

CITY COMMISSION  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
Tuesday, January 24, 2012

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, January 24, 2012 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 Renfro, Mayor Pro-tem  
Hon. Steve Green, Commissioner  
Hon. Freddie Torres, Commissioner

Absent was:

Hon. Lori 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 Green moved to approve the agenda as presented.”

Seconded by Commissioner Torres.  
Motion carried unanimously.

**RESPONSE TO PUBLIC COMMENT:** None.

COMMENTS  
FROM THE  
PUBLIC:

Mr. George Szigeti came before the Commission with comments.

Mr. Audon Trujillo came before the Commission with comments, and provided information to the Commission.

Mayor Pro-tem Renfro stated she would like to respond. And stated first of all we have the state laws that deal with procurement...and as far as I understand there is also policies within the city that address this, and that her understanding of the whole thing is that the then City Manager did **not** want to use engineers or architects in the bid process, which I think we have instructed our city manager that on any projects like that we should always involve our engineers or our architects, but that was something that the then city manager decided he did not want to do, and I thought that you sort of helped with the specs or something... it was my understanding that you were involved with it.

Mr. Trujillo replied "that's right."

Mayor Pro-tem Renfro – So...like I said I don't fault the staff other than the city manager for doing it the way that it did, and it's unfortunate that it happened...I asked about bid bonds, and stuff like that...nothing like that was taken...that was on the city manager's...so Thank you, and I don't know if Mr. Fuentes would like to add anything or not....but it definitely wasn't our staff that messed up on this.

City Attorney Rubin stated I am still hopeful that this is going to resolve itself in a favorable...to the city...we're still trying to work on that.

City Manager Fuentes – Just to follow-up...that's correct Madam Mayor Pro-tem, and stated there is certainly some flaws that we need to review in our processes...definitely we are consulting with our engineers...one of them being here tonight for one of our projects, and as our City Attorney pointed out we're hopeful that we can get this project moving forward...it will be delayed...but we're hopeful that we can get this done.

Acting Captain James Morgan with the City of T or C Police Department came before the Commission with statistics from 2011.

Mr. Mike Sparks came before the Commission with comments.

Mr. Ron Fenn came before the Commission with comments, and provided information to the Commissioners.

Mr. Mike Kertesz came before the Commission with comments.

Mr. Steve Buckley came before the Commission with comments.

Ms. Sophia Peron came before the Commission with comments, and provided information for the record.

CONSENT  
CALENDAR:

Mayor Pro-tem Renfro stated they have two items under the Consent Calendar – City Commission Minutes – Regular – 1/10/2012, and the DAIC Monthly Report – December 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.

Commissioner Torres stated it seems that the Parks and Recreation Board is in need of some equipment, and indicated those fields are open to the entire county, and asked that our City Manager ask the County, Village of Williamsburg, and Elephant Butte to seek funding from them.

BOARD &  
COMMITTEE  
REPORTS:

None.

PUBLIC  
HEARINGS:

None.

OTHER  
BUSINESS:

**PRESENTATION BY T OR C FIRE DEPARTMENT –**

Mr. Paul Tooley Fire Chief came before the Commission with a power point presentation, and also to introduce members of the T or C Volunteer Fire Department.

The presentation included background and history information, and Chief Tooley provided the Constitution and By-Laws for the department, and also provided information regarding City Distribution with the NMFA Fire Fund, and explained each column.

Fire Chief Tooley indicated that the T or C Fire Department is a Class 5, and explained every fire department in the State of New Mexico is rated from 1-10...10 being the worst, and 1 being the best, and stated the better rated the fire department the cheaper fire insurance is, and stated we receive \$106,436 for the Fire Fund Distribution, and that this is the money they operate on, and this does not include the telephone system at the fire station which they cannot use State Fire Funds for because they do not dispatch from there. And stated the City pays the fire department \$12,920.00 a year for what we call our gas and oil reimbursement, and even though we're volunteers we receive \$5.00 a call, and \$5.00 for training.

At this time presented the power point. They passed around a piece of equipment, and stated it was a thermal imaging camera, and it allows them to go into any fire which allows them to see everything regardless...smoke, fire whatever so they can find anybody that may be trapped in a building as well as finding hidden fires.

Fire Chief Tooley stated they host a number of events such as the Annual Fiesta Duck Race, NMSFFA Conference which they will be hosting next year, our Annual T or C Fire Department Enchilada Dinner, and Fire Prevention Training for the schools. He stated

they attend National Night Out, and the NM State Fair Firefighter's Day.

He stated they donate as a non-profit organization to Grad Bash, and also to fire victims.

Fire Chief Tooley also went over some statistics regarding fire calls including structure fires, vehicle fires, brush fires, gas leaks...all the way down to other calls. He stated in 1986 gasoline was .89 cents a gallon...today...roughly about \$3.34 a gallon, and indicated the City comes up with \$12,920.00 a year for our gas and reimbursement...that's \$5.00 per call, per man, and \$5.00 per training with a minimum of 2 per month. And I bring this to you to "Lay a Little Track", and that we are not asking for anything **tonight**, and budget will be coming up, with 25 volunteers...Class 5, and only costing the City \$12,920.00 a year to have us around, and what they would like to do is increase that a little bit...a little bit of pat on the back for our volunteers that help us throughout the year, and appreciate everything they do for us.

Commissioner Green stated he would like to speak for all the citizens of T or C, and thank the Volunteer Fire Department of Truth or Consequences for doing what you do...trying to protect our property, and risking your own lives to do it...so thank you so much for that, and I appreciate it.

Mayor Pro-tem Renfro thanked Chief Tooley, and she has always said that our department is tops, and stated I won't be here, but hopefully our commissioners will give you favorable consideration when budget time comes around.

Presentation only.

**CONSIDER/APPROVAL – APPOINTMENT DWI PLANNING COUNCIL MEMBERS –**

Ms. Phyllis Mecca, DWI Program Coordinator came before the Commission, and stated the Planning Council is requesting approval to add Mercedes Murphy, Deputy District Attorney, and James Morgan Captain with the TCPD to replace Chief Gallagher.

"Commissioner Green moved to appoint Mercedes Murphy, Deputy District Attorney, and James Morgan with TCPD to replace former Chief Gallagher as members of the Planning Council."

Seconded by Commissioner Torres.  
Motion carried unanimously.

**CONSIDER/APPROVAL – ACCEPTANCE OF GRANT AMENDMENT NO. 12-D-J-G-28 FOR THE DWI PROGRAM**

Ms. Phyllis Mecca, DWI Program Coordinator stated she is asking for consideration and approval for a Grant Amendment, and explained they had too much money for personnel, and that they are moving \$11,700.00 out of there, and that it will go to increase travel expense, supplies, operating, and stated part of that is to purchase camera equipment for the police department.

Commissioner Green stated on Exhibit A under #3, and that the

grant requires County-wide screening program, and the State where they're talking about grant expenditure summary...screening is decreased down to zero...so how does that affect...how are you going to replace that money...or aren't we doing screening anymore.

Ms. Mecca stated we are doing screening, and that it is 100% funded...program funded, and that we are not requesting any grant money to be used for that.

“Commissioner Green moved approval of Grant Amendment No. 12-D-J-G-28 for the DWI Program.”

Seconded by Commissioner Torres.  
Motion carried unanimously.

**CONSIDER/APPROVAL – NOTICE OF NAMES OF CANDIDATES FOR OFFICE, DESIGNATION OF POLLING PLACES, PRECINCT BOARD MEMBERS, & NOTICE OF ELECTION SCHOOL –**

City Manager Fuentes stated this is a notice requirement per the Municipal Election Code, and that the notice specifies the Candidates in the order they were selected for the positions, and in addition the notice requires designation of the polling places to be used for election day and absentee voting, and also includes the names of the individuals who will serve as judge and clerks during election for the polling places. And stated the Municipal Election Code also requires for alternates to be appointed.

“Commissioner Green moved approval of the Notice in English and Spanish.”

Seconded by Commissioner Torres.  
Motion carried unanimously.

**CONSIDER/APPROVAL – HUB & SPOKE WITH SIERRA COUNTY –**

City Manager Fuentes stated that several meetings ago the City approved a similar MOU with the City of Elephant Butte for the recycling trailers. And the MOU before you is with Sierra County, and that their legal and council has reviewed and approved it, and indicated there was only two minor modifications to this MOU compared to the City of Elephant Butte MOU, and those modifications...one of them is in Section 2 which they included additional language under item 2.4 which states...HUB will provide training to operators of SPOKE in Sierra County, and stated our solid waste director did not see any issues with that amendment, and the other amendment is Section 4 which changed the notice requirements for termination of the MOU from 90 days to 30 days, and stated it is a standard MOU recommended by the State.

“Commissioner Green moved approval of the HUB and SPOKE Agreement between T or C and the County of Sierra.”

Seconded by Commissioner Torres.

Motion carried unanimously.

**CONSIDER/APPROVAL – SMITH ENGINEERING TASK  
ORDER FOR WWTP PER –**

City Manager Fuentes stated the items before you we finally are able to gather the necessary funding for the preliminary engineering report, and indicated that Mr. David Laughlin from Smith Engineering is here to give an over view of this project, and what it entails as far as a wastewater treatment plant engineering report.

Mr. David Laughlin with Smith Engineering came before the Commission, and stated a couple of months ago he gave a presentation on the Wastewater Treatment Plant, and during that presentation we talked about the future needs of the wastewater treatment plant. And stated the treatment plant is about 35 years old...most treatment plans the design life is anywhere from 30-40 years old, and that the T or C Wastewater Treatment Plant is approaching its design life at this point...its current design life, and that we need to begin the planning process to begin to evaluate what can be done to the treatment plant to expand it, and what options can be done most cost effectively because obviously one of the key components to any project is to make sure that it is affordable for the community.

He stated what the preliminary engineering report will do is it will evaluate the various...at least three major treatment options that would fit the T or C community for each of those treatment options, it will evaluate several pieces of equipment that will be necessary to perform those functions which in a wastewater treatment plant would overall it, and would provide a road map for how these wastewater treatment plant improvements can be implemented either in a single process or maybe in a phase approach over time to maximize the affordability for the community...so the bottom line is the preliminary engineering report is the first step in identifying what needs to be done at the wastewater treatment plant over the next few years.

Commissioner Green stated on the cover letter it reads since 2007 the City has been working with Smith Engineering wastewater improvement project, and that the scope of work included funding assistance, design and construction of a new plant, but then there is on task order #1...it talks about the report will consider replacing/improving all parts of the existing plant from the head waters to the out fall...so basically we're not married to a new wastewater treatment plant.

Mr. Laughlin – Absolutely not...that's exactly what the PER is going to evaluate is what can be done with as much of the existing infrastructure as possible, but obviously at the same time the solution has to be one that will serve the community for the 20, 30, 40 years, so absolutely that's one of the things that we prior ourselves on...maybe most of all is really looking at trying to find the most creative solutions that we possibly can with using as much of the existing infrastructure as we possibly can...we recognize the construction of a brand new gleaming Cadillac facility while that would be wonderful for T or C...that may not be realistic, and the PER will take in account all of those components, and look at both capital costs as well as long terms costs, and evaluate what makes

the most sense.

Commissioner Green – So is the city getting ahead of the curve and being very pro-active, or is there a deadline that EPA has given us that says...you're gonna be out of compliance because you can't take certain things out of the effluent or certain things must be taken out of you effluent by 2013-2014.

Mr. Laughlin – No...that's a great question. The T or C Wastewater Treatment Plant as it is...is functioning excellent...it's doing its job as far as its current permit requirements...this is some degree pro-active, but also to some degree it is in response to the fact that in the future more stringent requirements are going to be placed on that wastewater treatment plant...so it's pro-active from a sense that you're not currently under an order of consent from the EPA with regard to violations to your permit, but at the same time there will come a time in the very near future when either because of increase in flows to the wastewater treatment plant, or simply as a function of tightened regulatory restrictions...you are going to have to make improvements to the plant.

Commissioner Green – And my last question...at some particular point EPA is going to mandate certain things that we do...besides USDA are there other funding sources out there that can be obtained through grants where there is not a lot of matching funds that the City has to come up with on our own.

Mr. Laughlin stated what the PER will identify is as many funding options as are possible for this treatment plant, and what it will also evaluate is not only funding options because obviously outside funding is likely going to be necessary as you indicate...grants, loans and it will probably be a combination of both, and what it will also evaluate is the current rate structure for the wastewater treatment plant to see if possibly over the next 5 years an increase of .50 cents for everyone's monthly bill for water, and wastewater...if those kinds of rate increases can help to provide the ...money to begin those improvement process, and that is another part of the PER is identifying the funding requirements, and the funding option that are available.

City Manager Fuentes stated the funding for the PER will come from 2 sources...one is the \$50,000.00 from the NMFA as you recall last year we applied, and submitted an application for planning assistance which they have approved, and it is in your supporting documentation, and the other half of the funding will be coming from the ending cash balance that will be transferred from the DWI Program that is going to the County, and in your supporting documentation you have the DFA letter that approved the resolution transferring those funds.

“Commissioner Green moved approval of the Smith Engineering Task Order for WWTP PER.”

Seconded by Commissioner Torres.  
Motion carried unanimously.

**CONSIDER/APPROVAL – SALE RESOLUTION #21-11/12 –  
FOR THE SOLID WASTE COLLECTION CENTER –**

City Manager Fuentes stated that Mr. Mark Valenzuela from George K. Baum our Financial Advisor for this project is here, and stated what he would like to do is go over briefly both items 7 & 8 to provide some background, and with the City Commission adopting Bond Ordinance #623 January 10, 2012 basically authorized the issuance of the bonds, and provides for the adoption of one or more sale resolutions. And stated the Resolution before you, and I would like to highlight some of the key findings on the Resolution.

He stated the Resolution will provide the funds for the Solid Waste Collection Center in the interest of public health, safety, morals and welfare of the residents of the City, and the interest rate is reasonable under the existing and anticipated market conditions, and that the City will finance the project with the proceeds of the bonds together with other funding if necessary, and that the bonds will be sold to Capital One Public Funding at a net increase cost of 3.95%, and that the bonds will qualify as tax-exempt.

City Manager Fuentes stated the principal amount that we are applying for is \$1.2 million dollars and the provisions under the sale of the Resolution after June 1<sup>st</sup> of 2020, and believes the City will have the option to either buy back the remaining bonds sooner than the redemption dates as specified. And stated the Sale Resolution also provides that \$40,000 will be paid for the closing costs to both George K. Baum, and Hughes Law Firm, and he wanted to point out the fees because it was reported inaccurately that each one was going to be receiving approximately \$50,000 each, and that is **not** the case, and stated \$1.2 million dollars will be for the project itself.

Mr. Mark Valenzuela came before the Commission, and stated we have received a bid from Capital One, and with Mr. Fuentes direction we went forward and negotiated that on your behalf, and I believe it is a very good transaction on behalf of the City of T or C, and the important structure and issues that Mr. Fuentes talked about is...is an 8 year...this is a 15 year bond, and in 8 years the City of T or C if interest rates are lower will have the opportunity to refund or refinance the transaction for a lower interest rate, and I think that is a very strong structure to this transaction...typically we do not... we don't see these in public market because Capital One was pretty aggressive in wanting to do business with the City of T or C, and that they were willing to provide that benefit to you. And stated one other benefit that they provided...given that this is a net revenue pledge meaning the revenues that remain in the solid waste division at the end of the year are the revenues that are pledged to pay Capital One the annual payment of approximately \$119,000 per year for the next 15 years.

He stated that type of credit typically requires what is called a debt service reserve fund so what normal banks would ask you to do is to borrow an additional 10% over what you need...set it in an escrow account, and after the bonds are paid off...release that back to you...it provides security for the risk. And stated Capital One as they looked at your audit...as clean as your audit is, and as well managed as the City is they said we're not going to require that of the City of T or C...that saved you borrowing an additional \$130,000, and paying interest on that \$130,000 for 15 years, so those two structuring items I believe make this a very viable



transaction on behalf of the City of T or C, and as your financial advisor I would recommend that you approve the Sales Resolution, and the Bond Purchase Agreement that follows this action item.

Commissioner Green asked legally when the City gets money, and we haven't started construction yet can we take that money and put it into a secure financial instrument for the period of time until we need it...is that legal to do.

Mr. Mark Valenzuela stated it is legal however you are constrained in investing in a very secure instruments typically Triple AAA rated or better, and they cannot likely go out for longer than 90 days, and the one other constraint is that you cannot earn more than what you are paying on the bonds...so you are paying 3.95% so if you were fortunate enough to earn more than 3.59% on a 90-day financial instrument the Federal Government would require you to pay over and above that amount over the 3.95% that you earned back to them. And that they're providing...the Federal Government provides municipalities the privilege of borrowing it at tax-exempt rates which means that the investors of the...bonds in this case Capital One they do not have to pay tax on their earnings because the Federal Government is essentially giving up their tax income or their tax revenue from that transaction...they don't want municipalities taking the money and investing in instruments that would generate more revenue for them, and sort of taking that excess earnings on the Federal Governments back.

Commissioner Green stated I think it is really important for the community to hear these lines that are in this document...The bond holders may not look to any general, or other City funds other than those described above for the payment of the interest and principal of this bond, net revenues derived from the operation of the system is payable and collectable solely, and I think that is very, very important fact that the community should understand that there is not a risk to our general fund, and to the other assets that they being citizens...stock holders of sort to speak in our community, and I just wanted to get that point out.

“Commissioner Green moved approval of Sale Resolution #21-11/12 for the Solid Waste Collection 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 Roll Call Vote

Motion carried unanimously.

**CONSIDER/APPROVAL – CAPITAL ONE BOND PURCHASE AGREEMENT – FOR THE SOLID WASTE COLLECTION –**

Mr. Mark Valenzuela stated the Bond Purchase Agreement is essentially the contract between the City of T or C, and Capital One based on the terms that we discussed. And stated it is a very standard document, and after reading it I have reviewed everything, and it does match exactly the terms in the Sales Resolution, and that it does meet all the requirements of State and Federal Law, so

as your financial advisor I would recommend approval of the document.

“Commissioner Green moved approval of the Capital One Bond Purchase Agreement for the Solid Waste Collection Center.”

Seconded by Commissioner Torres.  
Motion carried unanimously.

**OLD BUSINESS:**

None.

**REPORTS:**

**CITY MANAGER –**

City Manager Fuentes stated he provided them with his Bi-Weekly Report, and that he would like to highlight a couple of things, and as Sgt./Acting Captain Morgan eluded to it, and he met with Priscilla Mullins who was serving as Captain, and I asked her if she would step in to fill in as Interim Chief of Police, and she has accepted for a 60 day period which will give me an opportunity to evaluate the current organizational structure for any proposed changes that will be presented at a future date.

He would like to share some sad news...and that a couple of meetings ago I reported that I had offered the position of Finance Director to a gentleman Mr. Jorge Trevino from Arizona, and we were notified today by his son that he passed away, so if you would keep him and his family in your prayers.

City Manager Fuentes stated he would like to thank the Commissioners for moving forward with these much needed infrastructure projects, and that we have now addressed the water with the water tank rehab project, and the wastewater with the PER with the solid waste, and stated another critical piece of infrastructure that we will be focusing on will be the electrical system, and that there are much needed improvements for pole replacements that need to be addressed, and stated he will be working with the electric division director to begin the planning process at look at what the needs are in that area.

**CITY ATTORNEY –** No report.

**COMMISSIONERS –**

Commissioner Green stated one Thank You...a couple of months ago I asked that when buildings were being rehabbed or under construction especially in the downtown area where they are visible to our visitors and guests that some type of a sign be put up...so I want to either thank staff...I don't know who put the sign up so I want to thank the manager and/or the owners of the Buckhorn, because I passed by today and there is a sign that says...Building under Restoration...so at least when people see something is happening it's not a derelict building...it's being paid attention to, and stated it's a little thing but I think it leads a positive impression, so whoever I want to thank...please accept it.

Commissioner Torres – No report.

Commissioner Renfro – No report.

EXECUTIVE SESSION: “Commissioner Green moved that the meeting be closed for Executive Session – Purchase, Acquisition or Disposal of Real Property 10-15-1H(8). 1. HSLD, LLC – Airport Property Transaction.”

Seconded by Commissioner Renfro.

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

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

Seconded by Commissioner Torres.  
Motion carried unanimously.

“Commissioner Green moved to authorize Manager Fuentes and City Attorney Rubin to enter into negotiations for a lease with HSLD, LLC at the appropriate time.”

Seconded by Commissioner 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 \_\_\_\_\_, 2012, on motion duly made by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and carried.

\_\_\_\_\_  
EVELYN B. RENFRO  
MAYOR PRO-TEM

ATTEST:

\_\_\_\_\_  
MARY PENNER  
CITY CLERK

