

CITY COMMISSION  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
Tuesday, April 10th, 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 Work Session in full conformity with the law and ordinances of said Commission in the Commission Chambers of said City, on Tuesday, April 10<sup>th</sup>, 2012 at 6:03 P.M.

**PRESIDING OFFICER:** The meeting was called to order by Mayor John Mulcahy, who presided and Judy M. Harris, Deputy 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. Jeff Richter, Commissioner  
Hon. Freddie Torres, Commissioner  
Hon. Steve Green, Commissioner

Also present:

Leandro Cordova, New Mexico Finance Authority  
Kay Dunlap, New Mexico State Parks  
Greg Neal, HSLD  
Tony MacRobert, SCCOG  
Paul Spectrim, WH Pacific  
Peter Rinkie, WH Pacific  
Bobby Sanders, Municipal Judge  
Howie Tucker, T. or C. Municipal Golf Course  
Juan Fuentes, City Manager  
Jay Rubin, City Attorney  
Priscilla Mullins, Police Chief  
Andy Alvarez, City Solid Waste  
Gil Avelar, City Electric  
Susan Haberkon, City Payroll  
Linda Lanham, City Finance Director  
Judy M. Harris, Deputy City Clerk

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

**CEREMONY:** Mayor John Mulcahy opened the Regular Session

Silent Meditation

Pledge of Allegiance

Mayor Mulcahy spoke to those in attendance, explaining the extra Agendas or information before the meeting throw email, comments on issues there put in box.

**APPROVAL OF  
AGENDA:**

Mayor Mulcahy asked for approval of the Agenda with the change of item F1 and move it/make it F9.

“Commissioner Steve Green moved for approval of the Agenda with the change of F1 to F9 under New Business.”

Seconded by Commissioner Whitehead.  
Motion carried unanimously.

**COMMENTS  
FROM THE  
PUBLIC:**

Mayor Mulcahy explained that tonight we have opportunity for the Public to Comment, and he does encourage the Public to Comment. Stating a reminder that first Public Comment is dedicated to the City’s Business that is on the Agenda. Explaining those who wished to speak please come to the podium, the three minute rule applies, and you’re welcome to speak about what’s on the Agenda; requesting they tell which part of the Agenda they are speaking of, tell us your name, and tell us where you live.

Terry Vandevanter, 105 Kopra, approached the podium. I wished to comment on what was Item #8 – now Item #7 – The Golf Course; Relating to the Golf Course Management Services. Stating he is a Member of the Golf Course Advisory Board, but what he is saying tonight is from an avid Golfer; and a tax payer. One thing he wished to bring up, he knows there was one qualified applicant on the RFP that was put out for Management Services, but nothing has taken place on that. And he is curious as to why it has not taken place. Also, as he understands there is going to be a month to month Contract. Under the present Contract, and to his knowledge there has not been a Contract at the Golf Course since 12/31 of 2011, he may be wrong, but he doesn’t think there has. Some of the Commissioners want to see revenues generated from the Golf Course. Is there any revenue being generated by the Library, the Parks Systems, the Ball Fields at Louis Armijo Park, or the Tennis Courts? We have a communication problem with the Advisory Board, and the City Commissioners and the City Manager; they don’t seem to want any of our input; and as near as I can tell there is not one Golfer on the City Commissioner, yet they want to try to make all the decisions on the City Golf Course. The affordability of Golf was one thing that brought his wife and him here 20 years ago.

And if this is take out, there are going to be, he knows of 5 couples, that if we don't keep the Golf Course in operation, they won't be back next year. And in that amount of period those five couples are spending a lot of money here in this town. We own four residences and have been paying taxes her now since 1992. The Course is in the best position it's been in over 20 years, since he's been around. Don't let this slip away, like the Swimming Pool has on the cover, for 20 years. Our Advisory Board meets the second Wednesday of each month, and they invite anyone that is interested to attend. They are always open for new ideas to help our Golfing Community.

**Linda De Marino**, President of MainStreet Truth or Consequences, took the Podium. What she wishes to say does not specifically address anything on the Agenda, it's just good news. The last City Commission Meeting she attended, she told the Commission the MainStreet Program had applied for a \$60,000 Capital Outlay Grant for the Downtown Master plan, and they got word back that there were two million dollars' worth of applications; they only got one million dollars. They told us we were going to get something, but we didn't know what it was. She was here to let us know they got \$70,000 – so they are really excited about that. It looks like they will have the money to start the Downtown Master Plan in September. We will be working with everyone and probably have some Town Hall Meetings and such.

Mayor Mulcahy asked that she call and get on the Agenda, so we can make it a presentation. He explained he was grateful they got the \$70,000.

**Audon Trujillo** approached the podium. He noted his comment was also not on this, however, he has a question regarding Item J, Public Comment; is that also comments at that point have to be on the Agenda?

Mayor Mulcahy answered that no, but the ones now do need to be related to Agenda Items.

**Ron Fenn** took the Podium. He wished to speak of a problem weighing on his mind since around April of 2009. When the City made a complaint against him to the Engineering and .....

Mayor Mulcahy asked which item on the Agenda Mr. Fenn was speaking of. He encouraged Mr. Fenn to speak; but explained it needs to be on the Agenda, according to the new Rules and Procedures. Mayor Mulcahy stated the proper time for Mr. Fenn to speak was during Item J.

Mayor Mulcahy opened for a motion to accept the Consent Calendar.

“Steve Green moved to accept the Consent Calendar.”

Seconded by Mayor Pro-Tem Sandra Whitehead.

Discussion ensued.

**CONSENT  
CALENDAR:**

Commissioner Green wished to suggest, if you go through the copies of the checks, last month \$6,375 dollars went out of our Community for tires, while he knows there is a State Contract, but he would like the Manager or the Purchasing Agent to come before this Commission and explain the process for purchasing, what is the policy and what is the process. As he can name four tire companies here, and he wishes to get involved with our local business to keep that GTR here.

Mayor Mulcahy noted he wished to add to Commissioner Green’s point, if they should see something in the Consent Calendar, we’re into March or April, what ever accounts payable, that we take it out and have a discussion on it, and perhaps put one of the Department Heads or the person in charge of Purchasing on the Agenda so they can speak to what ever issue we seek. The Mayor stated that anyone who has questions on Accounts Payable, prior to the meeting, can call for a movement into the Agenda to move it an Agenda item, or email the City Manager to justify it in the next meeting. He asked the City Manager to address the issue in the next meeting.

Mayor Mulcahy noted we have a motion and a second, he called for the vote.

Motion Carried Unanimously.

Mayor Mulcahy asked City Manager Fuentes for comment.

City Manager Fuentes asked if the Commission wants those items as a work session item. The answer was yes.

Mayor Mulcahy asked for Public Input, specific to the Workshop we just had, regarding the Transfer of Solid Waste.

No one approached the podium.

Mayor Mulcahy asked for Public Input, specific to the Workshop we just had, regarding the New Mexico Finance Authority US Department of Agriculture – Refinancing Resolution #29-11/12.

No one approached the podium.

**PUBLIC INPUT:**

**Discussion/Action New Mexico Finance Authority USA  
Department of Agriculture – Refinancing Resolution #29-11/12:**

City Manager Fuentes stated the Resolution before the Commission is authorizing the City Staff to submit an application to the New Mexico Finance Authority; to refinance three of our existing USDA loans, for our water system, our waste water and the third one is also for the water system. Noting that the City is in the process of finalizing that third component that is related to the Water Tank Rehabilitation Project, that is also financed by the NM Finance Authority, during that process – it was brought to our attention that due to the interest rates at this time, the opportunity to the City to refinance and save the tax payers approximately \$170,000; in addition to consolidate the three existing loans and to get away from the USDA requirements for any future refinancing or refinancing of water or waste water projects. Mr. Fuentes introduced Leandro Cordova, NM Finance Authority, to give an overview.

**NEW BUSINESS:**

Leandro Cordova approached the podium. He touched on main points and main benefits of refunding the three USDA Loans. The net present value CD's, as estimated, is \$170,000 plus, it's a twenty five year term loan with an average coupon rate of 3.45%, which is approximately just over 1% we're paying right now, 1% savings. The reason this came to them, by getting rid of USDA, it make is a lot easier for us to move forward with grants, from Water Trust Board Programs or any other program we may have that offer Grant/Loan combos. Mr. Cordova stood for questions.

Commissioner Green asked if there is a penalty for prepaying or double up paying on the NMFA loan.

Mr. Cordova answered that yes, there would be a ten year call; the way it would work is they do package our loans together with other loans and typically we'll sell bonds to find those loans. This most likely will happen that same way, however this is a slight chance, if there is a problem, we may be able to equity finance it, but that's something that has to be requested, but typically we go out to sell the bond and the bond has a ten year call. So you would not be able to prepay until ten years.

Commissioner Green stated so we are locked in for ten years; so if we all won the lottery and we decided to retire these bonds, we couldn't do them without facing severe penalties for the 10 year period.

Mr. Cordova answered yes; there would be some penalty in payout.

City Manager Fuentes recommends that we proceed and authorize Staff to submit an application to New Mexico Finance Authority.

“Commissioner Green moved to approve Resolution #29-11/12, NM Finance Authority – USDA – Refinancing.”

Mayor Mulcahy called for a second; asking if there was further debate on this. There was no further debate.

Seconded by Mayor Pro-Tem Sandra 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/Update – Williamsburg Community Development Block Grant Project and Update – Comprehensive Project & Update-Comprehensive Plan Application:**

Tony MacRobert, SCCOG, took the podium. Mr. MacRobert explained they would be discussing is the City of TorC’s Electrical Project that is taking place for the Williamsburg Electrical Circuit. Noting the information that Commissioners had in their packets, and asked the Commissioners to pull out the presentation sheet. So everyone will know, as far as description and need, of the full project; we know what the reasoning of the Project is, and that will be to better serve the residence, eliminating the power outages and savings to the City. The amount received in the CDBG Application he had written, is \$400,000.00; of that - a survey had to be completed, and when the targeted survey was completed 64.08% are shown to be low to moderate income. The leveraging that came through with the City’s match is 10%, but they also leveraged an addition \$7,000, with that, which also added to the leveraging points of the application. Regarding the Citizens participation, the City conducted a Public Hearing, which was December 14<sup>th</sup>, 2010; the Planning which was done on this project, is concurrent with the City’s ICIP, it’s consistent with the City’s Comprehensive Plan and the City also has the draft contingency plan, also with the Water Conservation Ordinance. The feasibility and readiness, the project has the existing right-of-way with the City, the Plans and Specs have already completed – so its shovel ready. The Environmental review has been completed, as long as clearance granted from the State Preservation Office. Stating that at this point the project is ready to go, noting the paperwork in front of the Commission – is exhibit 3D, which is the agreement between the owner and engineer. Mr. MacRobert noted he had Peter Rinkie, with WH Pacific, should the Commission have any technical questions. In talking about doing a targeted survey, we look at the full project, because this is in essence what’s going to be completed at the end of it. It’s \$767.15 for/per beneficiary, in reality if you remember in times past when the monsoons would come – the power outages, we always had the weak link in Williamsburg, and that always tended to drive power through out the entire City, causing a lot of

disconcerting with residents and business owners. This should eliminate that. Noting he had Gil Avelar at the meeting, with the City's Electrical Department, to answer any questions. Explaining that one of the things in the CDBG Application and also with any Federal Applications that you're going to be looking at is user fees and revenues. One thing the City did do, they attended an Asset Management Training Course in December of 2010, bear in mind that when we're talking about asset management – this is an entire inventory of City infrastructure. This is really the way we need to start looking at all these grants. We have the Environmental Finance Center as a key instrument in assisting us with these plans; he has the data base and everything ready to go. It would really assist the Department, as far as - when you're conducting the user fees – and when you take the Public Utility Advisory Board, you know what's what. You know what a meter costs, you know where the meter is located, you know what the life cycle cost funding is of that meter, it just better prepares you for any additional funding that you're seeking, and you're armed with that. In a last point, the last CDBG funding was 2008. He opened for questions.

Commissioner Torres asked if it was a cash match.

Mr. MacRobert answered yes, it's a cash match.

Commissioner Green asked if this was initially a \$495,000 Grant, and then something happened and we re-applied, and now we're at \$400,000; so we're missing \$95,000 worth of ability to do work for Williamsburg. Is this project going to be able to be done with the \$400,000?

Mr. MacRobert noted that in the meetings they had discussed it, there is funding available and there was a real big hit, the reason for the lack is DFA at the time had a 18 month Grant Agreement Status, if things were not completed, and during - if you'll recall during 2008 – the economic downpour that took place on us, they were not extending any waivers like they used to do, so at that point it was one of two options, we were either going to forward with the project; and we already had Peter Rinkie with WH Pacific here, and we were getting ready to get the Contract in place to actually go out for bid documents – for the Construction Contract, however that did not take place. We had three months, at that point, to either initiate on the Project, a fall – then we'd be nowhere, or we have the option of reverting funds. So the option that had taken place with the City Government was to revert the funds, reapply with the City Application. Unfortunately however at the time, he did apply for \$450,000 that is what it looked like we needed – because the plans and specs had been completed. However that's not what we received, we received \$400,000. In light of that, and in speaking with Mr. Rinkie – we're looking at \$28,760 less gross receipts. The total number of that, including the City's part of the Gross Receipts comes out to \$30,952.95. There were either two options – we could scale down the project, to make sure – or – if the Electrical Department had enough in their line item to continue the budget to complete the Project, then we could go with that.

Peter Rinkie, WH Pacific took the podium. He noted that what they applied with the Contract that's already executed by the

appropriate Members of their firm, and it's awaiting execution by members of the City, to put the previously prepared construction documents; that's the plans and specifications out for bid, review the bids, award the bid to the lowest successful bidder, that's one phase. Another phase or task, is the Construction Administration Service – where they handle responses to RFIs, we review submittals, process change orders if they come up, the typical stuff during Construction. Then the third task is Construction/observation/monitoring that goes on during Construction, to make sure it's being done according to the plans and specs – in the attempt to catch anything before it gets too far done and requires rework, that's the \$30,000 Mr. MacRobert was quoting, was for those services. Mr. Rinkie was asked what they were doing. In answer they are replacing the overhead power line – it's about one mile down the main street, it's run down and has led to previous power outages due to its condition, with transformers, poles, overhead lines – all the associated stuff will be replaced in place in sections. Noting this had already been approved by the Department of Transportation, which was a major milestone.

Commissioner Green asked City Manager Fuentes if we had the capability to do this in-house ourselves. Commissioner Green amended by asking if we could physically do the work ourselves, rather than having an outside company come in to do the work.

City Manager Fuentes noted that as far as the funding, the City does have funds set aside for Capital Improvements, and differed to the Electrical Director, Gil Avelar for that answer.

Gil Avelar, City Electrical Department took the podium. He noted that no, they do not have the manpower or the equipment to work on this project at a timely rate and take care of the rest of the City. On bid projects like this they tend to contact it out.

Commissioner Richter asked where the project started and ended.

Gil Avelar noted it started on Steel Street and ends at the old Chevron Station in Williamsburg, it's about 1.2 miles. The poles are about 41 or 42 years old and they are wood poles.

Mayor Mulcahy asked the City Manager if there was a reason this was not an action item.

City Manager Fuentes answered that part of the action had already taken place; this was a request for a presentation and update on the status of this project. We are moving forward with this project, at this time there is no action needed; it's just for informational purposes.

Tony MacRobert took the podium to speak of the Comprehensive Plan Application. Noting that the City's Comprehensive Plan was completed in 2004, due to Federal Funding and also State Funding, you're looking at a five year period, after that you will need to initiate into another Comprehensive Plan. This has been a year, April 11<sup>th</sup>, we had conducted a CDBG Public Hearing, and the scope of work has been completed, on the City Comprehensive Plan. There are highlighted areas within this scope of work that gives you the opportunity to make your decision. When we're looking at this Comprehensive Plan, this is really the time when a committee is set up, focus groups are set up, and we really want to engage the Public into what they see. We look at the ICP, and that can also be a range, due to the City's need as well. You are not bound by it; one thing is it does have to be looked at consistently. In times past, for the 11 years he has been working with the Council of Governments and Local Government, when the times took place, all the City needed was a Comprehensive Plan, we have our copy, was it followed thru, noting he can't say if it was or wasn't. However when you're looking at the bench marks within the Plan, whether its education within the Community, new development coming in, you really want to hit these areas, if you're looking at the infrastructure as well, so this is the whole reason for the Committee. He noted a number of 18, he personally thinks that took much, looking at 2004 we had approximately 19 to 21, he spoke with one of the Committee Members a couple of months ago, and how he felt about that plan and he felt there wasn't enough follow thru in it, we don't want to repeat the mistakes again, we just want to make it as basic as possible but feed it the right information we need in order to keep moving forward. At this point, where the application is – where the highlighted areas is – if you see changes you would like to see take place, we can change that, send it back to him and he will start the application process. There is a turn around time, there is approximately a four week time when the application goes in, the Bureau Chief at DFA assigns a number to it, three weeks then takes place with the project manager who is assigned to it, and at that point he will wind up rating and ranking the project. After that, if it's approved, we can see funding in approximately two weeks. This is also going to be the phase to start looking at engineering firms, in times past we were looking at \$50,000.00 for the Comp Plan. Noting we really need to get some good estimates in, to be physically conservative with this. He stood for questions.

Commissioner Jeff Richter asked what was the cost associated with this Comprehensive Plan, formulating it?

Mr. MacRobert answered the cost, or max limit for a planning grant is \$50,000, we are looking at possibly within \$25,000.00 to \$35,000.00.

Commissioner Green asked if most Communities try to do this in-house, or are there companies that specialize in working with Municipalities to either create or update a Comprehensive Plan?

Mr. MacRobert answered that the trend is that basically because it is Federal Funding that is coming through HUD, what it's been actually seeking on a engineering firm – or rather a planning

consulting firm, because they feel their the professionals at large, where the City engaged, the City Staff support would be gauging the focus groups.

Commissioner Green asked if there is a “sunset” clause on that money, over what period of time it has to be spent.

Mr. MacRobert noted that as with any type of Grant Application, if we can complete everything in the forefront, then we’re really that much ahead. In conducting a survey, a City wide survey thru HUD census data with the City of TorC, the City of Truth or Consequences, which used to be back in the 2000 census up to now, was 49% - so we were missing the mark by 1% point. After completing the figures through the data sets, we’re looking at 66% - so we’re that much ahead, so we don’t have to worry about a targeted survey – this has already been approved by DFA. A Grant Application/Agreement runs approximately two years, so we have two years, and at that point once we get the estimates, once we get committees set up and evaluation teams to see which consulting you would like, we’re all the better.

Mayor Mulcahy stated that in reading through the paperwork, it looks like the City is pretty involved with the actual administration of this process. In a couple of paragraphs it says the City is responsible for finalizing approach by preparing scope of services. Does it make sense that the City would be doing all this, using City staff to get this done?

Mr. MacRobert answered that this is really how you would like to see it, nothing is set in stone.

Mayor Mulcahy noted when we write this, the insurance should cover a wide spread community involvement. Mayor Mulcahy asked the City Manager for the next step.

City Manager Fuentes stated that if the Commission had any suggestions under the draft, please forward them to him. They are working on the draft and will expedite the process if you have specific questions, let us review them in advance.

Commissioner Green stated he would like to have a workshop; he would like to hear from the community. I would also like to bring in MainStreet, we shouldn’t duplicate efforts, they will have \$70,000.00 for a Master Downtown Plan – that should be part of our Comprehensive Plan, so basically we’re talking almost a hundred thousand dollars, that document that we end up creating should be all inclusive, and you should be all hearing from the Citizens.

Mayor Mulcahy questioned if we should have a meeting, as the Legislative Body, to figure out how we want to pair this down or make it work so we can get it back. He thinks that in the implementation everybody, MainStreet, we’re going to find a lot of downtown issues here and we need to understand where we’re going.

Commissioner Green stated he thinks it's a good idea to meet, if Mr. MacRobert is available, should be there.

City Manager Fuentes stated the thought we needed to hear this as a special item, a special meeting, work session, so we can work on it.

Commissioners discussed several issues regarding funding and plans. Commissioners agreed a special meeting on this issue was needed. Mayor Mulcahy requested a meeting be scheduled.

During the break in the Agenda, Mayor Mulcahy introduced the City's new Finance Director, Linda Lanham.

**Discussion/Action – Juvenile Adjudication Fund Program Grant:**

Municipal Judge Bobby Sanders took the podium. She is requesting the support of the Commission, and perhaps their approval to continue to be our physical agent for the Juvenile Adjudication Fund for 2012/2013. She explained that the Juvenile Adjudication Fund is Grant money that she lobbied, along with 22 other New Mexico Teen Court Association throughout the State, to acquire the money to continue to fund alternative sentencing programs and integrate intervention and prevention programs and curriculum. The alternative sentencing program works in that Courts and Juvenile Agencies in the State refer to the program and we facilitate and contract the Juvenile along with the family to address the issues, or try to find solutions to some of the problems they are having, or even a driving citation, that maybe the parent really does not want on their insurance policy, and the child does not want the license withdrawn because of a conviction on a moving violation. That type of program is what we provide. She is currently accepting referrals of truancy, at considerable size. The total number of referrals that we have to date from July 1 has been 190; it's a combination of traffic and truancy. Stating she is working very hard to see what we can do about truancy in the Community, and hopefully cut back on that situation. She requested the Commission provide the Court with much needed support and consideration to remain physical agent for the Grant. She is applying for the \$15,000.00 plus the \$785 administrative fee, at this time she believes \$15,000 is the ceiling – as monies are accrued at DFA then we can apply for more money as the need arises, but for this moment it's capped off at \$15,000. She stood for questions.

Commissioner Torres had no questions, but he would support the Teen Court. Stating it is a good program.

Commissioner Green noted he understood the Grant Funding, the Project Funding is higher, and that's going to come out of your budget, the difference between the Grant Funding and the Project Funding?

Municipal Judge Sanders answered yes, it requires that we have some community in kind match, but not necessary directly from the City, that we incorporate other volunteered situations and Klarene Rich has acquired some local Attorneys, and people in the community are very generous with their time to train the children or the young people, in the basic skills defending and prosecuting a case and what the Court decorum is, and of course public speech.

Commissioner Whitehead stated she felt it is a good program, and she would gladly support it and she thanked Judge Sanders.

Mayor Mulcahy had a couple of points to make, alternative sentencing – it sounds like it's something your behind, personally. Noting that he is also behind it.

Municipal Judge Sanders noted that in 19091 Lesley Smith was our District Court Judge and he beckoned me to come, saying he had this idea for kids and first time offenders. He said I'd like for you to draw a program up, she has a lot of background for this, and she definitely sees the need. As the times change and trends change with juveniles, she requires a lot of update and education on how to deal with the trends in crime with juveniles; she takes great pride in working with juveniles.

Mayor Mulcahy stated the City takes great pride in her Court. Noting that 190, he asked how many of those were truancy?

Municipal Judge Sanders answered that it would be approximately 75% of that are truancy, and what happens in those is the initial contact with the person just to insure that the parent is aware of it and then with the child to see what's going on, why don't you want to be in school, what can we do to help. We can develop anything from tutors, they do community service in the Community, it's an on going process to discover how much participation we can get from their parents; because that's very important, in her opinion, that parents be involved.

With no further questions, Mayor Mulcahy called for a motion to allow the City to be the fiscal agent for this Grant funding for Municipal Court.

“Commissioner Green moved for the City of Truth or Consequences be the fiscal agent for the Juvenile Adjudication Fund Program Grant.”

Seconded by Commissioner Whitehead.  
Motion Carried Unanimously.

**Discussion/Action – New Mexico Department of Transportation  
– 100 Days and Nights of Summer Project 12-RF-DS-104:**

Police Chief Pricilla Mullins took the podium. Stating that the item in front of the Commission for consideration and approval is the NM Department of Transportation Grant, it's known as the 100 days and nights of the summer project, the purpose of this Grant is to provide funding to New Mexico Law Enforcement Agencies for selected Traffic Enforcement, also known as STEP; it's aimed at increasing high visibility enforcement. The Project starts June 21, 2012 thru September 30<sup>th</sup>, 2012, so it's a four month project. The funding pays the overtime for Officers that are conducting the Operation. The amount that the City would be allotted is \$2,496.00 and is to conduct the Project during the specified period. Noting they didn't have the program last year, but did the year before. She stood for questions.

Commissioner Torres asked what kind of enforcement they were going to do.

Chief Mullins answered its traffic enforcement, run traffic, speeders violators, that type of traffic enforcement.

Commissioner Richter asked if the program is run as long as the overtime is covered or when the overtime runs out.

Chief Mullins answered yes.

Commissioner Green stated he thought it was a great program and wishes we could get more money to have it for more than 100 days and nights. Pointing out that on page six, City Manager Fuentes is now City Manager (paperwork had "Interim" City Manager).

Commissioner Whitehead stated she thinks it's a good program, she thanked the Department for all their efforts and all the good work

"Commissioner Richter moved to accept New Mexico Department of Transportation 100 Days and Nights of Summer Project."

Seconded by Commissioner Torres.  
Motion carried unanimously.

**Discussion/Action – Resolution #27-11/12 for destruction of  
2010 Election Files:**

City Manager Fuentes stated the Resolution before the Commission is for the destruction of the 2010 City Election Files, State Statue 3871 requires Municipalities to destroy the records after two years of retention. Stating this is just a house cleaning item for the Election files for 2010. He stood for questions.

City Attorney Rubin stated this is mandatory.

Mayor Mulcahy asked if we hold the records for 30 days.

City Manager Fuentes noted the Resolution does not have that 30 day provision, but if that is the wish of the Commissioners we can.

“Mayor Mulcahy moved to pass the Resolution #27-11/12, with the proviso that you don’t actually destroy them for 30 days from the date.”

Seconded by Commissioner Torres.

Commissioner Green asked if the records get shredded.

City Manager Fuentes answered yes, we can shred them, and State Law allows us to either shed or destroy.

Mayor Mulcahy called for the vote.

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/Action – FYE 12 Budget Adjustment Resolution #28-11/12:**

City Manager Fuentes stated the Resolution before the Commission is required by the Internal Affairs Administration any time we amend an increase or expenditure in the budget. The Resolution contains about 6 amendments to the existing budget. The first item is in the Finance Department. The reason for this adjustment is related to the 2010 IRS audit that was done for calendar year 2008/2009. The reason for those adjustments are in those calendar years our ADG system was charging to the employees their social security and Medicare taxes, one of our Section 125 Cafeteria Benefits Plan, and resulted in over paying by the employees, of their Federal Taxes. Part of the agreement with the IRS auditor was that of course the City would get refunded those payments, and we would in turn refund the employees for those overpayments. Manager Fuentes noted that in the audience was Susan Haberkon, City Payroll. It was quite an extensive audit that was done, a lot of work was put into it and Ms. Haberkon is in the audience for any questions. We have also volunteered to do the 2010 review as well, so we will be including any future of the things that were done by City Employees for 2010. We also agreed with the IRS auditor that we would do that voluntarily ourselves, so that will be coming at a future date. The next item of adjustment is in regard to the Police Department, we just heard a presentation by our Police Chief; on the additional grant we received, they’ve also received so overtime

reimbursements from other grants, related to law enforcement activities, specifically for overtime purposes. This adjustment would allow the Police Department the money back into the budget. The other item is in regards to the Water Fund, the purpose of this adjustment is to account for the annual lease payment for property that we're leasing from the State, and one of our water tanks is actually located on that property, so this is a lean payment we've been making every year. The fourth adjustment is in regard to the Capital Improvement Joint Utilities; this adjustment is to account for the Water Trust Board Loan Grant that we received, for the Water Tank Rehabilitation Project. And that is 1.2 million dollars that the City has been awarded. Also related to the joint utilities transfer; is another adjustment to the joint utilities that will be transferred out, to account related to the Water Trust Board loan payment. This will be the first payment this fiscal year for that loan portion of that project. The last item is related to number 5. Mr. Fuentes stood for questions.

Commissioner Green asked what state land is TorC Water Tank on.

City Manager Fuentes answered, the answer was the tank off I-25 – at exit 79, and one of those tanks is on State Lease Property.

Commissioner Green mentioned we should annex the land and save the lease.

Mayor Mulcahy stated we made a mistake taking out too much money for the pretax, what was the amount of that mistake that we're making that adjustment here?

City Manager Fuentes answered the reimbursement from the IRS was about \$40,000.00, there were other issues that the IRS brought to our attention when they audited 2008/2009, there were some of the employees that were under contract; under those calendar years, that were reclassified, and they were classified because under IRS eyes they were actually Employees, and basically the City was also penalized for classifying them as independent contractors, when they should have been employees, so the City received a refund, but we also end up paying penalties and had to pay back taxes on those employees as well.

Mayor Mulcahy asked if was \$40,000 plus penalties?

Susan Haberkon, City Payroll, took the podium. She stated that actual amount that we refunded to the employees for 2008/2009, we did one check for both years to those employees, was \$25,905.58. That does not include the penalties. She didn't have the penalties with her. The amount of taxes paid for 2009 for those employees was \$3,011.50 for Medicare Tax – those that were reclassified as employees and \$12,876.78 in Social Security Tax for those employees. 2008 would have been comparable to that.

Mayor Mulcahy asked City Manager Fuentes if we have resolved this issue.

City Manager Fuentes answered yes; it has been corrected in the

system. The 2010 will be forthcoming and will still have to be resolved; again we will be doing that voluntarily.

Mayor Mulcahy called for a motion on this Budget Adjustment Resolution.

“Steve Green moved to approval FYE 12 Budget Adjustment Resolution #28-11/12.”

Seconded by Commissioner Jeff 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.

**Discussion/Action – Golf Course Management Services Contract:**

City Manager Fuentes noted the Commission action form in the packet before the Commission, explaining that in 2007 the City issued a request for proposals for Management of the Golf Course. The Contract was prepared in January of 2008, and it was for a 4 year Contract. In March of 2010 the City amended that Contract to include a lease of a Governmental Liquor License from the City. In February of this year the City republished a slightly modified request for proposal for the Golf Course Management services. We received two bids, one from Mr. Howie Tucker and the other from Mr. Victor Torres. After careful consideration it is his recommendation to reject the proposals, pursuant to section 3.8 of the RFP, by rejecting these proposals this will give us, the City Commission, Staff, the Golf Course Advisory Board and the Public the opportunity to review the RFP and look for the best approach as for the Golf Course Management, whether it would be revising the RFP to include the liquor license as well, to also include, maybe – a little bit more of the revenue sharing, to try to make this operation a little bit more self sustaining, and also to look at other options that will benefit the City and the Tax Payers. For those reasons he requests the Commission to reject the RFP's.

Commissioner Green noted that he is not a golfer, and that he thought they all had received letters of recommendation from Associations, for the Golf Course Advisory Board, from independent citizens, so he was a little taken back when it wasn't awarded to either of the two candidates, noting he is not familiar with Victor Torres's qualifications, but I'm quite sure they're there. Why we're going back to square one, he understand – and thinks it's incumbent upon the City to perform and give things to the Citizens – that we don't necessarily make money on, we have to

run the City as a business, and we can only provide services based on our bottom line, but if we don't make money on the Golf Course, if we don't make money on the Swimming Pool, if we don't make money at the Library – there are things we do make money on – it's called quality of life and he thinks it's incumbent on the Government to supply those things to our Citizens, if we want to keep them here and if we want to grow our population. Asking the Manager is there was a specific reason why we didn't want to award the Contract. Why are we at this point three months after, and he assumes we are going on a month to month contract with the present manager, what do we hope to accomplish.

City Manager Fuentes stated we are in the beginning stages in preparing the budget for next fiscal year, as we are all aware – financing is going to be tight, we are going to be looking at all the funds – all of the contracts, like we are doing with the Solid Waste, like we are doing with some of the other Contracts that are coming before the Commissioners – we want to be able to look at this – take a closer look and see how we can structure that to benefit the City and to provide that opportunity to the residents, but also give us an opportunity to make it a better RFP. As stated, on the Commission Action form, one of the items not included and it needs to be addressed and included in there, is the issue of the Liquor License as well. If we put it out, then definitely that should be included in that too, because there are specific requirements under the Liquor License that it is under the City's umbrella, and we are leasing it in a sense to a private individual. He thought it was something the City Commissioner needed to be aware of, and we definitely want to have a proposal that would give the City a clear picture of how the Golf Course is going to be managed, as apposed to just a resume. We definitely want to be able to have that opportunity to get a clearer picture, we are using Lodger's Tax money for the Golf Course, but yet we also don't have a clear picture as to how that Lodger's Tax money has is benefiting the City, it is for promotion of the City – so we definitely need to have a clearer picture as apposed to just having a resume submitted. For those reasons – this would give us an opportunity to do that – to structure a better RFP, look at the Contract and make those improvements. The Golf Course Advisory Board also wanted to have comments on it, so we are going to look at it again.

Mayor Mulcahy asked for a motion to reject the proposal to come back in and take a harder look at the situation.

“Commissioner Richter motioned to reject the proposal for Golf Course Management.”

Seconded by Commissioner Sandra Whitehead.

Mayor Mulcahy called for debate.

Commissioner Green asked City Manager Fuentes about the resumes, weren't there specific questions in the RFP that maybe dealt with everything, the Management of the Golf Course,

excluding the Liquor License. Noting he doesn't understand what additional information talking about this and creating a new RFP, what additional information is going to be put in there? Wasn't there "what is your management style", "what have you done for us lately?", and "what are your visions for the Golf Course for the next contract term." Weren't those things covered initially?

City Manager Fuentes answered that we received two RFP's, both submitted different information, one was more detailed than the other, it wasn't very clear how they would take this Golf Course and promote the Golf Course, provide better services to the users of the Golf Course, something that would benefit the City as a Operation. We definitely want to go the direction to improve this RFP and make it right.

Mayor Mulcahy stating that looking at the RFP, he thinks it's this body's responsibility to construct a better document that serves the Golf Course better. We've run into issues where the Golf Course has needed things, and really – there isn't anything in there that calls for the requirement that the City go out do the kinds of work that they need, because they don't have any risk in this thing, we're running this as a softball field in a way. He suggests that this body and the Golf Course Advisory body come and take a look at the contract and figure out how to make this thing work better where the Golf Course Management is better able to share and lesson the risk and let the City share more in it. Noting we should stop the weaker RFP and take a look at the whole deal and see if we can't make this a better arrangement for the Golf Course as well as the City. That is why he would vote in favor of this motion, but I wanted to have that kind of debate out on the table so we understand what we are doing, we are making a motion to reject the proposal only with the hope to come back and have a better document at the end of the day.

Howie Tucker, Golf Professional, noting that he is in-between a rock and a hard place. Effort that they have done for the City and the answers on the RFP, were answered truthfully, the RFP was completely changed from 2007 – to where it has fictitious numbers in it, and we were told that we could talk after the RFP was awarded with the people and also with the Golf Advisory Board about changes in the RFP.

Mayor Mulcahy asked Mr. Tucker to address the motion at hand, which has to do with whether or not we should hold on this RFP, wait on it and come back.

Mr. Tucker noted he thought they should hold the RFP, do what ever is right for the City. He is expressing his feelings as far as what they did honestly to the City for answering the RFP; he also wants to bring up problems with the liquor license – which he will bring up in the 3 minute section of the meeting. They thought they had answered everything in the RFP properly, had the credentials and had proven themselves – and if they have to prove ourselves again – we'll do it. If you need more specifics what he has done for

this town, he can put it on paper.

Mayor Mulcahy noted he didn't think there was any question about his dedication and hard work.

Commissioner Green wished to say that if this is the road the Commission is going on, I don't think we should allow anyone to be hung out to dry, he thinks if the Manager feels that this is the way to go and the Commission does, and he has mentioned the Golf Advisory Board – if they feel that they should be more of a part of this RFP – he would certainly bow to their wishes, because he is not a golfer. However, he thinks this should be put forth as we go into budget hearings with this in mind, and move forward on this.

Mayor Mulcahy called for a vote to reject this current RFP.

Commissioners Whitehead, Green,  
Richter and Mayor Mulcahy voted Aye.  
Commissioner Torres Abstained.

Motion carried.

**Discussion/Action – Appointment/Ratification of Commission Members to serve on Boards/Commissions:**

Mayor Mulcahy noted that on the *Sierra Hospital Joint Powers Commission* we have two Commissioners currently serving, we're suppose to have three, and he would like to start with the question of would any of the current commissioners like to take another roll at this time and offer opportunity for another two Commissioners, or would they like to keep their positions on those Boards.

Commissioner Torres stated he wished to stay on, they've come a long ways – and I hate to quit right in the middle of projects.

Commissioner Green stated he felt the same as Commissioner Torres, however – that said, if two Members of the new Commissioners have a burning desire to sit on that Board for a particular reason, he would be more than happy to step down.

Mayor Mulcahy stated he thought this is an extremely important Board, and we need to be as well represented as we possibly can be and bring the City's issues to that Board as well, the Mayor offered his support on the Board, and opened it to any other Commissioner who wanted to serve.

Mayor Mulcahy called for a vote to have Commissioners Torres, Commissioner Green and Mayor Mulcahy on the Sierra Vista Hospital Joint Powers Commission.

All Board Members replied Aye, Motion Carried.

Mayor Mulcahy noted that on the *Sierra County Higher Education Board* asked to supply one Commissioner to represent the City on that Board, and this is a very important roll because the Campus of WNMU is City Property at this time, and we need to make sure that we are using that and also doing work for us and education development through out the City.

Commissioner Richter stated he would fill the position.

Mayor Mulcahy called for a vote to have Commissioner Richter on the Sierra County Higher Education Board.

All Board Members replied Aye, Motion Carried.

Mayor Mulcahy noted that on the *MainStreet Board* we have one Commissioner who has served on that Board, Commissioner Green.

Commissioner Green noted he was on the Board and would remain on the Board but move sideways – rather than just representing the City, he will just be a Board Member. Noting he has been with the Board since it's inception and it's a Board that we can use all the people who would like to work on that Board that we can.

Mayor Mulcahy noted that he would like to encourage Commissioner Green to remain on that Board. The Mayor asked if any other Commissioner would like to be on the board, in addition to Commissioner Green. Mayor Mulcahy stated he wished to encourage the Commissioners to attend and support MainStreet. Mayor Mulcahy noted the Commission had ratified Commissioner Green's position with Main Street.

Mayor Mulcahy asked City Manager Fuentes to explain the *Regional Planning Organization Board*.

City Manager Fuentes noted this Board is a part of the South Central Council of Governments.

Tony MacRobert, SCCOG, approached and explained that the South Central Regional Planning Organization is part of the South Central Council of Governments, and basically what they do is serve as liaison between NMDOT, Federal Highway Administrations and US Department of Transportation, on any type of Federal Projects – local Government Road Fund Projects. Mr. MacRobert noted Commissioner Torres has been a Member, and Commissioner Green has been a very strong proponent in attending

these meetings, he just recently finished what they call the Rtipper and that's the Regional Transportation Improvement Program – and that's basically where we set up the Communities within in a 3 County Area to find out what projects are going to be ready to write. They meet April 12<sup>th</sup>, at the City of Elephant Butte; they meet once every three months.

Mayor Mulcahy asked Commissioner Whitehead if she would be willing to be on the Regional Planning Organization.

Commissioner Whitehead answered yes.

Commissioner Green asked if He and Commissioner Torres would also still be on the Board.

Commissioner Torres noted that he hasn't been going to the meetings, and he hasn't been able to go, it takes a little traveling. Steve has been to every one of them. He also noted that Commissioner Whitehead would be a good one.

Commissioner Green requested to remain on the Board, as he has been working with Mr. MacRobert and they are exploring an intercity bus line between Williamsburg, TorC and Elephant Butte. We've isolated the equipment already, we know where it is and we're looking for funding. He explained it was a project that was near and dear to his heart.

Mayor Mulcahy asked how many Members were needed for the Board.

City Manager Fuentes answered one.

Mayor Mulcahy requested that Commissioner Green stay on the Board and offer Commissioner Whitehead go with him, if she would agree, to serve as an alternative.

Commissioner Green noted that's how he got on, he was the alternate when Commissioner Torres was having health problems at the time, and started back then.

Commissioner Whitehead stated she wouldn't mind doing that, but she wished Commissioner Green to stay involved.

Mayor Mulcahy noted that as Director, he can not serve on the ***Sierra County Economic Development Board***. Stating that he wished to invite any of the Commissioners to join them. Noting that Commissioner Green was already on that Board, asking if Commissioner Green wished to be ratified to stay on the Board.

Commissioner Green noted “whatever the will of the Commissioners are, we serve, that’s why we ran. Stating he had served on SCEDO for two different times, under different Executive Directors, under different Chairman’s, representing now the City – before he represented Tourism. He thinks that the new Commissioners should get involved, so he would be more than willing to step down and let someone else represent.

Mayor Mulcahy noted he had to recuse himself on anymore conversation on this, and let the Body choose its own person.

Commissioner Torres noted he thought Commissioner Green should stay.

Mayor Mulcahy stated it was apparent the Board was to ratify Commissioner Green.

Attorney Rubin stated because of hard feelings, we should actually take a formal vote.

Mayor Mulcahy stated we did it for the first one, why not call for a vote for all the positions we discussed.

Mayor Mulcahy called for a vote of Approval, a majority to Appoint himself to **Sierra Vista Hospital Joint Powers Commission**; to Appoint Commissioner Richter to **the Sierra County Higher Education Board**; to appoint Commissioner Green on the **MainStreet Board** – with participation by other Commissioners; to Appoint Commissioner Green to the **Regional Planning Organization** with an **Alternate** being Commissioner Whitehead; and to Appoint Commissioner Green to represent this body on the **Sierra County Economic Development Board**. He called for all in favor:

All Commissioners voted AYE.  
Motion Carried. All Positions Appointed.

Commissioner Green noted there was one Position missing – **SCOG**.

City Manager Fuentes stated is on the spreadsheet, however it’s not on the Agenda, be forthcoming pretty soon when we start working going into the new fiscal year. SCOG does a Resolution every year for our Annual Membership dues, and in that Resolution they do ask the Commissioners to appoint a Member, a Representative and an Alternate; so that will be coming in the form of a Resolution

within the next month or two.

Mayor Mulcahy stated the stands; and we will wait to hear back on the other.

Mayor Mulcahy thanks the Public for hanging out tonight; noting this is a pretty full Agenda.

Mayor Mulcahy called for the last item under New Business, is a reorganized item, **called the Discussion and Action and invitation to Bid, New Mexico Solid Waste.**

City Manager Fuentes stated what he has listed are 5 changes to the current Bid; one of course is just a correction on page one under the title. On page three we are amending item number 3 to include a minimum of probably up to two load hauls per day – a minimum at least of one per day. To include, not just the TorC Solid Waste, but also to include the future growth of up to two, incase if other entities decide to dispose of waste in our Collection Center. Under item number 5, it was requested that we amend that section to include that off-site cleaning of those trailers will be done, he thought that was Commissioner Green. On page 4, we will also be making an amendment to include a unit price for TorC Solid Waste; and also a unit price for all the Solid Waste – or at least an estimate tonnage of Waste. We have another under page 14, Article 21; the word lease appears, so that will be amended to include this agreement, this contract. Those are the 5 changes he noted. He wished to see if there were any other changes the Commission wished to review; or any questions as our Attorney is present, if there are legal questions, now would be the time to do that. He asked Attorney Rubin to comment.

Attorney Jay Rubin stated he and City Manager Fuentes had spoken of, stated that on page 4 – on the provisional subcontractors had to be approved by the City, is that somewhere else and he just didn't pick it up.

City Manager Fuentes noted on page 3, item 6 – it does require the Awarded Contractor to provide a detail contingency plan (he noted he saw a correction under item 6); to transfer the New Mexico Solid Waste. Should the primary Contractor cannot meet that obligation. Speaking to the Attorney he noted that in response to his question – it is his opinion, under item number 6 it would be detailed what that contingency plan would be, who the hauler would be, we are requiring the hauler, the permanent hauler to be registered with the New Mexico Environment Department, we would expect the same to be from the Subcontractor should somebody be used.

Attorney Rubin noted that by some the response they did would be, in line with paragraph six it would satisfy the Subcontractor issues. He noted one other thing; on page eleven he wanted to clarify, noting on page eleven, look at paragraph two; what we said there was is the period of performance is good thru June 30<sup>th</sup>, 2014 and then we finish that paragraph with saying the Contract can be extended beyond four years, are we saying you have a two year term that can extend an additional four years or are we trying to say the whole extension should only be four years.

Mayor Mulcahy thought it would say that it would go to eight years, after we do a four year. If we're going to take two year to four year, we can't leave the other one at four - it wouldn't make any sense. Asking if we were talking about item 17?

Attorney Rubin stated no, paragraph 2, period of performance. If we call for a two year term, we can extend it, and extension is for four years, the way he is reading this is that you can go to 6 years, but he doesn't know if that was intended.

Commissioner Green stated but it says "a total of four years".

City Attorney said he knows, but it says the Contract can be extended. He wasn't clear what the intent of the Commission was, a definition of your term.

Mayor Mulcahy stated the intent in the Workshop was to take a two year Contract and turn it into a four. So it would justify the capital acquisition by the Bidder.

Attorney Rubin noted we might want to say '*note that this Contract with all extensions goes beyond four years*' – just a slight change in the wording. Attorney Rubin stated that was all he had.

Commissioner Green stated he would like also to put in somewhere that we own what's dumped on the floor; that's City Property, he thinks it's important to clarify, as it's a revenue stream; and in Patrick Peck's proposal he owns it – the minute it hits the floor it's his.

Mayor Mulcahy asked would a better way to say that - '*once it's in the truck*'.

Commissioner Green stated '*what is delivered to the City's Collection Center is the property of the City of Truth or Consequences – until it is placed in the transportation trailer provided by the Contractor*' – whoever it's going to be.

Commissioner Torres stated once it's loaded it's his.

Commissioner Green stated we want to protect ourselves because that's revenue.

Mayor Mulcahy noted here we are talking about it wording of it so it's appropriate for the RFP right?

City Manager Fuentes noted there was a gentleman from Public Comments who spoke of that, who would be the owner of Solid Waste during the hauling – so Mr. Fuentes thinks it's an area we have to get some clearer language from our Attorney. If the intent/request is to say that anything in that's dumped on the floor – will be the City's initially, and then anything that's inside the trailer would be; whether it's the hauler's or the City's.

Mayor Mulcahy noted he was of opinion that we are now modifying this Contract enough that we may need a Special Session and come back and approve it, so we can look at a final document, noting he hates to do that – but he doesn't want to sit there and re-write this contract in front of the Public.

Attorney Rubin asked if he was right, that it's not addressed at all.

Several Members agreed it was not in the Contract.

Commissioner Torres agreed with the Mayor, stating 'we need to do it soon'.

Mayor Mulcahy asked if we can have a meeting, can we incorporate it into the next. Noting we have the suggestions from the Public tonight, and certainly a lot of good ideas from the Commissioners – we need to come back and fix this thing, so that the Public can see the final document and not have 6, 7 , 8 amendments to the language missing. He asked the Commission for their recommendations.

Commissioner Torres agreed with the Mayor.

Mayor Mulcahy stated 'we're scheduling a Special Meeting for one night next week', he would like to add this to the Agenda, he wished to invite Public to comment again, on this specific item – so they can look at the final product. We have to get this right, we can't do this twice, and we've got to get someone to bid on this thing quickly and we've got to get it to a qualify bidder who will serve the rate payers better, as well as anyone we can, it's our responsibility, asking that if it's alright with the other Members if we table this and have a Special Meeting next week, and with that he called for a motion to do that.

"Steve Green moved to table the item and have a Special Meeting next week."

Seconded by Commissioner Whitehead.

Mayor Mulcahy stated he has a motion and a second to table this RFP until we meet at our next Special Meeting that will be scheduled by the City Manager, one night next week – with significant information for the Public to attend and to comment. Mayor Mulcahy called for a vote.

All Commissioners voted AYE.  
Motion Carried unanimously.

Mayor Mulcahy stated he was sorry if the Commission had let the Public down, but we really need to get this right and we appreciate your patience on it.

**Discussion/Action – DAIC Building – Old Armory Electrical Upgrade-Change Order No. 1.**

City Manager Fuentes stated the City, back in 2009, received an award of \$58,000 for improvements to the Old Armory Building, which is housing the Domestic Abuse Program. On February 21<sup>st</sup> the City opened bids for the Electrical Upgrades to the Facility, the base bid of \$16,473 plus the GRT, totaled for a project amount of \$176, 770, on February 28<sup>th</sup> the City Commissioners awarded the Contract to ACE Electrical. During the course of the project, there were some items that were brought to our attention that required attention. There was a slight modification, which was to include an additional circuit to AC in the kitchen break room. That small change order was about \$442.00. During the final inspection from Mark Olson, the Construction Division Electrical Inspector, there were several items that were noted that were outside of the scope of the original project. Noting information in the packets, a copy of his report, was provided. The cost of those items to be correct is about \$4,800.94; so the total cost for the change orders is \$5,336.00, the grant has sufficient funds left over to cover the majority of the cost. There is a small shortfall in financing – which is about \$2,472.00, we do have those funds in our existing budget to cover that. The reason for the change order, when the City Commissioners approved the original wording of the Contract, the specifically stated in the motion the amount, now the change order is going to require modification of that original amount – it is before the Commission for approval of the change order. He stood for questions.

**UNFINISHED  
BUSINESS:**

“Commissioner Green moved for approval of the Change Order for the Armory Electrical Project, Change Order Number 1.”

Seconded by Commissioner Richter.

Mayor Mulcahy noted we have a motion and a second to approve the Electrical Upgrade, Change order number 1. He called for a vote.

All Commissioners voted AYE.

Motion carried unanimously.

**City Manager's Report:**

Mr. Fuentes stated that in the Commission Packet was his biweekly report. Without too much detail, he had an item which was not in the report. Basically, they had a meeting pre-construction meeting, with WH Pacific and the Contractor that will be working on the Water Tank Rehabilitation, the Project will commence next week, and we will start to see some activity – both at the Cook Street Pump Station, as well as the other Tank – off I-25. He stood for questions.

Commissioner Green wanted to know if it made any sense for us, since you found us \$100 and something thousand dollars for NMFA, would it make any sense for us to take a look at some of the leases that we have that we're paying interest finance on, from John Deere, Community Bank of Louisiana, there's a financing company that was for the Police Phones, stating he would like to see us pull all our leases, take a look at what we're paying interest wise; he thinks it's a buyers' market, and thinks we should renegotiate every one of those leases to the benefit of the Community.

City Manager Fuentes assured Commissioner Green they can certainly review all the leases, and report back. This will be an issue we will discuss during the Budget Work Shop.

Mayor Mulcahy noted to the City Manager that Mr. Fuentes was proposing to reorganize some of the City Organization Chart?

City Manager Fuentes answered yes.

**REPORTS:**

Mayor Mulcahy, speaking to City Attorney Rubin by asking if he could look at the Administrative Duties to make sure he has the authorization to do that without necessary action from this Body.

City Attorney Rubin answered yes he would.

Mayor Mulcahy stated we need to find out the ruling on that to see if what we need on that. Noting he was not discouraging what the City Manager's action is, he just doesn't wants to do the wrong thing.

**City Attorney Jay Rubin** stated in his report that he had some good news on the legal front, several months ago, we joined in a protest before the New Mexico State Engineer on an application filed this private LLC, San Augustine Plans Ranch LLC, remember what they were trying to do was they were submitting this

application to going to going to divert this huge amount of County Water from our area, without really telling the State Engineer where the water was going to, so we joined a protest with a lot of entities and a decision was entered by the Engineer, which denied their application. So, he can put a copy of the ruling, and its Public Record, take a look at it, and have it put up at the City Clerk's Office, a good victory for us.

Commissioner Green stated \$2,000 well spent, protect our water.

Mayor Mulcahy asked Attorney Rubin to update the Commission on the Buckhorn.

City Attorney Rubin stated as you know, we passed a Resolution at the last meeting, which was two weeks ago tonight. He submitted the resolution by mail, which this Resolution allows us to do that, to the Brannon's, he did that on last Monday. Also by Ordinance we are required to give the Brannon's a hearing in the City Manager's Office – that has been scheduled for tomorrow, Mr. Fuentes and City Attorney Rubin will be there, it's just an informal meeting with the Brannon's to clarify or find out what information they are going to give us, and their time to submit a protest is rapidly approaching, by his count, he believed Friday is their deadline to file something, if they are going to do that, so that's where we stand.

Commissioner Green gave a reminder that tomorrow at 10:30, at the Civic Center there is Spaceport Community Council Meeting, which he believes is important that the Government Body of the City shows up in mass, and that the Community comes and listens, there is a public comment period, during that hour and a half, it's a 10:30 to 12:00 meeting at the Civic Center, the City is moving ahead with looking to move metal and sell metal, and right now if you go out to the drive through Recycling Yard, at our Recycling Operation, we are now taking tin cans, we would appreciate it if you could help us out by taking the paper labels off the cans, and just washing them out, and on your way out of town, go by the yard and drop them in, we're going to make money on that tin, which will all go to help produce the hauling cost and the tipping fees when we get to that particular point probably in September. The last two things are connected; to give the Commission a one minute update, on something they might not be aware of – before they all ran for election – Manager Fuentes and he started a discussion on branding our community, on branding the town, taking a look at us the Government, the Citizens getting involved in our own destination, our own future and we should be the architects of that future, no developer and no special project in all due respect, we should control the reigns, and so he wants them to think about this, because after our hearings for budgets, this is something that should be a priority, it doesn't happen overnight and it is a process, and it should be part of a process. He read two paragraphs from 25 Amendable Rules of Successful Tourism; if SpacePort America would have taken this book and the Arrowhead Project they could have saved seven and a half million dollars. Branding your Community is the process of setting yourself apart from everyone else in tourism Communities want the visitor subconsciously associate the brand with something they will easily recognize and remember as soon as they see your name – what it is you are known

for, they will remember you as a place they'd like to visit, Branding is much more than slogans and logos, it is not an easy strategy for a Community to undertake, in the first place it requires the varied disciplines of business, product development, marketing, communications and graphic design. Building a brand requires a concerted public relations effort, public relations is used to build the brand, while advertising maintains your position, once you are on top. Which means we should have our discussions with the Public, we should be looking at Lodger's Tax, and are we getting the biggest bang for our buck, what sets us apart, what defines us, finding some money and go ahead and begin to control our own future that we can be responsible for and proud.

**Mayor Mulcahy** asked his fellow Commissioners to respond to a couple of things, one is, we put on the Agenda 'Response to Public Comment', what he would like is for them to listen to Public Comment as it comes up during the course of the proceedings, and if you feel that you would like to respond then I'd like you to write to the City Manager, it's not to be shared between us but to go to the City Manager so he can put it on the Agenda to say we would like to respond to this particular comment from a previous meeting. He noted he thought it is important to give back feedback and not react to the things we're being told; the course of action is you have notes you have made about a public comment, you'd like to respond, would you send it to the City Manager so he can put it on the Agenda so that we can have a debate and respond to the public, you don't have to, but we need to respond to the Public, he would appreciate that. The Mayor noted, in looking thru the rules of procedure, he would like to ask again for the Commission input, is it fair, is it what we should be doing, is it in the interest of the Public, and does it provide for an orderly and efficient process, there are some things in here that he thinks are loosely written, nothing against those that wrote it, he would like this Commission to lay in on it, again, if they would bring your notes to the next meeting and we'll put it on the Agenda for discussion see if there's some action we want to take, he took that back. He took that back, and re-spoke that he would like them to send their suggestions to the City Manager so he can put those specifics on the Agenda and we can have a debate about those in the next meeting. He asked if there were any questions on those two things.

Mayor Mulcahy again thanked Commissioner Green for bringing up the Spaceport Meeting. This is an important meeting, this is an opportunity for this Commission to be well represented at that event and it's an important thing to do. The Mayor stated he wished to congratulate MainStreet for doing a fabulous job getting that award. He noted Las Cruces got \$100,000, they are five times larger; we beat them badly.

**Audon Trujillo**, made comments to the Commission regarding RFP's, procurement, the City Website and the Recreation Board.

**Hans Townsend**, Desert View Inn and President of the Chamber of Commerce made comments to the Commission regarding the difference between putting a Welcome Center to the Spaceport being outside the downtown area, mainly on the Freeway.

**Ron Fenn** made comments to the Commission regarding his concern about leadership and complaints made in writing about the Building Inspector.

**Gerald Trumbull** made comments about purchasing a home that is not on City Sewer and has no working septic tank, he also commented on the City Charter.

**Malissa Cordell**, TorC Police Department made comments to the Commissioner regarding the approved Crime Analysis Training.

**Terry Vandervetter**, Member of the Golf Course Advisory Board, made comments to the Commission regarding the RFP for the Golf Course.

There being no further business to come before the Commission, Mayor called for a motion to adjourn.

“Commissioner Green moved for adjournment.”

Seconded by Commissioner Whitehead.  
Motion carried unanimously.

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

Attest:

\_\_\_\_\_  
John A. Mulcahy, Mayor

\_\_\_\_\_  
Judy M. Harris  
Deputy City Clerk

**PUBLIC INPUT:**

**ADJOURNMENT:**

