

The Truth or Consequences City Commission will hold a Work Session prior to their regular scheduled meeting on Tuesday, March 27, 2012 at 5:30 P. M., in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico for the purpose of:

1. Copper Flat Presentation –

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, March 27, 2012

WORK SESSION

Minutes

The Mayor and the City Commission of the City of Truth or Consequences in the County of Sierra and State of New Mexico met for a Work Session in full conformity with the law and ordinances of said Commission in the Commission Chambers of said City, on Tuesday, March 27, 2012 at 5:30 P. M.

Mayor Mulcahy introduced Mr. Jens Deichmann from the Copper Flat Mine came before the Commission to make a brief introduction of the Copper Flat Mine, and stated they are working through the permitting process, and the development process.

They presented a power point presentation that introduces their team, the project, our commitment to the environmental stewardship, and community partnership. And the rough timeline that we're following, and will have an opportunity for discussion.

Mr. Deichmann stated before that they have to provide a disclaimer with respect to forward looking statements, and indicated the important aspect of this the information that we provide necessarily is based on the knowledge that we have at the time, and through the development of the process, engineering, studies and such.

He stated their team also includes a great group of consultants, feasibility studies and reclamation planning.

Mr. Deichmann stated the project is located about 27 miles SW of T or C...about 5-6 miles East of Hillsboro off of Highway 152, and stated they see this mine as an opportunity in a number of different ways...an opportunity to extract valuable commodity mineral, and needed for infrastructure, and an opportunity for investment monies to come into the region and generate revenues, and great paying jobs, and indicated it creates an opportunity to re-claim this mine once the mine life is over with. And stated without being able to mine the project this would never be re-claimed, and that they see that as a big plus as well, and a great opportunity for us to work with the community...and the community work with us to envision post mining land uses of this area to envision what could be after the mine is over in terms of uses of the land...potential new types of employment opportunities, and stated they have already began engaging with a community group to try and envision some of that.

He stated the footprint is similar to the Quintana Mine, and that there will be some variations, and we're continuing to do feasibility studies that are taking a look at the times management for example that could possibly shrink some of that...and of course the pit that is over on the West side, and stated they are constantly looking at the engineering of that, and what that will look like through the mine as well as the placement of the...rock and such.

Mr. Deichmann stated during the mining operation we envision approximately 150 jobs being paid at competitive industry...competitive wages...everything from laborers, engineers, accountants, administrative staff, skill trades, geologists, and environmental management. He stated they have been talking to some of the institutions about potential training opportunities in advance of opening the mine so that people in this area will be ready to go to work once the operation begins.

He stated during construction they anticipate between 400-500 jobs over a year... year and a half, and then leading into the operations, and that they are definitely committed to environmental stewardship...that has been the focus of my career, and that he is excited to be able to work on the project, and work with people that actually believe in that, and allow me to run with it as there is some great opportunities to create jobs, and at the same time improve the environment or on the environment in many respects, and protect it in other areas.

Mr. Deichmann stated they are developing community partnerships with the reclamation, post mining land use groups, and that they would like to create similar partnerships, and groups that they can dialogue with...on future economic concerns...potentially ideas on how to invest some of the revenues from this project into long lasting infrastructure to build this social institutions for the area, and indicated our development timeline for completing the pre-feasibility of the feasibility engineering studies this year, and we expect by the end of 2013 to have the required permits to mine, and then the construction would commence accommodating end of 2014 into 2015 when operations would begin.

If you have any questions, calls or e-mails you may contact Mr. Zack Gorstein at (505) 234-6285.

Mayor Mulcahy thanked them for the presentation.

Commissioner Torres asked when they were going to start hiring people...as we are most interested in jobs.

Mr. Deichmann stated they are anxious also, and that concerns have been expressed by some folks in the past...and what makes them different from Quintana Mines is we believe that the fundamental difference is they were very highly leveraged, and so the bank basically took over and liquidated, and this operation is financed by investors that are experienced in mining...they know that it is a long term, and understand the risks.

Commissioner Green – What is the life expectancy of the mine? What are we talking about in a time frame?

Mr. Deichmann stated what we've been telling the community is 17 1/2 years, and that is what is in our mine plan of operations that we submitted to the BLM last year. But let me mention that we're continuing in both our exploration of continuing to do more drilling, and that the next drilling phase begins on the 2nd of April, and also we're engineering an economic study...what is it gonna take to make the project economically viable in terms on return on investment, and such as that...so I'll just say that number could go down if for example the engineers and finance folks say that we need to up production rates in order to improve the

economics...and it actually works. He stated on the other hand more drilling could expand the reserve and expand the life of the mine.

Commissioner Green – Are the jobs union or non-union jobs?

Mr. Deichmann – I have not heard any discussion about that...so I couldn't answer that.

Commissioner Green – My concern, and it is not a concern that I don't think is gonna affect the citizens of T or C...but it does affect potentially the citizens and some of the residents of Sierra County that are south of you, and West of you, and you mentioned that you're gonna do an aquifer test...is that going to be done by John Schulmaker, water source.

Mr. Deichmann – Yes sir.

Commissioner Green – And he is part of your team?

Mr. Deichmann – Yes sir.

Commissioner Green – I also heard that you're gonna use 6,000 acre feet of water...have I heard correct.

Mr. Deichmann – You may have heard that, but that is not necessarily correct, and that the declared rights the company holds is around 6 or 7,000 in that area, but the company...let's put it this way...Quintana never used more than about 2,500 acre feet...at that rate, and we're looking at numbers around that area, and we're actually looking to increase the efficiencies so that we reduce the amount of water, but again it's a function of the technology bringing new technology into the process that could recover an additional 30% more of the water for re-use which would then reduce the amount of make-up water. He stated on the other hand if production rates increased you would require more per day, but ultimately it lasts overall.

Commissioner Green – Stated my only concern is that there is sufficient hydrology testing that the folks who are downhill of your operation...five or six or ten years later don't have to worry...is the value of their land gonna be decreased because of your operation...that's taking the water up here, and not allowing to get down here. And if a sufficient hydrology study is done that's a concern of mine...that citizens are protected.

Mr. Deichmann – I appreciate that...and as far as the water impact on the aquifer upgrading toward Hillsboro...the hydro-geologist have seen, and absolutely no connection between their basic lava, but that is still in plan in terms of evaluation, but the aquifer test will really evaluate what the potential impact would be if any on the shallow aquifer in Animas Creek...in that area.

Mayor Mulcahy – How many permits are we talking about that you've had to process through, or will have to process.

Mr. Deichmann – The total will be about 25-30 including a lot of small ones including air quality, mining, reclamation...the BLM mine plant of operations which is subject to the whole EIS process that's underway now...ground water discharge...those are the big items.

Mayor Mulcahy asked if there was anyone who had questions.

Ms. Cervantes came before the Commission, and stated she works for the T or C Housing Authority, and that she runs a program that is family self-sufficiency

program which is getting jobs, and that her job is to get jobs, and her question...of those 150 jobs that will be operating the mine...how many of them will be in the trades area.

Mr. Deichmann – I don't know the number...let me just hazard a guess that I would expect to be 2/3 of trades, and 1/3 professional if you will.

Commissioner Green – Asked if there was any idea of looking for alternative energy...as a source rather than traditional form of energy to run the mines... solar, wind, bio...whatever it might be.

Mr. Deichmann – That is something that some of the corporate partners if you will are looking at...or have looked at.

Presentation only.

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, March 27, 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, March 27, 2012 at 6:00 P.M.

PRESIDING OFFICER: The meeting was called to order by Mayor Mulcahy 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. John Mulcahy, Mayor
Hon. Sandra Whitehead, Mayor Pro-tem
Hon. Steve Green, Commissioner
Hon. Jeff Richter, Commissioner
Hon. Freddie Torres, Commissioner

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 Mulcahy called for fifteen seconds of Silent Meditation.

Mayor Mulcahy called for the Pledge of Allegiance with Commissioner Torres leading the Pledge of Allegiance.

Mayor Mulcahy stated what he would like to do tonight is the interest of efficiency and an orderly meeting, and stated everyone

is going to make a presentation according to the agenda, and encourages the Commission to make presentation as well. And then make sure that we've answered all the questions that we need so we don't have a debate until the presentation is over, and then I would like to open the floor to a motion...followed closely by a second without debate in between so we can then begin the debate, and get to the bottom of the issues at stake, and either approve or not approve the motion, and move to a vote.

He would like to speak to the public and ask that you please to follow the rules of procedure as they are written and passed by this body, and ask that they state their name and where you live. And he would like to make clear there is only comment at the podium, and if you are not at the podium I really don't want any comment from the audience...I encourage you to come to the podium so if the Commissioners have specific questions.

APPROVAL OF
AGENDA:

“Mayor Mulcahy stated he would like to suggest or make a motion of a couple of changes on the agenda, and the first one is I received a call today to take item H-3 off the agenda, and that we do not go over the City Commission minutes of 3/13/12 under the consent calendar, and that we omit them, and bring them back for our next meeting.”

Seconded by Commissioner Green.
Motion carried unanimously.

RESPONSE TO
PUBLIC
COMMENT:

None.

COMMENTS
FROM THE
PUBLIC:

Mr. Randy Ashbaugh came before the Commission with comments.

Mr. Ron Fenn came before the Commission with comments.

Ms. Bettie Brannon came before the Commission with comments.

Mr. Mike Kertesz came before the Commission with comments.

Mayor Mulcahy responded and that he would like to set the model, and be understanding that public comments is not a debate or a question and answer...we will have a response to public comment in many more cases that we had in the past, but we probably won't be able to have it during the same meeting, so I encourage you go ahead and make your point...thank you.

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

Commissioner Green stated he would like to respond and correct a point of fact...I was present at the last SCEDO Board meeting which was last Thursday, and this was brought up...it was an agenda item, and the SCEDO Board unanimously voted to void that memorandum of agreement...it does not exist anymore.

Ms. Rose Garretson came before the Commission with comments.

Mr. Steve Barszcz came before the Commission with comments, and provided information.

Mr. Sid Bryan came before the Commission with comments.

Mr. Zigmund Kucuski came before the Commission with comments.

CONSENT
CALENDAR:

Mayor Mulcahy stated they have one item under the Consent Calendar – DAIC Monthly Report – February 2012.

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

Seconded by Commissioner Richter.

Motion carried unanimously.

DRAFT
MINUTES:

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

BOARD &
COMMITTEE
REPORTS:

Consider/Approval – Recommendations – Airport Advisory Board

- A. Recommend City Commission/Staff to proceed with Fuel Tanks for the Fuel Farm –

City Manager Fuentes stated that the Airport Advisory Board at their meeting of March 21, 2012, and one of the items on the agenda was approval of the Capital Improvement Plan, and that this is a Capital Improvement Plan for the Airport similar to the Municipal Infrastructure Improvement Plan that we adopt every year. And in your packet you should have a list of projects that are being recommended for the next couple of years as the Airport’s Capital Improvement Program Report...one of the projects that is listed under the 2012 calendar year is the construction of the fuel farm to replace the existing fuel tanks at the Airport.

And the Airport Advisory Board moved to make that as a recommendation to the City Commissioners...and as you will see in the Capital Improvement Report it is a project that will cost around \$250,000, and stated this can be funded...half of it by the State Aviation Division, and the other half would have to be funded by the City.

City Manager Fuentes stated at this time this is only a recommendation, and if the City Commissioners wish to move forward with this item it would have to come back at a future meeting, and that staff will do some additional research on the grant application that has been prepared by WHPacific as well as some identification of funding sources for the local match.

- B. Approve Capital Improvement Plan – regarding the Airport –

City Manager Fuentes stated the other item that is being recommended is the Capital Improvement Plan which lists all of the

projects, and the recommendation of the fuel farm.

He stated Mr. Bobby Middleton, Airport Advisory Board Chair is here tonight, and stated this is only a recommendation, and if the Commission so wishes staff will begin to prepare the necessary paperwork for the fuel farm project.

Commissioner Green referred to the minutes of March 21st, and that Mr. Huntzinger is making a presentation from WHPacific, and talking about submitting a grant...a 50/50 grant...\$250,000 which you discussed, but on the next page...board members stated there was a need for 3 tanks...not 2, asking what Mark recommended, and Mark Huntzinger stated he would recommend to re-work the grant for the 3 tanks, so is the grant going to be for 2 tanks or 3... because that means the City is going to be on the hook for 50% of the next cost of that additional tank.

City Manager Fuentes stated if the Commissioners wish to proceed with that recommendation those will be the details that will have to be worked out with WHPacific. And in the application itself it is for \$250,000 which 50% would be from the State, and 50 from the City, and the project description is only to replace the fuel tanks, and we have three tanks out there, and talked about replacing all of them in this application...once we get that direction we'll come back at a future meeting...not only to identify the funding source but also to authorize the submission of this grant application.

Commissioner Green – On our 50% is any in-kind labor of staff... is that counted...or strictly a cash match.

City Manager Fuentes – To the best of my understanding with these projects...it is a cash match.

Commissioner Richter – On these tanks...are we reaching a government mandate where we are going to have to replace these, or are these tanks reaching the end of their useful life.

Mr. Bobby Middleton and Mr. Ed Williams came before the Commission, and City Manager Fuentes stated Mr. Ed Williams is currently overseeing the Airport, and would like Mr. Williams to speak on the condition of the existing tanks.

Mr. Williams stated the tanks in question are Jet-A, AV gas, and have a smaller MO gas tank, and stated they are seal walled, and they don't meet the requirements for above ground tanks any longer...as well as the plumbing, electrical, and our containment pit.

Mr. Bobby Middleton stated there are some planes out there that just run on MO gas, and cannot run on regular or aircraft fuel, and stated it is not a large amount but there is a need for it.

Mayor Mulcahy asked what is the economic opportunity for having new tanks there.

Mr. Middleton stated we need them to sell fuel at the Airport.

Commissioner Green – Are the tanks going to be the same size.

Mr. Williams stated as far as he knows they will be the same size... 6,000 gallons for the jet, 4,000 gallons for AV, and I believe the MO gas is 2,000.

“Mayor Mulcahy moved to go forward, and has staff look at this... provided that we include this in a public hearing.”

Seconded by Commissioner Green.

Motion carried unanimously.

None.

PUBLIC
HEARINGS:

**PRESENTATION – MOOSE LODGE PARKING LOT
PROJECT –**

OTHER
BUSINESS:

Mr. Daryl Conley Representative from the Moose Lodge came before the Commission, and stated they are here to clear the air on a project that they started 2 years ago.

He went on to explain who they are and what they want to do, and went on to explain what the Loyal Order of Moose does for the community, and that they contribute thousands of dollars for scholarships, and various organizations. And that they are the largest contributor of charitable funds of any lodge in New Mexico.

Mr. Conley stated that Moose Lodges have begun to focus on providing more activities that involve the families and children of their members, to give them a safe and comfortable environment to enjoy together in a friendly, family atmosphere.

He indicated that in the summer of 2010 they came up with an idea to run water and electric service to the unused, vacant lot northwest quarter of our property to provide a convenience to our traveling Moose members as there are many whom pass through every year, and explained most of them passing through only visit for a few hours or a brief overnight stay on their way to other destinations, and by providing water and electric, it was our hope to entice them to stay longer...maybe a few days, or even a few weeks.

Mr. Conley stated not only will they spend money at our lodge, but also will spend money in our stores and restaurants visit sights, museums, and hopefully return year after year. And that the City will also benefit from the additional water and electric charges... which the lodge will pay for. He stated unfortunately our project has been hit with numerous road blocks, and ever-increasing confusion as to what is needed to get the project completed.

He thinks they are on the right track obtaining what is needed, and that the T or C Utility Department has agreed to run power to the site, and stated they are currently working with Construction Industries Division who has looked at the site, and has expressed no foreseeable issues, and also working with local contractors who will do the installation, obtain the required permits, and have the project inspected during construction.

Mr. Conley stated these services will be available to Moose members only, and it will not be open to the public, and in the case of an emergency, such as a flood or snow storms, we could allow

its uses by non-members as a public service for no fee...as Moose lodges are not allowed to accept money from non-members for any goods or services as it is against our by-laws, and the IRS code 501(c)(8) which we operate under.

He stated other moose lodges, and other clubs as well have such facilities for its members, and that seven of the twelve lodges in New Mexico have these services available for their members, and here in Sierra County the Eagles Club in Arrey have such facilities available for their members, and so what they are asking for is not uncommon.

Mr. Conley stated with a new term of office, and many new faces we want to clear the air right away over any misconception about what we are proposing, and ask the blessing of this board to allow us to proceed with this project. And thanked them for their time.

Commissioner Torres stated he thinks we need to work with them, and that they do a lot for our community, and that they are not asking for a whole lot.

Mr. Conley stated we are going to provide 10 sites with water and electric.

Commissioner Green asked if they had to pull permits...is that why it is going back to P & Z.

Mr. Conley stated they were told a long time ago to P & Z, and that P & Z denied it, and were told later on it was not really a zoning issue because we are not asking for a zoning change, and then they were told to submit a special use permit, and that they got all that together, and went down with a check in hand to pay for the special use permit...and then was told you're not using it as a special use because it is a parking lot so we've kinda been zig zagging around, and that is why we're clearing the air, and start with a fresh step tonight, and wanted the Commissioners and the Mayor on board with us to let you know what this is what we're trying to do, and if we run into some roadblocks, and can't get an answer or can't figure out an answer...maybe we can come back to you and say look here is what's happened, and what do you recommend we do next. And our biggest concern is we don't want to put all this money in, and all of a sudden have the City say...you didn't do the right thing so we're not gonna turn the power on...and there we sit.

Mayor Mulcahy...Mr. Conley...let me ask you a couple of quick questions, and thanked them, and for the involvement in the community, and I'm sorry if you're not getting the process done in a quick way, and I hope this Commission can work to make sure you don't get that kind of thing. But on the other hand I'd like to make it clear that without permits there is probably no point to come before this Commission...we have to have everything done before you get to here. And you talk about how this is for visitors only...does that mean no one who is a local member of this lodge would use those facilities.

Mr. Conley stated it would be for them also...for any Moose member.

CONSIDER/APPROVAL – RESOLUTION #26-11/12 –

SIERRA COUNTY DISASTER MITIGATION PLAN –

Ms. Donna Sanchez, Emergency Manager for Sierra County & Ed Williams came before the Commission, and stated what you have before you is a Disaster Mitigation Plan, and that it covers the entire County. And stated in her job duties when she gets funding for different plans or mandates for the State it includes all the municipalities within the County. And this is one of the mandates, and stated this plan needs to be approved by FEMA, and each municipality needs to adopt it so that we are in compliance for funding through FEMA.

She stated that the document is demographics looking at the vulnerabilities, hazards...the natural hazards we have in the County...some of the history of how that has affected us, and it includes action plans on how to mitigate some of those problems, and items they will be working on within the next 5 years to address those to mitigate some of the problems we've had in the past. And stated FEMA has mitigation money, and that you cannot get FEMA mitigation money unless your plan is in here...and that it is extremely hard to get, and you can't get it unless your plan is in here.

Ms. Sanchez stated they are offering this to each of the municipalities, and that Elephant Butte and the County already approved it, and said to be approved by Williamsburg in a couple of weeks.

Mr. Williams stated he is asking that the Commission look at this, and adopt the Resolution, and that this is very important as the biggest entity in the County that we support the County EMO, and that she does a lot of good work for us, and it does benefit the City...and is something that we need.

Commissioner Green – Great document...the entire community of Truth or Consequences is in a flood plain?

Ms. Sanchez – Pretty much...in looking at the FEMA Flood Plain maps which are outdated also because of all of the arroyos and the geography, and in some places you might have never seen water before...is still considered in a flood plain.

Commissioner Torres – Stated it helps, and agrees with them, and thinks we should support them.

Commissioner Richter stated I see on some of the goals and action items of the plan that they have accomplished over 3-5 years, and that some of these would require revenue...like one item...the Civic Center didn't have a generator for emergency as we do use that as an emergency shelter...does this FEMA funding...will it cover that item or does the City have a share that they have to kick in to meet some of these goals.

Ms. Sanchez – Stated this is one piece of the process, and when I apply for the State Homeland Security money which comes from FEMA, and stated now for the couple of years that went to automatic allocations, and that she has to meet all these criteria so be eligible...so I have to have an emergency operations plan which we will be updating, and sharing with you those types of things...a

lot of requirements, trainings and exercises, and stated this year's funding which I just received the grant application in March...the automatic allocation that's what we're applying for is a generator for the Civic Center.

“Commissioner Green moved for approval of Resolution #26-11/12 – Supporting the Sierra County Disaster Mitigation Plan.”

Seconded by Commissioner Whitehead.

Mayor Mulcahy responded Aye to a Roll Call Vote
Commissioner Whitehead responded Aye to a Roll Call Vote
Commissioner Green responded Aye to a Roll Call Vote
Commissioner Richter responded Aye to a Roll Call Vote
Commissioner Torres responded Aye to a Roll Call vote

Motion carried unanimously.

PRESENTATION – HOLIDAY INN EXPRESS TO GRANT A DISCOUNT AND/OR TIME EXTENSION ON THE PAYMENT OF IMPACT FEES –

Mr. Kevin Wiseback from Aberdeen, South Dakota and Mr. Aaron Waldo from Aberdeen, South Dakota came before the Commission, and stated they are here on behalf of the Holiday Inn Express regarding the impact fees. And stated when they were in the preliminary stages of developing the Holiday Inn we met with a previous individual who was the City Manager about the impact fees who was moving the idea forward about possibly giving some kind of discount working with developers on possibly doing some kind of abatement or what not with the impact fees to help lure developers in, and that we were dealing with Mr. Randy Ashbaugh at the time, and speaking with him and the City as well, and at the time it was our fault and made assumptions...assuming things would possibly work out, and wanted to proceed forward, and what ideally trying to is catch the wave of Spaceport America when it happened...opened up and running, and trying to help the City have the infrastructure in to handle the lodging, and all the capabilities, and be there on our end to make sure that we're renting rooms and everything is going good, but unfortunately things didn't work out like that.

He stated recently we had a meeting with Juan regarding the impact fees, and it was brought to our attention that we couldn't possibly ask the City Commission for a discount...as they don't have the authority to grant the discount to developers, and what we are here for is to request that maybe you consider granting yourself authority to offer discounts for impact fees in the future for developers to continue to lure people to the community.

Mr. Wiseback stated in another community regarding impact fees to help them with a project they reverted back to pre-recession pricing for their impact fees, and that someone earlier mentioned the \$69,000 was a drop in the bucket for big fish...and that we're not big fish, and \$69.00 is not a drop in the bucket for us...especially when you consider the fees that we have already incurred with the hotel, and what we will incur...estimating approximately property tax of \$30,000 a year...annually 5 years, GRT coming to T or C, and Sierra County for us building this hotel...\$100,000, and

the increase in GRT annually on the room rates that we'd be charging, and pulling off the interstate that could equate to 15-16,000 additionally the increase to lodger's tax...that's 15-16,000 annually, and stated the increase to lodger's tax annually is somewhere in the range of 40-43,000 per year, and that all of these added up over 5 years is 650,000 approximately, and I'm running conservative numbers here...it could be as high as a million dollars.

And if you add up all of these additional costs and taxes, and that this is stuff we assume...anywhere we go we assume these kinds of taxes...asking for a little bit of concession on something if someone presents themselves to you...and said is there any way we can get a little bit of assistance, or leeway on impact fees for \$10,000, and you weigh the fact that to the community you're getting 600,000-700,000 of taxes alone coming in over a couple of years...it might be something worthwhile for the community or the City Commission to consider to offer going forward.

Mr. Waldo gave an example from Minnesota, and they offered to get them 3 million dollars from the City, and stated the way it is paid back is through paying back property taxes by putting on a percentage of interest.

He stated to their surprise when we got here...and under the assumption at the time the Spaceport would be up and operating, and they are not asking to change anything or reduction, and he thinks if their code right now you offer a 2 year pay back, and there was a 4 year pay, back but I think that is for the developer...is kinda the way we're reading it, and asking they might consider that...we're not asking that you reduce the fees...may be just spread them out for us.

Mr. Wiseback referred to Section 4-455 & 4-453...and that both items here are in reference to this development impact fee, and that one of them says that it grants 4 years for payment under certain circumstances, and that one says 2 years, and that is where we were originally thought of...and thought we have 4 years to work out payments, and again this was brought to our attention from the City Attorney that under our circumstances for our fees were only permitted up to 24 months...so 2 years for payment pending City Manager approval, and that is the second item I wanted to address is that I wanted you to consider to review the idea of giving yourselves the authority with the impact fees, and the second item is we would like to kindly request that we could stretch our payments out of the \$69,000 over 4 years, and that actually it is not \$69,000 because we made a substantial down payment.

City Manager Fuentes stated the action on the agenda is for a presentation, and if the Commissioners would entertain...and I certainly understand, and appreciate and thank the representatives for the Holiday Inn Express for making the trip and coming down and making their presentation, and would recommend that this be a study item that could be forwarded to our Public Utility Advisory Board. And currently as our ordinance exists there is no authority from the City Commission to discount or extend the payments as requested, and that the only authority under the existing code is for a 24-month period and at this time there is not options that we have.

Commissioner Torres stated he agrees with them, and that we need

development in T or C, and knows a lot of cities around us are dropping these fees because they want more development, and that it is getting expensive, and thinks we need to go back at look at our rates.

**CONSIDER/APPROVAL – RESOLUTION #24-11/12 –
REQUIRING THE PROMPT REMOVAL OF THE
BUCKHORN SALOON, 307 MAIN STREET –**

City Manager Fuentes stated this is a Resolution, and that the City has been working with the property owner at 307 Main Street known as the Buckhorn Saloon. And that the building inspector has notified the property owner that the building is currently a public health and hazard to the community, and that the property owner has been notified of that condition, and that the City has gone to the extent of beginning the condemnation proceedings through the Municipal Court, however the City in good faith effort met numerous occasions with the property owner to come to some sort of resolution for the building.

He stated on November 4th, 2011 the property owners submitted a ‘Plan for Restoration’ which is included in your packet which included a structural report from RB Engineering, LLC, and that part of the requirements included a 5-step plan for securing the building...and as of this date the City has not received any documentation on securing the building or any plan for restoring the building. And unfortunately as time goes on the building continues to deteriorate, and that I have received a letter from our Fire Chief, our risk manager, and building inspector that this building continues to pose a serious threat to the public welfare and safety of the residents.

City Manager Fuentes stated that in order to begin the process of condemnation, and removal of this building State Statutes requires that we adopt a Resolution as prescribed by State Code, and that we will follow State Statute, and also follow our Municipal Code, and will ask our City Attorney to make some clarifications of the Resolution.

City Attorney Rubin stated he would like to compliment the City Manager for doing a good job in drafting this, and that he contacted other municipalities to receive comments on how to put this together.

He referred to page 2...on the 2nd **WHEREAS** it should read...by service on the Brannon’s, and by posting a copy of this Resolution on the property, and stated the way it reads it doesn’t make sense, and that they will make that change.

On page 3 of 4, and referred to paragraphs 5 & 6, and paragraphs 5 & 6 actually talk about a time frame that would be involved here, and by State Statute what would have to happen...once this Resolution is adopted then we have to serve the property owners with a copy of the Resolution, and they have at that point 10 days to...if they wish to, to file whatever objection they would have to the Resolution, and request a hearing in front of you, but more important in paragraphs 5 & 6 they don’t do that...they actually have more than 10 days, and they actually start commencing the process of removing the building...on the 3rd and 4th line it says

about the time period specified herein, and the problem I have with that is we don't actually have a deadline here as to when the removal period is supposed to be completed, and that is something I wanted to discuss with the Commission is I recommend that we actually revise paragraph 6, and specify a time as to whether removal should be completed, and actually put that in the resolution. And that I have some thoughts here...I was thinking maybe 45 days from the time the Resolution is served upon the property owners...but certainly that is up for discussion from the Commission, and if you agree to make that change I can go ahead and put that language that we suggest we put in there.

Commissioner Green – If this passes...the Brannon's are served, at that particular time they have 10 days where they can request a hearing in front of the Commission.

City Attorney Rubin – Yes, they have 10 days they can file an objection to the Resolution, and then we have to schedule a hearing to hear your objection in which case they're given the opportunity to voice their objections.

Commissioner Green – So basically there is an opportunity for them to try to correct the building.

City Attorney Rubin – Yea I suppose they could come to you, and convince you of the merits of that...yes.

Commissioner Torres – Stated I've got a problem with it right now...that thing is about to fall...it's gonna hurt somebody, and we need to get our safety officer, and secure it because if you leave it like that with these high winds...it's gonna blow over.

“Mayor Mulcahy moved to adopt the Resolution with the two changes that City Attorney Rubin talked about.”

Seconded by Commissioner Richter.

Mayor Mulcahy stated this is not a building anymore...this is a public hazard, and that our greatest responsibility it to the safety of our public, and thankfully city staff put up a physical barrier to keep people from walking underneath that, and we want to move forward in the quickest, and most expeditious manner to resolve this issue and not continue to band aid it.

Mayor Mulcahy responded Aye to a Roll Call Vote
Commissioner Whitehead responded Aye to a Roll Call Vote
Commissioner Green responded Aye to a Roll Call Vote
Commissioner Richter responded Aye to a Roll Call Vote
Commissioner Torres responded Aye to a Roll Call Vote

Motion carried unanimously.

DISCUSSION/APPROVAL – CITY COMMISSION TO ADOPT I-25 EXIT 79 - FOR MONTHLY CLEAN-UP

Commissioner Green stated let us lead by example, #2 – First impressions count the most...and the last...Team Building, and thinks we have the mechanism for the City Clerk's office to advertise the date, and time every month when we will be out there

cleaning up, and that it probably would not take more than 1 hour, and that no city business will be conducted...out there cleaning up, and if people see the leadership of this community...bending over...getting their hands dirty and working to make it better... maybe they will take some ownership in that vacant lot, and stated we've got to step up our game, and determine what we are...and we can view our City through our own eyes...we have to view it through the visitors eyes...and there is a level of expectation that visitors have regardless of what community they go into...and I think this is a beginning, and would like to open it up for discussion...maybe the 3rd Thursday at 5:00 P. M., when it is lighter during the evenings so it doesn't interfere with the work load during the day, and during the Winter time we can change that. He stated I'm looking for now...maybe until September or October where we can go out...and stated the City has the vests, and the tools to pick-up trash, and he thinks we should go proactive on this.

“Commissioner Richter moved that the City Commission adopt the 1-25 Exit 79 for monthly clean-up.”

Seconded by Commissioner Torres.

Mayor Mulcahy stated he would like to ask a couple of questions before the motion, and thinks it is a wonderful idea, and wanted to clarify a little of the particulars of what we're thinking here. And asked are there other volunteers out there in the community.

Commissioner Green stated if the community wants to join, and that we ask the community to come to our business meetings...we welcome them, and if they want to come out and work with the City Commissioners and help us do the job...I would say fine.

Mayor Mulcahy...and what about the businesses around there.

Commissioner Green stated we have to look out for ourselves and our neighbors, and that he wants the community to get involved.

Mayor Mulcahy stated let's get everyone involved and that he is all for it if the rest of the Commission...so I entertain a motion.

“Commissioner Richter moved that the City Commission adopt 1-25 Exit 79 for monthly clean-up every 3rd Thursday at 5:00 P. M.”

Seconded by Commissioner Torres.

Commissioner Richter stated from my experience on that exit walking around doing my line of work...there is a lot less traffic in the mornings...there is almost zero.

Commissioner Green stated he would be responsible for getting the vests, pick-up sticks and the trash bags.

Mayor Mulcahy asked about a notice to the public regarding a quorum.

City Manager Fuentes stated what we will do is publish a potential quorum notice to make sure the public is aware that the Commission will be doing this on a monthly recurring basis, and

that there is policy no business will be conducted.

Motion carried unanimously.

**DISCUSSION/APPROVAL – IDENTIFY PROJECTS –
CAPITAL OUTLAY SUPPORT –**

Commissioner Green stated this came about from actions that the last Commission took in relationship to working with our elected State Officials and visiting them directly, and wanted to thank Manager Fuentes for making the trip to Silver City, and speaking with Representative Hamilton...conference calls with Senator Fischmann and with Senator John Arthur Smith.

He stated he hopes that gas and oil revenues will continue to increase at the State level...and we were able and I think we were on it really soon to let our elected officials know our needs and start early...we were able to get some capital outlay money this year, and hold workshops for public input, and to also work with the appropriate Cabinet Secretaries where it makes sense to do so.

Commissioner Green stated what he would like to see is as we go through our budget for 2012-2013...the manager identify where our Achilles Heel is gonna be in the next year or two years...identify them...have a public workshop sooner than later...prepare documentation, and start the lobbying now so we don't have to go to our elected officials two weeks before they're gonna pull the level up in Santa Fe, and vote yes or no for a specific capital outlay projects or projects in general and/or the Governor has line item veto power...so I think rather than waiting until the month before or 3 weeks before the legislature gets up in business...let's start visiting with our people in June, July, August building a case, and let them be familiar with T or C...let them be our advocate along with the final...and the City Manager so when they are voting on something they know what exactly they're voting for...they know our needs...they understand our financial challenges, and if we start to put money away every year I think that says a message that we are trying to help ourselves wherever possible, but we can't underwrite the entire project...we need help from the State, and I think if we go proactive earlier...at the end it's not penny...penny the sky is falling...we're running around with a chicken without a head, and you're sitting there praying that you're gonna get the money you're asking for.

Commissioner Torres stated he agrees, and that this year they will have a 60-day session, and thinks they will be passing out more money this year, and Commissioner Green is right, and that we need to get after it right now.

Commissioner Richter stated he received some advice recently from a legislator, and that when we are asking for funding for projects...capital outlay, and they suggested that we pick out two or three projects, and to be sure to ask for enough money to finish the project. And another thing he picked up recently that the revenue from gas statewide is down...state funding because of the availability of gas nationwide now, and as Commissioner Green said we need to identify those areas, and need to be sure that we ask for enough money to finish the project.

Commissioner Whitehead stated she would agree with Commissioner Green that we need to look at our future, and go the legislatures and see what we can get for our community.

Mayor Mulcahy stated we have been to the round table, and tried to ask for money...it's generally true that we have to have a collaborative effort with all of our other partners in the county, and stated...let's go together, and go as a single force. And let's work together for the benefit of our citizens, and get them involved.

"Commissioner Richter moved that we go with identification of projects that need capital outlay support; prepare documentation, and set-up meetings."

Seconded by Commissioner Whitehead.

Motion carried unanimously.

CONSIDER/APPROVAL – RESOLUTION #25-11/12 – CITY COMMISSION RULES OF PROCEDURE –

Mayor Mulcahy stated he would like to go through a proposed revision of only one part of the rules of procedure, and that has to do with the agenda. And the items for change are #1 – Take the response to public comment toward the end of the meeting, and that it is our intention to respond to every public comment we possibly can from the previous meeting, and to make that part of the public record, but not to make the first part of the City's business at this point. The second is to change the category of our first public comment to comments from the public that are specific to the agenda that we are dealing with...the City's business that evening. And that he wanted to propose that because I think that it is very important that this Commission get feedback, and input from the public about the things we're gonna be voting on...taken actions on, but I want to also be inclusive with the people that have come here to be involved in that process, and I don't want them necessarily to have to stay to the end of the meeting to figure out their involvement...I'm not encouraging people to leave I'm trying to encourage more people to come to the meeting.

And the second piece would be for us to absolutely have comments from the public, but specifically for those at this point in the procedure in the meeting for those things that are on the agenda so we can get the full intent of people's feelings on that. He stated he would like to get rid of board and committee reports...be moved to the bottom...so again we're getting to the City's business as quickly as possible, and the next change would be to change old business to unfinished business so we're not opening up old business from who knows when, and then the last...reports of the City Manager and not requests, and that we will act on the reports, and formulate opinions and discussion based on the report. And then we have public comment that is of any variety...we don't want to discourage that I think it is important that there is public comment, and so these Commissioners, and all those that are very interested to hear these comments definitely want to put those on the agenda, but want to put them following the City's business...that is what my constituents asked me in my election was to get to the City's business quicker...that is what my intention here, and only that, and then we will go to Executive Session if necessary, and those are the changes to the agenda, and I would think we

would come back and look at the rest of the rules of procedure, and make them fair and open to the public, and if people have comment on that we would entertain that, but this particular change to the agenda is what I would like to ask for the Commission to consider tonight and to act upon.

City Attorney Rubin just to clarify something that we talked about...I assume the comments from the public in both sections would be 3 minutes.

Mayor Mulcahy – Correct. The rules of procedure regarding public comment do not change in terms of the time in duration.

Commissioner Green – On the first comments from the public on agenda items...is it your intention that if there...one of the Commissioners, or the City Manager, or the Mayor knows the answer to the question that's being asked right then and there that there is going to be no response...that the response will be at the end of the meeting after the second public comment.

Mayor Mulcahy – According to the rules of procedures even as a presiding officer I don't really have the ability to stop Commissioners from commenting...it is certainly my personal intent to consider the public comments carefully, and come back at the next meeting with a more formal response. As we demonstrated tonight I really don't want to set up a debate...I do not want to add a 5th or 6th or 7th member to this Commission...I would like this business to move along in an orderly, and lawful and correct practice, so the idea is that I don't...I can't give you a specific restriction about that...I think...

Commissioner Green – The only reason I ask because if my memory serves me correctly in our proceeding rules of procedure the last Commission adopted that the Mayor and/or Commissioners and/or the City Manager did have the opportunity if they wanted to exercise it...to respond at that particular time to create maybe a misstatement that some might have meant, or a misunderstanding or something, and I would like to...it's almost like we're punishing someone to stay, and I understand you want to have open meetings, and more people involved, but it's almost like we're punishing them to stay through the whole meeting when we could answer their question right then and there. And that is my only concern.

Mayor Mulcahy – I hear you and I'm gonna tell you that any Commissioners able to speak as a part of this body to correct a fact, or whatever they would like to do...I don't want anyone to be restricted from being able to talk...my primary objective is to encourage more people to come who have come to me, and said I can't spend as much time waiting for my item to come up on the agenda, so we're really just saying let's get to the City's business... let's get it done and move the public comment to two places on the agenda, and if it's not a comment on the agenda we will still be able to put it on record, and still be able to address it, and still be able to respond at the next meeting.

Commissioner Green stated I have no problem with the suggested corrections as long as the Mayor has pointed out that the opportunity for someone to answer someone's comments on the agenda can be done right then...that they don't have to stay for 2

hours or an hour and a half especially if we're in a public hearing where you're gonna have opponents and proponents... if it's a very touchy subject...we could be here for 3 hours...so as long as that possibility exists...I have no problem with it.

Mayor Mulcahy stated this is not intended to have any bearing on the rules of procedure for a public hearing...only the agenda for the City Commission meetings.

Commissioner Richter stated he agrees that it is prudent to have public comment on agenda items at the beginning to take care of City business, and I concur with changing old business to unfinished business...as unfinished is the proper word according to Roberts.

“Commissioner Torres moved approval of Resolution #25-11/12 – City Commission Rules of Procedure.”

Seconded by Commissioner Richter.

Mayor Mulcahy responded Aye to a Roll Call Vote
Commissioner Whitehead responded Aye to a Roll Call Vote
Commissioner Green responded Aye to a Roll Call Vote
Commissioner Richter responded Aye to a Roll Call Vote
Commissioner Torres responded Aye to a Roll Call Vote

Motion carried unanimously.

None.

CITY MANAGER –

OLD BUSINESS: City Manager Fuentes stated he provided them with his activity report for the last two weeks, and two new items that are not in his report he wanted to bring to your attention in case you are asked by members of the community, and stated we had some vandalism and graffiti at the restrooms at the Ralph Edwards Park, and that it was brought to his attention by the Code Enforcement Officer as well as our Recreation Facilities Director, and passed around some photos of the graffiti that was quite extensive, and stated they will move forward as soon as possible to remove the graffiti from the restrooms. He stated we have started our budget process, and that the department heads will be submitting their budgets this week, and a question to the Commission for them to consider is part of their process requires some workshops with the elected officials, and the department heads, and this is normally done around the middle to the end of April, and he would like to get a sense from the Commissioners if a half of day would work for them to go over the budget, and what day would work best for everybody.

REPORTS:

He stated the preliminary budget has to be adopted by the end of May.

Commissioner Green stated he could be available anytime.

Mayor Mulcahy stated he would like to get going as soon as possible because there is a lot to talk about that may be different from what has been done in the past, and stated he is open any time

after next week.

City Manager Fuentes stated he will coordinate a schedule and inform the Commissioners.

Commissioner Green...had a question for Manager Fuentes, and he has had a couple of phone calls about the applications for Lodger's Tax going to be available, and also the applications for the Sub-Recipients applications.

City Manager Fuentes stated the applications for Sub-Recipients Grants have been e-mailed to numerous non-profits, and for Lodger's Tax...I'm not sure I will have to get back with you on that.

Commissioner Green asked if we were going to put an ad in the paper, and the reason I'm questioning and suggesting is that we're e-mailing organization who have received money in the past...there might be other applicants who didn't apply last year or the year before who might want to apply this year, and therefore they would not get an e-mail, and I would like to suggest that we put an ad in the newspaper so everyone has an opportunity to apply for whatever monies are available.

CITY ATTORNEY RUBIN – No report.

COMMISSIONERS –

Commissioner Torres – No report.

Commissioner Richter reported this past Friday I attended a seminar sponsored by the NMML, and they discussed legislative issues from this last session. He stated he had lunch with Senator Smith, and that he secured our \$400,000 for the solid waste facility, and he thanked him for that.

He stated on Sunday the 18th when it was so windy at the City Service Center there was a piece of roofing tin on a service shed in the back that was flopping in the wind, and a phone call was made, and Mr. Joe McDonald responded within 15 minutes to take care of the situation, and he wanted the public to know that Mr. McDonald took care of business.

Mayor Mulcahy also thanked Commissioner Richter.

Commissioner Green stated he wanted to thank Main Street for cleaning up 3rd Street out East, and have also started cleaning up the area around the Moose Lodge. He stated this Saturday will be the last Saturday recycling drive due to the concern of the City Manager, and staff for safety issues as construction starts next to the recycling center, and stated the yard will be open 24/7, and correct me if I'm wrong City Attorney Rubin...anything that is put in a city dumpster on city property becomes city property, and if someone goes into a dumpster, and starts taking things out that have value...which they are doing right now...that is theft, and I want the public...and that is refuge that we are selling, and the more we can sell of recyclable materials...the lower we have to think about looking at an increase for hauling rates, and refuge rates for the citizens.

He stated a week ago Sunday regarding the horrific winds, and that the lights went out, and indicated within 1 hour the electric department was out, and someone was up in the bucket truck...with that wind and dealing with hot wires and fixed the transformer, and that staff rose to the occasion.

Commissioner Green stated he would like to give his fellow Commissioners heads up, and that he is going to ask that this be put on the agenda in two weeks...so you'll have a chance to think about it, and that he is going to ask that the Commission hold office hours, and ask the manager to give us a room...a desk...where 5 days a week we're open...there are 5 City Commissioners...we decide what day we want, and that we will be available to the public from 12-1 every day, and that they can call in or come in to make ourselves accessible, and wanted to throw that out to think about it.

Commissioner Whitehead – No report.

Mayor Mulcahy stated he would like to thank the City Manager for putting together...I'm told first time ever department head presentation for the Commissioners, and that they had a wonderful 5-hour session...learning what is going on, and he appreciated that, and hopes they can continue that as necessary.

He would also like to thank the Commissioners, and the rest of the public for helping support, and stated they had a workshop with all the local governments, and stake holders this past week to discuss solid waste, and that they came out with some very concrete action points for the City and the County, and wanted to thank the City Manager for helping me set that up, and that it was well attended.

Mayor Mulcahy stated...I am over and tired and I want it to go away if it can...I can't make it go away, but this whole De-Fennd the community thing...I'm done with it...I've had to explain that to people from out of town for economic development...too many times to say I can't believe to tell you what this is...so I would like to encourage those businesses putting this in their windows, and I want to thank those who have taken it down, but it's not good for us to air our community issues in the view of the public, and that's my position, and I'm asking my Commissioners to share anything like that, but I'd like to reach out to the public and say...enough.

And stated I have published office hours, and would like to remind the public that from 7-9 every first, and third Friday I'm at the Civic Center, and ready to take notes and take your issues, and that I have to meet early in the morning because my job precludes me getting away in the middle of the day.

EXECUTIVE
SESSION:

“Mayor Mulcahy moved that the meeting be closed for Executive Session – A. Pending or threatened Litigation 10-15-1H(7), 1. Toomey vs. City of T or C, B. Purchase, Acquisition or Disposal of Real Property 10-15-1H(8), 1. HSLD, LLC – Airport Property Transaction.”

Seconded by Commissioner Green.

Mayor Mulcahy responded Aye to a Roll Call Vote

Commissioner Whitehead responded Aye to a Roll Call Vote
Commissioner Green responded Aye to a Roll Call Vote
Commissioner Richter responded Aye to a Roll Call Vote
Commissioner Torres responded Aye to a Roll Call Vote

Motion carried unanimously.

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

OPEN MEETING:

CERTIFICATION
:

“Commissioner Green certified that only matters pertaining to A. Pending or Threatened Litigation 10-15-1H(7), 1. Toomey vs. City of T or C, B. 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 incurred, and no vote was taken.”

Seconded by Commissioner Torres.
Motion carried unanimously.

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

ADJOURNMENT:

APPROVAL:

PASSED AND APPROVED this _____ day of _____, 2012 on motion duly made by Commissioner _____, seconded by Commissioner, and carried.

JOHN A. MULCAHY, MAYOR

ATTEST:

MARY PENNER
CITY CLERK