

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, August 14, 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, August 14, 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

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 stated this last week we lost a member of the community Robert Montgomery former Mayor's husband, and called for fifteen seconds of Silent Meditation.

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

APPROVAL OF AGENDA: Mayor Mulcahy called for approval of the Agenda, and would like to suggest we have three advisory board's...Golf Course, Library and Recreation, and indicated we can extract any of those items from the agenda to take a look at the appointments, and recommendations, but if we concur with the minutes, and the recommendations for appointments we can include that in the Consent Calendar.

“Commissioner Green stated he would like to request that we move under G – New Business #14 – Discussion/Action – Process and/or appointment to fill the remainder of term of vacant Commissioner position, and since this was on the agenda previously three weeks ago this should be under Unfinished Business, and suggest we put it under E...make it E-2, and also has a request, and I appreciate that I'm given the opportunity to Respond to Public Comment, and stated that Public Comment was pertaining to an agenda item, and I

would like to have that moved from J-A to Response to Public Comment before C.”

Seconded by Commissioner Whitehead.
Commissioners Green, Whitehead, Mulcahy
Voted Aye
Commissioner Richter – Voted Nay
Motion carried.

RESPONSE TO
PUBLIC
COMMENT:

Commissioner Green stated he wanted to apologize to Lisa Burris and the community for my excessive behavior at the last City Commission meeting...I was totally caught off guard with the direction the Commission was going in the appointment to fill Commissioner Torres’s term...I want to reiterate that I have the highest respect for all the candidates who ran, and would have suggested anyone who had received the next highest vote count...I am sorry if I have offended anyone...certainly that was not my intent.

COMMENTS
FROM THE
PUBLIC: (On
Agenda Items)

Ms. Lisa Burris came before the Commission to discuss the nomination process.

Ms. Dhulkti Springhawk came before the Commission, and read a letter to the Commission, and sent it by Commissioner Green because the website that she had for the Commissioners didn’t work, and spoke on the nomination to fill the vacancy on the Commission.

Mr. Hans Townsend came before the Commission, and stated he thinks they are dragging this appointment of another Commissioner.

Mr. Gerald Trumbull came before the Commission, and stated this is in respect of item E-2 – Appointment to fill remainder of term of vacant Commissioner position.

Mr. Ron Fenn came before the Commission, and he would like to speak on Item K (a) Re: Spaceport Visitors Center, and that he did some analysis of the deal that the City proposed to the Spaceport for \$151,000 for 6 acres. And indicated the Assessor’s Office puts the land value of this parcel at \$42,085.21 an acre, and at 6.254 acres that parcel should at the assessed full value be worth \$263,200.

Mr. Bill Buhler came before the Commission, and would like to comment on Mr. Fenn’s remarks as to value, and what I’ve heard of the other tracks that were offered I think that the price put on them was very extremely high, and I think that should be taken into consideration. And would like to congratulate the City Commission for their support of the Welcome Center for the site selected.

And also voiced his support of Mr. Mike Kertesz for the appointment to fill the vacancy.

Mr. George Szigeti came before the Commission, and that he would like to clarify a statement that I made last week about the geothermal study, and seems there was a little misunderstanding that I may have not been speaking as a private citizen. And wants

to assure everybody that when I come up here, and introduce myself...I am speaking as a private citizen, and I am not representing the Public Utility Advisory Board in any capacity, and if they do ask me to speak before you I will make sure that I identify that is who I'm speaking for.

Mr. Audon Trujillo came before the Commission, and that I want to speak on item K-A on the agenda related to NMSA Welcome Center, and that he has two major concerns, and that Mr. Fenn went over one of them, and stated the City's...is being competed against local private sector.

Ms. Deborah Toomey came before the Commission, and stated this is regarding G-12. And read a Citizens Initiative Ordinance of the Citizens of Truth or Consequences, New Mexico, Prohibiting City's Acquisition or Maintenance of a Solid Waste Collection Center. And read its entirety. (Complete copy available at the City Clerk's Office).

Ms. Sophia Peron came before the Commission, and stated she is speaking to E-2.

Ms. Bettie Brannon came before the Commission, and stated she is here basically to represent Freddie Torres would have wanted, and that Freddie wanted what the people wanted, and referred to the election.

Mr. Steve Barscz came before the Commission...this Visitors Center...it's in the floodplain...all of a sudden is it out of the floodplain, and stated they better reconsider.

CONSENT
CALENDAR:

Mayor Mulcahy stated they have several items under the Consent Calendar – City Commission Minutes – Regular – 6/26/12 & 7/10/12 – Special – 7/30/12, Accounts Payable – July 2012, Golf Course Advisory Board Minutes – 6/13/12 & 6/20/12, Library Advisory Board – Appointment & Re-appointment, and Recreation Advisory Board – Re-appointments.

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

City Attorney Rubin stated thinking about the Mayor's comments about the appointments on the boards.

“Mayor Mulcahy stated I do want to approve, and adopt all the items on the Consent Calendar with one addition that would be that we are approving all the appointments listed for the Golf Course Advisory Board, Library Board and Recreation Advisory Board... the appointments and reappointments.”

City Attorney Rubin – I thought you were going to mention the names....I think we should.

“Mayor Mulcahy moved to approve Mike Kalin to be appointed to the Golf Course Advisory Board, and approval of Rev. Daniel Kowacich to the Library Board, and Louise Miller to be re-appointed, and the re-appointments of Millie McLeod and Carole Wheeler to the Recreation Advisory Board. And the amended motion is to approve the Consent Calendar for all items listed, and

to approve the appointments and re-appointments of all of the names submitted”

Seconded by Commissioner Whitehead.

Commissioner Green stated the he would like to ask that possibly in the future that the Commission get a copy of all the applicant’s that are applying for these positions so we can start a back-up file of people who are interested in serving on some of the boards.

Motion carried unanimously.

UNFINISHED
BUSINESS:

DISCUSSION/ACTION – RESOLUTION #01-12/13 OPEN MEETINGS RESOLUTION –

City Manager Fuentes stated the Resolution before you was tabled at the last meeting in part because of the notice requirements under the special meetings. And stated the proposed Resolution before you has three changes to it. Under the notice requirements for the **Special Meetings** – It will require 3-day’s-notice for the calling of a **Special Meeting**, and stated that is consistent with the opinion from the Attorney General and the Open Meetings Act Guide Book, and stated the Agenda will be made available within 24-hours of what actually is going to be discussed, and that is also consistent with the OMA Guide.

He stated in addition to that section we added a new section in the Open Meetings Act Resolution that includes Section 10-15-1(H) of the Open Meetings Act which covers all of the reasons why we can go into Closed Session. And finally there is a new section which is a Repealer under this Resolution that if there is anything else out there in form of a Resolution adopted by the City Commission that is inconsistent with this Resolution it repeals it, and I listed an example...such as the City Commissioners Rules of Procedures, and at a future date we will come back if we make any changes... we’ll make those changes to the City Commission Rules of Procedure, and that we will only be referring to the Open Meetings Act Resolution so that we avoid any consistencies between adopted documents.

Commissioner Green – Referred to A – Regular Meetings...since we post our Agenda on the City’s web-site would it make sense... the last sentence should read, and will be posted on the City’s web-site...since I believe we’re doing that anyway.

“Commissioner Green moved approval of Resolution #01-12/13 – Designating the Manner in Which All Meetings of the City Commission, Its Boards, Commission and Committees will be Held and the Method of Public Notification, and that Under A – Regular Meetings after the words New Mexico...we add the words...and will be posted on the City’s web-site.”

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

Motion carried unanimously.

DISCUSSION/ACTION – PROCESS AND/OR APPOINTMENT TO FILL REMAINDER OF TERM FOR VACANT COMMISSIONER POSITION –

Mayor Mulcahy stated I would like to be very clear with the public, and my fellow Commissioners to understand that the law of the State of New Mexico compels me to vote for who I believe is the best person for the job, for the City, for the Commission. He stated the NM Legislature did not see it fit to either suggest that the replacement come from prior election voting results...It's been said that in nominating Lisa Burris I was...the Commission...I was practicing cronyism...I was not I was honestly, and in my heart picking the person I thought would be the best person for the job... as per the State Statutes that requires us to do that.

He stated I'm not bringing back Ms. Burris, and I will never bring back an action that has been brought to this Commission so you won't see Ms. Burris come back tonight as a nominee. I want you to know that I'm not afraid of being un-popular...it's not very happy for me, and I'm not afraid of a recall...my only fear is...in submitting to pressure, and not doing what I believe to be in the best interest of our community.

Mayor Mulcahy stated over the past three months I've heard said... and most recently in Las Vegas, Nevada from someone else in the room that T or C is a community that just eats itself, and holds itself back by constant fighting, and I've heard it said that some people behave such that if I don't get my way...I'll ruin you... unfortunately I have experienced some of that...some people in a committee may try to do that, and again I'm not gonna be dismayed...but I want you to know that I don't subscribe to that, and I work for this Commission...I work for the City, and I want you to know that it is my intent to continue to do so...to do that with the best information...best heart as a purpose.

Commissioner Green stated it is unfortunate there are no guidelines to help the Commission through this appointment process...having none the most open, and fairest method to use is to listen to the voice of the public who had cast votes in the recent election...the person who received the most and highest percentage of votes...but didn't get elected should be appointed...to even entertain the idea of opening up this process to anyone, and talk about who ran against whom eluding to strong and weak candidates is deeming to all who ran, and makes a mockery of the election process...to have one's judgments clouded because of a personal agenda against an individual is certainly not in the best interest of the community... we cannot welcome the public on the one hand be a stickler for process, and procedure on the other, and then because of the proposed selection method doesn't fit our own agenda going a different direction disregarding the public. It is this appearance of governmental arrogance and hypocrisy running...over the public who have just been heard from that concerns me.

He stated the Commission should not pick one candidate against another that already took place in the election, but use a transparent appointment process that I believe the public wants to adhere to... let's leave personal history, and agendas out of this process...we

are bigger and better than that...we have a lot of work ahead, and I suggest we appoint and move on. The citizens have spoken with their vote...what's so complicated about listening to them.

"Commissioner Green moved to nominate Mike Kertesz to fill Commissioner Torres's remaining term...it is the only logical choice."

Seconded by Commissioner Whitehead.
Commissioners Green/Whitehead – Voted Aye
Commissioners Richter/Mulcahy – Opposed

Commissioner Richter – Article II – Section 229 – Vacancies is pretty clear that a vacancy in the Commission will be filled by a majority vote...the remaining Commissioners for the period specified, and I will not have my decision bound by pre-determined criteria for selection...that is no basis in the Ordinance...so upon saying that I'd like to offer a nominee, and I'm not asking for discussion on this nominee all I'm asking for...is I'm gonna make a motion...if I get a second...and if there is no second...if there is just silence that's fine, and if I get a second...all I'm asking for is an up or down vote.

"Commissioner Richter stated he would like to nominate Terry Taylor to fill the vacant Commission seat."

Motion dies for a lack of a second.

Mayor Mulcahy stated this a real important thing to get done, and that we need to do a lot of business...we have done a lot of business...we've picked up things from the table and we've gotten them done, but we need an operating 5-person Commission, and I know that certainly I'm ready to compromise on other candidate's or whatever we want to do, but I would like really to figure out how we can do this, and I would propose that the fairest way that I can think of is place an ad in the paper, and have some people come before us, and express an interest on this.

Commissioner Green – I don't think the community wants to see us play tennis, and bat the ball back and forth...we are public servants, and I want to use the first word of that two words...public they have spoken...there was a recent election. I cannot budge on a basic principal that I ran on in 2006, and lost, and 2008 and won, and in 2012 won again...is that I represent...we represent everyone, and we have to listen to what they said, and to me to open up, and we do what is best for the community, and I think having an election...

Mayor Mulcahy – Our Rules of Procedure require silence from the audience unless they are standing at the podium if you prefer to be here, and continue to let this meeting go forward...please respect that.

Commissioner Green – I think the public has spoken, and people put themselves out in public view...took the hard questions about some hot button issues that we are facing, and dealt with the public...the public heard how they handled themselves...how they answered their questions, and they spoke with their vote, and I think to disregard that process...I can't...I'm sorry Mayor I cannot

budge from that, and I will work with you on a lot of things, and I think you know that...I can't give up a value that I believe is...part of the things that I'm about, and we serve these people, and they have spoken, and why open up a process, advertise, bring in people who didn't even run back in...didn't declare in January, and didn't run in the 2-month period...I think it's slightly disrespectful to the people who did that. I think people surprise you...but I think we should give the person that support from the community 350 people supported Mike Kertesz, and what he stood for, and I think to not take that into consideration...to not look at that as guidance is absolutely the way to go...is everyone going to be happy...of course not...that we all understand, but a lot of people voted for Mr. Kertesz, and to me that said something, and I thought that would be the easiest, and the fairest way to transverse this mind field...I don't want to see another 2 weeks go by the board where we only have 4 Commissioners...I certainly don't want to have another election, and have \$6,000 just burned...that's not the way to go...I don't know what I can do to move myself more toward your thinking because basically what you're asking me to do is give up what I stand for, and I can't do.

Commissioner Whitehead – It's unfortunate that we have to be selecting a replacement for this position...I've tossed it around...I've thought about it...I've looked at all the candidates that ran...I've considered and thought a lot...Mr. Kertesz would be a good choice because of his background...his education...he has the time, and stated there are several other candidates that are sitting in here if we were to nominate one of them would we still be in the same spot. And that we were elected by the public...we're here to serve the public...we have a job to do, and we can't get the job done this way...we need to get the job done.

Mayor Mulcahy – Picking a candidate and coming up with a possible explanation for why that person should be the next Commissioner...I appreciate that argument, but it's in-flexible it doesn't allow us to compromise...it doesn't...to the State Statute it says nothing about a not at large election determining what's fair or easy...it doesn't have to be easy...Commissioner Whitehead...I'm very flexible beyond this point, but I know for my own personal reasons instituted by me...by the law saying you don't have to vote for somebody you don't want up here...that's what the law says, and I have nothing personal against Mr. Kertesz...I want a better candidate...pure and simple.

Commissioner Green – I think when you're running for President you get a choice to pick your own Vice-President...in this particular case I think we should listen to the public and choose who they chose.

Mayor Mulcahy – Commissioners is there any way we can move forward with some sort of ability to name this position.

Commissioner Green – Very simple...we need one more vote.

Mayor Mulcahy – I suggest you need one more candidate.

Mayor Mulcahy – Is there anybody willing...to place an ad to find another candidate. Seeing none.

“Commissioner Whitehead – That just puts us out two more weeks, and then the process. “I would like to...since we’re deadlocked at this point I hate to see that, but I would go ahead and nominate January Roberts as our next...as the position she was the next candidate right after Mr. Kertesz...I would nominate January Roberts to fill that position.”

Motion dies for a lack of a second.

Mayor Mulcahy – We’ll have to reconvene on this at the next meeting, and look forward any proposals from the rest of the Commission to get this thing going.

PUBLIC
HEARING:

**ISSUANCE NEW RESTAURANT LIQUOR LICENSE FOR
SPACELAKE, LLC, dba: K-BOB’S STEAKHOUSE –**

City Manager Fuentes stated the application before you, and the applicant’s name is Spacelake, LLC, dba: K-Bob’s Steakhouse, and indicated they have applied to the NM Regulation and Licensing Department Alcohol and Gaming Division for a new restaurant beer and wine license, and we provided a copy of the application that was submitted to the State, and that State law requires that the governing body consider their application to approve or disapprove the application, and also requires a Public Hearing to consider whether Spacelake, LLC...K-Bob’s should be given a beer and wine license. At this time we would ask for any public input on this application.

Mayor Mulcahy asked for all opponents regarding this liquor license to come forward. And asked if there was anyone opposed.

Ms. Sophia Peron came before the Commission, and stated she **was not opposed**, but I just want to make sure that if they get permission for a liquor license that they have paid their property taxes, and their utility bills.

Ms. Deborah Toomey came before the Commission, and stated her comments are very similar to Ms. Peron’s comments. For this particular franchise or not is a different LLC than the last time we had K-Bob’s...I’m pretty sure they walked away with owing this community around \$32,000 on a utility bills...the fact that has been written off is by the way a violation of the anti-donation clause as was recently determined when it was found out that Jaime Aguilera had been writing off utility bills down in Sunland Park, so I think it behooves us to found out are we about to once again be victimized to the tune of \$32,000 if they don’t pay their utility bills.

Mayor Mulcahy asked if there were any opponents to the liquor license.

Mayor Mulcahy asked if there were any proponents to the awarding of the liquor license. Public Hearing was closed.

**FINAL ADOPTION – ORDINANCE #627 – AMENDED BY
ADDING SECTION 8 – TAMPERING WITH UTILITIES -**

City Attorney Rubin read Ordinance #627 – Section 8-90. Tampering with Utilities. No person shall, without first having

secured permission from the City or its duly authorized agent, start or stop any pump, open or close any fire hydrant, valve or stop cock, open, break or move any seal or lock; or in any way tamper with or molest any pipe, meter, connection, appurtenance or property belonging to or any part of the utility system. If any meter, stop cock or other service connection appurtenance has been tampered with, the offending party shall be subject to the following fines:

- a) A minimum fine of \$150.00 for the first offense;
- b) A minimum fine of \$300.00 for each subsequent offense.

Further, the City shall pursue a claim for civil damages resulting from any damage occurring to the subject utilities.

City Attorney Rubin stated that Mr. Gil Avelar from the utility department was very helpful in getting the information for me to draft this Ordinance.

Mayor Mulcahy asked if there were any opponents of this Ordinance to step forward. No comments were received.

Mayor Mulcahy asked if there were any proponents of this Ordinance to step forward.

Ms. Sophia Peron came before the Commission, and stated if this bill goes into effect...this the law...the first people need to be busted are the City of Truth or Consequences, and that it fills up the Elgin Street Cleaner from an un-metered fire hydrant to the tune of 1,000 gallons of water a day, and also does all kinds of other kinds of illegal use of utilities and water, and electricity, waivers, illegal use...etc., etc. And we don't appreciate it as tax payers, and utility payers that have to pay our bills on time when the City, and other people are using utilities abusing the utilities of the City.

Ms. Deborah Toomey came before the Commission, and stated I am in support of this Ordinance...I have been doing some research, and as most of the community knows we lose about 30% of our water...it's just, gone, gone, gone, gone...Well not all 30% of that is simply going to leaks...probably about 10% is going to leaks, and the other 20% is theft. Our water is being stolen from un-metered use, and it's approximately 20% of our water...if the rest of us are paying so should these 20%...so I'm in support of this.

Mayor Mulcahy asked if there were any other proponents for this Ordinance. Public Hearing was closed.

FINAL ADOPTION – ORDINANCE #628 – AMENDED BY ADDING CHAPTER 14 – A NEW SECTION ENTITLED 14-116 – MORATORIUM FOR THE DRILLING OF NEW DOMESTIC WELLS –

City Attorney Rubin stated this is entitled Moratorium For The Drilling of New Domestic Wells, and stated paragraph (A) states the authority for the section, and paragraph (B) is the essence of the Ordinance, and reads...No new domestic water wells shall be drilled within the municipal boundaries of the City of Truth or Consequences except pursuant to a domestic water well permit

issued by the city's utility manager. And stated paragraph (C) talks more detailed about this, and read the paragraph in its entirety. (Complete copy attached hereto and made a part hereof.) And stated that section is taken from State Statute. He stated in paragraph (E) that this Ordinance becomes effective 5 days from its adoption...if the City Commission adopts it tonight it goes into effect 5 days from tonight, and that it will be good for one (1) year.

Mayor Mulcahy asked if there were any opponents of this Ordinance to please come forward. No comments were received.

Mayor Mulcahy asked if there were any proponents for this Ordinance #628. No comments were received.

The Public Hearing was closed for Ordinance #628.

NEW
BUSINESS:

VIDEO PRESENTATION: REDUCE, REUSE AND RECYCLE VIDEO –

At this time there was a Video Presentation from a youth on how the community can reduce, reuse and recycle.

CERTIFICATE OF APPRECIATION – JAYLAH DOW –

City Manager Fuentes stated they would like to recognize this young lady for her talent, and asked Leonard Carrillo with the Solid Waste Division, and the City Commission to present a "Certificate of Appreciation Presented to Jaylah Dow", In appreciation for your outstanding video presentation on recycling for the City of Truth or Consequences.

Mr. Dow...Jaylah's father received the Certificate of Appreciation on her behalf. Mr. Dow stated that she is away at college, and stated they started a recycling program at the Boy's 'N' Girl's Club as well as the Manzano Christian School.

Commissioner Green stated he wanted to thank Jaylah, and stated that will certainly help the recycling initiative in T or C, and he spoke with City Manager Fuentes about putting it up on our website, and would also like the family's permission to submit the video to English Bird who is the Executive Director of the NM Recycling Coalition, and I would like to ask them to put it up on a state-wide website...and I think it would be great, and I thank you, and please our dearest thanks to Jaylah.

PRESENTATION – AMY CLAESSION – FY-2013 YCC GRANT –

Ms. Amy Claesson, Mentoring Coordinator for the Boys and Girls Club came before the Commission, and stated she is here to share a recent development of a partnership that has developed between the Boys and Girls Club, and the City of Truth or Consequences through our recent application to the Youth Conservation Corps (YCC) which is through the Energy and Minerals and Natural Resources Department of the State of New Mexico.

She stated this presentation is highlighting the partnership between the applicant, and the City of T or C. And stated she would like to

thank City Manager Juan Fuentes and Don Armijo, Public Works Director for helping put together these projects for improvements on public lands for the benefit of the community, and would like to share a little background of the YCC so that our community, and have perspective on where the funding comes from, and what it is intended to be used for.

At this time a power point was presented. (A complete copy of the presentation is available at the Office of the City Clerk).

Commissioner Green – Asked if the application has been sent in.

Ms. Claesson replied – “yes it has been.”

“Mayor Mulcahy – Asked if the Commission would entertain a motion to change the agenda to allow the people from Socorro to move a little bit in the schedule.”

Seconded by Commissioner Green.
Motion carried unanimously.

DISCUSSION/ACTION – GEOTHERMAL STUDY –

Mr. Mark Person, Professor of Hydrology at NM Tech came before the Commission, and stated he submitted a proposal to the Mayor to undertake a study to assess the sustainability of your geothermal resources here in town. He stated he put together a presentation to provide some background for the work that we are proposing to do, and with me is Dr. Shari Kelly, and that she is a geophysicist and geologist working with the NM Bureau of Geology and Mineral Resources, and the grad student that will be working on the project if it is funding is Jeff Pepin, and also working with us will be Professor Fred Phillips who is the Director of the Hydrology Program...and recently wrote a book on the Rio Grande...the history of the Rio Grande.

At this time there was a power point presentation. (A complete copy of this presentation is provided at the Office of the City Clerk).

Commissioner Green – You mentioned...if funded, so is this a grant that NM Tech is applying for that would use to fund this project.

Dr. Person stated this project here with this budget is not related to that project, and that they are about to put a twenty million dollar proposal to study alternative energies sustainability issues...if that project...and the Mayor has provided us with a letter of support...if that gets funded we will commit ourselves to studying your geothermal resource over a period of 5-years...that proposal is about to be submitted, and if it is funded...if everything goes right a year from September it would start so my understanding was your time frame does not permit that...you can't wait that long, and so we've proposed a very rapid study that's more bare bones that you would have to fund...the City would have to fund...so if you don't fund us we're gonna still do that work if our proposal gets funded, but it won't start for a year from now.

“Commissioner Green moved to award the Geothermal

Sustainability Study by Dr. Mark Person and his staff Professor of Hydrology to NM Tech.”

Seconded by Commissioner Richter.

City Attorney Rubin – Do we need a contract...or is this awarding a grant...

Dr. Person – You need a contract. And need to submit a letter to us saying that you will pay a 10%...

Commissioner Green – Since this is over \$20,000 are we required by law to put out an RFP for this.

City Attorney Rubin – You might want to discuss that with Juan...I don't know if it you can make this a sole source.

Dr. Person – We have administrative staff that's familiar with contracts but I'm sure they want to enter into some sort of contract.

Mayor Mulcahy – In discussion with the City Manager we talked about State Agency...

City Manager Fuentes – This is a professional services agreement, and what I would suggest is that the motion...authorize staff to proceed and negotiate an agreement whether form of agreement is acceptable to them and the City, and of course with legal review so we can proceed forward with this project.

“Commissioner Green stated I would amend my motion to authorize staff to work with Dr. Person, and come up with a proposal that will be reviewed by our legal department, and eventually signed.”

Seconded by Commissioner Richter.
Motion carried unanimously.

PRESENTATION – CHIEF MULLINS – DRUG ABUSE IN THE COMMUNITY –

Chief Mullins came before the Commission, and stated they will have a power point presentation about prescription drug abuse and its effects on our community. And that we are currently participating in a Task Force that is being sponsored by the Children Youth and Families Department.

She stated she would like to thank city Manager Juan Fuentes for supporting their department, and encouraging us to be pro-active and joining these types of Task Forces.

Chief Mullins introduced Ms. Debbie Clark, Supervisor for our local CYFD, and stated she is heading the Task Force. Ms. Clark stated it recently came to everybody's attention that Sierra County has one of the highest rates of Opiate abuses...prescription drug abuses, and it was CYFD our number of children entering State custody in Sierra County doubled in one month, and almost quadrupled, and so they realized this was a serious problem, and they joined with local professionals that work in this field, and started developing a Task Force, and stated this Task Force is

growing with a lot of interest.

At this time the power point was presented.

DISCUSSION/ACTION – APPROVAL OF FILM LIAISON & FILM REPORT – CARY “JAGGER” GUSTIN –

Mr. Cary “Jagger” Gustin came before the Commission, and stated he has been serving as your film liaison for the State Film Office for the past two years, and gave a Film Report. (Complete copy attached hereto and made a part hereof.)

Mr. Gustin is also asking his re-appointment of the Film Liaison for the State Film Office.

“Commissioner Green moved for re-appointment of Cary “Jagger” Gustin as our Film Liaison representative.”

Seconded by Commissioner Whitehead.
Motion carried unanimously.

PRESENTATION – COMMISSIONER GREEN –

Commissioner Green stated because of the hour he would like to take this off, and put it on our next agenda.

DISCUSSION/ACTION – LIQUOR LICENSE FOR SPACELAKE LLC, dba: K-BOB’S STEAKHOUSE –

Mayor Mulcahy stated there was a question brought up during the public hearing, and asked City Manager Fuentes if he knew of or aware of any issues with the utility bills or taxes.

City Manager Fuentes stated that he does not have that information.

Mayor Mulcahy asked the Commission...what is your feeling about that is there an amendment we can make saying...or is it even legal Mr. City Attorney.

City Attorney Rubin stated I’m not really sure that we can...

City Manager Fuentes stated if you look at the application...the application specifically states that the governing body may disapprove the issuance or transfer of license if...and there are certain conditions under the application, and that is not one of them.

City Attorney Rubin stated we don’t have the jurisdiction to deny it based upon the State Statutes.

City Manager Fuentes stated for the benefit of the public...The proposed location is within an area where the sale of alcoholic beverages is prohibited by the laws of the State of New Mexico, and the governing body may disapprove if the proposed location is within 300 feet of a church or school unless the license has been located at this location prior to 1981, or unless the applicant license has obtained a waiver from the local option district governing body for the proposed license premises. And stated if it is in violation of

the zoning code and so forth, and the issue about the utilities or outstanding property taxes we're not...

Mayor Mulcahy – I appreciate that, and I'd like to remind the Commission that all of our authority comes from the State...we have no authority as a municipality that is not a Home-Rule to institute our own ordinances that going against what the State has given us.

“Commissioner Green moved approval of Issuance of the new Restaurant Liquor License for Spacelake, LLC, dba: K-Bob's Steakhouse.”

Seconded by Commissioner Whitehead.
Motion carried unanimously.

DISCUSSION/ACTION – ORDINANCE #627 –

Commissioner Green stated we talk about a minimum fine...is the maximum fine \$500.00.

City Attorney Rubin – Yes.

“Commissioner Green moved approval of Ordinance #627 – Tampering with Utilities.”

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

Motion carried unanimously.

DISCUSSION/ACTION – ORDINANCE #628 –

Commissioner Green moved approval of Ordinance #628 – Moratorium for the Drilling of Domestic Wells which will last for one year from 5 days from today.”

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

Motion carried unanimously.

Mayor Mulcahy stated he will be meeting with the OSE on Friday to update them on what is going on, and that they have been very interested in what is happening with this Ordinance.

DISCUSSION/ACTION – BILLBOARDS – DIANNE PREISSER –

Ms. Linda DeMarino on behalf of Ms. Preisser came before the Commission, and stated at the Sierra County Recreation and

Tourism Advisory Board got word from City Commissioners about the idea of putting up billboards along I-25, and that a small committee got together and came up with some slogans, and stated Dianne Preisser obtained quotes for two billboards on I-25 located near Socorro and the Dona Ana exits, and quotes for graphic designers, and believes City Manager Fuentes has that information.

She stated she has provided information on three slogans that we narrowed it down to, and the first one is Option 1...Hot Springs, Cool River, Option 2...Truth or Consequences is Hot Springs, Option 3...Soak. Float. Boat.

Ms. DeMarino stated that the subcommittee felt using the wording **Hot Springs** in the slogan was important, and provided pictures of what the billboards may look like.

City Manager Fuentes stated in your packet you have two agreements with Newman Outdoor Advertising, and that one of them is for a billboard North of Las Cruces...Board ID# 163 for a monthly rate of \$400.00 a month, and stated there is a production cost of \$1,000 for a contract total of \$5,929.41, and the other billboard from the same company also for \$400.00 a month, and a net production of \$1,100 for a total contract amount of \$6,064.94, and the recommendation tonight is to proceed and enter into an agreement for these two billboards, and there is still a pending issue as far as who will do the actual production of the design of the billboards, and that the action tonight is to enter into an agreement to reserve those two billboards, and funding for these expenses will be out of the lodgers tax fund.

“Mayor Mulcahy moved to direct staff to reserve these billboards, and ask our Development Director to help coordinate any marketing campaign to look at the logo and involve the public.”

Seconded by Commissioner Green.
Motion carried unanimously.

DISCUSSION/ACTION – RESOLUTION #09-12/13

Ms. Linda Lanham, Finance Director came before the Commission, and stated the City Commission approved agreement 12-1372-STB during a special meeting on July 30th, and it was brought to our attention as a requirement of the Special Appropriation Project 12-1372-STB for the Solid Waste Center Construction and Equipment, the NMED requires a resolution authorizing the Chief Executive to sign the agreement, and persons responsible to sign reimbursement requests, and other documents required by the NMED, and stated this is a new procedure that has been put in place by the NMED.

She stated before you is Resolution #09-12/13 authorizing the Mayor to sign the agreement, and the City Manager and myself to be signatory authorities to sign reimbursement requests and other documents required to submit to NMED.

“Commissioner Green moved approval of Resolution #09-12/13.”

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

Motion carried unanimously.

DISCUSSION/ACTION – DWI FUNDS –

Ms. Linda Lanham, Finance Director came before the Commission, and stated since the City is no longer the Fiscal Agent for the DWI program, the fees will be turned over to Sierra County who is their new Fiscal Agent. The amount of \$6,061.83 was agreed between the DWI staff and Finance Staff, and is requesting approval that the funds be transferred to the County.

“Commissioner Green moved to authorize staff to transfer DWI program funds in the amount of \$6,061.83 as per June 30, 2012 to Sierra County new Fiscal Agent for the DWI program.”

Seconded by Commissioner Richter.
Motion carried unanimously.

REPORTS:

CITY MANAGER –

City Manager Fuentes stated even though we couldn't act on the question regarding the utilities and past due taxes for K-Bob's... and that I will look into it, and will put it in a future report.

CITY ATTORNEY – No report.

COMMISSIONERS –

Commissioner Richter – No report.

Commissioner Green – No report.

Commissioner Whitehead – No report.

Mayor Mulcahy reported that he went last week, and attended a conference in Las Vegas, and was represented by 550 companies with 8,000 people who attended, and that there were 40 countries represented, and stated all of these are potential business operators for Spaceport America or for our airport.

He stated these are people that are looking to test unmanned aerial vehicles, and unmanned terrestrial vehicles, and the show was incredible, and that there were some of the things they have already seen out at the Spaceport...some of the customers we've already gone after, and that the conference is one he is going to make to the Lt. Governor on Thursday, and to the Economic and Rural Development Legislative Committee on Thursday, and that is myself, Dona Ana, Grant County, and the partnership we're the ones manning the booth...we don't have the kind of presence like Oklahoma who had an entire booth with the Lt. Governor there... we didn't have the same presence as the Indiana booth that had the Cabinet Secretary for the Congress Department there, and stated Ohio had a huge booth, and that there was a partnership booth between government and local companies who all attended the same booth.

Mayor Mulcahy stated he went by Boulder City, Nevada, and he looked at their pool and talked about their pool cover, and that it is something else...it's a much bigger pool cover, and he leaned a lot...it takes 30 people to put it up, and that they did not go with Arizon because they wanted the money up front, and went with another company ASATI, and thinks we should look at that company. He stated they made more money in the Winter than they did in the Summer because they put together programs that cost a lot of money...and they key being is manage.

He stated he is addressing the Economic & Rural Development State Legislative Committee the end of this week, and the beginning of the fourth week of the month we're gonna have the Water & Judicial Legislative Committee...about 50 members here specifically to take them to the Spaceport to let them know we need this informed consent law passed now, and would like to invite some of the Commissioners to participate in some of the events that we're planning for that.

Commissioner Green stated now that the Welcome Center is going to be a reality, and we're going to be on the radar screen I would like to set-up...and I don't know if we should do this in a workshop, and that I want to set-up a process so when organizations...when companies...when businesses...when individuals call about information about the Spaceport, and land opportunities in T or C, and building opportunities, and all the types of things that we're gonna be asked of...it's kind like the Hub 'N' Spoke that we have for recycling...I want one office...I'd like to suggest that we have one office...one or two people they respond they feel the question, and if economic development it would go to you...if it's tourism I would like it to come to me...if it's permitting it would go to our director of community development...if it's about city go to the manager...whatever then we open up a file on every inquiry so we have a sense of professionalism when there is questions about permits we know who is going to handle that question...we track everything because I think that's the way we can compete with Las Cruces, and possibly other communities by being sharper, smarter, more proactive, responsive, and be right on top of everything.

PUBLIC
COMMENT:

Ms. Sophia Peron came before the Commission with questions regarding the YCC grant proposal.

Ms. Bettie Brannon came before the Commission in regards to the Welcome Center site, and filling the vacancy left by Freddie Torres.

Mr. Audon Trujillo came before the Commission about the comments regarding the swimming pool. And the status of the committee regarding the ordinances dealing with advisory boards. And asked about the status of the golf management services.

Ms. Sakus came before the Commission, and commented about the fundraisers, and stated that is rewarding bad behavior.

Ms. Davonna Armijo came before the Commission, and stated the **Mission** is what you work for, and that the community needs guidance.

Ms. Malissa Cordell came before the Commission with suggestions on the replacement for the Commission.

Ms. Linda DeMarino came before the Commission to invite everyone to a two-day Community Design Workshop August 24 & 25 at the Lee Belle Johnson Senior Center for ideas regarding the site where the Youth Center was.

Mr. Gerald Trumbull came before the Commission regarding a fire hydrant on the corner of 9th & Pine Street. And stated we the public are calling for a full and complete accounting of monies, and equipment that was on loan to SCC to operate TV for T or C.

Ms. Lisa Burris came before the Commission, and thanked Commissioner Green for his apology, and made a suggestion regarding the vacancy on the Commission, and to possibly contact the local School Board as they were in the same predicament at one time.

Mr. Ron Fenn came before the Commission with comments about the swimming pool, and about the Waste Transfer Plant regarding the location and design. And stated that the Commission look into some documentation put out by the EPA on transfer station designs and decision making. And presented material for review.

Ms. Destiny Mitchell came before the Commission, and asked the Commission if they had any questions or comments on the proposal that I submitted to you two weeks ago on pool sustainability.

Ms. Deborah Toomey came before the Commission, and stated she has twice now witnessed what I believe is a prior restraint on 1st amendment rights. And that during the public comment the restriction on the first public comment is on agenda items, and the secondary public comment at this time has no restrictions.

And stated during comment on agenda items I very quickly read a Citizen Initiative Ordinance that I will be submitting to the City Clerk for approval as to form.

EXECUTIVE
SESSION:

“Commissioner Green moved that the meeting be closed for Executive Session pertaining to a. Purchase, Acquisition or Disposal of Real Property 10-15-1H(8), 1. Related to – NMSA Welcome Center, b. Pending or Threatened Litigation 10-15-1H(7), 1. HSLD – Relating to De-annexation.”

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

Motion carried unanimously.

OPEN MEETING:

“Commissioner Green stated that the Commission was now in Open Session.”

CERTIFICATION

:

“Commissioner Green certified that only matters pertaining to a. Purchase, Acquisition or Disposal of Real Property 10-15-1H(8), 1. Related to – NMSA Welcome Center, b. Pending or Threatened Litigation 10-15-1H(7), 1. HSLD – Relating to De-annexation discussion ensued and no vote was taken.”

Seconded by Commissioner Mulcahy.

Motion carried unanimously.

At this time Commissioner Richter recused himself.

“Commissioner Green stated #1. Related to NMSU – Welcome Center, I would like to put forth the following motion, “to authorize staff to proceed to move forward with negotiations with NMSA pursuant to the request for proposals #12-495-00-00340 (their #).”

Seconded by Commissioner Whitehead.

Motion carried unanimously.

At this time Commissioner Whitehead recused herself.

“Commissioner Green stated #1. HSLD – Relating to De-annexation, I would like to put forth the motion, “to authorize staff to do some research on the sign issue, and then report back to the Commission on their findings.”

Seconded by Mayor Mulcahy.

Motion carried unanimously.

ADJOURNMENT:

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

APPROVAL:

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

JOHN A. MULCAHY, MAYOR

ATTEST:

MARY PENNER
CITY CLERK

