

CITY COMMISSION  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
Tuesday, April 12, 2011

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, April 12, 2011 at 6:00 P.M.

**PRESIDING OFFICER:** The meeting was called to order by Mayor Pro-tem Renfro 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. Evelyn B. Renfro, Commissioner  
Hon. Steve Green, Commissioner  
Hon. Freddie Torres, Commissioner

Absent were:

Hon. Lori S. Montgomery, Mayor  
Hon. Frances Luna, Commissioner

Also present:

Juan Fuentes, Finance Director  
Jay Rubin, City Attorney  
Mary B. Penner, City Clerk

Absent was:

Dave Weiser, City Manager

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

**CEREMONY:** Mayor Pro-tem Renfro called for fifteen seconds of Silent Meditation.

Commissioner Torres called for the Pledge of Allegiance.

**APPROVAL OF AGENDA:** Mayor Pro-tem Renfro called for approval of the agenda, and stated that Commissioner Green has requested that we remove item H-7, and prefers they have that discussion when there is a full commission present. And City Attorney Rubin recommended that they remove under executive session K-C the HSLD – Airport property, and indicated they had a meeting 3 weeks ago, and thinks the City Manager needs to be here to discuss this with the commission, and also having two of the commissioners not here, and thinks it is serious, and that they get together soon and talk about that, and is receptive to a special meeting at some time, and thinks they should delete that also.

“Commissioner Green moved approval of the agenda with the removal of items H-7 and K-C (2).”

Seconded by Commissioner Torres.  
Motion carried unanimously.

Mayor Pro-tem Renfro stated they have a presentation to Ms. Barbara Pearlman, Recipient “Golden Apple Fellows” – Golden Apple Foundation of NM Honoring NM Teachers. She stated Mayor Montgomery wanted to do this and wrote what she wanted read and Mayor Pro-tem Renfro read it. And presented Ms. Pearlman with a gift from the Mayor and Commissioners.

RESPONSE TO  
PUBLIC  
COMMENT:

Mayor Pro-tem Renfro they have nothing listed on the agenda but she would like to, and thinks there was some criticism rendered last meeting during the public hearing that was held regarding the Ordinance, and she did not think that there was anything wrong with the way it was conducted, and our attorney didn’t say anything, and they mentioned something about the opponents were not sworn in...

City Attorney Rubin – yes I’m glad you brought that up, and I think what we did last meeting was fine. The so called Battershell process which is kind of a judicial a quasi-judicial standard generally only applies to zoning issues, real estate issues, and I don’t see any requirement that required that applies to a public hearing when you’re dealing with ordinances, so I think what you did was fine.

Mayor Pro-tem Renfro – thank you that’s what I thought it was supposed to be so thank you Mr. Rubin.

COMMENTS  
FROM THE  
PUBLIC:

Ms. Loretta Benavidez with BLM came before the Commission regarding fire restrictions, and provided the Commission with information.

Mr. Ronald Fenn came before the Commission with comments.

CONSENT  
CALENDAR:

Mayor Pro-tem Renfro stated they have two items under the Consent Calendar – Minutes - City Commission Meeting – March 22, 2011, and Accounts Payable – March 2011.

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

Seconded by Commissioner Torres.  
Motion carried unanimously.

DRAFT  
MINUTES:

Mayor Pro-tem Renfro stated the following are draft minutes from various boards provided to the Commission for their information, and are non-action items.

BOARD &  
COMMITTEE  
REPORTS:

None.

PUBLIC  
HEARINGS:

None.

APPOINTMENT  
TO HOUSING

Mayor Pro-tem Renfro stated they have a recommendation from Marie Bradley, Executive Director for the Housing Authority, and

AUTHORITY: they are recommending the appointment of Daniel Mena to the open position on the Housing Authority Board.

“Commissioner Green moved to accept the recommendation of the Housing Authority Board of Commissioners the appointment of Daniel Mena.”

Seconded by Commissioner Torres.  
Motion carried unanimously.

SCEDO: Mr. John Mulcahy Executive Director with SCEDO came before the Commission and presented a power point presentation to present the quarterly report for SCEDO.

He reported there was a drop in recent census figures, and that the unemployment rate was 8.3%, and that SCEDO was working to strengthen growth within the community, and the workforce as well as the business sector.

In the power point presentation included stats regarding lodgers tax for the last 10 years, and property tax revenues.

Mr. Mulcahy thanked the Commission for their letter of support in regards to his presentation at their last meeting to establish a SCEDO Business Incubator, and stated that the City’s efforts would help to acquire funding, and also thanked them to allow him to store some property at the Armory.

He introduced the newly hired Marketing Agent, Mr. Charles Flink, and that he will be working part-time with the organization to help focus on developing business leads and contacts.

Commissioner Green asked...on the population was there a split off on what T or C’s population was out of the County total numbers so we know if our population is up or down.

Mr. Mulcahy stated he did not have that information by City yet.

Commissioner Green stated if he could get a print out or a number for what the T or C population is up or down, and thinks that would be interesting to know.

Mr. Mulcahy stated he would report back to the Commission with that information.

Commissioner Green stated you talked about lodgers tax...and I could be wrong, but thinks there was an erroneously number included, and that he might want to check with Mr. Fuentes to have him pull up 2010, and I think you are showing 140, and my memory says 182...again I could be wrong but since you feel that is an important number to show certain people in the hotel industry then we shouldn’t short change ourselves.

Commissioner Green asked if he had run across a situation where he is working with a potential client, and knows there is another City working with that same client, and we lose the business because of incentives that the other City or County is offering that company that he does not have to offer yet...have you come across that, and if so I think that is a dialogue that has to happen at some particular point to give you the right tools so we can be competitive with the real world in relationship in trying to bring businesses into

a community.

Mr. Mulcahy stated I can't say that I have, and indicated the local incentives are related to the utility bill in regards to a hook-up fee, and stated that would be one of the potential incentives is to use an electric bill deal where we could reduce the electric bill for a fixed amount of time.

Commissioner Green...let me rephrase that question...what can the City do for me...they do ask that question, and how do you deal with it since you have nothing concrete to offer...and don't want to chase them away.

Mr. Mulcahy mentioned IRB...Industrial Revenue Bonds, and stated that is probably going to happen through the County, and agrees with Commissioner Green, and stated he will pursue that, and will come back and ask if there are some other things they can do, and indicated he has run into a brick wall in terms to what the City can do with creative stuff, and that the City cannot help him with taxes...so...I'll dig into to see if there is something else, and that utilities is where the money is.

Commissioner Renfro stated in the past the City has helped with the Industrial Revenue Bonds.

Mr. Mulcahy – does the City do Industrial Revenue Bonds?

Commissioner Renfro – we've done that...yes...way back it's been a number of years...for the Nursing Home and for the hospital also, and stated that is an option that the City can look at.

Mr. Mulcahy reported that the website is up and running.

Report only.

**CONSIDER  
AWARD OF BID:**

Mr. Juan Fuentes, Finance Director stated the NM Energy, Minerals and Natural Resources Department awarded the City a grant for community outreach and energy efficiency projects.

He stated the City went out to bid for the community outreach project weatherization services on March 18, 2011, and indicated the City received one bid from GreenWorks New Mexico, Inc., and stated GreenWorks is one of nine organizations that the state lists with experience and direct install energy projects and meeting the ARRA requirements, and if approved GreenWorks will provide a minimum of 60 households and or businesses with energy efficiency upgrades within the budgeted \$47,690 including the GRT which complies with the terms of the grant agreement with the State, and indicated staff recommends that the bid be awarded to GreenWorks New Mexico in the amount of \$47,690, and introduced Mr. Douglas Campion from GreenWorks, and at this time will stand for any questions from the Commission.

Commissioner Green referred to the front page it says Plan – maximum compensation, implementation, and monitoring, and asked who is doing the monitoring and who did the plan.

Mr. Fuentes stated that the plan was developed with staff including himself, Ellen Lindsey, Executive Assistant and City Manager Weiser, and also with the guidance of Mr. Ken Hughes who is with the NM Environment Department. He stated the grant allows for a maximum compensation of city staff working on that plan of

\$4,000 which we have already received reimbursement for, and the implementation portion is the portion that is before you tonight which will be conducted by GreenWorks New Mexico if approved, and that the monitoring will be done by staff.

Commissioner Green stated he sees that GreenWorks has done work for El Paso Gas & Electric in Las Cruces, and that they are a non-profit organization, and is wondering at some point you might want to enter into a dialogue with them to see if they know of any grant money that might be available for the City to apply for to do an energy audit on city buildings. He stated if we can reduce our energy cost that we are paying out of pocket to light and heat our own buildings, streets and everything else...I think it's somewhere about \$400,000...if we could save 10, 15, 20%...that's a big chunk of money and that goes on every year, and that maybe we might want to explore that as well.

Mr. Campion came before the Commission and stated they would be happy to look at doing energy audits for the city buildings, and stated they are more than qualified to do that, and that they have done commercial buildings.

"Commissioner Green moved awarding of the Community Outreach Project – Weatherization Services to GreenWorks New Mexico, Inc., in the amount including GRT for \$47,690.00."

Seconded by Commissioner Torres.  
Motion carried unanimously.

CONSIDER – Mr. Juan Fuentes, Finance Director stated for the past 4 months  
RESOLUTION#20 staff has been compiling a current personnel rules and regulations  
-10/11: manual for city staff and management, and stated during the course of that time department heads and staff have brought to their attention certain sections in the manual that need amending.

He stated the proposed resolution would amend the following sections, and went through each section and explained the changes. (Complete copy attached hereto and made a part hereof.)

Commissioner Renfro referenced Section 1 where the department head or supervisor would approve...it still is going to need the City Manager's approval...right?

Mr. Fuentes – that is correct ma'am...the current language does require the department director to approve as well as the City Manager.

Commissioner Renfro – the next question that I had...1.317...if an employee voluntarily resigns from City employment within a year after the end date of the course(s) completion, the employee will reimburse the City a **prorated** portion of the cost of the course(s) and textbooks...why prorate it he/she is resigning within a year after they have taken whatever course(s) the City has paid for...why should it be prorated...why not the full amount.

Mr. Fuentes – and that is the intent Mayor Pro-tem...if the employee resigns then it could be prorated at the full amount, or if the employee resigns/gives notice, and will be resigning in a month or two then it would be prorated according to the calendar.

Commissioner Renfro – well I think...I would prefer that it be clarified, but I don't know how the other Commissioners feel

because the way I read it...it would be a prorated amount...if the City paid \$2,000 for a course then you would prorate it, and maybe they would just have to pay \$1,000, and I don't think that's right...I think they should pay the full amount back.

Commissioner Green stated he also had questions about 1.317, and stated he agrees with her, and also wanted to know how you enforce something like that.

Mr. Fuentes stated the teeth and enforcement on this would be since every employee usually accumulates some leave...some benefits, and that it would be taken out of those benefits, and of course every employee that is to receive a final check...that is where the City would be recovering its prorated amount unfortunately in a situation where as the Mayor Pro-tem indicated it could be an amount of \$1,000 there may be a situation where we may not be able to recover the full amount...the intent here is to provide the employees with that benefit however we would like for them to continue employment with the City, and not just take the courses and earn a degree and then leave City employment, and we can certainly clarify it and would ask our City Attorney to assist us in providing that clarification on that section.

Commissioner Renfro – because I know in the past there has been a couple of employees maybe that have taken courses at the City's expense, and then they have left employment and have gone on, but I think this portion should be clarified...Commissioner Torres how do you feel about it...

Commissioner Torres – I feel the same way...it needs to be clarified.

City Attorney Rubin – we can come back with a re-draft. I'll talk to Mr. Fuentes about that.

Mr. Fuentes stated if the Commission would consider if we continue to review the resolution or any other questions, and if there are none what I would recommend is to postpone this resolution for the next regular meeting which would give us an opportunity to work with the City Attorney to clarify that section, and bring it back to the next regular meeting with that language.

Commissioner Green – in Section 4 it talks about...you first mention police officers, and then it says an **employee** now is that referring to a police officer or any employee of the City of Truth or Consequences.

Mr. Fuentes stated if you notice under Section 4 on the last page of the Resolution under the stricken material is the material we're deleting from the current code, and that material reads...police officers are exempt from Holiday pay eligibility except as defined in Section 7, and indicated that is the issue they're having now...if you go to Section 7 it doesn't address the holiday pay, so what we're proposing is that they develop the language to cover both employees...regular employees as well the public safety employees.

Commissioner Green – that's what I'm trying to find out...what you meant by an employee.

Mr. Fuentes – we're trying to cover every employee in the City, and stated that is the intent of this language is to cover

everyone...the same with the overtime as well.

“Commissioner Torres moved that they postpone this Resolution.”

Seconded by Commissioner Green.  
Motion carried unanimously.

CONSIDER – Mr. Juan Fuentes, Finance Officer stated this is a request to spend  
RECOMMENDA \$47,000 from the recreation loan proceeds, and that the City needs  
TION – to replace the hydro lift at the pool before they can open.  
RECREATION & He stated the Recreation Advisory Board and staff is also  
BOARD recommending the replacement of the Family Park restrooms, and  
FACILITY they were provided a letter from the Recreation Advisory Board  
MGMT.: recommending the replacement of the restrooms.

Commissioner Renfro stated...so the total we're looking at is \$47,000.

Mr. Fuentes – yes ma'am. He stated \$7,000 will be dedicated for the hydro lift, and the \$40,000 will be used for the renovation of the public restrooms...family park restrooms.

Commissioner Renfro – and I was going to ask about the “Spray Park” to replace the unusable kiddies pool...does anybody have any idea what that is going to run...or is that...

Mr. Fuentes stated he does not, and they asked Mr. Gil Avelar, Public Works Director and he did not know. And stated that is an item that they will bring back, and will bring back additional detail at the next Commission meeting, and that he will relay that to the City Manager.

Commissioner Renfro – and we more or less will have \$300,000 left over...this will be after we pay everything at the swimming pool.

Mr. Fuentes – that is correct, and indicated all of the projects are on schedule, and once all the payments have been made we have an estimated minimum of \$300,000 and could be more.

Commissioner Renfro stated she thinks the bathrooms are important as the hydro lift for the swimming pool.

Commissioner Green stated he thinks we have...it's part of what we committed to the community, and the only thing he would like to suggest is maybe he can speak to the park and rec board...if there is money left he would like to have us consider putting in some type of ADA accessible walkway from Riverside Drive to Ralph Edwards Park...because right now everyone parks in front of the Housing Authority, and along Riverside Drive, and if you are elderly or need a cane or a walker or wheelchair you have to go all the way down to Cedar, and around and come in near the bathrooms, and stated people are constantly walking down that hill, and that someone is going to fall eventually, and stated that would seem to be good use of residual funds that are left over, and brought to the park and rec advisory board and let them discuss it, and come back to the Commission as to what they think...and maybe it's a good idea or not...I'd appreciate that.

Mr. Fuentes stated he will share that with our City Manager.

“Commissioner Green moved to accept the recommendations submitted by the Recreation Advisory Board, and facility management for the hydro lift for the swimming pool, and the bathrooms at the family park in the amount of \$47,000.”

Seconded by Commissioner Torres.  
Motion carried unanimously.

OLD BUSINESS: None.

REPORTS: CITY MANAGER – No report on behalf of the Manager.

CITY ATTORNEY – No report.

COMMISSIONERS –

Commissioner Green stated he will hold his report until the full Commission is present.

Commissioner Torres – No report.

Commissioner Renfro – No report.

EXECUTIVE SESSION:

“Commissioner Green moved that the meeting be closed for Executive Session pertaining to Pending or Threatened Litigation 10-15-1H(7) - 1. Mr. Stallman, Purchase, Acquisition or Disposal of Real Property or Water Rights 10-15-1H(8) – 1. Potential site for Spaceport Visitors Center.”

Seconded by Commissioner Torres.

Commissioner Renfro responded Aye to a Roll Call Vote.  
Commissioner Green responded Aye to a Roll Call Vote.  
Commissioner Torres responded Aye to a Roll Call Vote.

Motion carried unanimously.

OPEN SESSION: “Mayor Pro-tem Renfro stated that the Commission was now in Open Session.”

CERTIFICATION “Commissioner Green certified that only matters pertaining to Pending or threatened Litigation 10-15-1H(7) – 1. Mr. Stallman, Purchase, Acquisition or Disposal of Real Property or Water Rights 10-15-1H(8) – 1. Potential site for Spaceport Visitors Center, were discussed in Executive Session discussion ensued, and no vote was taken.”

Seconded by Commissioner Torres.  
Motion carried unanimously.

“Commissioner Green moved that City Attorney and staff are instructed to contact the Self Insurers Fund to attempt to resolve the pending issues for the Stallman issue.”

Seconded by Commissioner Torres.  
Motion carried unanimously.

“Commissioner Green apprised the Commission of potential sites for the Spaceport Visitors Center, and asked the Commission if they think of any ideas please get a hold of him.”

No action taken.



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

