

CITY COMMISSION  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
Tuesday, September 27, 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, September 27, 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 Luna, Commissioner  
Hon. Freddie Torres, Commissioner

Also present:

Juan Fuentes, Acting City Manager  
Jay Rubin, City Attorney  
Mary B. Penner, City Clerk

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

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

Mayor Montgomery called for the Pledge of Allegiance.

**APPROVAL OF AGENDA** Mayor Montgomery called for approval of the Agenda.

“Commissioner Green moved to approve the agenda as presented.”

Seconded by Commissioners Luna/Renfro.  
Motion carried unanimously.

**RESPONSE TO PUBLIC COMMENT:** None.

**COMMENTS FROM THE PUBLIC:** Ms. Kathy Phillips came before the Commission with comments.  
Ms. Lynne Straughn came before the Commission with comments.

Mr. Allen Payne came before the Commission with comments.

Mr. Greg Neal came before the Commission with comments, and presented a handout.

Mr. Ron Fenn came before the Commission with comments, and provided information for the record.

Mr. Bradley Grower came before the Commission with comments.

Ms. Sophia Peron came before the Commission with comments.

Ms. Dale Cortez came before the Commission with comments.

Mr. Patrick Gallagher came before the Commission with comments.

CONSENT  
CALENDAR:

Mayor Montgomery stated they have one item under the Consent Calendar – City Commission Meeting Minutes – Regular – 9/13/2011.

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

Seconded by Commissioner Renfro.  
Motion carried unanimously.

DRAFT  
MINUTES:

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

Commissioner Green referred to the Golf Course Advisory Board minutes, item #4, and noticed this particular item, and concern that there is no GRT being collected at the golf course, and indicated this is the 3<sup>rd</sup> time that he has seen this, and would like to suggest that City Manager Fuentes look into it to see, and to make sure that the GRT is being collected...not only on the \$1.00...but also on the cost of play, and everything else that’s run through the cash register at the golf course.

BOARD &  
COMMITTEE  
REPORTS:

None.

PUBLIC  
HEARINGS:

Issuance of a New Liquor License #A-779507 for TMAC NM, LLC. dba: K-Bob’s Steakhouse, 2260 N. Date T or C, NM.

Acting Manager Fuentes stated the purpose of the application is for the issuance of a new liquor license for the restaurant beer and wine license, and stated the owner and location remain the same, and indicated the application is from TMAC, LLC to TMAC NM, LLC, and stated that a representative is in the audience for any questions from the Commission, and for any questions from the members of the public.

Mayor Montgomery opened the public hearing and asked if there was anybody that would like to speak for the issue.

Bradley Grower came before the Commission, and stated he was curious, and noted that the application at the State level had been altered...some of the lines had been crossed out, and he was wondering if this application for this license is going to be for a 10-year period...what the time period for the duration of the license might be.

The representative from K-Bob's came before the Commission, and stated she is not familiar with the time frame.

Commissioner Torres stated for as long as you want it, and indicated he has a liquor license, and stated as long as you renew it.

Mayor Montgomery stated as long as you keep it renewed.

Mr. Grower stated as a matter of clarification the previous license had a ten year expiration date on it...and that is why I asked the question.

Mayor Montgomery asked if there was anyone that would like to speak against the application, and no comments were received, and stated this portion of the public hearing was closed.

Final Adoption – Ordinance #619 – Amended by revising section 3-97 (e) – Providing for Dangerous & Potentially Dangerous Dogs.

Acting Manager Fuentes stated this ordinance amends section 3-97 (e) by deleting in the current ordinance the words District Court, and that it replaces it with a Court of Competent Jurisdiction which may include both District Court and Municipal Court.

City Attorney Rubin stated when you referred to Municipal Court you meant Magistrate Court.

Mayor Montgomery opened the public hearing and asked if there was anyone that would like to speak for the ordinance.

Mr. Ron Fenn came before the Commission, and stated the more important thing is...are we going to enforce the codes, and stated because of experience with our Municipal Code to date has been rather lacking. And stated the ordinance is fine as long as it just isn't a piece of paper.

Mr. Bradley Grower came before the Commission and stated he supports this...but I'm curious as to why previously Mr. Rubin designated with Mr. Van Vleck's help that criminal charges went to one court, and civil charges went to another...does that mean that there are going to be criminal and civil charges both under this...or is this going to be a criminal charge.

Mr. Rubin stated you could have two possible scenarios...you could actually have someone charged under our animal control ordinance in Municipal Court, and stated this is the procedure also for petitioning the District Court or Magistrate Court to have the dog be taken away because that is a civil matter.

Mr. Grower stated under Ordinance 619 you can make two charges in two separate courts and not face...

City Attorney Rubin stated it's not a charge, and stated this would be more of a civil proceeding...actually it's a petition. A petition you have to file in a Court of Competent Jurisdiction...let's say Magistrate Court asking the court to remove the dog because it is dangerous,

Mr. Grower stated he does support this, and also note for the record that an owner with 9 dogs, and only 2 licenses yet to be given a citation by the City after this was reported to the City two weeks ago...so I want to see enforcement on all of these ordinances related to dogs as soon as possible.

Ms. Sophia Peron came before the Commission, and stated she is speaking for the ordinance, and indicated she is very concerned about enforcement.

Mayor Montgomery asked if there was anyone that would like to speak against the ordinance, and no comments were received, and stated this portion of the public hearing was closed.

Final Adoption – Ordinance #620 – Amended by revising section 12-1-2.1 of the Uniform Traffic Code.

Acting Manager Fuentes stated this proposed ordinance is a small amendment of section 12-1-2.1 to include the words “access aisle” which would clarify a location of a “no parking sign”.

Mayor Montgomery asked if there was anyone that would like to speak for Ordinance #620, and no comments were received.

Mayor Montgomery asked if there was anyone that would like to speak against Ordinance #620, and no comments were received, and stated this portion of the public hearing was closed.

NEW LIQUOR  
LICENSE – K-  
BOB’S:

Acting Manager Fuentes stated there were no additional comments, and will stand for any questions.

Mayor Montgomery stated they received comments during the public hearing.

“Commissioner Renfro moved approval for the issuance of a new liquor license for K-Bob’s.”

Seconded by Commissioner Luna.  
Motion carried unanimously.

ORDINANCE  
#619:

Acting Manager Fuentes stated there were no additional comments, and will stand for questions.

“Commissioner Renfro moved approval of Ordinance #619.”

Seconded by Commissioner Green.

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

Commissioner Green responded Aye to a Roll Call Vote  
Commissioner Luna responded Aye to a Roll Call Vote  
Commissioner Torres responded Aye to a Roll Call Vote

Motion carried unanimously.

ORDINANCE  
#620:

Acting Manager Fuentes stated there were no additional comments.

“Commissioner Renfro moved approval of Ordinance #620.”

Seconded by Commissioners Green/Torres.

Mayor Montgomery responded Aye to a Roll Call Vote  
Commissioner Renfro responded Aye to a Roll Call Vote  
Commissioner Green responded Aye to a Roll Call Vote  
Commissioner Luna responded Aye to a Roll Call Vote  
Commissioner Torres responded Aye to a Roll Call Vote

Motion carried unanimously.

CONSOLIDATI  
ON DWI  
CHECKING  
ACCOUNTS:

Acting Manager Fuentes stated that the DWI Program currently operates with three checking accounts, and indicated each of the funds tracks different functions of the program.

He stated with our new DWI Coordinator on board stated she has been reviewing the current structure of the program on the operational side, and is making a recommendation to consolidate those operating checking accounts into one main checking account, and stated it has been reviewed by DFA, and they did not have any issues with use moving forward with consolidating these funds, and stated our accounting system will still track the activity of these funds separately.

Mr. Fuentes stated Ms. Phyllis Mecca is present, and we will stand for any questions.

Commissioner Renfro stated as long as DFA has been contacted, and they have no problem with it.

Commissioner Green...am I correct by looking at these sheets...  
Manager Fuentes that there is no service charges to these deposits.

Acting Manager Fuentes replied, “that is correct.”

“Commissioner Luna moved approval of consolidation of the DWI checking accounts.”

Seconded by Commissioner Green.

Motion carried unanimously.

RE-INVEST OF  
CD’S:

Acting Manager Fuentes stated a few of the City’s CD’s will be maturing with Compass Bank either on September 30<sup>th</sup> or October 3<sup>rd</sup>, and he stated we contacted the local banks to get a quote on current interest rates for public funds, and indicated the best interest rate we received was from Compass Bank at .5%.

He stated we also met with an investment officer from Compass Bank to inquire about other instruments that we may be eligible for that could yield a higher return, and they discussed Treasury Bills,

and also discussed Mutual Funds that may be available... unfortunately with Treasury Bills the interest rate is so low right now that they are almost at the same level as CD's or lower, and stated unfortunately right now at the federal level they are not going to do anything as far...for the next two years regarding the interest rates, and as far as Mutual Funds that is an instrument that we have to verify if the City can even invest in such instrument because we are limited by State Statute on the types of instruments that we can invest, and our recommendation at this time is to renew the CD's with Compass Bank either for a 6-month or 12-month period.

Commissioner Torres asked if these funds were guaranteed... they're backed by...

Acting Manager Fuentes stated the current CD's are guaranteed ... FDIC insured, and in addition they are required to pledge collateral on our investments.

"Commissioner Green moved approval to authorize the City Manager to re-invest the maturing CD's, and to use his discretion what should be a year CD or a 6-month CD."

Seconded by Commissioner Renfro.  
Motion carried unanimously.

RESOLUTION - Acting Manager Fuentes stated for the public he will give a quick #08-11/12: overview of the ICIP. And stated the ICIP is a plan that establishes priorities for future projects for the City, and stated Department of Finance and Administration encourages each municipal entity to annually review, prioritize and adopt a new plan, and indicated the deadline for submitting our ICIP Plan is September 30<sup>th</sup>,

He stated in their packets is a worksheet that list all of the current ICIP projects, and a column for commissioner ranking, and a column for the staff recommendations...as well as a column...at our last meeting we received public input, and public recommendation as well as what was mentioned earlier.

Acting Manager Fuentes stated the Veterans Advisory Board also recommended the inclusion of the Veterans Museum expansion project, and that staff is recommending the top three priorities to be the Transfer Station...with the deadline closing for the City Landfill less than a year away, and stated they would like to keep this high on the list to show the need from the City to our State Legislatures...also to any possibly funding agency, and in addition we would like to keep the Water Tank Repair high on the list, and although we are currently working on that project there may be some additional needs for that project, and in addition the Water Wastewater Line Replacement, and he has included some photos that have been provided by our water supervisor, and you can see some of our infrastructure is aging, and that they have had multiple line breaks throughout the community, and stated at some point we do need to start setting aside some funding so we can start replacing these lines, and stated our solid waste supervisor is present, and also our water supervisor is present, and will stand for any questions, and he will ask the commission to review the list, and provide the ranking that we can adopt tonight.

Mayor Montgomery stated she will open it up for comments or questions from the Commission.

Commissioner Renfro stated she agrees with the recommendations from staff, and that she does know about the water wastewater replacements, and stated that is something that has been addressed for many years, and that it was supposed to be worked on, and stated it gets move around, and hasn't gotten done, and is something that needed to be done, and she thinks the recommendations from staff be considered.

Commissioner Green stated he agrees with Commissioner Renfro, and he ranked Transfer Station first, Water Tank Repair second, and the third would be the water/wastewater line replacement, fourth would be the hospital which would be the same ranking the County has, and fifth would be the storm drain improvements in the downtown, and 6<sup>th</sup> would be the pole replacement program.

Commissioner Luna stated personally I don't see us getting to... like 5 or 6 this year, and that she thinks we should move either the Senior Center or the Youth Center up to item #6, and that they will be tearing down the Youth Center, and knows they have other arrangements made at this time, but the Senior Center is also aging, and thinks they need to address those two far faster than we need to address the pole replacement program as was mentioned.

Commissioner Green stated he thought we had taken the Youth Center off because we're gonna demolish it...or take it down. And asked if he could get clarification...2015 Mims Fire Station is ranked #1, and is that a major need of the community.

Acting Manager Fuentes stated he does not know the details of that particular project, and what he can tell you is the first year...the rest of the projects just fell in the way they were listed in this current year, and with the new years that was how it was prioritized back when it was originally proposed, and stated the focus in this upcoming fiscal year would be the top priority projects, but I can certainly get back to you on that question as far as why it was made top priority in that year.

Commissioner Renfro stated as far as public recommendations... the re-signing of intersections I think that could be done by city crews, and should be done on a regular basis.

Commissioner Green asked Mr. Fuentes...when you met with Senator John Arthur Smith did you get any sense of a feeling that there was any money in Santa Fe at all for any of our projects.

Acting Manager Fuentes...unfortunately Commissioner Green Senator Smith did express that obviously money is tight, and stated every municipality is in need of funding for infrastructure projects, and that this year during their special session there was one small capital outlay bill for the City of T or C for our Senior Center, and stated there may be some funding, and with these priorities keeping them high on the list we certainly are going to be aggressively lobbying both Senator Smith and Representative Hamilton for some of the funding.

Commissioner Green stated it is incumbent on the City to start

looking for grants, foundation investments, loans...anything, and that the clock is ticking on some of these major problems, and that Santa Fe is not going to bail us out, and that they are not going to help us, and that we are going to have to do it on our own.

Acting Manager Fuentes stated you are correct Commissioner Green, and that is why we are trying to reach out to all of these other State Agencies...DFA the NM Finance Authority, USDA, and inquire what funding sources they may have available for municipalities for infrastructure projects.

Commissioner Renfro stated another thing I think the City could work on is the refurbishing of parks and City sidewalks is something else that the City could do.

“Commissioner Luna moved approval of the ICIP as presented.”

Seconded by Commissioner Renfro.

Mayor Montgomery responded Aye to a Roll Call Vote  
Commissioner Renfro responded Aye to a Roll Call Vote  
Commissioner Green responded Aye to a Roll Call Vote  
Commissioner Luna responded Aye to a Roll Call Vote  
Commissioner Torres responded Aye to a Roll Call Vote

Motion carried unanimously.

PROCESS  
CITY  
MANAGER  
POSITION:

– Mayor Montgomery stated she would open this item up for discussion amongst the Commission on how you want to proceed with interviews this year.

Commissioner Torres stated we could do like we did last time...just have a couple of meetings.

Commissioner Green stated he liked the way we handled it last time is that each Commissioner got a copy of all the applications, and that the names were blanked out, and that we each ranked the top 5 or whatever number it might be, and stated then I think we should come together as a body and start to discuss this.

Commissioner Renfro stated last time she remembers we all looked at the applications...and we listed our...

Mayor Montgomery stated she likes the process with blanking out the names...I don't care about the names I want to look at the experience, education, and the history.

Mayor Montgomery asked that they get copies of the applicants to all of the Commissioners with the names blanked out, and at our next meeting we can schedule when we want to get together.

She stated they would take the week of the 3<sup>rd</sup>-7<sup>th</sup> to review the applications, and rank them, and stated at the meeting on the 11<sup>th</sup> we will set up our meeting or even do it in executive session, and look at the top 5.

None.

OLD BUSINESS:

**ACTING CITY MANAGER –**

## REPORTS:

Acting City Manager Fuentes stated he provided his report, and that he wanted to highlight some of the items, and indicated DFA does require that we notify, and made part of the record in the minutes that DFA has approved the FY-2012 Final Budget, and they indicated that we are in compliance with the Office of the State Auditor.

He stated he has attended several Santa Fe meetings with Smith Engineering, and that they met with officials with DFA and NMFA to discuss the possibility of funding the wastewater treatment plant PER report. And stated he had the opportunity to meet with Senator Smith, and officials with the DWI Program, and also with NMFA representatives on the Water Trust Board, and stated all of the meetings were very productive, and that they are looking at NMFA and DFA/CDBG funding sources.

Acting Manager Fuentes stated on the water tank project both the 2 million, and the 2 hundred thousand gallon tank...the specs and the design have been completed, and have been submitted to the NM Environment Department Drinking Water Bureau, and the Construction Programs Bureau, and stated they will be reviewed and approved, and they can proceed with that project, and that in the near future they will be an update provided to the Commission by our engineers on the 1 million gallon tank.

He reported on the swimming pool cover project, and indicated that the project manager was here last week, and met with facility management, and stated they reviewed the site, and that it is ready for construction, and indicated that the security fence needs to be removed, and that it will not be relocated until the project is started, and stated they have already issued agreements with the electrical and excavation companies as well as the NM Department of Health has been contacted, and stated that plans have been provided to them, and that they have made some recommendations which we will incorporate in their final design plans.

Acting Manager Fuentes stated we will receive a quote from them for a 6 in. drain around the perimeter of the structure, and indicated right now the way the existing drain is not wide enough, and that it may create an issue once the structure is up it may accumulate the water around the perimeter so they are recommending that we extend that drain to a 6 in. to avoid that happening, and avoid damaging the new structure, and stated that is moving forward, and that they will be here in two weeks, and at that time they will provide a more detailed schedule once the work has started, and that during that time period when they will be here in construction he will ask that they come before the Commission, and the public to make a detailed presentation of where they are at.

He stated for the fiscal year 2011 audit examination that the field work has been completed by the auditors, and stated there are still some issues that will be worked out with them, and that will be communicated by e-mail between staff and the auditors.

## **CITY ATTORNEY –**

City Attorney Rubin stated regarding the appeal that was filed by Ms. Peron and Ms. Audette...let me point out a few things, and

working in conjunction with the Hot Springs Attorney we successfully defended against the appeal, and that the court ruled in the City's favor, and ruled in favor of Hot Springs...that's all looking good. And stated what happened after that Ms. Peron and Ms. Audette continued to file motion, after motion, after motion and we had to respond to these motions because if you don't respond to the motion the court might assume you are agreeing with the motions...so I had to respond to this.

He stated in my judgment, and the judgment of Hot Springs Attorney we felt these motions were frivolous and groundless, and we filed a motion for sanctions, and stated the motion for sanctions directed to ask the court that these motions were frivolous, and that the City should have not have had to pay attorney fees, and neither should Hot Springs pay their attorney fees. And stated the court ruled in our favor, and that the court has found these motions were frivolous and groundless, and stated we are seeking to recover the fees that had to be expended.

Commissioner Torres...and what are those fees.

City Attorney Rubin stated the court awarded the City somewhere between \$2-\$3,000.00, and I believe Hot Springs somewhere between \$20,000 if I recall.

Commissioner Torres...and what are we gonna do to collect them...how do we collect them.

City Attorney Rubin stated we are still in the process right now, and that there have been more motions filed since the court ruled in our favor that we'll have to deal with, but we already have the court orders in place which awarded these amounts, and stated after it goes through the appeals process then we will be exercising whatever legal means we can to try to collect...whatever property that the appellants may have which we are legally allowed to seize...we will be doing the best we can. And I want to make myself clear here...when I hear myself getting attacked by the appellants you'll understand why...because they are upset...the fact that I did my job the way I was supposed to.

#### **COMMISSIONERS –**

Commissioner Torres stated they attack me too...and we're gonna have to quit this...at some point it becomes a point of harassment, and stated somewhere along the line we're gonna have to file some law suits...we're gonna have to stop it because these people destroy...we spend a lot of money, and that these people destroy lives and attacks...so we're gonna have to come up with something.

Commissioner Renfro – No report.

Commissioner Luna stated I would like to ask that we contact the Healing Waters Trail Group, and get a presentation from them at the next Commission Meeting, and stated she has been getting lots of phone calls pertaining to the trail. And stated she would like an update from them to see if there is anything they need from us.

Commissioner Renfro stated after Chief Gallagher gave us the

information on Mr. Anderson she thought it would be nice if the City could get him a framed Certificate of Appreciation.

Commissioner Green stated on behalf of Main Street Truth or Consequences he wanted to thank city staff...specifically Don Armijo who came down Saturday to help move tables and chairs... and was greatly appreciated.

He stated fun event last Saturday Night...Men Who Cook at Sierra Health Care fundraiser...and congratulations to Marsha Weist, and wanted to congratulate Chief Gallagher he makes one mean Pasta Primavera. And also congratulations to Kori Mannon for the Triathlon, and indicated they had not one room available in the downtown district of T or C.

Mayor Montgomery stated to Mr. Rubin...I have a request please, and she feels she needs additional direction on the public hearings aspect of the meetings, and asked...would you please provide me with guidance...I've seen to have lost the ability to keep us on track for the item that is at hand, and when I should, and should not interject myself into someone's comments for public hearing. And that she wants to know if it is appropriate to keep an individual on task regarding the item that is on the agenda as opposed to how we got off subject today, and ask that he do some research for me.

EXECUTIVE  
SESSION:

“Commissioner Luna moved that the meeting be closed for Executive Session pertaining to Purchase, Acquisition or Disposal of Real Property or Water Rights 10-15-1H(8), 1. HSLD, LLC – Airport Property Transaction.”

Seconded by Commissioner Green/Renfro.

Mayor Montgomery responded Aye to a Roll Call Vote  
Commissioner Renfro responded Aye to a Roll Call Vote  
Commissioner Green responded Aye to a Roll Call Vote  
Commissioner Luna responded Aye to a Roll Call Vote  
Commissioner Torres responded aye to a Roll Call Vote

Motion carried unanimously.

OPEN  
MEETING:

“Mayor Montgomery stated that the Commission was now in Open Session.”

CERTIFICATIO  
N:

“Commissioner Green certified that only matters pertaining to Purchase, Acquisition or Disposal of Real Property or Water Rights 10-15-1H(8), 1. HSLD, LLC – Airport Property Transaction were discussed in Executive Session discussion ensued, and no vote was taken.”

Seconded by Commissioner Luna.  
Motion carried unanimously.

“Commissioner Luna moved that we direct staff to communicate with BLM regarding the patents.”

Seconded by Commissioners Green/Torres.  
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 PENNER  
CITY CLERK

