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

WORKSHOP

ACTION 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 Special Session in full conformity with the law and ordinances of said Commission in the Civic Center of said City, on Tuesday, November 27, at 5:30 P.M.

PRESIDING OFFICER: The meeting was called to order by Mayor John Mulcahy, who presided and Mary 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. Jeff Richter, Commissioner
Hon. Steve Green, Commissioner

Also present:

Juan Fuentes, City Manager
Linda Lanham, Finance Director
Jay Rubin, City Attorney
Judy Harris, Deputy City Clerk

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

CEREMONY: Mayor John Mulcahy opened the Work Session; he noted the first discussion would be regarding a Financial report 1st Quarter.

Mayor Mulcahy introduced Finance Director Linda Lanham.

Ms. Lanham explained the different funds, starting with a recap of the Funds showing revenues and expenditures for the 1st quarter, from July thru September. Ms. Lanham gave an overview for all Funds. (Complete copy attached hereto and made part hereof.) Ms. Lanham gave a brief

explanation of the GRT to the Police Department for March, April, May, June and July.

Mayor Mulcahy opened the floor for any questions from the audience.

Mr. Ronald Fenn approached the podium and questioned several of the funds mentioned.

Tuesday, November 27, 2012

TIME & PLACE: REGULAR MEETING

ACTION MINUTES

PRESIDING OFFICER: The Mayor and the City Commission of the City of Truth or Consequences in the County of Sierra and the 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, November 27, 2012, at 6:00 P.M.

ATTENDANCE: The meeting was called to order by Mayor John Mulcahy who presided and
Mary B. Penner, city Clerk acted as Secretary of the meeting.

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

QUORUM: Also Present:

Juan Fuentes, City Manager
Jay Rubin, City Attorney
David Kaughlin, Smith Engineering
Linda Lanham, Finance Director
Pricilla Mullins, Chief of Police
Mary B. Penner, City Clerk

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

Mayor Mulcahy noted that there had been a serious accident that morning, with City Employee Ed Williams involved; Noting that Mr. Williams had been transported to an out of town hospital and City Manager Fuentes had followed with Mr. William's wife; noting that City Manager Fuentes was still out of town and would be arriving late to the meeting.

APPROVAL OF AGENDA: Mayor Mulcahy called for fifteen seconds of Silent Meditation.

Mayor Mulcahy called for the Pledge of Allegiance with Mayor Pro-tem Whitehead leading the Pledge.

COMMENTS FROM THE PUBLIC:

Mayor Mulcahy stated that were two items tonight for Public Hearing, telling the audience to sign up to be an opponent or a proponent.

Mayor Mulcahy called for approval of the Agenda.

"Commissioner Green moved to approval the Agenda as presented."

CONSENT CALENDAR:

Seconded by Mayor Pro-tem Whitehead.
Motion carried unanimously.

George Szigeti approached the podium and commented on the Recycling Committee & spoke about Recycling.
Diane Lombardo approached the podium and commented on the Animal Shelter

PUBLIC HEARING:

Linda DeMarino approached the podium and spoke of the "Old Fashion Christmas" event and the "End of the World Dooms Day Party".

Ron Fenn approached the podium and commented about recycling.

Mayor Mulcahy called for approval of the Consent Calendar.

"Commissioner Green moved to approve the Consent Calendar."

Seconded by Mayor Pro-tem Whitehead."
Motion Carried Unanimously.

Mayor Mulcahy noted two items up for Public Hearings tonight; and stated that anyone wishing to speak on the Ordinances to please sign in.

1. Final Adoption – Ordinance #631- to be amended by 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.

City Attorney Jay Rubin read the background information from the Commission Action Form.

Mayor Mulcahy opened the Public Hearing, noting no one had signed up as Proponent, and one person had signed up as an Opponent.

Ron Fenn spoke against the Ordinance.

NEW BUSINESS: Mayor Mulcahy closed the Public Hearing session on Ordinance #631.

2. Final Adoption – Ordinance #632-Amending Article I, "Solid Waste Ordinance" – Section 11-42 of the City Code;

City Attorney Jay Rubin read Section 11-42, outlining the Amended portion of the Code.

Mayor Mulcahy opened the Public Hearing, noting no Proponents signed up and one Opponent signed up.

Ron Fenn spoke against the Ordinance.

Mayor Mulcahy closed the Public Hearing on Ordinance #632.

Mayor Mulcahy recognized several City Employees in the audience.

Discussion/Action – Final Adoption Ordinance #631. Solid Waste Ordinance" – Section 11-42 of the City Code; to be amended by 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.

Mayor Mulcahy opened the floor for discussion.

Commissioner Green noted that on page 3, item D; it states that '*All haulers will be billed on a monthly basis. All collection fees shall be payable to the City of Truth or Consequences Utility Office. Any delinquent payments after ninety (90) days '*; Commissioner Green stated he did not believe there was any justification for letting someone go 90 days on the service that we are performing right there on the spot. He thought 30 or 60 days was a little bit more reasonable.

Mayor Mulcahy asked the City Manager if this was standard or is there some justification for this.

City Manager Fuentes noted we can certainly make an amendment to the Ordinance, if 90 days seems excessive; we can recommend only a 30 day window. He asked the City Attorney if that would be reasonable.

City Attorney Rubin agreed, if that was the only change.

"Commissioner Green moved for approval of Ordinance #631, be amended by adding to Chapter 11 of the Code, a new section entitled 11-16; Disposal Fees Solid Waste Ordinance" – Section 11-42 of the City Code; to be amended by 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; with section D on page 3 being changed from 90 days to 30 days."

Seconded by Commissioner Richter.

Mayor Mulcahy called for a Roll Call Vote.

Hon. John Mulcahy responded Aye to a Roll Call Vote
Hon. Sandra Whitehead responded Aye to a Roll Call Vote
Hon. Steve Green responded Aye to a Roll Call Vote
Hon. Jeff Richter responded Aye to a Roll Call Vote

Motion Carried unanimously.

Discussion/Action-Final Adoption-Ordinance #632
Amending Article I, Solid Waste Ordinance – Section 11-42 of the City Code.

Mayor Mulcahy opened the floor for discussion.

City Attorney Rubin noted it might be a good idea to add the word "load" at the very end where it reads "un-tarpped" and "residential".

"Commissioner Green moved to approve Ordinance #632 as presented, with the addition of "load."

Seconded by Mayor Pro-tem Sandra Whitehead.

Mayor Mulcahy called for a Roll Call Vote.

Hon. John Mulcahy responded Aye to a Roll Call Vote
Hon. Sandra Whitehead responded Aye to a Roll Call Vote
Hon. Steve Green responded Aye to a Roll Call Vote
Hon. Jeff Richter responded Aye to a Roll Call Vote

Motion Carried Unanimously.

Presentation – Waste Water Preliminary Engineering Report
David Laughlin, Smith Engineering approached the podium. He stated that Smith Engineering was contracted to put together a preliminary engineering report to evaluate the T or C Waste Water Treatment Plant. Mr. Laughlin stated that the report was available for review in the City Clerk's Office; speaking of the general planning period, noting a planning area and population projections, explaining the existing facility, needs for project with Waste Water Plant improvements, considered alternatives, selection of alternatives and proposed projects. Noting the preliminary planning report was required prior by every funding agency that is out there, as part of the process for funding. Mr. Laughlin noted that the next step in the process is funding, followed by

environmental clearance and design.

Mayor Mulcahy stated the need for a Public Workshop on the matter, to better involve all parties involved.

Discussion/Action-Resolution #17 12/13-Budget Adjustment

Linda Lanham presented the Resolution #17 12/13 as a budget adjustment.
Explaining that the first was for the general fund to make an adjustment of $7,000.00 to the City Clerk's budget for an emergency hire for the Election. Noting a transfer out for $15,000 to complete the local government road fund project on Pershing Street. In the Special Revenue, a transfer in for $15,000 as part of the completion of the Pershing Street Project. Under the Municipal Street fund to put the $15,000 to complete the local government road fund project. Under Capital Projects, under the Revenues we have a couple of new grants and a couple of adjustments; the first for the Solid Waste Grant- it is for $396,000 and adjustment for that to be added, for the Water Trust Board on the Water Tanks, it was an adjustment for the carry over for the loan and the new Water Trust Board Grant, the PPRF loan for the Water Tanks, a Public Project Revolving loan that we received to complete the project of $155,000. For Taxiway B layout $5,000.00, for the reconstruction of Taxiway B project be $32,202. For the Fuel Farm $125,000. The transfer in for the R& R, for the local match of the Fuel Farm. Ms. Lanham went on to describe expenditures and admin portions. $10,000 for Taxiway is on the three grants, explaining transfers out and local matches. With $45,000 for legal fees from the Solid Waste Fund, and monies for the Water Funds.

"Commissioner Green moved for approval of Resolution #17 12/13 for Budget Adjustments".

Seconded by Commissioner Whitehead.
Mayor Mulcahy called for a Roll Call Vote.

Hon. John Mulcahy responded Aye to a Roll Call Vote
Hon. Sandra Whitehead responded Aye to a Roll Call Vote
Hon. Steve Green responded Aye to a Roll Call Vote
Hon. Jeff Richter responded Aye to a Roll Call Vote

Motion Carried Unanimously.

Ms. Lanham requested to speak of the GRT regarding the Police Department funding of GRT, she asked for Chief Mullins to approach the podium also. Explaining the GRT allocated to the Police Fund that had not been allocated, she explained that the account was reconciled to see what was owed to the Police Funds, noting it was 5 months. Noting that Chief Mullins had been advised and apprised of the handling of the matter.

City Manager Fuentes noted the Chief Mullins had been

very instrumental in supporting her department in using the funding for some of the projects. When the GRT was adopted it was specifically adopted for the Police Department and the Animal Control Department from the General Fund. For this fiscal year on the items will be to discuss to open checking accounts, as part of the long term solution to resolve this issue.

Chief Mullins spoke about the use of the GRT; she noted she had been very well informed of the difficulties how to track the GRT. She had a prepared report concerning the stats and what the GRTs had done for the Police Department. She noted all Officers had received a significant amount of raises, new uniforms, a new storage shed, new cameras, new equipment, and new weapons. Noting they were still ordering some of the items, and they had used a lot of the GRT. Noting she planned to give a report of the use of GRTs sometime in January.

Discussion/Action-Authorization to open checking accounts

Linda Lanham, Finance Director, approached the podium, noting the need for separate checking accounts, all utilities were under the same account at this time, and the need for tracking separate accounts was noted. Noting electric, water, and solid waste, and wastewater were all in the same account, requesting to separate the accounts for better tracking of use of the accounts.

City Manager Fuentes stated the need for separating the accounts for better tracking of cash basis, to keep the separate accounts, asking to open the checking accounts separately to break these accounts apart in order to keep the cash basis tracking separately, and have individual checking accounts. Mr. Fuentes explained the reason for the separation of funds, noting tracking of funds would be easier and allow accounts to be more accurate.

“”Commissioner Green moved to approve the opening of checking accounts for Water, Water Waste Water, Solid Waste and for the Police Department.”

Seconded by Commissioner Sandra Whitehead.
Motion Carried Unanimously.

Discussion/Action-Service Agreement between the City of T or C – Sierra Vista Community Health Center & Sierra Vista Hospital

Finance Director Linda Lanham started the presentation, stating that the City utilizes the Hospital for pre-employment physicals & the drug screening, noting that the service agreement would be for two years from the date of execution. Noting that the existing contract does not expire until October 2013.
Sierra Vista Hospital was requesting for a slight increase for pre-employment drug testing of $5.00, and all other fees remain the same.

City Attorney Jay Rubin noted this agreement is far more

detailed/elaborate, with a better scope of work, and he noted there was justification for the increase.

"Commissioner Steve Green moved to approve the service agreement between the City, Sierra Vista Community Health and Sierra Vista Hospital."

Seconded by Commissioner Richter.
Motion Carried unanimously.

REPORTS:

Consider/Approval-Legislative Packet & Resolution #18 12/13-Opposing Legislation repealing the Hold Harmless Provision

City Manager Fuentes noted the information in the Commission Packet for the 2013 Legislative Session; explaining the first item which is the Capital Outlay request – is the Waste Water Treatment Plant; noting it would be to plan, design, construct and improve the existing Waste Water Treatment Plant. Mr. Fuentes noted the second item in the Capital Outlay request was to plan, design, equip and construct an Animal Shelter. The third item is the Space Flight Informed Consent Act is a letter asking the delegation to support the Space Flight Informed Consent Act; this is a vital key of legislation that will benefit not only the Space Port but also the City of T or C, because the Space Port success will also be our success. The forth item is Opposing of any Legislation repealing the Hold Harmless Provision- Resolution #18 12/13 and also the testimony from the New Mexico Municipal League Executive League, regarding the impact of flood and medical hold harmless provisions on Municipalities.

Commissioner Green asked that for Capital Outlay request item #1, that the Smith Engineering document be attached, and suggest that appointments be made with our Representatives before the Christmas Holiday, so they understand fully our challenges and needs.

"Commissioner Green moved to approve the Legislation Packet and Resolution #18 12/13."

EXECUTIVE SESSION:

Seconded by Commissioner Whitehead.
Mayor Mulcahy called for a Roll Call Vote.

Hon. John Mulcahy responded Aye to a Roll Call Vote
Hon. Sandra Whitehead responded Aye to a Roll Call Vote
Hon. Steve Green responded Aye to a Roll Call Vote
Hon. Jeff Richter responded Aye to a Roll Call Vote

Motion Carried Unanimously.

OPEN MEETING:

City Manager noted Commissioners had been emailed his report.

City Attorney Jay Rubin – No report.

CERTIFICATION:

ADJOURNMENT:

APPROVAL:

ATTEST:

_____
Mary B. Penner
City Clerk

Commissioner Richter – No report.

Commissioner Green – Thanked the Community for coming out on by local day, noting the Community did a wonderful job in coming out to support local business. Commissioner Green made a couple of statements about recycling, offering to meet with Mr. Fenn who had made statements about recycling. He stated two words, "cost avoidance" and noted he would be happy to explain to Mr. Fenn where he got that information.

Commissioner Whitehead – No report.

Mayor Mulcahy made a report about his meeting in Santa Fe with the Petroleum Tank Storage Bureau from the New Mexico Environment Department, noting he sat with them and evaluated all of the data in our downtown area in relation to the two petroleum tanks we have in the downtown area. Noting he hoped to have a report by the next meeting regarding the effect of drilling in these areas.
He noted he also went to see the USDA Rural Development Company in Las Cruces and made a number of contacts, and asked about Colonials. He commented on a couple of stories in the Herald, noting he did not think they were completely accurate. He noted one referencing previous City Manager David Weiser which was incorrect as a number of RFP were received, he also noted the last public hearing mentioned in the Herald regarding the Solid Waste Ordinance – noting the number of opponents and proponents stated in the report was inaccurate. He stated he had met with the top three leadership of the Mortgage Finance Authority; and spoke of tax free bonds for communities such as ours and funding. The Mayor spoke of planning a mid-December pet licensing program and some discounting and understanding of how we can get the dogs in our community licensed, promoting spaying and neutering as well as vacating for rabies.

"Commissioner Green moved that the meeting be closed for Executive Session pertaining to Pending or Threatened Litigating 10-15-1H(7)"
a. Related to Audette vs. City of TorC
b. Related to Arizon Structures Worldwide, LLC – Pool Cover
c. Related to Collection Center

Seconded by Commissioner Whitehead.
Mayor Mulcahy called for a Roll Call Vote.

Hon. John Mulcahy responded Aye to a Roll Call Vote
Hon. Sandra Whitehead responded Aye to a Roll Call Vote
Hon. Steve Green responded Aye to a Roll Call Vote
Hon. Jeff Richter responded Aye to a Roll Call Vote

Motion carried Unanimously.

Mayor Mulcahy stated that the Commission was now in open session.

“Commissioner Green certified that only matters pertaining to Pending or threatened Litigation 10-15-1H(7)
a. Related to Audette vs. City of TorC
b. Related to Arizon Structures Worldwide, LLC – Pool Cover
c. Related to Collection Center
Items were discussed in Executive Session, discussion followed and no vote was taken.”

Seconded by Commissioner Whitehead.
Motion Carried Unanimously.

“Commissioner Green, pertaining to (b) Arizon Structures Worldwide, LLC-Pool Cover; and moved to authorize Staff to negotiate a settlement with Arizon with the Pool Cover.”

Seconded by Commissioner Sandra Whitehead.
Motion Carried Unanimously.

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

PASSED AND APPROVED this _____day of _____, 20____ on a motion duly made by Commissioner _____, seconded by Commissioner _____, and carried.

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John A. Mulcahy, Mayor