

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, September 11, 2012

PUBLIC HEARING

Minutes

TIME & PLACE: The Truth or Consequences City Commission will hold a Work Session on Tuesday, September 11, 2012 at 5:00 P. M., in the Civic Center Auditorium, 400 W. Fourth, Truth or Consequences, New Mexico.

Mayor Mulcahy opened the Public Hearing, and stated we are going to cover a couple of items tonight –

1. Infrastructure Capital Improvements Plan (ICIP) for FY 2014-2018
2. Intersection of Foch & Main Street

Mr. Bill Slettom, Community Development Director opened the Public Hearing explaining the ICIP – Infrastructure Capital Improvements Plan, and stated this is something we are required to do by the State Department of Finance & Administration Local Government Division. And that we need to update our plan, and what we are going to be looking at is 2014-2018, and they were provided a handout, and a version of the 2013-2017 ICIP that we've been working off for last year.

He stated that DFA requires us to do this because it helps them to prioritize the expenditures for the State Legislature, and indicated that Capital Outlay Projects are funded from Severance Tax Bonds, and that every item has to be approved by the Legislature and the Governor, and they direct communities to ask for their priorities, and they will be looking for the top 5 priorities for capital funding, and will get through how they do this evaluation, and stated it covers a 5-year period, and that the biggest benefit it assists participants...communities in planning for infrastructure in both the short term and the long term.

Mr. Slettom stated this is a more efficient way for planning for the future for new projects, and also for maintenance. And stated Infrastructure is the basic physical and organizational structures needed for the operation of a society or enterprise; or the services and facilities necessary for an economy to function.

Types of Infrastructure that we are going to be looking at: Roads, Water, Sewers, Electrical grids, Telecommunications, Gas & Solid Waste, and indicated those are the difficult groups of Infrastructure that we'll look at. And Why is Infrastructure important because it promotes new investment, health and safety, development, and that a weak infrastructure is not going to attract new residents, or address the health and safety concerns of the residents.

He stated the process that we go through is to review any laws or policies that might affect infrastructure, and what we're talking about there is mostly compliance where we need to meet State or

Federal regulations for instance; wastewater or water...or so forth, and that we look at our existing plans and identify the issues, and we have public meetings such as this, and conduct surveys, and one of the things we'll have to do by the end of the month is submit to DFA our list...our priorities, and that we'll have to give them cost estimates including operating expenses, and then they'll start their prioritization. And stated the first thing they look at is public safety, legal liability, time line, and have some urgent need to meet regulation...does this constitute an emergency, and they try to bring some of your infrastructure into compliance.

Mr. Slettom stated they analyze our capacity what is our internal funding that's available for these infrastructure projects...how much capital investment can this City sustain we also look at where other funding can be obtained, and that some of those sources besides the Capital Outlay from the legislature are CDBG Grants, USDA very supportive of rural communities, Colonias are a source of financing...the State Water Trust Board, Aging and Long Term Services, and stated that's where we turn to for funding for the Senior Center and so forth, NMFA when we are going out for bonding, and private placement financing.

He stated the draft of the plan is what we're working on now in meetings like this...we meet with...our staff meets with all of the department heads to discuss their needs, and we meet with our elected officials, and revise the plan, finalize it, and submit to the State by the end of the month. And referred to the page 2013-2017, and this is what we submitted to the State last year, and you can see that our top 5...we've actually eliminated 2 of those...the Transfer Station, and the Water Tank Repair...going further down the ADA Restrooms for Armijo Park have been funded...the Mims Fire Station apparently that was a project that did not go forward, and the Rio Grande Development is an unknown entity, and the Airport Fuel Farm is underway, and stated that is going through the design and review now...Bridge over the Rio Grande that will come up as development ever proceeds on the other side of the river, and the last item was a Arts and Cultural Center, and that they have a 3-year time limit to move forward with their funding.

Mr. Slettom stated what we want to do is prioritize the remaining items, and that we also have two very important new ones...the Animal Shelter, and the WWTP Upgrade. And I'll talk a little bit about the WWTP, and indicated that is going to be a 3-part project...the first part is going to be to convert from using chlorine gas to using ultra-violet light, and the second part is going to be a new way to handle the sludge that would eliminate some of the odors, and the third part is to remove nitrates from the effluent, and this is something that we are required to do by the State and EPA, and we are looking at approximately 8 million dollar project, and we'll be looking to the State Water Trust Board...to the legislature, and whatever sources we can find to get that project going.

He stated the Animal Shelter...and City Manager Fuentes stated in regards to the Animal Shelter a presentation will be made during the regular meeting of the City Commission, and that a task force was performed to look at the transitioning from the current service provider to a City local government run facility, and stated they are working on a multi-phase process, and that the first phase will be a site selection, and then they will be looking at the structure itself,

and the cost...and so forth.

Mr. Slettom stated that is an overview of the ICIP process.

Commissioner Richter – How many projects are considered by the legislature.

Mr. Slettom – They are going to look at our top 5. And the reason we have a longer list is...as we complete projects we can move things up because we're looking at a few years out.

City Manager Fuentes stated in the prioritizing of these projects DFA Local Government requires, and asks all the municipalities to not only prioritize their top 5...but also the legislature will be asking to list their position when we go out there...as for funding they will ask where is it in your ICIP...is it one of the top priority projects.

Several suggestions from the audience included; Infrastructure such as water, wastewater line replacement, storm drain in the downtown area, electrical upgrade, wastewater system plant improvements, water well North, roads, solar plant, new youth center, animal shelter. It was also asked if we know how much money was available.

City Manager Fuentes on the road issue he stated we could include it...roads...City-wide road improvements.

There was also a question regarding the impact fees that have been collected...and when do we use those impact fee monies for infrastructure...is that reflected in here.

City Manager Fuentes stated part of the process here requires municipalities to identify how the funding sources that we could go after, and that it won't necessarily be in this form that we are required to fill out but as we put the options...there are a couple of options...local government match, State, Federal Grants, CDBG, USDA, and if we go after a funding source that includes local match we will definitely look at all our available resources, and if a particular project will qualify to use impact fees then we would definitely consider that, but at this stage we are only identifying what could be possible sources.

Mayor Mulcahy asked if we could go on to the next issue as we are running out of time.

Mr. Miguel Garcia Assistance Traffic Engineer with NMDOT was in attendance of the meeting.

Mr. Don Armijo Public Works Director referred to the power point which showed a picture of the intersection of Foch and Main Street where you can see a blind corner, and indicated this is not the first time this issue has come up, and that they have discussed this previously with DOT.

He stated they have discussed different possibilities to come up with a solution, and have also talked with the business owners, and State Statutes mandates that we can go back 15 feet and paint it red, and that they talked about going farther because of the way the

bubble sticks out. And when it was previously discussed it was also brought up about s stop light.

Mr. Garcia stated he was not familiar with the issues here, and that they will have to analyze this intersection, and consider their thoughts, and the only thing he sees there is a crosswalk, and ADA ramps...and that they will have to look at this, and get with the City and schedule a meeting to discuss the issue, and as far as a stop light that has to go through an a analysis...a warrant analysis, and stated they look at a lot of factors, and that if they can put a request in to consider it, and collect all the data to see if it warrants for a signal.

Mr. Armijo stated that a study was done on this before after it warranted for the flashing lights, but at that time it didn't warrant a stop light.

Some of the business owners had comments and concerns; first of all about the railing...does it need to be there, also lack of parking, the speed in that area, and they feel the traffic in that area would warrant a traffic light.

Mr. Garcia stated he will take their comments, and take this into consideration, and look at the intersection, and see what the issues are...and the site distance. And that he will bring this up to upper management.

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES
Tuesday, September 11, 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, September 11, 2012 at 6:04 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

Mayor Mulcahy stated on this day in 2001 America was attacked, and I want no one to forget that, and asked that they join in Silent Meditation.

Also Present:

Juan Fuentes, City Manager
Jay Rubin, City Attorney
Mary Penner, City Clerk

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

CEREMONY: Mayor Mulcahy called for the Pledge of Allegiance with Commissioner Richter leading the Pledge of Allegiance.

APPROVAL OF AGENDA: Mayor Mulcahy called for approval of the Agenda.

“Commissioner Green moved approval of the Agenda as submitted.”

Seconded by Commissioner Whitehead.
Motion carried unanimously.

COMMENTS FROM THE PUBLIC – (ON AGENDA ITEMS): Mr. Ron Fenn came before the Commission with comments regarding the Solid Waste Contract the MOU with South Central Solid Waste Authority.

Mr. Gordon Mishler came before the Commission with comments about the Fire Department House Bill 11.

Mr. Sid Bryan came before the Commission with comments on the site location for the Visitor’s Center under the Executive Session.

Mr. Bill Buhler came before the Commission with comments to urge the Commission to carry forward with their original proposal for the Welcome Center.

Mr. Hans Townsend came before the Commission with comments on the Spaceport Welcome Center. And also commented on the letter that the Mayor put in the Sentinel.

Ms. Linda DeMarino came before the Commission with comments about the Welcome Center.

Ms. Eve Elting came before the Commission with comments regarding the re-appointment of Billy Howell to the Planning & Zoning Commission.

Mr. Audon Trujillo came before the Commission with comments regarding the re-appointment of Billy Howell to the Planning & Zoning Commission.

Ms. Sophia Peron came before the Commission with comments regarding the Planning & Zoning Commission, and had a letter about the appointment/possible appointment of Mr. Ron Fenn, and read said letter.

Ms. Deborah Toomey came before the Commission with comments regarding the re-appointment of Bill Howell.

CONSENT CALENDAR: Mayor Mulcahy stated there are a couple of items on the Consent Calendar - Public Utility Advisory Board Minutes – 8/20/12 & Accounts Payable – August 2012.

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

Seconded by Commissioner Richter.
Motion carried unanimously.

UNFINISHED
BUSINESS:

DISCUSSION/ACTION – RE-APPOINTMENT OF BILLY HOWELL TO PLANNING & ZONING COMMISSION –

City Manager Fuentes stated this item was tabled at the last regular meeting, and indicated there was a request by Mr. Howell who submitted a letter of interest for the re-appointment to the Planning & Zoning, and that in the City Code it is decision of the City Commission to appoint to the Planning & Zoning.

Commissioner Green stated I was the one who requested that this be postponed because Mr. Fenn had referenced a letter that he had submitted to the Commission pertaining to some issues that were attributed to Mr. Howell...I had not received that so I spoke to the manager if we had do some research on Mr. Fenn’s positions that he had set forth in that letter, and I am convinced that there is meat on the bone, and therefore I would put in a motion “that we **do not** re-appoint Mr. Howell...although I appreciate his years of service to this community I think it is time to move on, and my motion is that **he is not re-appointed.**”

Seconded by Mayor Mulcahy.

Mayor Mulcahy – I too appreciate the service of Mr. Howell I think he has been in our business community for a great number of years, and he has done a lot of things, and that he and I had a meeting earlier this week, and we spoke about some of the issues facing the Planning & Zoning Commission, and I would like to see if there is further discussion.

Commissioner Richter – I’d just want to say...I think we’re gonna vote on this...I think he deserves an up or down vote...win, lose or draw, and since it’s been seconded I think we ought to go ahead and vote on it.

Mayor Mulcahy & Commissioner Green Voted Aye
Commissioners Richter/Whitehead Voted Nay

Mayor Mulcahy – Vote is stalemate...not a stalemate...we have a non-passage in the motion. Mr. City Attorney what’s the outcome of that if we have a motion to not appoint...and we have a split vote.

City Attorney Rubin – You don’t have motion on the floor to appoint him either so...it’s really in limbo...so you need to make a motion to appoint two people and he can be included.

Mayor Mulcahy – Can we make another motion on the same issue.

City Attorney Rubin – Yes...If you want to you can combine E-1 with F-1 on the Agenda...you can make a motion to either appoint 1 person or 2 persons.

City Manager Fuentes – Since we do have a stalemate right now because we don't have the 5th person under the City Code the Planning & Zoning member remains in that position until it is acted upon at a future date, and we have one more item where we do have a vacancy, and in your packet there are 3 names that have submitted a letter of interest. And once that 5th person is appointed should this position come up on this, and if the Commission decides otherwise then there would be an odd number of votes that would prevent another stalemate.

Mayor Mulcahy – Are you saying we go to the next issue on the agenda.

City Manager Fuentes – I'd say we go to the next issue, and once we have a 5th person unless a Commissioner decides to bring this back on the agenda then Mr. Howell will remain on the Planning & Zoning until we have a 5th person on the City Commission at which time we'll have another vote that will be a deciding vote.

Commissioner Richter – Is Mr. Howell's term expired...he's not a current sitting member as I understand it...right...he's not been voting.

City Attorney Rubin – I believe according to the Ordinance I think...until he's replaced I think he continues to serve.

NEW BUSINESS: DISCUSSION/ACTION – APPOINTMENT TO PLANNING & ZONING COMMISSION –

City Manager Fuentes stated in your packet included is a memo, and that we have another vacancy, and we have 3 members from the public that have expressed interest in serving; Mr. Ron Fenn, Mr. Michael Sparks and Mr. John Saridan. And stated Mr. Fenn and Mr. Sparks are present, and pursuant to City Code an appointment by the City Commission.

Mayor Mulcahy – Mr. City Attorney do we approach this as 3 separate actions.

City Attorney Rubin – You can make one motion.

Commissioner Green – I would like to suggest that we consider doing what we have done in the past which is open transparent, and fair to all the applicant's. And I would like to suggest that we...and that P & Z will not meet again until after our next City Commission meeting that we schedule individual presentations in front of the public...that we interview one at a time, and have an opportunity to listen to the individual applicant's...qualifications why they want to serve what they bring to the table, and then I think that is a fair way to make an evaluation. And I would like my fellow Commissioners to consider holding interviews starting at 5:00, 5:15, 5:30, 5:45 or whatever the Mayor and the City Manager deem necessary to give everyone a chance as this is an incredible important board.

Commissioner Richter stated he agrees totally with Commissioner Green, and I think possibly if we schedule that one hour before the next meeting, and may have a larger pool of candidates by then.

“Commissioner Richter moved to proceed with Commissioner

Green's outline.”

Seconded by Commissioner Green.

“Commissioner Richter stated it would be on September 25th.”

Motion carried unanimously.

DISCUSSION/ACTION – UPDATE OF T OR C & WILLIAMSBURG FIRE – HOUSE BILL 11 – FIRE CHIEF PAUL TOOLEY –

Chief Tooley came before the Commission about some time line, and some history of what has been going on as far the Williamsburg Trustees have come up with, and some issues that we have with T or C Fire.

He stated on August 9th the T or C Fire Department was contacted by the Village of Williamsburg to cover the Village for fire protection, and this was after their meeting. And on the 27th I received a letter from the Village of Williamsburg to the T or C Fire, and also the City of T or C which I believe Juan you did receive a letter from the Trustees allowing House Bill 11...to recap a little bit...House Bill 11 is actually the State Fire Funds, but it was amended in January to allow any municipality may permit its Fire Department to service an area adjacent, and contiguous to its Corporate limits, but within the Corporate limits of another municipality provided that the other municipality by Resolution or law duly adopted or enacted consense to the service, and to the boundaries of the other areas serviced...before commencement of service a plat showing the geographical limits and boundaries of the additional area to be serviced shall be filed with, and approved by the State Fire Marshal. A municipality may apply for fire protection funds eligibility for any fire station located within the additional areas serviced.

Chief Tooley stated now House Bill 11 also includes some other issues that have to do with Airports as well as all the funding that comes from the State Fire Marshal. He stated the corporate boundaries of Williamsburg would basically become T or C Fire so the area that we border on the North, and the area that we border on the East would be contiguous to T or C Fire Department, so they would become part of our responsibility as to where we need to have service provided to, and right now we are currently providing service to Williamsburg as the T or C Fire.

He stated under the State Funding there is a couple of things... Tucumcari who is also a Class 5 has two main stations, and an admin building...so I know Gordon mentioned having 2 main stations as far as funding is concerned. And indicated that T or C would have to give up the sub-station funding that we currently have out towards Williamsburg because it is too close to a main station, and that we will pick that up with House Bill 11 at the Airport at our sub-station out there, and so what we would have is two main stations...a North and a South side, and some of the things about having two main stations on the South side...they have two Class A pumps, two brush trucks, and a Chief's car...one there is better coverage and response time from the South side especially

for T or C in that area because of where the location of the T or C Fire our North side is located, and the other thing we have more resources to throw at Williamsburg in that area as well.

Chief Tooley stated we looked at this with House Bill 11 with the State Fire Marshal...there is no more T or C/Williamsburg when it comes to fire protection...it's all T or C. And one thing that has to be done, and I've already contacted with State Fire, and with the Finance Authority they have to be debt free, and their State Fire Funds which they currently received under their Resolution there still operating as a fire department by law that will have to be paid, and stated that check has been sent to the Finance Authority...that will close on October 22nd. He stated we're looking at November 21st which gives us about a week within this so called 90-day area, and once a municipality, or the Village or the County decide they don't want to do fire service anymore, or they want somebody else to do it...there is a 90-day window, and if nothing is done in 90 days all that equipment comes out...they no longer exist as a fire department or have fire service.

He stated State Fire Funds will be used until November 1st, and I was contacted by the State Fire to go ahead and use those funds as soon as a Resolution between the City and the Village is signed whatever State Fire money they have goes back to the State Fire Marshal, so in the mean-time T or C will use the Village equipment on a day to day operations and for fire calls, and this has been approved by the State Fire Marshal as well as the NM Self Insurers...what happens by Resolution between these two it also has to be approved by the State Fire Marshal, and indicated he already has a map of the Village of Williamsburg that will be added to our ISO District in T or C. And what that allows us to do is basically have two main stations, and that we give up funding from our sub-station...but we get another main station, but House Bill 11 allows us to add the Airport as well.

Fire Chief Tooley stated within the next 30-days at max probably within the next 2-3 weeks is a Resolution, and that it is at the State Fire Marshal at this time, and all the equipment that has been purchased, and has been obtained by the Village of Williamsburg will become property of T or C Fire Department. He stated T or C will lease the building, and that the building was paid for with State Fire Funds for \$1.00 a year, and the Village limits will be now part of T or C...so their legal boundary by ISO will be incorporated into T or C. And stated no compensation shall be paid by either party or the other party for services rendered...all the proper funding will be obtained through State Fire funding.

Commissioner Green – Do we presently have any volunteer fire fighters who live near the Williamsburg area.

Fire Chief Tooley – I have 4 that actually live closer to that station than I do at the North station...our main station. And indicated that Las Palomas picked up the extrication that Williamsburg was doing.

Mayor Mulcahy – Does this impact the ISO rating for either community.

Chief Tooley – What this will do...when this boundary was added

as far as the State Fire Marshal is concerned it will stay as a Class 6...the possibility it is going to be incorporated into our Class 5, and the other possibility is ISO may re-evaluate, and it may be a 5/6 or they may re-evaluate it whether stand alone or with us...at this time it is going to maintain a Class 6, however the funding...you are funded by your highest rated station...so we will be funded for two main stations under our ISO with Class 5.

Mayor Mulcahy – If the Williamsburg Trustees went back and said...we want it back do you have any comment.

Chief Tooley – There are some legal issues that have to be worked out with the State Fire Marshal, and this is the reason why this Resolution that we have been working with the City Manager, and City Attorney Rubin, the Village, and the State Fire Marshal as to the verbiage that needs to be in the Resolution...so those are some issues that their legal team will be challenged with. And stated nobody has used this part of the Bill because it was only adopted, and amended in January of this year, and so a lot of this is kinda ground breaking for the State Fire Marshal as well.

“Mayor Mulcahy moved to direct Chief Tooley to proceed and continue with his course of action, and return to us with an update as appropriate.”

Seconded by Commissioner Green.
Motion carried unanimously.

DISCUSSION/ACTION – SOLID WASTE HAULING SERVICES MOU –

City Manager Fuentes stated this is a joint presentation, and we have present Mr. Patrick Peck Director of South Central Solid Waste Authority, and you have been provided the MOU with South Central Solid Waste Authority for the hauling services of solid waste, and in my Commission Action Form I have included what the MOU calls for.

He stated we are looking at a monthly fee of \$6,430.03 for equipment, employee and service, and a tipping fee of \$28.30 per ton, and the MOU will reimburse the authority for actual fuel costs, and allow SCSWA as the sole provider for the removal and disposal of all MSW at our collection center, and that the last bullet point if for – Deposited MSW will become property of the Authority, and Commissioner Green has suggested we could have some amended language which I did talk to Mr. Peck about, and he is willing to amend it, and our City Attorney has provided the amended language...and we'll go over that.

Mr. Patrick Peck with the South Central Solid Waste Authority came before the Commission, and that he comes before you in a good faith effort. And stated the City Manager and I have been working diligently to give you the best offer possible for transportation of your solid waste from the City of T or C to a landfill that we call the Corralitos Landfill outside the city limits of Las Cruces.

He stated his board of directors are City Councilors, County Commissioners just like yourselves...we are public body, and that

this is a government to government contract, and what this allows...passive of this resolution tonight this allows us to do is to order our equipment, and that we have 120 days out on our trucks and trailers that we'll need to fulfill you contract.

Mr. Peck stated in no way do I want you to think you're bound to \$6,400 a month as soon as that equipment gets here...we want to work with T or C...we want to work with your recycling program...we want to work with your solid waste operator. He stated they've had several tours of our plant, and we talked to them about the computer programs that we use for weighing our tonnage and recording everything else, and that we're trying to work with you guys to develop almost a mirror image so we can support you in your endeavors, and stated if this doesn't happen, and understands there are still issues around your transfer facility that you're working through. He stated these are just extra pieces of equipment for my fleet, and that you're not gonna be bound for \$6,400 a month for 2-years...this only goes into effect once you start collecting solid waste in a facility using these trailers, and being this is the best and final offer I can give you, and I've sharpened by pencil as tight as I can get, and we'll be buying fuel off of State Contracts, and employees...\$12.00 an hour is about as low as I can go on a truck driver, and probably the person I assign to this operation won't be a brand new guy...I'll bring somebody else in and train them so I pass some of that savings on to you.

Commissioner Green – You mentioned...I thought I heard two different things...first you talked about the \$6,400, and then you said something to the affect...and I took that to be there might be some wiggle room in that number it's not necessarily poured in cement, and then I heard you say this is my best and final offer...so could you...did I misunderstand the first statement or am I just wishing that it's not your best offer and want a lower number.

Mr. Peck – I might have wiggled on that a little bit...but \$6,400 is tight as I can make the bid that pays for the equipment that we need, and the wiggle room is instead of putting...having you guys pay somebody's actual salary at \$18.00 an hour...I'm gonna have you pay a newbie, and I'll use the newbie for something else, and give you an experienced operator.

Commissioner Green – When you're talking about the equipment necessary to do the job...

Mr. Peck – Correct.

Commissioner Green – Does that include for example...the trailer gets dropped in the collection center area...now that trailer has to be pulled out when we feel it's full, and then replaced with another empty trailer that comes in...is it your man power that has a yard tractor trailer whatever you want to call it that's on our premises that pulls that trailer...how does that work is that part of the service or is it something T or C has to plan in our operating cost to do.

Mr. Peck – The jocking of the trailer is responsibility of the owner and operator of the transfer station...what we have offered in verbal discussion with the City Manager...and we have a couple of 1996 semi's that are getting ready to retire...and I'll give you one. He stated they are fully functional, and I'll park one up here at no cost,

and you guys can use that truck to move it...I'll maintain it...that's a good-will gesture, and that we're were gonna go ahead and auction these trucks off anyway, and I've talked to the City Manager...I'll either donate it to the City of T or C for you guys to use, or I'll just park one here...and that's not in the contract that's a verbal agreement to your City Manager and myself...that's a separate item...how we want to deal with that as whether it's donated...but we will provide that.

Commissioner Green – Jay...under #3 Term & Consumer Price Index #3 – The Authority agrees not to increase fees for two years from the date service begins...I think I'd like to have the word fees spelled out...on what exactly we're talking about so there is no misunderstanding on both parts.

City Attorney Rubin – I'm assuming that we're talking about both under paragraph B #1, #2, the tipping fees will not be increased...I see in here it says...the City agrees to pay any and all increases of the tipping fee throughout the durations in the MOU after initial term, and initial term is two years.

Mr. Peck – Correct...That is the intent of that language is that we will hold the \$28.30 tipping fee for two years.

Commissioner Green – And that's the way I took it, but I thought that...someone might pick this up and say what does that mean, and say the \$6,430.03 and the \$28.30 those are the fees that will be solid, and the only thing that might fluctuate during the first two years would be the diesel fuel price.

Mr. Peck – That's correct.

City Attorney Rubin – If you feel more comfortable to say...The Authority agrees not to increase their fees described in paragraphs B- 1 & 2.

Mayor Mulcahy stated the big three things that I've talked about since we started this conversation in March about solid waste was the fact that we really need to be flexible in our contract to be able to go up and down with the amount of trash, and to not be penalized for that, and we saw in some RFP's that came back, and it was some minimums, and we pay whether we have that much trash or not. And we've fluctuated between 5,000 and 12,000 tons a year without even thinking about how much recycling we want to do...and I hope it's a lot so that we could...and we also don't know how much of the County trash is going to increase being dumped into City dumpsters, and impacting us because people are doing that right now. And the other – what governments are going to join us and use this facility...impacting again the numbers from Elephant Butte State Park alone 5-6% of the total trash of the County, so I'm really looking at this agreement favorably because we have that kind of flexibility within this arrangement with Patrick Peck and his company.

He stated I'm kinda happy that we're at this point after having gone through that, and appreciates your patience Mr. Peck in this whole process, and certainly encouraging the Commissioners to think about the opportunity that exists with the flexibility on this particular contract.

Commissioner Richter – I agree with you...plus it appears that Mr. Peck is willing to give us some advice, and some hand holding consultation in the operation of our transfer center, and this is about as good of offer as we're going to get.

Commissioner Green – This does not...as one of the RFP's almost penalized us for recycling, and this basically the bottom line is...it is up to us...we're a little bit of the control of our future is in our own citizens hands., and thinks this is fair and reasonable...and I think we should move forward.

“Commissioner Richter moved to accept the Solid Waste Hauling Services as described in the MOU presented by Mr. Peck with the amendments.”

Seconded by Commissioner Green.
Motion carried unanimously.

Mr. Peck stated this will go before our board next Thursday at 9:00 AM at our meeting as well. And if I could ask your Attorney to give me those changes ASAP so I can distribute to my board.

DISCUSSION/ACTION – BID AWARD – SALVAGE/WHITE GOODS –

Mr. Leonard Carrillo, Sanitation Director came before the Commission, and stated we went out for bid...an RFP for scrap metal recycling. And stated the first bid that went out they did not receive any response, and received comments that they wanted us to look at the re-bidding...the proposal, and they reviewed it, and made a couple of changes, and so the put the RFP back out.

He stated they received one bid...Iron Metals Acme from Albuquerque, and they are offering the going price now \$190 a net ton, and explained after they clean out the scrap...the garbage out of it they will pay us what the garbage is worth, and that they will go with the Albuquerque market prices. And they are joined with several companies.

Mr. Carrillo stated they will provide trailers, and provide 30 yard roll-offs which will be delivered to us when we need them, and indicated they want 24-hour notice to trade off trailers because of the distance. He stated the City now is hauling between 4-8 tons a month of metals out of the landfill, and with these trailers set in one spot we can probably get them up to 10 tons.

Commissioner Green – I understand the market is fluctuating metal...the \$190.00 that they are using as an example...after they clean-up the material is there any charge for hauling away delivering the empty trailer, or is this going to be in that vicinity what we could expect...if we had 10 tons, and we'd be receiving a check for \$1,900...am I correct...there are no hidden fees...hidden charges.

Mr. Carrillo – I'm not certain.

Commissioner Green – My only concern would be if we could possibly get a commitment from the company that there are no un-

intended costs other than cleaning of the metal...I just want to make sure, and I would like to have that clarified in our contract, and commends staff for getting us to this point.

City Manager Fuentes stated we will definitely we'll be executing an agreement that we will clarify to make sure there are no hidden costs.

“Commissioner Green moved to authorize staff to proceed developing a contract with Acme Iron and Metal Company, and to work out some of the finer points that we have discussed.”

Seconded by Commissioners Whitehead/Richter.
Motion carried unanimously.

DISCUSSION/ACTION – ANIMAL SHELTER – SITE LOCATION –

Chief Mullins recognized the following individuals on the Animal Shelter Task Force...Tony MacRobert, Jan Porter-Carrejo, Diane Lombardo, & Melissa Cordell.

She stated that July 28th the City Commission approved the formation of an Animal Shelter Task Force, and that the Task Force is working, and developing resources and gathering input for a shelter, and the presentation tonight is on Phase 1 regarding location options and location comparisons.

Chief Mullins stated during their first two meetings they gathered a lot of information regarding shelters everything from funding sources to building recommendations, and they divided the data into phases, and that they have identified 6 phases. She stated they took photographs of the different sites.

She stated Phase 1 is the location.

Chief Mullins stated Phase 1 is the location, and indicated they can't continue until they have identified a location for the shelter, and stated that would be followed by public hearings. Phase II – Emergency Shelter, and that they would be looking at MOU's with other vested stakeholders such as Elephant Butte, Williamsburg and the County, and that in this phase they would need to come up with the minimum required equipment for the shelter, personnel and standard operating procedures.

Phase III – Cost analysis, Budget speculation...our potential plans, funding such as grants, loans, and in phase IV they would continue fundraising to get this emergency shelter and equipment started. Phase V – RFP's for construction. Phase VI – Construction begins, and Phase VII – We hope to have the construction completed, and stated that would be the time that we would look at revising our current Animal Ordinances, Spay/Neuter Programs which they received a lot of information along with Adoption Programs and Pet Cemetery Programs.

Ms. Malissa Cordell stated the map of T or C was provided by City Hall, and referred to the gray areas are City properties, and the areas that are circled are the areas which were available for consideration...the areas circled in red are not being presented for

consideration...the areas in yellow were somewhat considered, and the area in green is a location which showed the most possibilities.

She stated the sites that were viewed were the Veater Street – Wastewater Plant Site, Myrtle Street, River Road – Old Wastewater Plant Site, in the area of the New Cemetery, Race Track, Cedar Street – Armory/Motor Pool area, and Exit 83 – Airport, and identified the Pro's and Cons of each location were also presented. (Complete copy of power point available at the Office of the City Clerk.)

Chief Mullins stated based on the locations that were provided to us for consideration we recommended the Cedar Street location, however this is only a preliminary report, and that they are aware they need to do further research, and probably need additional information on any other sites that the commission might want additional information from them, or if they have any other ideas for possible locations, and this is all that was provided to them were those locations.

Commissioner Richter stated he would like to commend them on an organized report, and the way they are going about this.

Commissioner Green stated he concurs with Commissioner Richter's comments a well-deserved and a well-earned recommendation. He stated he did have occasion to bump into and speak to John, and that he is the business manager for Dr. Dawkins, and one thing lead to another, and he knows about our quest...and the clock is ticking, and I just happened to pose the question that when Dr. Dawkins and you came before the Commission 4-5 months ago it seemed pretty definite that this was a done deal, and that you wanted to do something else with the wing of that building, and as we continued to talk he said we would not...not listen to any reasonable proposal.

He stated they wanted to deal with one entity, and then what that entity does on its own to bring other people...other organizations or municipalities is one thing...but there would be one go to entity, and stated they would entertain if the Commission, and your group felt that it would be appropriate to at least look at a proposal that would either lease the building from them, and they would operate it at a fixed fee, or we would lease the building, and we would run it with our own personnel...and think the possibility of buying that building, and all I wanted to impart to you is that it seems like the door has not been bolted closed, and if a proposal was made to them by one entity they would at least entertain that.

Chief Mullins stated they did receive a letter from John Young because we actually confronted him as well so we could have a plan b, and he mentioned the same points you brought up. She stated cost effective that would be the best way to go, and stated they are only on Phase 1, and that they did go look at the Deming shelter as it was the closest size in population to T or C, and indicated they receive \$100,000 from their City, and \$100,000 from the County, and then they go out for fundraising to run the shelter, and that they also looked at Las Cruces.

Commissioner Whitehead stated she would like to commend you and your department on a job well done.

Mayor Mulcahy – The site at the Wastewater...what knocked that out of your contention.

Chief Mullins stated they are not sure it is in a flood plain, and that it is close to residential areas.

“Commissioner Richter moved that he would like to make Dr. Dawkins an offer...comes up with a proposal to see what she is interested in.”

Seconded by Commissioner Green.

City Manager Fuentes – The top two sites...the Cedar Street location and the WWTP, and as we proceed with contacting Dr. Dawkins staff can also proceed looking at those two sites, and moving forward although we understand there is no official action yet, but at least they can start moving forward parallel with those two actions.

Commissioner Green – The Armory...it is a National Guard Building...do we know if we have the right to put an animal shelter in that building I think we have to do some research...does the City own the building...are we leasing it...has it been given to the City, but I think we have to verify what we can do with that building or can't do..

“Commissioner Richter moved to instruct Chief Mullins and the Task Force to further investigate the two sites...Cedar Street site with the Armory, and the site at the WWTP on Veater, and also to come up with a proposal, and make Dr. Dawkins an offer for Animal Control Services.”

Seconded by Commissioner Green.

Motion carried unanimously.

DISCUSSION/ACTION – RE; T OR C BILLBOARDS –

Ms. Linda DeMarino came before the Commission, and stated at their last meeting she provided a picture with a couple of billboard suggestions, and that she is here to find out what direction you want to go with those.

She stated the Tourism Board developed a small committee to come up with slogans and ideas, and narrowed them down to two with public input, and then narrowed them down to one, and then to a graphic designer, and he developed different billboards, and Commissioner Green asked them to take the different billboards to the Community Design Workshop that Main Street hosted to get input from the public, and picked out the top two they suggested and brought them to you.

Mayor Mulcahy stated he is anxious to move forward, and loves both of them, and I think my favorite would be the top one because it shows our town and the hot springs, and would like to suggest that we decide and let this go forward.

Commissioner Richter stated we're looking at two billboards...I

think we should put one on each, and think they are both great ideas and excellent...and we need to move on this.

Commissioner Green – We have reserved the billboards.

City Manager Fuentes – Yes we have.

Commissioner Green – Are we paying rent on those right now, or when the vinyl goes up is that when we start paying rent.

City Manager Fuentes – I believe that is the agreement, and they are waiting on us to give them the design.

Commissioner Green – I agree with Commissioner Richter...and let's get it up there. And the only question I have...NM True was brought up by Kim Skinner at the Tourism Board meeting today and there seems to be some confusion at the State level...could you address that, and maybe this billboard has to be changed a little bit.

Ms. DeMarino – I'm not really sure because I wasn't at the meeting today, but I think the State wanted to know if we were using Coop Marketing Funds for this, and I don't believe it...I think we're just using City lodgers tax so I don't know if that applies, and haven't been in contact with Ms. Skinner to find out what their concern is, and we may not need NM True on there if we're not using Coop Marketing Funds...I'm not really sure.

Commissioner Green – I'd like to suggest that Manager Fuentes reach out to Kim Skinner because she was expecting an e-mail yesterday from the Cabinet Secretary of Tourism on this very question, and we would of hoped to have the answer today at our board meeting. And I don't want to spend serious dollars, and all of a sudden the State comes along and says you have to take that down because you don't have the authority to use NM True so we can get clarification on that, and move forward.

City Manager Fuentes stated the City was awarded a Coop Grant, and our hope is we can use this as part as our match, and if we can't we still have the funding available for these billboards, but should that become an issue before we finalize it then we certainly will adjust...but it was just the way of being able to use all of the marketing that we're doing, and try to match that to the Coop that way we're almost half ways there because the yearly cost of this billboard is almost half of what that matching Coop requirement is.

Commissioner Whitehead – I like both pictures, and they both represent our community and our City, and I think if we're going to put out both signs that we should use both pictures.

“Mayor Mulcahy moved that we use both images on each of the billboards and proceed.”

Seconded by Commissioner Green.
Motion carried unanimously.

CITY MANAGER –

REPORTS:

City Manager Fuentes stated this Friday September 14th we will

have a special work session, and that it was scheduled at the Civic Center but due to scheduling conflicts the meeting will be held here at the Commission Chambers at 5:00 PM, and that the propose of the work session is to discuss the Solid Waste Collection Center Project, and that there will be an update from Gordon Environmental, and also on hand will be Aurlie Ashley- Marx the Bureau Chief from Solid Waste Department, and following the work session we will have a special meeting to discuss, and action for awarding of the bid for the Solid Waste Collection Center Project. And stated today was the deadline for the bids, and that they received 4 bids, and they are being evaluated by our engineers, and a recommendation will be forth coming by Thursday, and will be forwarded to the Commission for the special meeting on Friday.

He stated the contract documents for the Airport Taxiway B Project will be signed hopefully tomorrow by all the parties, and our City Attorney so that we can proceed, and move forward with the project, and stated they will also have a preliminary draft of the 40-Year Water Study that was prepared by WHPacific, and will have a public copy at the City Clerk's Office for anyone wishing to review that study, and this will also be a presentation public hearing during the September 25th meeting, and will schedule interviews for the Planning & Zoning, and may schedule another hour for the 40-Year Water Study.

City Manager Fuentes reported that the fire hydrant on Pine Street has been installed, and looking at pictures provided by staff we do have a 4" line in that area, and hopefully when we get the necessary finding to go in and replace that line, and not only look at upgrading the water line but also the rest of the infrastructure if we have sufficient funding that would allow us to pave that section.

CITY ATTORNEY – No report.

COMMISSIONERS –

Commissioner Richter stated he would like to commend the Police Department on their successful drug operation.

Commissioner Green stated if I ever thought that people didn't read Dear Letters to The Editor I certainly found out that they do, and I was going to respond to the Mayor's letter that he put in the paper because there are certain points that I totally disagree with him. And stated what I did is I called legal counsel Attorney Rubin to ask him if I would be legally able to respond, and he gave me advice, and he said let me check with the Municipal League, and they gave him the same advice that he gave me, and I didn't realize this, and I'm certainly glad that I reached out for advice, and evidently there is a State Statute that prohibits...that the contents of an applicant's RFP can't be made public until the process is concluded...(to Jay)...is that a fair statement of what you told me.

City Attorney Rubin – That's pretty close actually the contents of a response to a proposal are not to be disclosed during negotiation process.

Commissioner Green – So there are...I've been called on...people have stopped me questioning, and we heard some of the concerns tonight, and I am not going to address that issue until this process

has reached its hopefully positive conclusion, but I will definitely address that at an appropriate time that would not jeopardize the City or the Commission in any way, shape or form.

Commissioner Whitehead – No report.

Mayor Mulcahy stated we had a presentation tonight about the corner of Foch and Main, and I want to be clear with you that I think it's a very important priority, and there are a number of close accidents according to people that have been down there on almost a daily basis, and I don't want someone to pull out of a blind corner on Foch, and come into an intersection and get hit. And this is not a new issue, but it is one that I would like to move forward, and ask the City to continue what they are doing to try to solve this, and would like to see DOT come through with something...but I don't want to wait anymore I want to move very quickly on something, and that it will be too late if a citizen gets hit, and want to make sure that everyone stood where I stand on that.

He stated he would like to compliment the City Manager on handling a utility bill issue this week, and Commissioners as well being involved helping to solve that.

Mayor Mulcahy thanked Commissioner Whitehead for participating at Elephant Days, and that it was a wonderful demonstration partnership between the city of Elephant Butte and T or C, and thanked Commissioner Richter because I understand you may have done an animal carcass removal in the median this past week, and wanted to thank Judy Harris and Dave Cook, and received a letter handling a utility problem, and that we appreciate all they do, and have done for a citizen that wrote us.

PUBLIC
COMMENT:

Mr. Duhalti Springhawk came before the Commission with comments, and stated it is her duty as a citizen to keep our politicians in line...keep our Commissioners in line, and express my opinions.

Ms. Diane Lombardo came before the Commission with comments regarding the sites for the Animal Shelter.

Ms. Sohpia Peron came before the Commission with comments regarding the former City Manager.

Mr. George Szigeti came before the Commission with comments regarding the discussion on the board membership appointments.

Mr. Sid Bryan came before the Commission with comments regarding the Space Center, and the Mayor's letter to the editor.

Ms. Marilyn Pope came before the Commission with information regarding the Geronimo Springs Museum.

Ms. Deborah Toomey came before the Commission with comments regarding the Mayor and the Animal Shelter.

Mr. Ron Fenn came before the Commission with comments regarding the Senior Recreation Center.

Ms. Malissa Cordell came before the Commission regarding The

National take back program for prescription drugs, and stated the T or C Police Department will again participate in the DEA National take back on September 29th from 10-2 at the T or C Police Dept.

EXECUTIVE SESSION: “Mayor Mulcahy 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.”

Seconded by Commissioner Green.

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

Motion carried unanimously.

OPEN MEETING: “Mayor Mulcahy 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 was discussed in Executive Session, discussion incurred, and no vote was taken.”

Seconded by Commissioner Whitehead.
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

