

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Monday, October 22, 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 Monday, October 22, 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 past Friday one of our newest and youngest citizens passed away he was premature, and struggled for his life for about 10 days his name was Baby Rio, and asked that we put him in our thoughts, and called for fifteen seconds of Silent Meditation.

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.

City Manager Fuentes stated he would like to pull from the Agenda item F-3, and stated the engineers have recommended that we precede a different course in regards to funding our water and wastewater line replacement project. And I will be presenting some further details in my next manager’s report.

“Commissioner Green moved for approval of the Agenda with the

deletion of F-3.”

Seconded by Commissioner Whitehead.
Motion carried unanimously.

COMMENTS
FROM THE
PUBLIC:

Mr. Ron Fenn came before the Commission, and read from a letter regarding Solid Waste Analysis, and provided a copy for the record.

Ms. Diane Lombardo came before the Commission, and indicated that on November 3rd there will be a rabies clinic held at the feed store. And stated that we need to look at the ordinances, and enforcing them.

Mr. Gerald Trumbull came before the Commission, and read a letter to the Commission on behalf of Deborah Toomey, and stated they received copies of letter via e-mail today. Copy of letter available at the Office of the City Clerk for review regarding the resolution between the Village of Williamsburg and the City of T or C.

Mr. Gordon Mishler came before the Commission, and read the rest of the letter from Ms. Toomey.

Ms. Barbara Salasin came before the Commission in regards to ordinances...which are laws.

CONSENT
CALENDAR:

Mayor Mulcahy stated there have several items on the Consent Calendar; Airport Advisory Board Minutes – 10/3/12, Public Utility Advisory Board Minutes – 9/17/12, Lodgers Tax Advisory Board Minutes – 9/27/12, Recreation Advisory Board Minutes – 10/1/12, Golf Course Advisory Board Minutes – 9/12/12 & 10/10/12, and DAIC Monthly Report – September 2012.

Commissioner Green stated I have one question on a point of clarification...the Airport Advisory Board draft minutes, so I will move to approve the Consent Calendar so we can get into discussion.

And referred to page on the draft minutes on page 3 where they talk about September fuel report it eludes to AV gas we netted 7,758.75, and on Jet A fuel we netted \$12,108 for a total of almost \$20,000, and I would think that they probably, and I would hope that is right, but I’m questioning if that should be gross, and not net...because net is after expenses, and I’m questioning if that is a typo.

City Manager Fuentes stated I’m not sure...I can’t answer that question, but I will have to get back to you all.

“Commissioner Green moved for approval of the Consent Calendar...items 2-6, extracting item #1.”

Seconded by Commissioner Whitehead.
Motion carried unanimously.

UNFINISHED
BUSINESS:

DISCUSSION/ACTION – APPOINTMENT – CITY COMMISSIONER –

Commissioner Richter...I have a comment, and that during the

previous meeting the issue was raised that I may have a conflict regarding my votes on previous nominations to fill the vacant commissioner position...I do not consider my having run against Mr. Kertesz, and my past votes on his nomination is a conflict I bare no animosity for Mr. Kertesz...Commissioners make decisions according to what he or she believes is in the best interest of the City we agree, and we disagree therefore I voted in the past, as I do not believe this nomination is in the best interest of the City.

City Attorney Rubin stated I was requested by the Commission to do some research in this, and I did contact the Municipal League and I spoke with Mr. Randy VanVleck, and in discussing this with Mr. VanVleck we agreed that legally we do not feel there is a conflict of interest for Commissioner Richter to participate in the discussion in voting on this item. He stated one thing that is kinda interesting is the rules for conflict of interest for Commissioners is different than they would be for a judge or a lawyer...for example a judge they are a lot stricter than they would be for a City Commissioner.

He provided a copy of the Governmental Conduct Act, Section 10-16-1 what actually is a conflict of interest, and referred to 10-16-4 (A). It is unlawful for a public officer or employee to take an official act for the primary purpose of directly enhancing the public officer or the employee's financial interest or financial position. So what that tells us...unless it can be shown that a Commissioner actually has a direct financial interest in a vote that he is about to take then it's not a legal conflict of interest under the Governmental Conduct Act, and if you take at 10-16-3 (C). A Commissioner is to give a full disclosure of real or potential conflicts of interest, and that shall be a guiding principal for determination, and Commissioner Richter has just done that in explaining that in his... that he is advising us that what his actions in voting had nothing to do with the fact that we just had a past election with Mr. Kertesz, and based upon that I have to legally include there is not a conflict of interest for Commissioner Richter to participate.

Commissioner Green stated we received, and I'd like the manager to comment on this...we received an e-mail I believe it was from Mr. Fenn talking about a solution that he had come up with to solve this to couple it with an election that we're gonna hold in December, and I am wondering is that, and he requested a special meeting because of the time...could you address that, and why we didn't do anything.

City Manager Fuentes stated the reason why that cannot be accomplished...is what we're dealing with here is two separate sections of the State Statutes. The State Statutes in regards to the election that we will be having December 18 is governed by a different section of the State Statutes that is in regards to the recall of a City Commissioner, and that is within a window of up to 90 days that we have to have the election process happen within that time frame, and explained the process for the filling of a vacancy in the City Commission is governed by a separate section of the State Statutes, and basically what the law says is, and you have a memo from Mary Penner that cited the section, and basically what we're dealing with here is section 3-14-9 of the State Statutes that state that the special election to fill a vacancy shall be conducted in the manner set forth in the Municipal Election Code for Regular

Municipal Elections. And for those of you who recall the last election, and this is the same case as every year...Regular Municipal Elections usually start when the Commission adopts the election resolution in November, and then the election doesn't happen until March...so it's a bigger window of the election process, and if you look at 3-8-26 – Regular Municipal Elections; publication of resolution; it states under section A, "Not earlier than one hundred twelve days or later than eighty-four days prior to the date of a Municipal Election, the Governing Body shall adopt an Election Resolution...so you have a longer window than is permitted under the recall provisions of the State Statutes that is why it wouldn't have been possible to try to merge those two elections December 18th. I can tell you under my manager's report I was going to report in regards to the other petition that will be moving forward as far as the process...should an election be held for that again there could be enough of a time frame where if the Commissioners do not agree on an appointment of a City Commissioner those two could be merged, but again that will not happen until probably if it does for an election until March.

Commissioner Green stated this has been a long process that has obviously ruffled possibly some Commissioners feathers as well as community feathers they want us to get someone to sit in that vacant seat next to Commissioner Richter...I originally thought that the solution that I put forth was fair, equitable and heard the voice of the citizens...obviously we couldn't come to an accord on that, and now we are almost 8 months past the election so it's beginning to lose its sheen shall we say, and stated the Mayor asked someone to kinda compromise or come up with a solution that maybe might work. A citizen...I guess about 6 weeks or 2 months ago came up with a suggestion, and I thought at that particular time this is about the most ludicrous thing I've ever heard in my entire life, but I've had a chance to think about it, and what it would enable us to do is to be true to our own selves, and vote for the person who we think is the most qualified, so therefore we don't have to break with our own principles, and I spoke to Manager Fuentes first, and asked if I could speak to Attorney Rubin for him to check with the Municipal League to see if this idea was #1 legal and would stand the test of time...basically the idea was presented by someone here that we each take a piece of paper, and sign our name on that piece of paper so there is no secret balloting, and we put down on that piece of paper the person who we feel is the most qualified to serve out the balance of Commissioner Torres's term...we put it in a hat or something, and not a Commissioner would pull out one piece of paper...and that person would be the person to fill out the remaining seat. And by us agreeing to do that on the motion that I would like to make, and after Attorney Rubin explains the legality of this that would be the vote, and that would stand...and it wouldn't be debatable then the clerk...City Clerk Penner would read-out, and someone would obviously pull out the piece of paper, and in fairness...in openness and in transparency the clerk would then take the other 3 remaining pieces of paper and read the name of the Commissioner, and the name that they put forth, and I'm hoping that will allow us to break this dead-lock, and we could have a Commissioner not sworn in tonight but a Commissioner elect this evening, and we could do the business of the City I just think we're better with 5 brains than 4.

City Attorney Rubin stated I did check this out, and I think you can

do that...the Statute is 3-14-9, and we've looked at this several times...it's very simple...it says that the City Commission shall appoint someone, and it doesn't say how you do it.

Mayor Mulcahy stated it was a month ago when I made a motion to call for an election...I believe the election is the fairest way to do this, and I think when this was brought up originally two meetings it's certainly a legal idea and an interesting idea, but it's offering this choice up to chance.

“Commissioner Green moved that we by voting for this motion the Commissioner(s) who votes for it agree to the following...that we would put a name on a piece of paper that you feel would best serve this City for the balance of Commissioner Torres's term that would be signed by the Commissioner who is putting that person's name on the piece of paper that would ultimately be read...one piece of paper would be drawn, and then the balance names would be read by the City Clerk, and passing of the motion will mean acceptance by the Commission for the person whose name is drawn will be the person who fills the balance of Commissioner Torres's term, and then we don't have to wait until possibly March.”

No second was received.

Mayor Mulcahy stated I agree with you Commissioner Green in solving this issue.

NEW BUSINESS: DISCUSSION/ACTION – RESOLUTION #11- BY AND BETWEEN THE VILLAGE OF WILLIAMSBURG & THE CITY OF T OR C –

Chief Paul Tooley came before the Commission and stated what you have in front of you is Resolution #11 – By and between the Village of Williamsburg & the City of Truth or Consequences, and that this Resolution is made and entered into effective November 1, 2012 by and between the Village of Williamsburg, a New Mexico Municipal Corporation, and the City of Truth or Consequences, a New Mexico Municipal Corporation, for the purpose and consideration hereinafter set forth pursuant to the provisions of the Fire Protection Fund Law, Section 59A-53-1, et seq. (amended in 2012, known as House Bill 11). And read the Resolution in its entirety. (Complete copy available at the Office of the City Clerk).

He stated this Resolution was passed by the Village of Williamsburg, and is now on your docket, and I stand for any questions, and I do have the legal boundaries that the State Fire Marshal requires for the Village, and also the City of Truth or Consequences along with the Resolution, and also the inventory that has been taken by the Village of Williamsburg on all of the State Fire Funding purchases that have been done over the years, and this copy will become the copy of the City of T or C as well as the State Fire Marshal.

Fire Chief Tooley showed a map of the boundaries that will be going to the State Fire Marshal, and referred to the map...and the items in yellow are the actual boundaries of the City of Truth or Consequences including the areas up towards the airport, and then the new areas of documentation of the Village of Williamsburg are at the bottom along with the documentation from the Village, and

stated there is a new piece, and read something from the State Fire Marshal...on the criteria to establish and certify for funding for departments under 10-25-10-11 Section 5...the Local Government shall submit to the Fire Marshal 2 copies of a Resolution along with 2 clear and concise maps depicting the boundaries of the response area...the maps should be to the scale and clearly depicts the districts and identifies the range and townships. He stated a Resolution is what is needed, and this is what also what was needed at the beginning when T or C first started their fire department back in 1923...so these requirements are what is in House Bill 11.

Commissioner Green...agrees to lease of the Williamsburg Fire Station...that lease will be as long as the Resolution exists.

Fire Chief Tooley – Correct. If somewhere down the road they wanted a fire department again one item that they're clearing with the State Fire Marshal is they have an ordinance which has to be repealed that created their fire department if they decide to come back that would have to be done, and have to be approved by the State Fire Marshal, and also by the City if those boundaries were to be given back to the Village of Williamsburg.

Commissioner Green - #3...the City of Truth or Consequences agrees to pay the utilities and insurance...so is that in your budget.

Chief Tooley – Yes the insurance for the building, and the buildings we have here in the City limits are done by the City of T or C, and stated this can be something we can work out, and utilities are paid through State Fire budget. He stated he is going to have to make some adjustments, and he did roll over some money with the State Fire Marshal last year, and there is going to be some budget adjustments because we're gonna have to fund that building out there for about 8 months until we receive some funding next year for a second main station...so the money is there I have already set it aside for the gas and maintenance on the other vehicles that they have at the Village of Williamsburg.

Commissioner Green – You talked about a 90-day window of opt out...does that 90-days...has it started already, or does it start November 1.

Chief Tooley – No the 90-days started the day that the Village called me and said can we cover the Village of Williamsburg.

Commissioner Whitehead – Could you explain what property is being acquired by the City of T or C from the Village of Williamsburg.

Chief Tooley – There is no property per say that the Village...the Village...the property that they own that the fire department sits on...the building was bought with State Fire Funds, but the property belongs to the Village...they wanted to keep the building and the property which we have no problems with the State Fire Marshal that is why we came up with the part of the Resolution to go ahead and lease the building for \$1.00...The property...all of the fire equipment that has been purchased out with State Fire Funds actually belongs to the State Fire Marshal so if the department ceased to exist in the future all of that would be taken away from the Village...so our solution with House Bill 11 is to

keep it in tact...keep that as our second main station, and then protect the areas that they have on their corporate boundaries as part of the T or C fire boundaries.

“Commissioner Green moved approval of Resolution #11 – By and between the Village of Williamsburg, New Mexico and the City of Truth or Consequences, New Mexico.”

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 – AWARDING SOLID WASTE ENGINEERING SERVICES AGREEMENT –

City Manager Fuentes stated this is...a request for proposal for engineering services related to the closure and post-closure of the City landfill was issued last month, and indicated this was one of the conditions that NMED placed on the City as condition for extending the closure of the landfill. He stated the City received 4 bids...Gordon Environmental, Zia Engineering, Engineering Solution & Design & SCS Engineers. And the evaluating committee is recommending the award to Gordon Environmental for the professional services agreement, and stated Gordon Environmental has been assisting the City with the Solid Waste Collection Center, and also assisted Sierra County for their closure of their landfill.

Commissioner Richter stated as I looked through here were there any hourly rates submitted for a fee on this, or were we just selecting according to the merit.

City Manager Fuentes stated this was for a qualified professional services firm, and that there will be...an agreement will be developed if this award is given to them.

Commissioner Green stated on the paper document I don't see...I see the rating of the people who were involved, and the different organizations that they gave for point values...but I don't see what the bid came in at...how much is the bid.

City Manager Fuentes this relates to the question that Commissioner Richter posed...this was a qualified professional services...so the recommendation is to award, and then we award the bid...it wasn't a bid it was for professional services based on the qualification.

“Commissioner Green moved for awarding the Solid Waste Engineering Services Agreement between the City of T or C and Gordon Environmental.”

Seconded by Commissioner Whitehead.

Motion carried unanimously.

**DISCUSSION/ACTION – APPOINTMENT OF MEMBERS(s)
TO THE LODGERS TAX ADVISORY BOARD –**

City Manager Fuentes stated you were provided with 2 individuals who have submitted a letter of interest representing the lodging industry, and that they have 2 vacancies on the Lodgers Tax Advisory Board...one applicant is Ed ‘Hans’ Townsend, and the other applicant is Cydney Wilkes, co-owner of the Rocket Inn, and pursuant to City Code...the Lodger’s Tax Advisory Board...any vacancies are filled by the City Commission.

“Commissioner Green moved approval the appointment of Ed ‘Hans’ Townsend to the Lodger’s Tax Advisory Board representing lodging industry.”

Seconded by Commissioner Whitehead.
Motion carried unanimously.

“Commissioner Green moved approval the appointment of Ms. Cydney Wilkes, co-owner of the Rocket Inn to fill the second vacancy for a member to represent the lodging industry.”

Seconded by Commissioner Whitehead.
Motion carried unanimously.

DISCUSSION/ACTION – TOURISM DIRECTOR –

Commissioner Green stated he has served on the Tourism Board for the last 5 ½ years, and that they had a board that was very active.

He stated since Dianne Preisser has resigned we have no Tourism Director for Sierra County, and questioned how we should approach filling the vacancy, and also how it was impacting the City through loss of activities being scheduled at the Civic Center which is a great facility, and that no one is out there selling the City, and we need a messenger who is qualified...who can hit the ground running...who understands the County and/or the City who has a track record, and the clock is ticking in relationship to economic development, tourism, and the economy.

Commissioner Green stated his question...do we want to go it alone, and have a Director of Tourism for the City of Truth or Consequences, or do we want to continue as we have done in the past co-funding with the other three entities, and thinks that is a dynamic mind shift one way or the other...how we determine to go dollar wise, and stated the City contributes approximately \$25,000.00 towards the position...the County \$10,000.00...I think the Village \$500.00, and the City of Elephant Butte I believe is \$4,000.00.

He stated they are a contract individual which means every expense comes out of that money that they receive, and do we want to have this coercion and continue forward...but at \$25,000.00 if you add a little bit more money we could have a full time staff person working for Truth or Consequences as Director of Tourism Special Events Planner marketing the Convention Center among other things.

Commissioner Richter – What do other small towns do...like us...

are they funding it themselves.

Commissioner Green – For example...Socorro...they fund it themselves it is a City position, and this is such an important position.

Mayor Mulcahy stated I have a pretty firm resolve about some of this, and I appreciate that we need to get going I believe that empowering the board is critical to your point...they should be calling the shots...they should be running the show...they should be vetting and choosing the director I think. If you look at it from the actual visitors stand point they don't know the difference between Elephant Butte, and Truth or Consequences when it comes to opportunities for having a good time.

He stated we have a lake we have hot springs...we have a beach over there...we have a river over here, and I just don't think that telling a visitor that we want to support you from one little part of town...I'd like to see more support...make no mistake, but I think we'd actually create more of a political thing because now Elephant Butte will probably do their own thing, and the County will do their own thing...and we do a lot of that already, however I do believe that we should be very well represented...I think we are on the Tourism Board...I think you are at every meeting.

Mayor Mulcahy stated I think we need to raise the stakes and get a real professional, and make these other entities join us at the table in a bigger way or more profound way...but working through the board.

Commissioner Green stated he would like to suggest is that the Tourism Board does not do the hiring and/or the firing or even the interviewing of the individuals...it is done by the representatives of the funders...Manager Fuentes, Manager Carrejo, Manager Briley, and the Mayor from Williamsburg. And he would like to suggest is...I want a top drawer professional person, and that there has to be some parameters to work this out, and ask Manager Fuentes to meet with Manager Carrejo to let her know what our feelings are about getting a professional advertised...maybe looking at an increase in a salary...a sliding scale or something that we can get going.

Mayor Mulcahy stated he thinks the board should be involved in selecting of an individual.

Commissioner Richter stated he thinks everybody needs to belly up and increase their share.

City Manager Fuentes stated in his meetings with both Manager Carrejo and Manager Briley one of the questions that came up in regards to this position was if we decide to continue with the existing arrangement however we decide to fill this position...the question that was asked of me...is the City willing to fund this position for more than just one year. And their concern is because this is an annual contract we don't want to go through the process and then come June 30th we decide...well we're going a different route.

Mayor Mulcahy – I think if we don't do that...who is going to take

a 1-year contract.

Commissioner Richter – I think it ought to be 5-years.

DISCUSSION/ACTION – TOURISM BROCHURE –

Commissioner Green stated we have discussed...and I talked about Old Mesilla and Silver City that they are marketing their downtown...their historic downtown, and I know we voted to have billboards put up on I-25 two different images of our community, and I think that we have only one...and I know the Chamber is producing an 82 page document that is going to be county wide, and it's going to be amazing.

He stated we only have one brochure that I'm aware of that actually markets the assets of downtown Truth or Consequences, and that is a map that shows a location of the Hot Springs of the spas so I would like to do what Mesilla did. And referred to their brochure...full color...tri-fold, and indicated if we were to get 2,500 including shipping, and I would love to be able to if the Commission approves it...keep the business local, and this is an out-of state quote...2,500 for \$449.00 plus shipping it comes to \$505.00...5,000 for \$671.00 plus shipping comes to \$774.00... 10,000 for \$1,239.00 plus shipping comes to \$1,423.00.

Commissioner Green would like to suggest, and that MainStreet will be advertising for a new executive director...and what a better way for that director to go around and meet every shop owner downtown to get all the information that would go in our brochure, and that would be one aspect where the City could authorize MainStreet to take the lead on this or any other organization...all I want to do is get going on this, and get it done.

“Commissioner Green moved that the City authorize the City Manager to determine who is going to produce this brochure, and to allocate up to \$3,500.00 for its production which would include printing as well as graphic design fee with the idea of if at all possible keeping the money local in relationship to the printing.”

Commissioner Richter – Is this something our new tourism director could be doing for us...if we could get somebody hired.

Commissioner Green – Well again the answer would be yes/no and yes...possibly yes...how long is it going to take for a tourism director. So again the clock is ticking and nothing is happening.

Mayor Mulcahy – I'm all in favor...let's do something.

City Manager Fuentes – There is sufficient funding in the lodgers tax fund for this \$3,500.00 project...so we can move forward on it.

“Mayor Mulcahy moved that this Commission approve the expenditure of \$3,500.00 from lodgers tax to pursue this issue, and that the City Manager take the lead on this.”

Seconded by Commissioner Green.

Commissioner Whitehead stated I would also like to see this on our

website.

Motion carried unanimously.

DISCUSSION/ACTION – PROPOSED ORDINANCE (FOR PUBLICATION) – AMENDED BY ADDING CHAPTER 11 OF THE CODE, A NEW SECTION ENTITLED 11-16 DISPOSAL FEES FOR RESIDENTIAL/COMMERCIAL HAULERS AND THE ROLL-OFF FROM THE SIERRA CO. CONVENIENCE CENTER –

Mr. Leonard Carrillo, Sanitation Director came before the Commission, and the Ordinance before you...in 2010 the City took over the solid waste for the County for construction debris only which was easy to handle. He stated our rate increase was only \$3.00 per cubic yard, and in 2011 the County closed their landfill, and the City took over all their waste and it turned out that commercial trash, residential trash, construction debris was being brought in mixed together. In order for separation we had to get our workers to separate the waste, and it took them away from their daily operations, and that it was an extra cost for us. He stated they came up with a way of having the residents separate their own waste which was a 2% per separation fee on each load of waste... not the containers the waste itself, and indicated it worked for a while, and now we have to implement this other commercial rate for a separation fee which holds it at \$57.63 plus GRT for all commercial vehicles going to our landfill, and that this is also something that will help us when the collection closes. Our agreement with the State for the landfill taking in C&D is just C&D only.

He stated he has attached some abbreviations that the Utility Board requested that I include, and referred to the definitions (b)...If construction debris is mixed with any other type of solid waste it loses its classification as construction debris, and that means it will have to go to the transfer station or a direct haul. And stated the residents can stay at 2% of per mix loads.

Commissioner Richter – We're currently bailing tires...what happens to the tires after we bail them.

Mr. Carrillo- Right now there is a stock pile of tires by the collection center, and have a stock pile at the landfill also.

Commissioner Richter – Are they ever gonna go anywhere.

Mr. Carrillo – I've been trying to sell them but every community throughout the State has tires...and they are trying to give them away.

Commissioner Richter – In this information there is an e-mail from Patrick Peck...contact State & Rubber and arrange for a trailer... they roll in a big container and you toss them in there.

Mr. Carrillo – Exactly.

Commissioner Richter – Then they aren't our problem anymore.

Mr. Carrillo – We still have to pay for disposal.

Commissioner Richer – What we would charge for these tires would we collect enough to pay for that service.

Mr. Carrillo – No sir. The transportation cost is what usually goes up for all of this.

Commissioner Green – I noticed that Socorro mentioned that they are bailing tires...are they just bailing and stacking up.

Mr. Carrillo – Right now they just have a stock pile of tires also.

Commissioner Green – Referring to the e-mail from Mr. Peck... they charge about \$1,700.00 for the container so that \$1,700 is that just for the container not the transportation, or the disposal.

Mr. Carrillo – On his it includes the transportation...the part that gets to us is that they want each tire cut...one side cut out.

Commissioner Green – On the C&D debris there is potential that we are still going to have our landfill still open after March 23rd excepting construction and demolition material so does that mean you're gonna have to have a staff member out there 8 hours a day 5 days a week not knowing if there is one...can't we do that so we don't waste staff's time and energy by appointment only.

Mr. Carrillo – Right now as far the way our agreement is with ED it says that we have to have an operator on site full time.

City Manager Fuentes stated as part of the process as we get closer we definitely need to reach out to the community, and make them aware of what it means when you go out and want to dispose of C&D that it's clean C&D, and cannot have any MSW or anything else going into the closed landfill...it will be rejected, and I think that is going to be part from now until then...a sort of PR that we need to advise the public, and especially those contractors and businesses who are in the business of demolishing buildings that they need to make sure that it is clean-fill that can be disposed of at the landfill when it's closed.

City Attorney Rubin stated he and the City Manager talked about changing the last sentence to read...Sanitation Director may refuse or permit any company, business or residents from delivering tires to the facility. Deleting...with the approval of the City Manager.

City Manager Fuentes stated the reason for that slight change is we also want to be able to have some sort of due process for...in case of with the sanitation director making that determination if a customer feels that they would like to appeal it then they have the opportunity to appeal it to the City Manager.

“Commissioner Green moved for publication – Proposed Ordinance - Adding to Chapter 11 of the Code, A new Section Entitled 11-16 Disposal fees for residential/commercial haulers and for the roll-off from the Sierra County Convenience Center.”

Seconded by Commissioner Richter.
Motion carried unanimously.

DISCUSSION/ACTION – PROPOSED ORDINANCE (FOR PUBLICATION) – AMENDING ARTICLE I “SOLID WASTE ORDINANCE” – SECTION 11-42 OF THE CITY CODE –

Mr. Carrillo stated this Ordinance has to do with covering loads and tarping of the loads, and stated he researched what our enforcement was, and as you can see it doesn't say much about loads going out to the landfill or tarping loads...it just says...loads must be contained. And he researched the City, and the State Ordinance, and looked at all the codes, and that is how I came up with what is before you, and the facility itself can re-enforce this code...this ordinance. City Solid Waste Facilities shall enforce the regulations as follows: Commercial Haulers – an additional fee of \$10.00 per un-tarped or un-secured load, and Residential – an additional \$5.00 for any unsecured or un-tarped load.

He stated right now they have police officers out in the County that have been giving tickets for unsecured and un-covered loads, but we still get a lot of them at the landfill that are not covered or secured, and it is blowing out the back as they drive in. And stated when we do open our collection center we can enforce this as people come through our City.

“Commissioner Green moved approval for publication Proposed Ordinance – Amending Article I “Solid Waste Ordinance” – Section 11-42 of the City Code.”

Seconded by Commissioner Richter.
Motion carried unanimously.

DISCUSSION/ACTION – PROPOSED ORDINANCE (FOR PUBLICATION) – SETTING WATER & WASTEWATER CONNECTION FEES –

City Manager Fuentes stated this resolution was previously presented...this Proposed Ordinance. And at that time we had fees for a 3/4” and a 2”, and 1 1/4” meter...water tap fee, and indicated the 1” was slightly higher than the 2”, and at that time we decided to re-visit the fees.

He stated they took the proposed fees that are before you...3/4” for \$675.00 for a water tap...1” for \$867.00, and for a 2” \$2,057.00, and then you have the wastewater service tap fees from 3”- 6” at \$270.00. And the focus from staff was on the water service tap fees, and in your packet you were provided some information from staff as well as the original ordinance, and indicated the Public Utility Advisory Board has made a recommendation to proceed, and move forward with the recommended fee increases, however they also requested that staff look at the wastewater tap fees closer as the fees are all the same charge of \$270.00 to see if that fee is sufficient to cover that cost.

Mr. George Szigeti came before the Commission, and stated the Public Utility Advisory Board looked at those figures, and indicated we really need to bring those water tap fees up because all of these fees were set back in 1991, and the costs now are substantially higher...and the water taps fees as presented are based upon the actual cost of parts, labor, and equipment as of today, and

comparing with other municipalities it is still a bargain. He stated that is another reason they want to look at the wastewater tap fees because they are so low, and wanted to have some concrete numbers to put behind that because just the cost of labor and equipment I think is more than the \$270.00 that those current fees represent...and thinks Las Cruces is asking \$1,200.00 for a sewer tap, and thinks we need to get up, and get the costs up, or at least the charge up to cover what our current costs are.

Commissioner Richter – These tap prices...these new tap prices do they cover the cost of parts and labor.

City Manager Fuentes – That is correct and in your packets you have the spreadsheet that shows the different pricing for the materials and manpower, and that is what staff is recommending as Mr. Szigeti pointed out that is the purpose of this increase is to cover and make it the actual cost.

Commissioner Green – If we go to publication with these prices, and then PUAB takes a hard look at the wastewater service tap fees, and comes back with an additional recommendation do we then have the opportunity to change the numbers after it has gone to publication.

City Manager Fuentes – What I'd like to do if the Commissioner's authorize this to move forward I'd like to time it where the Public Utility Advisory Board...has another opportunity to review the numbers. And the Commission can take action on this item on November 27th which would be after the Public Utility Advisory Board...and that is what they requested at the last meeting for some of these ordinances is they would like to review them before the Commission actually voted on them to approve them, and give staff additional time to research the wastewater fees.

Commissioner Green – I personally would feel more comfortable in having PUAB do what they've asked to have that authority to...get back to us, and have a complete finished document that we can go to publication on.

Mayor Mulcahy – I certainly understand both sides...I'd would prefer that what we publish is the final document.

DISCUSSION/ACTION – PROPOSED ORDINANCE (FOR PUBLICATION) – BE AMENDED BY REVISING SECTION 11-10- PROVIDING THAT COLLECTION FEES BE CONFIRMED –

City Manager Fuentes stated October 2005 the City adopted Ordinance #547 amending Chapter 11, Article 1 which sets forth the fees for the solid waste collection. The purpose of these fees was to defray the expenses of the collection and disposal of solid waste collected throughout the City. And the Ordinance calls for the fees to be gradually increased over a 7-year period, and the phase in period has been completed, and this Ordinance confirms we're not seeking any further increases at this time, and the Public Utility Advisory Board reviewed the proposed Ordinance and unanimously approved the recommendation in support of the proposed Ordinance, and requested a final draft prior to the City Commission action for approval.

Manager Fuentes stated these are the current fees charged to residents and the commercial establishments, and we are **not** asking for any increases other than just what the current fees are. And once the Solid Waste Collection Center is on line we talked about looking at our numbers in the beginning of the new fiscal year which will allow us from the period of March to June to give us an idea of what the expenses are, and that will give us an opportunity to look at recommended fees at that time.

“Commissioner Green moved approval of the Proposed Ordinance (For Publication) – Be amended by Revising Section 11-10 – Providing that Collection Fees Be Confirmed.”

Seconded by Commissioner Richter.
Motion carried unanimously.

REPORTS:

CITY MANAGER –

City Manager Fuentes stated on the petition for the Citizens Initiative Ordinance, and a memorandum was provided to the City Commission where City Clerk Mary Penner has verified the petition on Thursday October 18, 2012, and stated there were 281 total names submitted of which 220 were valid signatures...there were 20 names not listed as qualified registered voters...22 had a different address than listed on the voter registered list...1 address is out of the municipality...1 name was listed differently than the voter registration list, 17 signers were given the opportunity to correct address information, and other minor technicalities and resubmitted signatures. Leaving 220 Valid Registered Voters on the Petition.

The City Clerk has determined that there are sufficient signatures to warrant a Special Election.

City Manager Fuentes stated due to the upcoming election in November as well as the School Board Election the time frame for this election would have to be scheduled sometime after the School Board...30 days after that election would be sometime in March.

And explained this petition is for Initiative Ordinances, and stated what happens from this point forward is an Ordinance will be developed, and that Ordinance will be published as was presented in the petition, and the City Clerk and City Attorney will be meeting to put that publication forward then it will come before the City Commission, and then the Commissioners will decide to vote on the adoption or rejection of that Ordinance...if the Commissioners vote the Ordinance down then it actually by State Statutes then it goes to a Special Election, and then an Election Resolution will be presented at the following meeting which will then be setting the schedule for the Election to be scheduled at a later date.

CITY ATTORNEY – No report.

COMMISSIONERS –

Commissioner Richter stated in a recent meeting he talked about a project...Flood Plain Mapping Project for the City of Truth or

Consequences to get a letter of map revision so we can get this flood zone lifted from a large part of our town, and therefore the requirement of flood insurance. He stated he got a hold of Barry Ragsdale Director of Sierra County Flood Commissioner and he contacted Counties On Call Engineer Larkin Group, and they came down and looked at all the records and went to Albuquerque... NRCS in Albuquerque, and looked at 20 some boxes of more records, and they came up with a proposal that we're gonna take a look at, and I wanted to keep everybody updated on this, and it's moving forward, and that we're gonna plan a meeting with Barry, myself, Manager Fuentes, and Bill Slettom to see how we want to move forward on this.

Commissioner Green reported to the public that Halloween October 31st there is a partnership now between the City of Truth or Consequences, and MainStreet Truth or Consequences...and I thank the Chief for her support in this, and because the City and MainStreet are concerned for the safety of kids running out into the street we have asked NMDOT to close down Broadway from 6-8 pm, and that traffic will be re-routed on Austin, and the Chief was very gracious giving a letter of support for that so people can bring their children downtown...it's a community event, and feel safe for their children to have a wonderful night out.

He also wanted to thank the manager for making sure there was staff present at the Meet "N" Greet for Senator John Arthur Smith.

Commissioner Green stated he and Leonard Carrillo attended a workshop at the County on how they are going to handle their waste still to be determined but moving closer towards a decision, and our metal salvager trailer is now placed at our landfill, and the City free of charge is accepting all metal, and stated that trailer will be there until March 23rd, and then will be moved closer into the recycling collection center area.

He **Thanked** the Sierra County Cancer Assistance they held the cancer walk which was great, and it started at the Ralph Edwards Park and went through downtown, and wanted to compliment their board and Steve Buckley for coming up with that idea.

Commissioner Whitehead – No report.

Mayor Mulcahy stated last week I traveled to Santa Fe to attend the NM State Parks Public Hearing regarding their changes on State Park rules.

He stated a week ago Saturday I joined a group to do a Geronimo Museum clean-up, and in that process he ran into a citizen who said...let's take a walk, and it's time for us to do something with the weeds, and I've gone with the City, and to my pleasure to schedule a City team to join as many volunteers from the City who can help...and let's go around next Tuesday morning at 10:00 am, and we will meet in front of City Hall, and spend 2-hours to clean-up downtown.

RESPONSE TO
PUBLIC
COMMENT:

None.

EXECUTIVE
SESSION:

“Mayor Mulcahy moved that the meeting be closed for Executive Session pertaining to 1. Pending or Threatened Litigation 10-15-1H (7), A. Related to The Solid Waste Collection Center, 2. Purchase, Acquisition or Disposal of Real Property 10-15-1H (8), A. Related to HSLD, LLC – Proposal of Lease Agreement for Airport Property.”

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.

Commissioner Whitehead recused herself from the discussion related to HSLD.

OPEN MEETING:

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

CERTIFICATION

“Commissioner Green certified that only matters pertaining to 1. Pending or Threatened Litigation 10-151H (7), A. Related to – The Solid Waste Collection Center discussion incurred, and no vote was taken. 2. Purchase, Acquisition or Disposal of Real Property 10-15-1H (8), A. Related to – HSLD, LLC – Proposal of Lease Agreement for Airport Property was discussed in Executive Session, discussion incurred, and no vote was taken.”

“Commissioner Green moved pertaining to #2 that staff proceed as directed.”

Seconded by Commissioner Richter.

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