

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, December 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, December 11, 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 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.
Motion carried unanimously.

COMMENTS FROM THE PUBLIC: Mr. George Szigeti came before the Commission with comments, and commented on the item on the agenda regarding the Document Management Program.

Ms. Dale Kertesz came before the Commission with comments.

Mr. Ron Fenn came before the Commission with comments, and referred to item E-1, change order #1 – Solid Waste Collection, and provided information for the record.

Mr. Mike Kertesz came before the Commission with comments.

Mr. Gerald Trumbull came before the Commission with comments.

Mr. Hans Townsend came before the Commission with comments.

Ms. Barbara Salasin came before the Commission with comments.

CONSENT
CALENDAR:

Mayor Mulcahy stated there have several items on the Consent Calendar; Regular City Commission Minutes – 10/22/12 & 11/13/12, Special City Commission Minutes (Closed) – 11/13/12, Airport Advisory Board Minutes – 11/7/12, Golf Course Advisory Board Minutes – 10/10/12 & 11/14/12, Planning & Zoning Minutes – 10/2/12, 10/29/12 & 11/13/12, & Accounts Payable – November 2012.

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

Seconded by Commissioner Whitehead.
Motion carried unanimously.

UNFINISHED
BUSINESS:

DISCUSSION/ACTION – CHANGE ORDER #1 – FOR SOLID WASTE COLLECTION CENTER – MIKE CREPEAU, GORDON ENVIRONMENTAL –

Mr. Mike Crepeau came before the Commission to explain Change Order #1 along with photographs provided to the Commission.

Commissioner Richter asked if there was an as built survey done prior to the completion of the construction plans...and would it have addressed this problem...this issue of the rain gutter.

Mr. Crepeau stated we were not provided with any as built construction diagrams.

Commissioner Richter – In the RFP was there an item in there for an as built survey...or anything like it to determine what the position of the building on the earth...around it...how far the rain gutter stuck out...that sort of thing.

Mr. Crepeau – There was none of that information available to us...as I understand it...or in the City archives. And I feel as if the description was very detailed and self-explanatory, and I am at this point recommending that the project go as requested because this is a necessary item to finish the construction of the facility. And stated we're at that point where installation of that gutter...removal of that gutter, and installation will happen as early as Monday next week, and stated they have two more walls to pour which should happen later this week on Thursday, and that the metal building will be arriving about the 21st of this month, and from there we should be on time with our construction schedule.

And one thing I'd like to say about the rain gutter issue, and that is it had to come down whether it was done by the City, or by the contractor...the rain gutter had to come down, and the cost for that to happen would of either been included in the contractors cost when they submitted their bids earlier on, or it would have showed up later...had the City not been able to remove the gutter which is the case at this point.

City Manager Fuentes stated he recommends approval of Change Order #1 as presented in your packet.

Commissioner Green would that mean that Albuquerque Seamless

Company would be awarded the contact. Is that what we're approving a motion for a change order, and the awarding of the contract for this qualified company to do the work...or is that all in one.

City Manager Fuentes – Mr. Crepeau correct me if I'm wrong, but the change order would be to ESA Construction, and the quote they received was from Albuquerque Seamless...is that correct.

Mr. Crepeau – That is correct.

City Attorney Rubin – I think you're just approving the change order.

“Commissioner Green moved approval the request for Change Order #1 to the City of Truth or Consequences Solid Waste Collection Center Construction issued to ESA Construction Company.”

Seconded by Commissioner Whitehead.
Motion carried unanimously.

NEW BUSINESS: DISCUSSION/ACTION – STATUS OF JUDGMENTS & LIENS - JAY RUBIN, CITY ATTORNEY –

City Attorney Rubin stated this is a new item on the agenda...it might be helpful for me to give a brief discussion about the various liens that the City has obtained over the past several years. He stated as the packet will reflect we've been very successfully obtaining numerous liens.

And just to summarize what I'm referring to as everybody knows we were involved in litigation over the last few years where Kim Audette and Sophia Peron filed a District Court action against the City, and stated we obtained a judgment in that case in the amount of \$2,669.97, and in a related action/matter Kim Audette had also filed suit in another matter...and a couple of judgment liens have been obtained in that case as well.

He stated we also as the packet will reflect we've gotten numerous liens regarding our enforcement of our Code of Ordinances for yard clean-up which includes the recently completed action involving the Buckhorn Bar...we have a lien for the clean-up of the property in the amount of \$18,216.84, and I have been discussing this matter with Mr. Fuentes, and to my understanding he wants me to be aggressive in pursuing attempt to collection of these liens which may involve taking formal action such as writing demand letters to the people who owe us money or going further if we have to which might include doing title searches on the various properties, and see whether it warrants foreclosure action.

City Manager Fuentes I also want to add that through the efforts of Code Enforcement they are consistently and actively sending out notices to property owners to ask them to clean their yards, and that some of those notices have gone to court, and the judge has ordered, and authorized the City to go in and clean their yards because they are unable to. And stated we're spending staff resources, and staff has contracted with some local companies to go in and clean those yards according to the Court Order, and those expenses that the City is incurring Bill has allocated some of the funding under his budget, however because of the numerous

violations, and the properties that are being cleaned up we will be coming back to the Commission for additional funds as there are numerous properties throughout the City that we're having to deal with, and that is one of the reasons why we want to proceed, and move forward more aggressively in collecting some of these fees because we are spending staff time and resources in funds to enforce our codes.

Commissioner Richter – The total at the bottom of the sheet of \$24,017.00 does that include the two outstanding claims from the court actions.

City Attorney Rubin – I don't think it does...I think that is the balance for the yard clean-ups.

Commissioner Green – There is a couple of them here that say certified mail returns unclaimed...what do we do if that occurs...what is the next step the City does.

Mr. Bill Sletton came before the Commission to explain the process, and that we send out a letter notifying the property owner to clean up their yard, and we send that certified with a return mail receipt. He stated generally we get those back, and generally people comply, and when we do not get a reply back we make another inspection on the property, and then go to the County, and do a title search, and try to find out who is paying the taxes on the property, and that is our first lead to try and determine is there somebody that still has an interest in this property that we can pursue...and sometimes that's successful...sometimes it isn't, and we actually have a couple of cases right now where we are in a so called dead-end, and we actually think the owners have passed away, and there is no record of what is going to happen to that property, or no record of anybody with an interest in it, and we make every effort to help these people, and stated we keep a list of handyman that are available to go and clean up yards.

Commissioner Green – Is there anything else we can explore to put a little bit more pressure on these people to pony up what is fair.

City Attorney Rubin – That is maybe...where you write a letter to someone, and say listen we have a lien on this property for x number of dollars, and if you don't make some effort to pay this then we take a right to foreclose.

City Manager Fuentes stated since we are going to be looking at these more aggressively we will definitely look at what other options are out there for us, and we have not looked at tying it to utility bills.

Commissioner Whitehead – I would like to thank you for the attempt, and the effort to collect these...and make this right.

Mayor Mulcahy – What we have here is a need to collect the dues that are owed to the City.

“Mayor Mulcahy moved to direct City staff to begin immediately to take action to foreclose on these liens if necessary, and judgments.”

City Attorney Rubin – Do you actually want to go that far and say foreclose I think what we want to do is maybe try and write demand letters first, and if that doesn't get us anywhere then we want to discuss the feasibility to do a title search on the properties,

and then I would bring it back to you, and then we would discuss whether a particular issue would be appropriate.

Mayor Mulcahy – Let me withdraw that motion.

“Mayor Mulcahy moved to ask the Commission to direct City staff to take the necessary actions to move forward on the collection of these debts that are due.”

Seconded by Commissioner Green.

Commissioner Green – I would like to point out that I would like to have also as part of this process...possibly a document created so we're not shooting from the hip...that we know this is what we do first...if this fails we go to number two, three, four, and number five...so there is policies and procedures set in place so whoever is sitting in that chair, or managing the City on a day by day basis knows exactly what the procedure is.

Motion carried unanimously.

DISCUSSION/ACTION – APPOINTMENT TO GOLF COURSE ADVISORY BOARD – MS. IMOGENE STARK, CHAIRPERSON –

Ms. Imogene Stark, Chairperson with the Golf Course Advisory Board came before the Commission, and stated they need another member on their board. And that Mr. Mike Kalen was appointed to the board, and that he had some business that came up in Alamogordo, and had to leave town so that left a vacancy on the board.

She stated that Ms. Bonner is available, and I spoke with her today, and she indicated she is willing to serve on the board.

“Commissioner Green moved the appointment of Ms. Bonner to fill the vacancy created by Mr. Mike Kalen on the Golf Course Advisory Board.”

Seconded by Commissioner Richter.

Motion carried unanimously.

DISCUSSION/ACTION – PROPOSED ORDINANCE (FOR PUBLICATION) – SETTING WATER AND WASTEWATER CONNECTION FEES – JULIAN GARCIA, WATER DIVISION –

Mr. Dave Cook with the Water Department came before the Commission asking for approval regarding the Proposed Ordinance – Setting water and wastewater connection fees so the department can recoup our cost that we are putting into the sewer connections.

City Manager Fuentes stated as you recall we brought this item before you previously for consideration, and at that time we were only considering the water service tap fees, and it was brought to our attention the need for the wastewater service fees to be looked at as well, and I know that staff did some research, and they took it back to the Public Utility Advisory Board, and they made the recommendation to increase those fees to \$225.00 for a 3” in the wastewater service tap fee to \$675.00, also the 4” to \$675.00 from \$235.00, and a 6” tap fee from \$260.00 to \$725.00.

He stated the Public Utility Advisory Board endorsed the recommendations from Mr. Cook and Mr. Garcia, and we are asking authorization to proceed for publication of this ordinance.

“Commission Green moved for publication for the Proposed Ordinance for Setting Water and Wastewater Connection Fees for the City of Truth or Consequences.”

Seconded by Commissioner Whitehead.

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

Motion carried unanimously.

DISCUSSION/ACTION – MOU – BETWEEN SIERRA COUNTY & CITY OF T OR C FOR CROSS COMMISSIONING OF SELECTED PEACE OFFICERS – CHIEF MULLINS –

Chief Mullins with the T or C Police Department and Sheriff Joe Baca came before the Commission, and stated the item in front of you is for consideration, and approval of a MOU between the Sierra County Sheriff’s Department, and the City of Truth or Consequences for cross commissioning of selected piece officers.

She indicated that we amend the wording from Sierra County to Sierra County Sheriff’s Department with Sheriff Baca stating it is his authority to give cross commissions to any other law enforcement officer.

City Attorney Rubin – Is that a separate entity.

Sheriff Baca – It is the Sheriff’s Office.

Chief Mullins stated this will be for selected officers, and indicated a number of other municipal law enforcement agencies already do this. She explained the cross commissioning of the selected officers most importantly would be the investigators, and the senior officers, and stated this would increase inter-agency relations, and cooperation, and would provide each individual agency with access to resources that each one may not possess on their own such as resources on furthering narcotics, and other types of investigations, and provide for the capability of the T or C Police Department to follow cases that lead into the County as the Sheriff said, and most importantly it provides legal liability protection for officers, and for the City of T or C.

City Manager Fuentes – Sheriff...just a quick question, will this MOU be ratified by the County.

Sheriff Baca – I’ll take it before them to let them know what I’ve done.

City Manager Fuentes – And the reason I ask...on the signature page you have the County Clerk attesting your signature, and also has the Attorney for the County approving it as to form...and that change I don’t see that as a big issue. And what I would ask since there is some separation in liability issues as well that it is checked by the County Attorney, and ask City Attorney Rubin to follow-up,

and that I want to make sure that the City is protected, and not missing something, and want to make sure the County, and the City are protected when we have that cooperative effort in any activities through this MOU.

City Attorney Rubin – Maybe one thing that will be helpful I'm looking at paragraph 6 under Insurance...the parties are allowed to request copies of the policies...maybe we can be furnished a copy of the policy where it shows there is coverage for this.

Mayor Mulcahy – We have 3 changes on this document, and do we need to have these Attorney's confer before we approve this in your opinion.

“Mayor Mulcahy moved to postpone this until our next meeting for a new document.”

Seconded by Commissioner Richter.
Motion carried unanimously.

DISCUSSION/ACTION – MOU – BETWEEN ELEPHANT BUTTE & CITY OF T OR C FOR ANIMAL CONTROL SERVICES – CHIEF MULLINS –

Chief Mullins stated that the City of T or C Police Department Division of Animal Control has been providing the animal control services for the City of Elephant Butte since 2003, so this MOU is a contract for services with Elephant Butte for the functional period of three years, with a required annual renewal. The most recent contract was renewed in 2011 therefore this is an annual renewal for two years of the functional cycle for year 2.

She stated there are two revisions to the second year MOU: The Ordinance Correction is the areas within the Memorandum referring to Ordinance Enforcement that are changed from Ordinance Number 66 to Ordinance Number 134. And the Scope of Work – Service Hours, 2...It is actually the wording “Response to requests made after hours shall be the discretion of the T or C Police Department, and stated this was revised to...and that this was the request of Elephant Butte that direct contact with SCRDA should also be directed to the appropriate Elephant Butte designee contacting SCRDA, who in turn, may contact the City's Animal Control Officer. If, in either case or after hours, the Elephant Butte designee cannot be reached, the Sheriff's Department will be called to evaluate the situation, and will be the assigned Elephant Butte designee, and may in turn contact SCRDA, who in turn, will contact the City's Animal Control Officer.

Chief Mullins stated the reason they requested this change is that the Sheriff's Office actually polices Elephant Butte.

Commissioner Green – Referred to page 1 of 3...under Article 5: Compensation. The amount of payment shall be \$50.00 per response and/or patrol...do we regularly have a patrol route that goes to Elephant Butte.

Chief Mullins – They actually were patrolling I believe they patrol when they are asked to...at one time I understand it was...they were patrolling so many hours per month, but now it is only on a call basis.

“Commissioner Green moved approval of MOU for Services between the City of Truth or Consequences, and the City of Elephant Butte for Animal Control Services 2012-2013.”

Seconded by Commissioner Whitehead.
Motion carried unanimously.

DISCUSSION/ACTION – GENERAL CODE PROPOSAL FOR ENTERPRISE CONTENT MGMT., SERVICES FOR CITY OF T OR C – JUAN FUENTES, CITY MANAGER –

City Manager Fuentes stated the proposal before you is to provide the City Clerk’s Office with additional resources to be able to provide the requests that have been submitted to their office...as they have received numerous IPRA requests, and also for public records.

He indicated the City Clerk’s Office oversees not only records, but also oversee Elections, Minutes for various boards, Accounts Receivable, Cemetery, Civic Center bookings, and the City Commission packets. And that their office is always busy, and staff of three very dedicated individuals that have worked tirelessly to fulfill other duties...never the less we are required by State Statutes, and the Inspection of Public Records Act to fulfill these requests, and before we consider additional personnel to assist the Clerk’s Office...being that would be a reoccurring expense we are asking the Commission to consider authorizing, and approving staff to proceed, and contract with General Code Laser Fiche System, and explained that is a records management solution, and that it has been used by numerous municipalities and organizations.

City Manager Fuentes stated basically it scans documents, and tagged, and makes them easily accessible. And it can also be accessed again through various modules on line by the public, and other departments, and the Commissioners, and anybody who is interested in public records. He stated the funding for the proposal is \$18,000.00, and there are some additional costs that would be necessary...so we are asking a total of around \$22,000 for the Commission to authorize staff to proceed.

He stated Mr. Trumbull pointed out why...he asked a question why we only contacted one vendor...please be aware this vendor is under State Contract which means that the State has already done the RFP for us, and we can contract directly with them, and explained we have done numerous contracts with companies that have State contracts...and this is no different than what we have done in the past.

Commissioner Richer – There is about \$2,700 anticipated annual LSAP fees after the first year...what do these fees include...what we will be receiving for those.

City Manager Fuentes – The estimated annual support fees is \$2,700 which includes the GRT under page 13...after the first year annual fees after the year, Avante Server with workflow support, the system full user with snapshot, and e-mail, and that is for 10 users, you also have the scan connect 5 pack which they identify are \$152.00...so basically this is support for using of the system, and this will be a reoccurring expense that will require budget allocation.

Commissioner Green – I would like to make a correction...I think

it was Mr. Trumbull or someone mentioned that the \$18,291.22 was without GRT, but if you look on page 13 there is a star next to that amount, and if you look below that it says includes GRT. And thinks this is a great idea it will alleviate some of the pressure that a hard working City staff is confronted with...it will make the public have their requests answered on a timely basis, and it will be a great record keeping for us.

Commissioner Whitehead – I’m in agreement with Commissioner Green, and thanked Manager Fuentes.

Mayor Mulcahy stated he talked to the Las Cruces City Clerk today...and she loves this, and she says this made her job easy.

“Commissioner Green moved approval for the General Code Proposal for Enterprise Content Mgmt., Services for the City of Truth or Consequences.”

Seconded by Commissioner Richter.
Motion carried unanimously.

DISCUSSION/ACTION – ELECTION RESOLUTION #19-12/13 – ENGLISH/SPANISH FOR SPECIAL ELECTION TO BE HELD MARCH 12, 2013 – MARY PENNER, CITY CLERK –

City Clerk Penner stated this Election Resolution #19-12/13 is part of the Election process. She stated the Election Resolution is in English and Spanish, and that it is to call for a Special Election to be held March 12, 2013 for the Position for a City Commissioner for the vacant seat for a one-year term, and for the Citizens Initiative Ordinance #629 regarding the Solid Waste Collection Center, and asking for approval of said Resolution.

“Commissioner Green moved for approval of the Election Resolution #19-12/13 for the City of Truth or Consequences, New Mexico in English and Spanish.”

Seconded by Commissioner Whitehead.

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

Motion carried unanimously.

DISCUSSION/ACTION – FYE 13 BUDGET ADJUSTMENT – RESOLUTION #20-12/13 – LINDA LANHAM, FINANCE DIRECTOR –

Ms. Linda Lanham, Finance Director came before the Commission to explain Resolution #20-12/13 for budget adjustments. She stated at the last Commission meeting she discussed the GRT, and the money that was owed to the Police Department so we have made the adjustments, and explained the first 4 items will be the transfer in to the Police Department for the \$113,307.00.

Lodgers Tax – Asking for an increase of \$30,000.00 for the Coop Marketing Grant, and that it was increased to \$30,000.00, and for the expenses of \$30,000.

Enterprise Fund – We needed to wait for the increase for the CD's to mature, and we cashed those in so we can pay back the closing fees, and that is to increase the Utility Fund to pay back the closing fees on the Utility Loan that we received.

City Manager Fuentes for clarification, and that Ms. Sloan reported certain information that was inaccurate provided to her by an individual, and wanted to be clear to the public, and the Commission that these funds are within the ending cash balance of the General Fund...you're looking at the first couple of items...the others are on the ending cash balance of the other funds.

He stated the Police Department in essence will be having a separate fund which has already been created by staff and with Commission approval when you authorized the opening of the checking account. And basically we have the funds that were generated the last quarter of the fiscal year are in that fund, and that they are going to have a healthy fund to start with, and use it for projects or expenses, and he knows that the Chief, and the Captain have a plan, and stated they are very frugal with those funds as well...and I'm very comfortable that they're gonna be using it wisely, and wanted to make it clear that the funds are still there...there weren't any misappropriations here.

Commissioner Green stated I spoke with Ms. Lanham previous, and I had a couple of calls after our last meeting because we were showing a great increase in GRT...and everyone got excited, and I'm scratching my head, and saying what's going on here that I'm missing, and asked Ms. Lanham to explain.

Ms. Lanham stated the GRT did...the first quarter from last year to this year there was an increase of \$134,000.00, and that increase has to do with the quarter percent that was passed for the Police Department, but there still was an increase in about \$60,000.00 for the first quarter as well...the GRT from what we can see the increase in it, and stated there is DOT Construction going on in the City, and that the City has construction projects going on with the Solid Waste...the Airport...Randy Ashbaugh has some projects going on so that has brought in extra revenue for the City as well. She stated the Police Department generated about \$74,000.00 for the first quarter, and about \$60,000.00 was from the GRT being up.

City Manager Fuentes pulled up the October revenue report on the screen, and indicated the highlighted numbers represent all of the GRT that the City collects...and this is for the month of November which we should be at around 42% of the budgeted amount...as you can see we're at 44%, and showed a figure that represented the Police Department, and explained the reason it is 49% because we only estimated...because this will be the first full fiscal year for the Police Department...and we had a budget in there of \$200,000 so as you can see they're already at 50% based on what we thought they were going to receive so they are probably going to exceed \$200,000 by the end of the fiscal year. And in the first quarter the average was about somewhere between 22 and \$25,000 a month...but as you can see this is only the PD, and then this is the State GRT share that we collect...and as you can see it is almost at 46% so even with the Police Department GRT the City is receiving more GRT than what we have received last fiscal year at the same time. And as Ms. Lanham pointed out we do have some big projects from the State, and private developers as well so it's a good sign, and hopefully we will see this trend continue the rest of the fiscal year into the new year.

Commissioner Green thanked the Manager and Linda for that explanation.

“Commissioner Green moved approval of the FYE 13 Budget Adjustment – Resolution # 20-12/13.”

Seconded by Commissioner Whitehead.

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

Motion carried unanimously.

DISCUSSION/ACTION – PROPOSED ORDINANCE (FOR PUBLICATION) – REPEAL & REPLACE CITY ORDINANCE NO. 574 – CHAPTER 16, ARTICLE XVII, SECTION 11-17-1 AIRPORT OVERLAY DISTRICT – BILL SLETTOM, COMMUNITY DEVELOPMENT DIRECTOR –

Mr. Bill Slettom, Community Development Director came before the Commission, and stated this is the first read for a Proposed Ordinance change. And the process we have gone through so far with the P&Z...discussion/actions at P&Z meetings...special meeting October 29th, workshop November 13, and that there was also a joint meeting between the Airport Advisory Board, and the P&Z earlier this year.

He stated at the December 4th meeting a public hearing was held to take opinions from proponents and opponents to the change of the ordinance, and indicated they did all the proper notification on posting it, and sending notifications to all of the adjacent property owners. Also at that meeting on December 4th the recommendation was made from P&Z to the City Commission for adoption, so the City Commission process for this change now will be beginning with this meeting the discussion/action first read, and that we will proceed with a public hearing to take opinions from proponents and opponents on January 8th of 2013, and at that time we will also have a more thorough presentation on the ordinance changes from staff, and our engineering consultant.

What’s the same...what’s different? The overall purpose has not changed...it’s to provide supplemental development requirements, and restrictions on land. In the Airport environs it doesn’t change the underline general district which is industrial planned unit development or an IPUD, and that is the underline zoning for the Airport for the City property. The general restrictions such as the avigation easements, electronic interference, lights, glare and so forth also have not changed.

What’s different is that the Ordinance now has a very extensive list of Airport and FAA definitions...pretty thorough description of FAR Part 77 which is a document from the FAA describing all of the approach surfaces...the horizontal surfaces, conical surfaces, and so forth that aircraft use. An item of discussion over the last year has been...on how are we going to be treating noise and density, and those are going to now be addressed in special use permit applications for any activity at the Airport.

Commissioner Richter – The last item that you addressed...the

noise and density issues...are they described in this document, or will that be part of a process later on.

Mr. Slettom – They are not described in the Ordinance, and stated they will be taken up as individual requests for special use permits come in for construction at the Airport.

Mayor Mulcahy stated this involves the FAA in a big way with the special use, and I think that is an excellent way to go about it, and would like to compliment the Planning & Zoning Board, and the Airport Advisory Board working together, and appreciates all the hard work that went into this. And I would like to conduct a robust public hearing in January, and is grateful that we're moving forward with this.

City Attorney Rubin since you mentioned the hearing on January 8th I'll be recommending that we follow the Battershell Process since we are talking about a zone change.

Commissioner Green – Once we do this, and we have approval from the FAA, and move forward, and each case will be handled on a case by case basis...is the special use permit...can we deal with that in-house or do we deal with it, and then the FAA has to approve it and get back to us.

Mr. Slettom stated it's kinda of a parallel process...there is actually a way that a developer/builder can actually go on to an FAA site...put in the parameters of their project, and find out whether or not they need to proceed with further notification, however you can be doing this at the same time that you have your special use permit into Planning & Zoning because you have to have their recommendation before it comes to the City Commission...it's the City Commission that actually issues a special use permit. And stated part of our code that has not changed is that the FAA has the final word on the type of development that can go on in the surroundings around the Airport both on the City Airport site, and in the various zones around the Airport that are more fully described in this new ordinance than were in the old one.

“Commissioner Green moved the first read, and authorization to post a public hearing - For Repeal and Replacement of City Ordinance Chapter 16 Article XVII, Sec. 11-17-1 Overlay District.”

Seconded by Commissioner Whitehead.

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

Motion carried unanimously.

REPORTS:

CITY MANAGER –

City Manager Fuentes indicated he was forwarded some questions by Mayor Mulcahy from the last meeting during the Budget Work Session, and that Mr. Fenn had some questions about the presentation, and I wanted to address them.

One of the questions – Why the numbers...percentages...in regards to the local taxes. And the quarterly report that was presented...the

intent of it is to give the Commission and the public just a general over view of where we stand vs. the quarter monthly percentage of that time period. We definitely can provide the entire detailed report but sometimes a lot of numbers can get lost, so our intent was to give a general...the slides I showed in regards to the GRT we can certainly make that information available, and the detailed report is always reconciled with that report.

Another question – Is why we can't balance the general fund without using utility funds. As it was presented during the budget workshop, and the adoption of the budget...the general fund depends heavily on the GRT...that's why it's critical, and as you saw in the previous page it makes up about 70% of the general fund revenue stream, and that is a huge, huge piece of the revenue pie for the general fund...unfortunately the revenues do not need the expenses that we have, and that is why we in the past the City has transferred in from the utility funds.

And also where does the revenue come from in the Utility Office, and I believe one of the Commissioners asked that not too long ago as well, and I do have that page of the Utility Office, and basically the Utility Office...they oversee the collection of all of the gross receipts taxes that are received, and they are paid out. And referred to the slide regarding the Utility Office, and you see a \$390,000.00 budget, and explained that is for the electric division gross receipts taxes, and explained this office collects all of this GRT, and reports it to the State that is why you have a huge revenue budget, and of course you have the expense budget that is also huge because not only do you have personnel in that, but you also have...this is just flow through money that is collected and is paid through the State, and you have some other small items...your returned check fees, GRT...these are all GRT categories, red tag fees, and the majority of the revenue comes from the gross receipts tax, so that's why the clerks...the Utility Office have a huge budget...it's just pass-through expenses.

City Manager Fuentes stated the second meeting in December I'd like to recommend that since it falls on Christmas that we cancel, and our next meeting will be January 8th...so if the Commission approves we will do the appropriate notices. And on January 8th we do have some planned work sessions, and that we will be addressing the issue of the WWTP to allow for some public questions on this item, and we will have another presentation by Smith Engineering, and also address the other issues...funding sources, and also have another presentation on the Solar Farm, and we will be receiving a detailed proposal from Ameresco on the Solar Farm.

He stated this week we will be advertising for the Armijo Park Restroom Project, and that bids will be due on January 22nd, and a non-mandatory meeting on January 8th and we are looking forward for that project moving forward.

City Manager Fuentes stated I'm glad that Mr. Kertesz brought up the issue of the Colonias designation, and I'm glad he has looked into it, and stated we are gonna need some support from the community, and the Commission. And that staff...Bill Slettom, Mayor, David Laughlin, and myself went to Las Cruces to meet with Sandra Alarcon, and Espie Holguin a USDA HUD representative who has been very instrumental in helping us to get the information that we need to get the City designated as a Colonia, and stated there are two designations that are recognized

depending on the funding agency...one there is a State pool of money that is designated for Colonias, and that requires a Resolution by the City Commission to be adopted...there is another designation that is required by USDA, but that designation needs to get the endorsement of the County, so we will be presenting this as well at the January 8th meeting, and that we will be bringing a Resolution to the Commission to designate T or C as a Colonia because designating that designation allows the cities to access grant funding...whereas currently we can't...we have to compete with other municipalities for capital outlay, NMFA loans, and other sources, and a lot of the sources are necessarily grant but loan, and this source most of it we could get grant funding...there is very few communities that qualify for these grants, and I think it is a great opportunity especially for a project this size, and for future projects when we deal with water, wastewater, and possibly our electrical grid as well. And we will be doing some leg work from now until then, and one of them is issuing an RFP for engineering services, and before you apply you have to have certain things already done.

He stated we also need an environmental study done in addition to the PER that we just did with Smith Engineering, and that will be a task order that I will be signing with Smith Engineering, and we have identified the funding source under the wastewater department, and it will be about a \$20,000 task order, and will continue to hold meetings with other funding agencies so we can hopefully pool enough money, and minimize the need for a loan, and increases through user rates to our customers.

Mayor Mulcahy – I would like to thank you for a couple of things...first in pointing out the 70% of our funding comes from GRT, and general fund, and thank you for your explanation about the pass through expenses. And we're talking about a WWTP work session, Battershell for the Airport Ordinance, and a Solar Farm presentation, and that is going to be a very busy day, and would encourage the public to come out...there is going to be a lot going on that day.

CITY ATTORNEY RUBIN –

I have some good news regarding a case involving the Augustine Plains Ranch, LLC that was a case in which the applicant filed with the Office of the State Engineer, an amended application for a permit to appropriate underground water to divert, and use waters from the San Augustine Basin in Catron County...The City joined in a protest that was filed by the Cuchillo Valley Community Ditch Association...our concern was that the application if granted could affect our own water situation here in T or C.

He stated the State Engineer dismissed it, and denied the application because it found that the application was overly broad and vague which was one of our concerns...the applicant filed an appeal to District Court, and District Court also denied the application and upheld the decision of the State Engineer, and found the application would have violated the sound policies, and public ownership of waters in the State of New Mexico...so at this present time we are in a good position...there could possibly be an appeal filed to the Court of Appeals, but at the present time we're in a favorable position in that case.

COMMISSIONERS –

Commissioner Richter reported that we're moving along with our

proposed Flood Zone Study Project in our quest for a letter of map revision from FEMA in the City, and that they are planning a meeting with Larkin Group, Barry Ragsdale, Sierra County Flood Commission, and that they are going to discuss the final scope of work prior to presentation for the Commission and public, and to get a more comprehensive coverage we've added two more study areas...one is the Pershing Street Arroyo, and it runs from South of Marie Street back behind on the West side of the County offices down to the river, and then the arroyo immediately West of the Fair Barn.

Commissioner Green stated he would like to wish everyone A Very Happy Holiday, and the Best of the New Year and may 2013 be a rocking year for all of us in Truth or Consequences.

A special thanks to Leonard Carrillo, Solid Waste Department and his staff, and stated there were 25 people in town last week for 3-days of training to be re-permitted as landfill operators, recycling center operators, and Leonard graciously did a tour of our facility, and that it was well received. He stated English Bird was in attendance who is the Executive Director of the NM Recycling Coalition...one of our major funders, and that she conducted a work shop for businesses...for business recycling, and we handed that off to Hans Townsend, President of the Chamber to work with the Elephant Butte Chamber, and to put that project together, and thanked them for that...it was time well spent, and stated Ms. Rush from the hospital had two of her employees in attendance.

Commissioner Green reported on the Friday Old Fashion Christmas, and thanked staff, and all the store owners, and the Forest Service for the wood, all the volunteers who participated, and last but not least...Santa Claus.

Commissioner Whitehead would like to wish everyone A Very Merry Christmas, and the best of health and happiness in the New Year.

Mayor Mulcahy – I would like to follow-up on the Colonias conversation...I've been working on it as well...and there is a point that I think is really important to make, and that is in addition to City funding grant funding...if the community designates itself as a Colonias, and gets that status then individuals, homeowners can apply for funding that is available...relatively easily available in grant form up to \$5,000.00 from USDA to improve their own wastewater, and water system from the City's connection back into their bathrooms including fixtures and piping, and everything that is needed. He stated there is an income requirement so this is really for low-income people, but we need to address that, and offer that, and we need to know that without Colonias designation they will not have access to that funding so there is a real personal individual level that's important to the Colonias program, and I wanted to make everybody aware of that.

He would also like to thank the whole community...MainStreet, Destiny Mitchell, and all the people that came out on Friday night it was a magical deal...it was incredible, and wanted to compliment everybody in the community for putting that together. And I would like to express to the entire community Merry Christmas, and Happy Holidays.

RESPONSE TO
PUBLIC

City Manager Fuentes stated he covered that during previous discussion during the meeting.

COMMENT:

City Attorney Rubin stated to clarify because Juan brought this up...just so the public will be aware...are we canceling the meeting that will be scheduled for the 2nd meeting in December.

Mayor Mulcahy stated...I would certainly wish to do that, and the rest of the Commission agreed.

EXECUTIVE SESSION:

“Commissioner Green moved that the meeting be closed for Executive Session pertaining to 1. Pending or Threatened Litigation 10-15-1H (7), A. Related to – Arizon Structure Worldwide, LLC – Pool Cover.”

Seconded by Commissioner Whitehead.

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

Motion carried unanimously.

OPEN MEETING:

“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 – Arizon Structures Worldwide, LLC - Pool Cover, was discussed in Executive Session, discussed incurred and no vote was taken.”

“Commissioner Green moved for approval of the Settlement Agreement between the City of Truth or Consequences & Arizon Structures Worldwide, LLC for a credit in the amount of \$66,334.20 to be used by ESA Construction.”

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

