POLICE DEPARTMENT:

City Manager Weiser noted that Captain Mullin is going to kindly step forward for this.

Captain Mullin explained that this is the application they do every year, the only difference really is on page one, on number 2B, that was up 3,000 – I think we had 15 Officers at 600 so that went up to 9,000. Pretty much the rest of it is the same, it just needs the approval and Mayors’ signature and it’s good to go.

“Commissioner Renfro moved for approval.”

Seconded by Commissioners Luna/Green.
Motion carried unanimously.

12. CONSIDER-RE:MUNICIPAL COURT JUDGE:

City Manager Weiser had been asked, or directed, at the last meeting to contact former Municipal Court Judge Bobby Sanders and current Court Administrator Sandra Segura to ascertain their interest in the proposal, both ladies are here tonight, if you happen to have any questions. Mr. Weiser noted he spoke with Bobby Sanders and she indicated that the issues that lead to her resignation have abated somewhat and that if the Commission so desired that she would be able and willing to come back to become the Municipal Court Judge again, sometime right after the 1st of March. He had also spoke to the Court Administrator and Alternate Judge Lucero and they spoke of the issues

that were coming forward, that's why he included that portion of our code that talks about the wages and Sandra was a little concerned about the starting wages, as she makes considerably more than that at this time, and thought that would be a hardship at \$20,000 for a person that does not have Municipal Court Judge experience in New Mexico. Ms. Lucero had explained she did attend several of the Judges' conferences, the annual mandatory Judge's conferences and would ask that you might consider that to see if you felt that was enough time to give her that mid-range salary if you were to appoint her as Municipal Court Judge.

Mayor Montgomery called for questions.

Commissioner Renfro said she would like to see Ms. Sanders re-appointed.

"Commissioner Renfro motioned that Ms. Bobby Sanders be reappointed as Municipal Court Judge."

Seconded by Commissioners Luna/Torres.

Mayor Montgomery asked for further discussion.

Commissioner Green asked for a point of clarification to Manager Weiser, he knew they had advertised for the position, did we get any response?

City Manager Weiser answered; yes, we did. There were probably about six.

Mayor Montgomery asked to notify the individuals, on a different path.

Commissioner Green asked how long is Ms. Sander's term for?

Several members said 2012, the next election.

Commissioner Renfro stated she had no problem doing this, because - to start with - the advertisement for Municipal Judge went out without the Commission Approval. And it never should have done that.

Commissioner Green said that was not his issue, his issue is it did go out though, and he thinks there is a certain level of responsibility, here we are trying to get people to volunteer for our Boards, we're having a very hard time filling the Hospital two empties, and here people - 6 or 7 people.

Mayor Montgomery and other Commissioners said this is a paid position, not a volunteer position, this is different than sitting on a Board, and they have to run again next March.

Commissioner Green requested that at the very least he would like to see a letter sent to each one of those and say there might have been a misstep, and thank them for their interest, and that there will be a possibility if they wanted to run or whatever....

Commissioner Luna noted she would like to make certificates or commend and thank the two alternates, Brad Spencer and Mrs. Lucero for their handling of this situation in the Courts in the interim.

Commissioner Torres thought they should be compensated.

Mayor Montgomery said she thought that the Courts are completely different.

Commissioner Luna said that maybe once Mrs. Sanders is back she can bring before us.

Mayor Montgomery added, do we need to move that we retain Ms. Lucero as the Alternate Judge/Court Administrator in that motion.

Commissioner Renfro said that was up to Bobby.

Mayor Montgomery called for further discussion.

With no further discussion, Mayor Montgomery called for those in favor.

Motion carried unanimously.

OLD BUSINESS: None.

REPORTS:

City Manager Weiser had six items for tonight, all fairly quick; The first one is the signs that had been discussed with the New Mexico Department of Transportation to be put up on the South End of Broadway announcing water over the roadway have been installed. It took a little bit longer than what we expected, but there are here ahead of the monsoon, so that was the main thing.

On the Pool — RFPs are out, we've had a couple of questions that we have answered and sent those answers back to all of the people that have shown an interest.

If you were here early enough tonight — you may have see that they are installing the cables at the Tennis Courts, and they are hoping to pour concrete on Thursday, so hopefully they'll still be able to do that.

The Ball Field Lighting, they started installing or looking at electrical panels and where they were going to install those today, so they even started two days earlier than what was in the initial briefing.

City Manager Weiser didn't know how much he could say about it, but we did have a robbery this afternoon at the Senior Meal Center, a young man came in a grabbed the donation jar and ran out the door.

The Police have a tentative identification and are investigating further.

Mr. Weiser went on to advise that he had attended a Court Session at the request of the City Attorney, Jay had filed a motion of sanctions against Kim Audette in regards to the Sheppard Group — rezone lawsuit. Jay took about 10 to 15 minutes to present his side of it and Mrs. Audette took about an hour — explaining her side of it. The Judge took a considerable amount of time explaining why he was ruling in the City's favor, and to explain to Mrs. Audette that yes, there is a — we all have our right to our day in Court but there comes a point where the decisions have been made and it's time to move on. He did find in favor of the City, and I can't remember the dollar amount — about \$1,300.

City Attorney Rubin agreed that it was in the neighborhood of that amount.

Commissioner Torres asked if that meant that the City will recover that amount.

City Manager Weiser and Attorney Rubin both agreed that we have a judgment in that amount. Attorney went on to note that one thing we'll do — we can record, it's called transfer to judgment which acts as a lean on any real estate that the other party may have or they acquire in the next 14 years.

City Attorney Rubin had no further report.

Commissioner Luna had no report.

Commissioner Green reported a holdover from the last meeting. He had visited the SJOA meal site and without editing these are some of the comments:

Pull weeds before paving, some of the streets there are weeds and they paved and they are kinda like a fixture now on the road. Too much gravel and dust, these are older people are walking on the highway and it's very slippery to walk on the gravel. It was great to hear about staff, they are helpful and polite, and someone said the City has more money – pay staff more money. Keep City clean and neat. Recycling bins in the residential parts of town and down town, because not everyone can get out to the recycling site near Williamsburg. Pay more attention to weeds on streets and around empty buildings. And on a personal note; he is sad to hear that Patti Lester is leaving the position of Executive Director of SJOA, she has been a wonderful advocate for the Seniors, which makeup a large proportion of our population for the last 4 years. She will be sorely missed and probably pretty hard to replace, and I wish her well.

When Commissioner Green was returning from Santa Fe, some have spent time developing relationships with some of the powers that be up in Santa Fe, and now it dawns a new day, and if Governor Martinez and the populist thinks that she's going to do a good job probably the Cabinet Secretary's might be there for eight years rather than four. And his idea and maybe put on the agenda at some particular point; he would like to have two of the City Commissioners – but not in the same election cycle – within our City Commission, so you always have continuity – kind of adopt or be assigned or want to work and become friendly with different Cabinet Secretaries. He would like to go up in the Spring, in the fall, so they don't just see us just when we have a problem – that they really have an understanding of the challenges of our Community and will be there to fight for us. He requested that the Commissioners think about it, and asked to have it on the Agenda at some particular point for discussion. He asked that the CDGG Grant also be back on the Agenda, and have Tony MacRobert here, because the clock is ticking on that.

Commissioner Torres had no report.

Commissioner Renfro had no report.

Mayor Montgomery had no report.

**EXECUTIVE
SESSION:**

Mayor Montgomery asked if an executive session was needed.

City Attorney Rubin said yes, he recommended closing session to discuss Pending or Threatened Litigation 10-15-7; Carrie Street Obstruction. Putting the Commissioners on notice, Mr. Rubin stated that there is a possible claim by the Landowners. And also to discuss Purchase, Acquisition or Disposal of real Property or Water Rights 10-15-1H. Carrie Street Obstruction. Airport Property and Hot Springs Land Development for the land swap.

Mayor Montgomery would entertain a motion.

“Commissioner Green called out: “so moved”.

Seconded by Commissioner Luna.

Mayor Montgomery responded YES to a Roll Call Vote
Commissioner Renfro responded YES to a Roll Call Vote

Commissioner Green responded Yes to a Roll Call Vote
Commissioner Luna responded ES to a Roll Call Vote
Commissioner Torres responded YES to a Roll Call Vote
Motion carried unanimously.

OPEN MEETING: "Mayor Montgomery stated that the Commission was now in Open Session."

CERTIFICATION "Commissioner Green certified that only matters pertaining to Personnel 10-15-1H(2), Street Obstruction, Purchase, Acquisition or Disposal of Real Property or Water Rights 10-15-1H(8), and Airport property were discussed in Executive Session, and no action was taken."

Seconded by Commissioner Renfro.
Motion carried unanimously.

"Mayor Montgomery moved to direct the City Manager and City Attorney to follow-up on the Carrie Street Obstruction and talking with Mr. Turner whom is the adjacent property owner about that land and the Airport property; to follow-up with the State Land Office and the City Attorney is going to work with the Escrow Title Company."

Motion carried.
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 _____, 2011, on motion duly made by Commissioner _____, seconded by Commissioner _____, and carried.

LORI S. MONTGOMERY, MAYOR

ATTEST:

MARY B. PENNER, CITY CLERK