

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, December 13, 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, December 13, 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, Mayor Pro-tem
Hon. Steve Green, Commissioner
Hon. Frances Luna, Commissioner
Hon. Freddie Torres, Commissioner

Mayor Pro-tem Renfro stated she would like to make a statement regarding Mayor Montgomery, and that she has her husband in the hospital, and indicated he may or may not be discharged Friday, and that he has multiple issues which makes her being there extremely important, and states she wants to apologize to everybody for the times that she has missed meetings...but this has been the reason, and stated she will be back as soon as she possibly can, and we need to keep her and her husband in our prayers and thoughts.

Absent were:

Hon. Lori S. Montgomery, Mayor

Also present:

Juan Fuentes, 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 Pro-tem Renfro called for fifteen seconds of Silent Meditation.

Mayor Pro-tem Renfro called for the Pledge of Allegiance.

APPROVAL OF AGENDA Mayor Pro-tem Renfro called for approval of the Agenda.

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

Seconded by Commissioners Green/Torres.

Motion carried unanimously.

RESPONSE TO
PUBLIC
COMMENT:

City Manager Fuentes stated this is in response to a public comment from our last commission meeting regarding business registration and liquor license fees. And that he wanted to clarify what the city codes states in regards to both as well as the advice that has been given to municipalities from the NMML.

City Code Sec. 7-31 imposes a \$35 Business Registration Fee pursuant to 3-38-3 NMSA. 3-38-3 (A) NMSA states that **“a municipality shall, by ordinance, charge a business registration fee on each place of business conducted within a municipality that is not licensed by the municipality under Section 3-38-1.”** Section 3-38-1 NMSA authorizes municipalities by ordinance the licensing and regulation of a business within the municipality. **“The license fee shall bear a reasonable relation to the regulation of the business.”**

City Code Sec. 7-57 imposes a liquor license fee of \$250.00 to **“dispenses of alcoholic beverages, sale at clubs, or by retailers selling or offering for sale any and all kinds of alcoholic beverages, as authorized to be fixed by laws of the State of New Mexico.”** Section 7-24-1 NMSA authorizes municipalities by ordinance to impose an annual license tax to **“operate within such municipalities as retailers, dispensers, canopy licenses, restaurant licenses or club licenses.”**

The New Mexico Municipal League Clerk Handbook summary of **“Business Registration Fees”** states that a business registration fee is required for **“each place of business not required to be licensed under a municipal licensing ordinance.”** (pg. 14-4) Depending on the business establishment, a business would be required to be licenses either under 7-31 or 7-57.

Based on the information provided, staff stands by its position that in order to conduct business within the municipality, the business must obtain **either** a business registration or a liquor license.

COMMENTS
FROM THE
PUBLIC:

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

Ms. Sophia Peron came before the Commission with comments.

Mr. Patrick Gallagher came before the Commission with comments.

Captain Priscilla Mullins came before the Commission with comments.

Ms. Dale Kertesz came before the Commission with comments.

CONSENT
CALENDAR:

Mayor Pro-tem Renfro stated they have two items under the Consent Calendar – City Commission Meeting Minutes – Regular – 11/22/2011, Accounts Payable Report – November 2011.

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

Seconded by Commissioner Luna.
Motion carried unanimously.

DRAFT
MINUTES:

None.

BOARD &
COMMITTEE
REPORTS:

None.

PUBLIC
HEARINGS:

Final Adoption (For publication) – Ordinance #622 – Approving a change of zoning from T-1 to RCPUD for the property known as 230 Acres NW4 of Section 3, Township 14 South, Range 4 West, in Sierra County and T or C Limits – Battershell Process

City Attorney Rubin stated what he suggested to the Commission to make this a more orderly process is that they should have a sign-in sheet so that everyone is identified as who intends to testify tonight, and what your position is, and at this time had everyone come and sign in for whoever wishes to speak tonight.

Also Madam Mayor I want to mention that I had a conversation yesterday with Ms. Deborah Toomey, and she had submitted a report because she wasn't able to be here, and I indicated that could be made part of the record so that is something that you could include.

Mayor Pro-tem Renfro stated the first people that will give testimony are staff...Mr. Fuentes and Mr. Friberg.

Mayor Pro-tem Renfro administered the oath to Mr. Juan Fuentes and Mr. Charlie Friberg.

Mr. Fuentes City Manager referred to the Commission Action Form that provides the background and the Planning & Zoning recommendation as well as the staff recommendation.

He stated the subject property consists of 230 acres of land and is located southeast of Ralph Edwards Park. The property has frontage along the Rio Grande, and the subject property is currently vacant, undeveloped land.

The owner proposes to re-zone from T-1 (Transition District) to RCPUD (Residential/Commercial Planned Unit Development District). Under the current Zoning code 11-15-1, the RCPUD zoning allows for residential and/or commercial uses in planned, mixed-use development. The zone does not allow industrial uses.

If the zone change is approved, any new development will be required to follow all RCPUD development standards and any additional conditions/requirement imposed by the City Commission. Development of the property will require the owner to file an application for a Special Use Permit (SUP) which subjects the development to a higher standard than would otherwise be required under T-1. The SUP process will also require that all adjacent property owners and citizens participate in the planning process through public meetings.

The proposed zone change is supported by Policy 2.3 of the City Comprehensive Plan. The Policy recommends for the city to “promote and protect the public health, safety and welfare of the general public through design standards and zoning practices.”

Since the P&Z public hearing of October 4, 2011, a further review of the notification requirements revealed that four property owners were overlooked. Pursuant to Sec. 11-7-2 (B) (1), notice is required “within one hundred (100) feet, **excluding public right-of-way**, of the area proposed to be changed.” City Code defines Public Right-of-Way as

“Land area deeded, reserved or otherwise acquired by the City, the County or the State of New Mexico **for public use.**” It is staff position that parks, streets, certain easements and sidewalks would be for public use **but excludes** facilities such as the Public Works & Electric Yard near Ralph Edwards Park.

The property owners were notified and asked to return an enclosed ‘Consent to Zone Change’ form if they had no objections. All four property owners signed and returned the form.

Planning & Zoning Recommendation:

The P&Z held duly noticed public hearing on October 4, 2011. The P&Z heard testimony from staff, affected parties, and applicants before reaching its decision. The P&Z voted unanimously to recommend for approval the zone to said property. Attached hereto is the letter from Billy Howell, P&Z Chairman, and the minutes for said meeting.

Staff Recommendation:

Staff recommends approval of the proposed zone change. The zone change will provide for a higher standard of land use development through the use of the SUP, and require adjacent property owner participation in the planning process.

He stated he would also like to make a distinction that this request is for a zone change, and that it is not for a subdivision...which subdivisions do require specific issues to be addressed such as how the infrastructure is going to be provided...to the property to be developed, and a zone change it is not required...therefore you don’t have those items...as part of your packet.

City Attorney Rubin stated since Juan gave his testimony I think we should go through the process of people asking him the questions.

Mayor Pro-tem Renfro asked if any of the Commissioners had any questions of Mr. Fuentes.

Commissioner Torres – I just want to make it clear that it is strictly for a zone change...and nothing else until we get other documents.

City Manager Fuentes – That is correct...this is only a request for a zone change.

Mayor Pro-tem Renfro asked if the proponents wished to cross examine Mr. Fuentes.

Mayor Pro-tem Renfro asked if the opponents wished to cross examine Mr. Fuentes.

There were no proponents or opponents that cross examined Mr. Fuentes.

Mayor Pro-tem Renfro asked Mr. Friberg if he had anything that he wished to add.

Mr. Friberg stated I really don’t I think Juan said it all.

Mayor Pro-tem Renfro asked if the Commissioners had any questions.

Mayor Pro-tem Renfro asked if the proponents had any questions.

Mayor Pro-tem asked if the opponents had any questions.

Mr. John Roberts – Stated just one question for the...there was a...the staff has reviewed the paper provided by Ms. Toomey...is she registering herself as an opponent.

City Manager Fuentes – Yes she is registering herself as an opponent.

Mr. John Roberts – So have you determined is she an adjacent property owner or a business owner that's affected.

City Attorney Rubin stated if we were in litigation the position could be taken that unless someone could show that they are within 100 feet, or that they have some direct property or pecuniary interest that could be affected by the actions tonight you would need to show standing even to be in Court...in the past however that we actually have been more liberal in our rules here and allowing opponents to speak whether they're actually within the zone itself...by agreeing that she be an opponent in these proceedings we're not agreeing that she may have a standing in court if we go that far.

Mr. Roberts – I'm not objecting to anyone calling themselves an opponent...I just want to clarify for the record that she doesn't meet the quasi-judicial requirement to be an opponent, and since I haven't read the document...and I don't even really want to read it, but if the document is going to be part of public record, as a representative of Rio Vista than you go on record to say that...asking for it to be determined whether or not she is or is not within that jurisdiction, and just get it on record...she's not within that 100 feet...she's offering a public comment...that's fine.

City Attorney Rubin – And I'll even follow-up with what you said...just because someone signs, and is an opponent tonight does not mean that we're conceding that they would have standing in court.

Mr. Roberts – But I'm not gonna be given the opportunity to cross examine her on anything that she said...so I just want it to go on record.

Commissioner Luna – Jay can we even take her statement because she can't be cross examined...no one can ask her any questions.

City Attorney Rubin – Well if we were in a Court of Law the answer would be no, and stated we actually have loser evidentiary standards here at City Commission meetings, so actually you can do it whatever way...and yes you can take into consideration that she was not cross examined when she wrote that statement.

Commissioner Luna - But we can be very generous and take her statement.

City Attorney Rubin – Yes you can make it part of the record...and of course you bearing in mind that it's a statement that was read outside of these proceedings and people did not have a chance to ask her about it...so you can always take that into consideration.

Mayor Pro-tem Renfro – We need to make sure that is reflected in the minutes.

Mayor Pro-tem Renfro administered the oath to the proponents –

Gretchen Campbell, John Mulcahy, and John Roberts.

Mr. John Roberts Representative of the applicant representing Rio Vista Land, LLC, and indicated they are applying for a zone change...not a special use permit but a zone change for 230 acres, and

the maps you see in front of you show...the green section on the map the proximity, and stated this is our third public hearing. He stated they have a recommendation from staff, and probably should go on record as saying is repeating the purpose of an RCPUD, and the reason why we have made this application RCPUD is a friendly to the environment, modern planning, architectural engineering techniques to be used to reduce air, water, ground and scenic contamination that is pedestrian friendly development, and will encourage the use of special Planning and Zoning Commission, and City Commission reviewing and development of the general public as well as adjoining property owners in the process once it begins into a special use permit and master planning development...so that is the reason why we are making the application to start moving towards that process, and to limit the certain special uses that are allowable under T-1 which the land owner does not want considered in his property which includes sexual oriented businesses and those types of things, and also under a T-1 should he decide at some point to sell a piece of that property, and it remained under T-1, and it went into residential then each and every residential lot could drill a well...we can't afford that in Sierra County, and that the RCPUD specifically limits that which is in the best interest of not only T or C but Sierra County and the developer. And stated that is basically the issue here, and if you have any questions I will be glad to answer them.

Commissioner Green – You say that the RCPUD limits drilling.

Mr. Roberts – I don't have that exact number I apologize...it was brought up it was in the minutes of the Planning & Zoning Hearing, but it was established that instead of one per it ends up like one per 4 or 5 on a residential section...so it limits the amount of water wells that can be drilled on private properties.

Mayor Pro-tem Renfro asked if staff wanted to cross examine Mr. Roberts.

There were no questions from staff.

Mayor Pro-tem Renfro asked if there were any opponents that wanted to cross examine Mr. Roberts.

There were no questions from the opponents.

Mr. John Mulcahy stated he was here on behalf as Director of Sierra County Economic Development, and that he has no affiliation with this particular development directly of any kind. And wanted them to know in his opinion this is good sense because for other reasons other than development, and stated it is very, very hard to reach out and get any kind of investment in un-zoned properties, and if it remains as a T-1 then someone could put a pig farm next to anything, and they would not be able to get any outside investment.

Mayor Pro-tem Renfro asked if there were any questions of the Commission.

There were no questions.

Mayor Pro-tem Renfro asked if there were any questions of the opponents.

There were no questions.

Ms. Gretchen Campbell came before the Commission, and stated she was a Real Estate Broker, and that she represents the land developer, and she would like to speak in favor of this zone change, and that it

will allow this property to be developed in a conscientious manner for the betterment of Truth or Consequences.

Mayor Pro-tem Renfro asked if there were any questions of the Commissioners.

There were no questions.

Mayor Pro-tem Renfro asked if there were any opponents that had questions.

There were no questions.

Mayor Pro-tem Renfro asked if there were any questions from staff.

There were no questions.

Mayor Pro-tem Renfro administered the oath to the opponents, and a member of the public...Sophia Peron, Ron Fenn and Barbara Salasin.

Ms. Sophia Peron came before the Commission and stated that she lived 150 ft. away from the development, and that she was kinda upset, and that it was not dense enough, and thinks the 230 acres should be chopped up as finely as they possibly can because we need to make money at the power company and the water company, and all of our businesses, and if we're putting...one per acre that's not gonna help anybody, and I think if it's gonna happen it needs to have two bridges to the development, and that would be on Ash or through the Riverbend property or someplace like that, and I think taking T-1 away the zoning...I don't know where else we have T-1 zoning...

Mayor Pro-tem Renfro asked if any of the Commissioners would like to question Ms. Peron.

There were no questions.

Mayor Pro-tem Renfro asked if any of the proponents wanted to cross examine Ms. Peron.

There was no cross examination.

Mayor Pro-tem Renfro asked if staff wanted to cross examine Ms. Peron.

There was no cross examination.

Ms. Barbara Salasin came before the Commission and read the letter from Deborah Toomey, and provided said letter for the record.

Commissioner Luna – Do you know where in the Comprehensive Plan it says that the proponents have to provide a master plan.

Ms. Salasin – Do I personally know...no I do not.

Commissioner Luna – You're reading it so I have to ask you...I'm sorry. So the answer is no then.

Ms. Salasin – I do not know where it says that.

Mayor Pro-tem Renfro – Okay being that she read the letter Jay it would be okay to not ask for cross examination or anything.

City Attorney Rubin – I think that's fine.

Mr. Roberts – Now that we've read it...now that we've read the statement inside the hearing...I'd have to take exception to the fact that Deb Toomey is not here for me to cross examine on those points...if this body intends to use it in making their determination.

Mayor Pro-tem Renfro – And I wouldn't have a problem with letting you speak...Jay is it okay if I would let him speak, and address some of the issues...I would agree if you want to its fine.

Mr. Roberts – Stated I'm just going on record...I mean she's not here for me to cross examine on point by point...so me making my statement...her making her statement...I'm just...as I said earlier she's not here, and know she has asked someone to step up and just read the letter into the minutes, but I just want to go on record...as she is not a qualified proponent, and she is not a qualified business owner that would be affected, and she is not present for me to cross examine...so should this not be approved tonight I want that on record so that I can appeal.

Mr. Ron Fenn stated in their packet for the public hearing there is a statement that the letter that I presented at the October 4th Planning & Zoning Hearing is made part of the record...and it is not included in the packet...therefore you do not have the advantage of reading over some of this information before you make your decision.

Mr. Fenn read from a letter which was provided for the record. (Complete copy attached hereto and made apart hereof.)

He stated in the Battershell Documents is says that anyone who has ex-parte relations with the developer cannot testify in public hearing, that includes city manager, and building inspector who deal directly with the developer. And I really question why the City refuses to allow you to see these documents when it is supposed to be part of the record.

Mayor Pro-tem Renfro asked if any of the Commissioners had any questions.

Commissioner Luna – What is you opposition to the zone change?

Mr. Fenn – It's the process...the process is faulty.

Commissioner Luna – Okay but you're not opposed to the zone change...just the process.

Mr. Fenn – Well if you oppose the process and the process passes then yes I am opposed to it.

Commissioner Luna – Well you are only talking about clerical...

Mr. Fenn – It's not just clerical it's the whole matter of how this process is handled.

Commissioner Luna – I'll go back to the original question...do you have...what is your opposition to the zone change.

Mr. Fenn – Well my personal objection to it is simply...I think it's another hair brain scheme that is just gonna cost the City money...that's just my opinion.

Commissioner Luna – Thank you I just didn't get what your opposition was...Thank you.

Mayor Pro-tem Renfro asked if there was any other cross examination.

RONALD FENN

Promote Thinking ... an exercise for the brain that helps reduce apathy!

The inclusion of a Commission Action Form in the P&Z packet is however the most troubling. At the last aborted hearing several quarries about Staff Recommendations were voiced by members of the board and were accurately portrayed by City Manager Fuentes as inappropriate at a Public Hearing. Now, however a Staff Recommendation has been provided to the Board in advance of these deliberations. I believe this undermines the Public Hearing process, and renders it null and void. The P&Z Board in its autonomous function should be weighing testimony of the applicant and the public without the undue influence of parties who may have had extensive contact with the applicant. The Staff in this situation are merely city employees charged with assisting the applicant with the proper guidance to file an accurate and complete document for your consideration. The recommendations of such staff in this process do have more validity or credence than that of any other individual.

As far as the request before you, I would caution acting in haste to rezone the parcel as I believe that the potential for dire financial consequences could be in the offing. Without a bridge and subsequent reasonable access to the acreage the city could find itself committing to provide, utilities and services such as, fire and police protection to an area without reasonable capabilities.

What liabilities could the city face if it allows the requested zone change and have a few projects built upon it prior to reasonable access.

I would recommend that this zoning change be contingent on the developers providing an access (bridge) to the property before the zone change goes into effect. This would demonstrate an act of faith on the part of the developer and some assurance to the people of TorC that this proposed project actually has merit.

Sincerely,

Ron Fenn
Former P&Z appointee

Commissioner Torres – How is it gonna cost the City money?

Mr. Fenn – Okay for instance...okay let me just bring this up okay. The new application is just that...the applicant is now the Rio Vista Land Company, LLC instead of the original applicant Mitchell Brown however the new application does not indicate that the application fee has been paid. He read from a letter, and provided letter for the record. (Complete copy attached hereto and made a part hereof.)

Commissioner Torres – Do you know that for a fact...where did you get your information?

Mr. Fenn – I got it from the City Clerk’s Office.

Mayor Pro-tem Renfro stated this ends the process as they do not have anybody else registered to speak, and stated that the public hearing was closed.

**OTHER
BUSINESS:**

Consider/Approval – Final Adoption Ordinance#622 -

“Commissioner Luna moved approval of Ordinance #622.”

Seconded by Commissioner Green.

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

City Attorney Rubin stated what you are actually approving is the Ordinance approving a zone change.

Motion carried unanimously.

**Power Point Presentation – Consolidation of T or C & Sheriff
Departments – Sheriff Joe Baca, Jr.**

Sheriff Joe Baca, Jr. came before the Commission with a power point presentation. He stated he is not here to propose to take over the T or C Police Department, and that he is here to show them that there is an option out there of merging the agencies, and stated it has been done in several communities.

During public comment out-going Chief Gallagher voiced his opposition regarding the Sheriff’s proposal, and mentioned a number of statistics and improvements during his tenure as chief.

Captain Priscilla Mullins and Sgt. James Morgan also expressed their concerns regarding the proposal.

There was several questions and concerns by the Commissioners regarding the merger with Commissioner Luna questioning what would happen if the Commission opted for the merger and the public says yes, and the next sheriff says, “No I don’t want that,” then what happens.

Sheriff Baca – That’s always a possibility...that’s a possibility we take as an elected official.

Mayor Pro-tem Renfro stated she remembered two or three different

times that she thinks this was tried and never worked out.

Sheriff Baca stated if they do it the way the International Chiefs of Police put the plan forth...thinks it is a cost savings to both entities.

Commissioner Luna – Where is the cost savings other than we don't pay a police chief...you're still gonna have the same number of officers here as you do over there...you're still gonna get paid your salary...he's still gonna get paid his...they're all gonna get paid theirs...you're still gonna need the clerks, and it sounds like from the numbers that the chief and captain gave us we will probably need more people at the court...I don't see where there is a cost savings except maybe now.

Sheriff Baca- There is and that is where the stakeholders, and the day - long retreat is there. And explained you're gonna consolidate buildings, insurance, and savings in the salary.

Commissioner Green stated he appreciated the effort that went into preparing this, and would like to request before they move further along the road on this that Captain Mullins made an offer a request that she have an opportunity to make a presentation to us, and certainly in light of fairness that at the next Commission Meeting if they are ready for that presentation I would like to hear that, and also ask that the City Manager if he has an opportunity to call Las Vegas, Nevada...let me ask you Sheriff is there any community in New Mexico that has merged a municipal police force and a county sheriff's department.

Sheriff Baca – replied “no.” And stated the closest one that tried that was Albuquerque and Bernalillo County, but it was a Union and they couldn't agree on uniforms, and decided not to merge.

Commissioner Green stated he would like to suggest, and take Captain Mullins up on her offer, and place her on the agenda at the appropriate time, and suggested they have a workshop to hear what the community has to say, and then bring the community in at the end.

Mayor Pro-tem Renfro asked Sheriff Baca how the County Commissioners feels about this.

Sheriff Baca – Stated I presented this to them, and they thinks it's possibly a good idea, but stated they have not heard the presentation, and without the City agreeing to it...it does me no good to present this, and they are aware that I am presenting it to you.

Commissioner Torres – What would become of our Municipal Court?

Sheriff Baca – Stated the key is the Municipal Court would stay the same.

Commissioner Torres – Stated if our Police Department doesn't support it where are you going to get more police officers? What kind a response did you get from our Police Department?

Sheriff Baca – I don't know if any of them would stay on...I wouldn't terminate anybody...that's now what I'm here to do.

Commissioner Torres – I think we need some figures.

Commissioner Luna – Stated I respect Chief Deputy Apodaca, and the Sheriff very much, and thinks this proposal is causing a lot of division between the two law enforcement agencies...as there has been for some time. And I think hearing from the public is good, however the

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Tuesday, October 04, 2011

Planning & Zoning Board Public Hearing; Re: Rio Vista Land Co, LLC. Zone Change

This second attempt by representatives Rio Vista Land Co, LLC is still fraught with problems which need to be addresses. Even though a correction to the agenda was made, the print and internet published notices were ~~not~~ showing Rio Vista Land Co, Inc instead of LLC. This time, the error and responsibility falls directly on Building Inspector Charlie Friberg, who provided the information to the clerks office for distribution. Consequently, all notices sent to property owners were erroneous.

The new application, is just that, as the Applicant is now Rio Vista Land Co. LLC instead of the original applicant Mitchell Brown. However this new application does not indicate that the Application Fee has been paid. As far as I know there is no statutory provision for waiving such fees even if the city is partially responsible. In fact this can be viewed as prohibited gifting under the anti-gifting legislation of New Mexico. Additionally, there is no indication that the postage for mailing the notices to property owners, which now amounts to over \$800.00 not to mention the many hours of city staff time to process them, have been invoiced or paid. In that regard I you're your attention to Municipal Code Sec. 15-3. Costs of development: Subdivider's responsibility.

The subdivider shall be responsible for all costs, whether direct or indirect, associated with the approval and development of the subdivision submitted by that subdivider. Such costs

shall include but not be limited to: all administrative costs, extension or improvement of

roadways or utilities needed for connection of the subdivision to the City's roadways or

approved utilities.

(Ord. No. 555, 5-23-06)

As it stands now the burden for these charges is laid on the shoulders of the TorC utility ratepayers

myself included and I for one am not happy about it.

The signatures purportedly of Mitchell Brown are distinctively different in the two applications and I suspect that only the first application was signed by him as it was faxed to TorC from Petaluma, CA, while the new one isn't. Perhaps Mr. Roberts can shed some light on this situation.

Captain and the Sgt. stood up and said their entire department was against it.

“Commissioner Luna moved to cease and desist discussion of the consolidation of the T or C Police Department with the Sheriff's Department.”

Seconded by Commissioner Torres.

Commissioner Torres – Stated I think we need to come up with more figures, and you put it together better.

Commissioner Luna – I think when the departments are working together, and a combined effort and a combined idea of consolidation...it's a great thing, but I think right now you working A against B...you guys are supposed to be on the same team.

Motion carried unanimously.

Presentation – Dangerous Dog Certificate of Registration Process -

Captain Mullins and Sgt. Morgan of the T or C Police Department presented a power point presentation regarding the Dangerous Dog Certificate of Registration Process which includes the application, the certificate packet which includes numerous forms.

Sgt. Morgan stated now that they have these procedures to register and track dangerous dogs they have not processed any animal with the new registration process.

He indicated that the information presented including the copies of the new registration procedures and requirements is available at the T or C Police Department.

Commissioner Luna stated there is a part about the veterinarian but I don't see that adjust in the ordinance.

Sgt. Morgan stated you cannot give the rabies...and indicated rabies is required to be given by a veterinarian.

Commissioner Luna stated you also said whenever a person calls 911 or the police because of a dog attack...

Sgt. Morgan stated that report will already be generated in dispatch.

Commissioner Luna – then you guys will also make a copy of that report and put it with the dogs file.

Sgt. Morgan stated it will go in the case file.

Commissioner Green stated he would like to make a suggestion and that we put this up on the City's web-site.

Presentation – By T or C Spaceport, Inc. – Old Fire House

Mr. Mike Kertesz came before the Commission on behalf of the T o C Space Center Board, and presented a handout to the Commission, and stated this is a map of the area around the old fire station that City Manager Juan Fuentes provided to them.

He stated he met with City Manager Fuentes last week and highlighted these maps to define the parcels that we have been discussing and to reflect our ideas how these parcels could be integrated into our plan, and indicated Mr. Fuentes reviewed an engineering report that he

recently reviewed of the old fire station that we believe will probably require some further consideration by the City, and that they will be glad to talk about that at some point and time.

Mr. Kertesz stated he divided the parcels into 3 phases, and indicated there is a reason for that shown to realistically reflect how our plan can be achieved over a period of time without over burdening the City with costs all at one time.

He stated Phase One is to renovate the old fire station quickly, and get the doors open and further encourage the Spaceport Authorities selection of our site, and costs for this, and that a small portion of the cost must be provided up front by the City based on the engineering report. And stated some of the cost will be paid by donated labor and materials through our organization, and that a large part of the cost will have to come and be provided by the Spaceport Authority, and the other part of Phase One is for the City to secure the adjacent property to the North with an option or a lease or letter of intent for a parking lot, and stated this is how we hope this will be accepted by the Spaceport because the parking is increased if this can happen.

Phase Two would require the Spaceport Authority to complete the purchase of the adjacent property for parking and to demolish the buildings and pave the parking lot, and stated that has to be done early in the program, and based on future needs the City will have to release and clear the maintenance facility based on needs at Riverside between Ash and Birch Streets for additional parking. He stated they are anticipating this will probably be sometime in 2013.

Mr. Kertesz stated the City would probably continue as the owner of the property. Phase Three – The Spaceport Authority may desire...**may desire** to construct a new facility, and it can be done in the North parking lot, and in the mean while the old fire station could continue to serve visitors, and indicated when the new facility is complete the old fire station can be demolished, and turned into a parking lot...this is just a speculation...we're not certain this will happen, but if they desire to do it that way it can be done. And stated ownership and details will of course have to be negotiated between the City and the Spaceport Authority later.

He stated all three phases would require Spaceport Authority to commit to our site and provide a large portion of the funding, and our plan can only be implemented if the City of Truth or Consequences acts immediately to show its commitment by completing and signing a lease with us providing a letter of support for this concept, committing to make minor repairs to the existing facility which is subject to an engineering report, and securing the adjacent property as I previously indicated...it doesn't mean we have to buy it...the City doesn't have to buy it, but we have to have it secured somehow so we can assure Senator John Arthur Smith, and Representative Dianne Hamilton that our plan is complete, and stated they require letters of support from the City and the County to show that we are together on this, and they require a sound complete plan reflecting all costs for them to solicit the funds from the Spaceport Authority...so we have...and November 30th we gave you a copy of a letter dated November 20th...sorry to Senator Smith and Representative Hamilton...this is a beginning of our plan...all that's missing are the rest of the costs pieces subject to the engineers report.

He stated Mr. Bill Buhler would like to add a few words, and they have solicited other letters of support that include Main Street, and Mr. "Jagger" Gustin has collected other letters of support, and that they would both like a couple of minutes to go over that with you.

Mr. Bill Buhler came before the Commission, and stated he has been working with the committee whose purpose is to have a Visitors Center or Welcome Center for the Spaceport in downtown T or C, and stated they are forming a non-profit corporation. He stated at a recent meeting with Senator John Arthur Smith he pledged his support for designating the former fire station site provided 4 things were furnished, #1 – A lease by the City for the former fire station site, #2 – A firm price to be obtained on the adjacent corner property, #3 – A joint resolution of support by the City and County, and finally an estimate of the costs involved.

Mr. Buhler also agreed with Mr.Kertesz's presentation, and all the information that he provided.

Mr. Cary “Jagger” Gustin came before the Commission, and stated he has been with Tourism and Economic Development since 1994, and indicated this is the most exciting development that he has ever been a part of. And stated he has letters of support from the County of Sierra, Geronimo Springs Museum, Sierra County Arts Council, Sierra County Tourism Board and the Chamber of Commerce.

Presentation Only.

Consider – Request for Approval – Professional Services Contract Amendment to Rio Grande Psychological Services, Inc., FY 11/12

–

Ms. Phyllis Mecca, DWI Coordinator came before the Commission and stated the DWI Program is requesting approval to increase the contract for Dr. Merta, and indicated he is currently one of the treatment providers. She stated the increase is \$5,000, and explained it is from reversion monies

“Commissioner Luna moved approval of the contract for Professional Services...the amendment to Rio Grande Psychological Services.”

Seconded by Commissioner Green.
Motion carried unanimously.

Consider/Approval – New Mexico Centennial Proclamation -

City Manager Fuentes stated this is a Proclamation that was submitted for consideration to celebrate and recognize NM Centennial, and read the Proclamation in its entirety, and attached to the Proclamation is a copy of the web-page from the Centennial Page which lists one of the events that will occur on January 7th which is the Elephant Butte Walk Celebration...Walk Across the Dam.

“Commissioner Luna moved approval of the NM Centennial Proclamation read by City Manager Fuentes.”

Seconded by Commissioner Torres.
Motion carried unanimously.

Consider/Approval – Extension Los Lomas Subdivision Master Plan – Mr. Randy Ashbaugh

City Manager Fuentes stated that Mr. Randall Ashbaugh is requesting an extension of the subdivision master plan that was approved back in November of 2007, and stated this is for the Los Lomas Subdivision.

He stated pursuant to 15-12-E of the City Code, the subdivision master plan if effective for a period of five years. And in their packet you

have the Commission minutes from October 26th of last year, and that the current plan still has I believe at that time it was the 3rd year, and that this will be the 4th year, and Mr. Ashbaugh is requesting the same from the Commission this year, and indicated there is a representative present if the Commission has any questions.

“Commissioner Luna moved approval the extension of the Subdivision Master Plan.”

Seconded by Commissioner Torres.
Motion carried unanimously.

Consider/Approval – Resolution #14-11/12 – Authorizing the execution and delivery of a Water Project Fund Loan/Grant -

City Manager Fuentes stated this is the Water Trust Board Loan/Grant Resolution for our water tank rehab project, and included in the packet is the finance schedule, and they are requesting the Commission to approve the Resolution authorizing the execution of the grant documents which will be the step to finalize and the necessary documents to have the funds made available to the City for the water project.

Commissioner Green – On the \$256,000 part of the loan...we're gonna pay that out of dedicated environmental GRT...is that correct.

City Manager Fuentes – The \$256,000 portion of the loan...that will come back at a future meeting. At our next regular meeting will be a Resolution before the Commission for the NMFA Loan portion of those \$256,000 plus our local match as well which is around \$400,000 that is also related to this project...this is on the Water Trust Board side, and the revenue stream that will be used will be part of the net income of the water utility.

“Commissioner Luna moved approval Resolution #14-11/12 – Authorizing the Execution and Delivery of the Water Project Fund/Loan Grant.”

Seconded by Commissioner Green.

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.

Consider/Approval – Legislative Packet & Resolution #15-11/12 – Opposing Legislation Repealing the Hold Harmless Provision -

City Manager Fuentes stated the packet before you will be the official items to take to the legislative session that begins January 2012, and stated the first item you...under our Infrastructure Capital Improvement Plan...the Capital Outlay Request for the Solid Waste Collection Center, and stated as you are aware one of the items on the agenda is also for the financing of this project the item here listed in the packet we are seeking approximately 1.5 up to 2 million dollars in financing for this project, and stated the Capital Outlay request is for at least to consider from our local legislators up to \$500,000 in funding for construction and acquisition of equipment.

He stated he highlighted both the language construction and acquisition because that gives us a little bit more flexibility of where we can apply these funds, and provided brief information on the project, and stated we are familiar of the urgent need for financing this project. And stated the next item is the policy for the Commission to consider is a letter that was forwarded to me by the Executive Director of SCEDO, and explained this is in regards to providing a letter urging out legislative bodies to support the Space Flight Informed Consent Act, and would ask Mr. Mulcahy to come forward and give us more history on this letter, and believes the County has passed a similar letter of support.

Mr. John Mulcahy came before the Commission, and stated the County and Williamsburg, SCEDO and Elephant Butte has sent letters to our representatives, and to the State Judicial Committee. And stated the issue is real simple in support of Spaceport...they enacted what is called a Flight Consent Law which would mean the State would hold harmless anybody who got on a space ship heading to space, and the problem is they left off a part that mentioned the suppliers...so while you cannot sue under the circumstances the delivery vehicle, and the people that do that you couldn't effectively come back and sue the diesel, and the tires and anything leading up to that, and the idea is this is dangerous stuff, and people need to know what the risks are before they get on there, and stated without this legislation we have no interest, and had several leads, and said until you do this we cannot talk about going to Spaceport. And stated Texas, Virginia, Colorado has all enacted robust legislation that includes indemnifying the suppliers...so we're asking that they do that.

City Manager Fuentes stated the final item for consideration is a Resolution opposing legislation repealing the Hold Harmless Clause, and provided a Resolution as well, and additional information of how much it would impact the City of Truth or Consequences, and indicated this is always an issue at every legislative session due to the States financial need.

“Commissioner Luna moved approval the Legislative Packet, and Resolution #15-11/12.”

Seconded by Commissioner Green.

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.

**Consider/Approval – Proposed Ordinance – (For Publication) –
Notice of Intent to Adopt Revenue Bond Ordinance for the
purpose of Constructing a Solid Waste Transfer Station –**

City Manager Fuentes stated in the audience is Mark Valenzuela to present information on this issue.

Mr. Mark Valenzuela, Vice-President with a regional investment bank, George K. Baum & Company came before the Commission, and stated what is before you today is the notice to publish the Bond Ordinance for financing the Solid Waste Transfer Station.

He stated the tentative calendar if approved this evening that we

publish it in a local paper, and come back January 10th, and have the actual ordinance in place, and indicated 5 days after that we can have the sales terms, and the resolution for your approval so we can finalize the transaction. He stated this is the traditional bond document that defines and outlines all the terms of the bond, and that it is an important document, and I trust that you will review it.

And referred to sections 1-4 will define most of the bond terminology for you such as pledge revenues, and bonds and different things like that, and Section 5 authorizes the bond up to 2 million dollars...we do not anticipate that it will be a 2 million dollar issue...we anticipate it will be 1.5million issue, but not knowing what the future looks like we always estimate that slightly high so that the community is not impacted by any changes in the financing...so again we anticipate it being a 1.5 million issue, and that when we come back with the sales resolution that will be a firm number for you...before you sign on the dotted line so to speak. He stated Section 69 talks about other terms of the bonds, and if you can redeem those earlier so you can pay them off sooner if you have the cash...they provide terms like that...the signatures that are required on the bonds. Sections 10-13 give more information about how we register those bonds. And I will highlight a pretty key section...Sections 28 & 29 they talk about your responsibilities as a municipality for issuing tax exempt debt...the Federal Government is willing to provide investors any earnings on these bonds...tax free. At the Federal Level, and also at the State Level...because of that privilege the Federal Government requires several things of you, and that they require you don't issue a million and a half dollars of bonds, and then go and invest that money, and something that you could earn a significantly higher return through equities, or the stock market or something like that with tax free funds, so you will be asked as we go through the sales resolution to sign off, and say these bonds are being issued for the construction of a Solid Waste Transfer Station that you intend to have it built within 3 years which I think in this case we have it nailed down pretty well, and that you will not invest the money in something that will earn more than what you are paying on the bonds. And stated these are very important stipulations from the Feds. Sections 30 require that you report to investors on an annual basis, and indicated I handle that for you, and we provide information on your audit...the payment on the bonds, any material...that happen in the community if revenues drop we will report that as well. And stated as a municipality you have an annual disclosure requirement...again that I will take you through every year and we will provide that information to investors.

City Manager Fuentes stated this Ordinance is only the intent to publish the Ordinance, and will be before the Commission for consideration and approval, and Mr. Hughes from the Bond Counsel will be present to answer additional questions, and go into more specific details once we have it will be forwarded to you all to give you plenty of time to review this document.

Commissioner Green – Is the City asked to pledge any of its assets to back up these bonds.

Mr. Valenzuela – Stated the only security for these bonds will be a pledge of revenue...the-net system revenue from the solid waste system is the only security...so none of its assets will be pledged as a security...it's simply the revenues.

“Commissioner Green moved for approval of Notice of Intent to Adopt the Revenue Bond Ordinance (For Publication.)”

Seconded by Commissioner Luna.

Motion carried unanimously.

Consider/Approval – Budget Adjustment Resolution #16-11/12 -

City Manager Fuentes stated this Resolution is to make several budget adjustments as per attached DFA Budget Transfer Form.

He explained them briefly...The first two are related to the DWI Fund 4804, and in your packet I provided a copy of the Resolution from Sierra County and I believe there is a copy of the Resolution and a new Resolution that was adopted by the County, and basically requesting that they will be submitting for 2012 the Grant Resolution for DWI. And last week we had a telephone conference with the DWI Program officials from DFA, and that Ms. Mecca was present for that conference, and that one of the questions that I had for the DWI at the State level was since the City had this program for over 10 years, and the way our funds are structured there are set up as individual checking accounts this fund has about \$70,000, and the City normally would advance the funds for each of our accounts because of the way they are set up...so the Resolution before you is transferring out those City funds from the DWI account into our two accounts...the General Fund...the Joint Utilities, and also into the Capital Improvement General Fund, and the Capital Improvement Joint Utilities...one for \$60,000 and the other one for \$10,000, and stated the folks at the DWI Program were in agreement that these were City funds and certainly have the right to transfer to other funds. And indicated Ms. Mecca was present, and stated this will have to be verified with DFA as any budget resolution that we do, and the reason why we're transferring the requesting the transfer the \$60,000 into the Capital Improvement Joint Utilities, and that \$50,000 of that will go there, and that would be to cover the other half of the preliminary engineering report for the WW Treatment Plant...as you all recall the City received \$50,000 from NMFA, and that they were looking for the other half to come from the DFA CDBG Program...unfortunately the City currently has an application in the works for our Comprehensive Plan, and therefore we do not qualify for that additional funds. So this will allow us to use those monies for that purpose...the other funds the difference the \$10,000 will go into the CI General Fund, and stated those monies can be used of course for to apply towards improvements of the old fire house facilities since there is going to be a need for making improvements.

City Manager Fuentes explained item #4 – General Fund Facilities that is to re-cover an insurance claim reimbursement for the Civic Center, item #5 – General Police is a \$1,300 Grant reimbursement for Law Enforcement Activities, and item #6 under the Animal Control Office is a \$1,600 adjustment...also an insurance claim reimbursement, item #7 – Local CDWI – this is a budget increase of \$9,900 – this is for the grant agreement amendment per DFA, and explained these were reversion funds, and the last item is the General Court, and this is an increase of \$14,000 – This is for the new Juvenile Adjudication Fund Grant Program that the Judge will be over seeing.

“Commissioner Green moved approval of Budget Adjustment Resolution #16-11/12.”

Seconded by Commissioner Luna.

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.

OLD BUSINESS – None.

REPORTS -

CITY MANAGER-

City Manager Fuentes stated he wants to recognize employees who volunteered at the shelter during the snow storm when the highway was closed. The following employees volunteered...Raymond Chavez, Al Bauer, Jimmy Schraner, Judy Harris, David Johnson, Ed Williams, and volunteer Nola Kent, and he wanted to recognize them for the work they did. And stated they had 28 people who stayed overnight.

He stated the NM State Armory approved the City's request to relocate the flag pole to the Triangle Park.

CITY ATTORNEY – No report.

COMMISSIONERS -

Commissioner Luna stated she wanted to thank everyone for your thoughts, prayers, calls and flowers for the recent passing of my mom.

She stated as a Rotarian she is proud to tell those of you that the T or C Rotary Club took over what used to be The Toys for Tots Program which they now call it Toys for T or C, and anybody who would like to help donate a toy for the needy children or cash if you don't know kids want these days you can do so at Bank of the Southwest.

Commissioner Luna stated she has been given the fortunate opportunity to move outside the city limits and into the county, and stated while I would love to continue to serve my constituents in the City of T or C by law I'm not allowed to. She stated she believes in doing what is right to protect my honor and the integrity of this Commission, and our City so as of December 31st I'll be stepping down as a City Commissioner.

She stated she has loved the work as a Commissioner, and found it to be very rewarding, and for that reason I'll be seeking a seat on the County Commission in the up-coming election so I may continue to serve and help the people of the County and the City, and I wish to thank my fellow Commissioners for the friendly debates we've shared, and stated some have said this Commission does what just one wants...well to them I say that just isn't so, and that it has been a pleasant experience to disagree on an agenda item, and yet we still have mutual respect for one another. And I would like to acknowledge Manager Fuentes, Mary Penner and staff, and that you all have always been professional, and quick to respond to my questions so diligent and patient with me...I thank you all. I am proud of where this Commission has gone, and the things we have accomplished as well as the boards that I have sat on representing our City...again I'm sad to leave this chair but it brings me countless opportunities for my families future so it is with regret I will be resigning as a City Commissioner, and with anticipation and enthusiasm that I'll be absent of the government arena for only a short time.

Commissioner Torres – No report.

Commissioner Green stated it has certainly been a pleasure having Frances Luna as my seat mate so to speak, and that we have agreed to disagree on numerous occasions, but I do like the fact that we have respected one another and wish each other well, and with that I hope the future is as bright for you as possible and I wish you well.

He wanted to thank the Main Street Organization for producing Old Fashion Christmas along with city staff for all involved...the school band, carolers, and the volunteers, and that it was a great event, and appreciates everyone's effort and energy.

Commissioner Green stated we all received a letter from Steve Buckley from Main Street suggesting that we could better utilize the sign at Wal-Mart, and change it out with all the different events and pictures, and I think that is an asset that the City is not using to its fullest, and he would like to see the manager look into that. And he would like to wish his fellow Commissioners, city staff and residents of Truth or Consequences and Sierra County the best, healthiest, happiest of Holidays and Christmas.

Mayor Pro-tem Renfro stated she has enjoyed working with Frances, and remembers her coming to the Commission meetings with her grandpa when she was just a little kid, and that she has been very impressed with the way she has conducted herself, and with the job she has done as a City Commissioner, and she hates to lose her, but I wish her well, and wish her success with her running for County Commission. And she would like to thank all the city staff...they did a wonderful job putting up the Christmas decorations, and stated the Old Time Christmas, and Christmas Tree Lighting Ceremony was enjoyable, and wished everybody a Merry Christmas.

EXECUTIVE SESSION -

“Commissioner Luna moved that the meeting be closed for Executive Session pertaining to:

A. Pending or Threatened Litigation 10-15-1H(7)

1. Deborah Toomey vs. City of T or C
2. Arizon Structures Worldwide, LLC – Pool Cover

B. Purchase, Acquisition or Disposal of Real Property 10-15-1H(8)

1. HSLD, LLC – Airport Property Transaction
2. Lease Agreement for Old Fire House

Seconded by Commissioner Green.

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 Pro-tem Renfro stated that the Commission was now in Open Session.”

CERTIFICATION –

“Commissioner Green certified that only matters pertaining to A.

Pending or Threatened Litigation 10-15-1H(7), 1. Deborah Toomey vs. City of T or C, 2. Arizon Structures Worldwide, LLC – Pool Cover and B. Purchase, Acquisition or Disposal of Real Property 10-15-1H(8), 1. HSLD, LLC – Airport Property Transaction. 2. Lease Agreement for Old Fire House discussion incurred but no vote was taken.

Seconded by Commissioner Luna.
Motion carried unanimously.

Commissioner Luna stated there was no action on Toomey.

“Commissioner Luna moved they direct staff to be in contact with CID for the clarification of process of future process with Arizon.”

Seconded by Commissioner Green.
Motion carried unanimously.

“Commissioner Luna moved to have staff contact FAA and Ms. Lucero to examine the effect of possible shortening of the runway, and subsequent lease agreement with HSLD.”

Seconded by Commissioner Green.
Motion carried unanimously.

“Commissioner Green moved that we approve a lease for the Old Fire House between Truth or Consequences and Spaceport T or C subject to legal review, and to authorize staff for the property adjacent to the Old Fire House appraised.”

Seconded by Commissioner Torres.
Motion carried.
Commissioner Luna abstained.

ADJOURNMENT –

There being no further business to come before the Commission the meeting was adjourned.

APPROVAL –

PASSES AND APPROVED this _____ day of _____
2011, on motion duly made by Commissioner _____,
seconded by Commissioner _____, and carried.

EVELYN B. RENFRO
MAYOR PRO-TEM

ATTEST:

MARY B. PENNER
CITY CLERK