

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, February 26, 2013

WORKSHOP

Minutes

TIME & PLACE: The Truth or Consequences City Commission will hold a Workshop on Tuesday, February 26, 2013 at 5:30 P. M., in the Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico.

Mayor Mulcahy opened the Workshop, and presented a power point presentation regarding the Petroleum Tank Geothermal Hot Springs Study, and showed an aerial view of maps to look at actual well locations, and referred to the letter MW-2...monitoring Well 2, and indicated this is right in the parking lot of Bar-B-Q on Broadway. And stated these are the Wells that the NM Environment Department is monitoring currently...the only one of which that has a drinking water issue is the one called monitoring Well 2.

He stated there is no drinking water issue related to any of the other Wells, but they are monitoring them from their history, but monitoring Well 2, I would like to show you the data on it, and indicated this was formally known as the Bell Gas site, and showed a graph referring to the Benzene Concentration acceptable for drinking water is 5 parts per million...in this case it's shown as 5 microliters per liter. A copy of the presentation is available at the Office of the City Clerk for anyone wishing to review, and/or a copy is available upon request.

Mayor Mulcahy stated in 2007 we have had acceptable drinking water even in that Well...so what I would say about this whole field that we were looking at in the Bar-B-Q on Broadway parking lot we have a situation that is still under investigation by the Environment Department but is rapidly getting better, and probably will be cleared by them by their own statement in a few years...so while we wouldn't necessarily want to drill new Wells in this particular area we may be able to open that up if we decide at some later time, and I guess in going back I'd like to make mention of the fact that what we're really doing is we're understanding the total area that is comprised or prescribed by this, and trying to figure out if there is a part of this moratorium we want to understand again with more workshops is there an area that we'd like to limit future drilling until this area is cleared by the Environment Department, and I don't know what that area is, but I'd like to ask the public, and those of you on the Commission to consider this so that it may be in our next workshop we can have a more direct decision or some ideas about how big that area might be.

He referred to the next zone...what we're looking at is an area that is...and referred to Monette Ford, and the area across from Monette Ford, and referred to the Elks, and stated we have in this region four Wells of interest...three of considerable concern because in this particular zone that is formally the Broadway Texaco and the Triangle Conoco...we're not measuring for Benzene anymore...we're not measuring for drinking water contaminants...we're actually measuring for thickness of gasoline on the surface...it's called nonaqueous phase liquids that flow, and it's generally considered to be gasoline, and showed some charts about how this is going...again this is an improving area, but we're not anywhere near the situation that we are talking about over on the other side of town with the Bar-B-Q on Broadway parking lot. And that the Benzene is not considered because we're dealing literally with gasoline on the surface of the water.

Mayor Mulcahy stated let me run through the Wells each of them, and you can take a look at them; And this is B-1, 2 & 5, and this is B-12 over here, and referred to the monitoring Well in the Broadway Texaco area called B-1A...and these are literally depths in feet on the top of the water when they went in and took a look at these Wells of gasoline...and you can see that back in 2003 we had 2 1/2 inches on the top...and 3 inches in 2008...and then we jumped up to 0.38 feet, and we're now down to 0.17, and stated this is a Well that in their own words that just isn't going to come around in a while. And stated when these tanks were taken out I don't know, but they were probably in the words of the Environment Department...pretty much cheese...Swiss cheese type of situation...these things because of the solidity of our water below the surface probably didn't have a regular life, and so what we're doing is we're really just looking at the data, and making some conclusions based on that data without any speculation. And referred to...here is the one that was below it Well B-2A, and you can see this one has dramatically improved in a downward fashion so that we're now at .12 by a 10th of an inch here in the bottom of the Well...a 10th of a foot...1.2 inches, and it was significantly higher back in the periods of 2003, 04 & 05, but again has come steadily down, however this is completely an unacceptable level related to drinking water.

And referred to monitoring Well B-5...and you see this one is also dropped off pretty dramatically since 2008, however we're still looking at 1/2 an inch of water/gasoline on top of the wells recently as June of last year...that is actually November of last year...this was the latest study, and I have a complete recap of the study from November of last year for anybody that is interested in that, so basically in this area we're looking at a pretty significant problem related to any future expansion in this area. And stated we don't have any domestic Wells...these are all monitoring Wells over here, but we would want to consider anything going in there that would be new because it would it's no doubt gonna produce potentially some gas on the top. And the other Wells that are listed in here did not have gas on them so it's a real hit or miss thing in the area.

Mayor Mulcahy stated that B-12 is now on the map because in November of last year for the first time it came up with a 10th of an inch of gas...almost hard to capture but a 10th of an inch, and there is only one test in the last 2 years that shows that even happening, and stated they are going to continue to monitor all these things...but the significant Wells are clearly over here with a 10th of an inch...and it seems to stop right here but it's clearly...it's something that would not be a Well-considered for ground water drinking.

And let me give you a quick overview of the whole thing because I missed it when I started, and describe the entire area a little bit better, and indicated this is the entire Hot Springs District...and it's important to know that these are the only areas that we have any issue with ground water because there are monitoring Wells all around in here...there are two areas that were...three areas that were previously an issue that have now been released permanently, and they are this site over here, and referred to the green area on the presentation...this site over here, and actually the closest other one is this site over here. And through-out the downtown area there are no other monitoring Wells that have had any problem or that are currently under investigation...so here is our area here...here is our real area here if you want to quantify it...this area looks like it could easily or could get out of here in about two years...and this area over here not for twenty if something happened it would have to really turn around...so again there is a lot of data associated with that...I want to offer that data to anybody who wants it...it's a lot I will certainly make available exactly what I'm showing you here along with the last study that was done in November.

Commissioner Green – Do you know how deep the monitoring Wells are?

Mayor Mulcahy – I do, and I didn't provide that data here because it's a lot, but I have data for every single Well...and on this particular area it is all in that study that I'm happy to e-mail to you, and they know exactly the level in the level to water the elevation of the water...and it's pretty fascinating to look at it for the total area, but the scope of that is much higher than I think we can go in to tonight some of it was 5 feet below some of it was 4 feet below the surface, and I didn't bring that information because I really wanted to focus in on the concerning Wells, and what are their levels of contaminants.

There were some comments/questions from the public.

Mr. Chuck Wentworth stated on the Broadway/Texaco site is on the super fund... one of the sites identified on the super fund in the 70's.

Ms. Carole Wheeler – What makes it get better and slowly...what makes the gas problem go away?

Mayor Mulcahy – I don't know, and the reason I don't know it seems to come and go in this particular area...one time a Well will have a measurable amount of gasoline, and another time for several years there will be nothing there. And I don't know the science behind it to be honest with you.

Ms. Wheeler – Once they get down to minimal...what's the guarantee they don't get...(Inaudible).

Mayor Mulcahy – I can speak to it related to this Bell site because Benzene is a fairly common contaminant it is found anywhere you have...where you have a problem with gas or even landfills in some case...it's an odorless plastic... composite.

Chief Tooley – Do they know for sure they have gotten rid of the source for that...of each one of those areas?

Mayor Mulcahy – I'm told that aren't any tanks in the ground...if that's what you're asking.

Chief Tooley – I just didn't know if they may be coming in from a tank that may not be that they know about.

Mayor Mulcahy – They've identified tanks all over the City, and all over these areas...I'll ask that question for sure.

Ms. Kathy Clark – It is my understanding is that the flow of water is going South and West...it's curious that the Triangle Conoco would start to show something that hasn't showed it for years. And the other question is Larry's recap...the ground water elevations have been decreasing since...in the monitoring Wells has been decreasing since 2007. A question or statement was made but was (inaudible).

Mayor Mulcahy – No but I'll find out...we'll dig into some of these questions. Again I'm not trying to present the Commission as a group of geologists, and understand this entirely, and say we know what underground flow looks like or anything like that...I'm simply suggesting that we need to look at the actual data from Wells that are being tested, and say hold up a minute...we know where you cannot open up, and have a drink of water. And again this has nothing to do with existing Wells these are monitoring Wells that are not private Wells or not anything other than that, and it is not in the municipalities legal right to go back

and say...we have to worry about your Well...this is the Environment Departments job.

Mr. Szigeti – As far as the Benzene is concerned it's a soluble material, and there is continually water...from underground in this area, and since the amount of Benzene is here especially if you remove the source...the more water that flows through there the more it is going to be diluted until eventually it is all disappeared. I'm sure that some of it may come to the surface and evaporate along with the water...it may just disperse in very minute quantities around that area...it would be just so diluted that it wouldn't show up. And as far as the gasoline and why it's moving around...the water table will fluctuate, and they'll be high spots, and low spots with that, and since the gasoline floats on the surface if you get a depression in the water table in an area the gasoline will then flow down. That area particularly is prone to flooding...you get a lot of runoff that goes down there, and you see the sand bags around Bullock's...so I'm sure when we have (inaudible) of rainfall that elevates the water table in that area, and when that happens the gas flows off through the adjacent area, and if it goes back down again (inaudible)...and that may be one of the reasons why you're seeing that variation in the gas.

Mayor Mulcahy – It's more important that we comprehend some of that issue if we're gonna try to prescribe an area where we're concerned. And I'd like to ask anybody that has some knowledge or interest to help me join a task force so that we can come back to this in a workshop...and really as a Commission come to some conclusions about what would be the best thing for the City at the end of our moratorium.

Ms. Carole Wheeler – How will they determine if there are still are existing underground unknown tanks...is there a way...

Mayor Mulcahy – I'll ask that question...I've been told they've all been removed.

Commissioner Green – If someone were to drill in one of these areas is it possible that they would open up a pathway for that gasoline now to go in to the geothermal aquifer...as they drill with a drill bit pushing things down...is that a contaminant possibility that we have to consider or least have professionals give us an answer...someone was talking about this depression...drilling creates a depression in the earth...and it's going down...so we opened a door for the gasoline to go down.

Mayor Mulcahy – The petroleum tanks storage Bureau Division of the Environment Department very clearly thought this would be a bad idea for people to be drilling in either of these areas without real cause like we need to do a test Well, and they've done the test Wells...I don't know if they've drilled any new test Wells recently, but they did them where they saw trends, and for us to do that would probably be a mistake, however I'll ask the question because we need to understand that. And stated they're not gonna prescribe a zone where we shouldn't go or anything like that because it's hard to define that.

John Saridan – In this area where this gasoline (inaudible) it was on the super...it was on the site so is it possible that area needs cleaned up.

Mayor Mulcahy – That's the question that I'm gonna ask that Chuck has asked me...I think it's a very good one. I don't recall them talking about a super fund site when I was talking to them, but I believe that probably is true based on the scope of this.

This concluded the presentation with Mayor Mulcahy indicating that he will keep you posted, and have another workshop with some of these answers, and if a few

of you would be willing to help me with a task force to try and determine to come back to this, and draw some conclusions or some ideas I'd appreciate your involvement, and please e-mail me if you want any or all of this data.

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, February 26, 2013

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, February 26, 2013 at 6:03 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
Mary B. Penner, City Clerk

Absent was:

Jay Rubin, City Attorney

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 Green leading the Pledge of Allegiance.

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

“Commissioner Green moved approval of the Agenda.

Seconded by Commissioner Whitehead.
Motion carried unanimously.

COMMENTS FROM THE PUBLIC: Ms. Marilyn Szigeti came before the Commission with comments.

Mr. Mike Kertesz came before the Commission with comments, and indicated at the last Commission meeting I suggested to everybody that there was some confusion the way the Waste Transfer Plant has been worded...“Prohibiting the City’s acquisition...voting For is one direction...voting Against is

another, and stated this language is confusing, and I've had a lot of people asking me about it...so it's too late to do anything about it, but I suggest to all that they read the Ordinances carefully when they vote.

He stated the second thing...I have a concern, and perhaps City Manager Fuentes can answer this or may address it. As I understand the State provided T or C about \$396,000.00 of Capital Outlay to help the Waste Collection Center Construction...the question is...If the Waste Collection Center Ordinance #629 is approved thereby excluding the City from using the facility... would the State demand their money back? And then what would happen to the facility? Also if this happened how would any future State Grants be affected for the Wastewater Treatment Plant for example. So these are two questions I would ask Manager Fuentes to please address.

Ms. Deborah Toomey came before the Commission with comments, and addressed the issue on the Agenda regarding the hiring of the Coppler Law Firm.

Mr. Ron Fenn came before the Commission with comments, and stated he was reading over the packet, and also addressed the issue on the Coppler Law Firm decision to hire them as our secondary City Attorney. And questioned the evaluating committee's background in participating in the evaluation process of what their expertise is in reviewing the qualifications.

Mr. Gerald Trumbull came before the Commission with comments, and referred to item 7 on the Agenda.

Mr. Audon Trujillo came before the Commission with comments, and referred to the issue on the legal services contract with the Coppler Law Firm, and also referred to the item under Executive Session regarding the annual review of the city manager, and provided information for the record.

Ms. Barbara Salasin came before the Commission with comments, and referred to item #3 regarding the budget adjustment. And I'm just curious...and maybe Juan you could answer this question...is why so often do we have budget adjustments. So I would like that addressed.

CONSENT
CALENDAR:

Mayor Mulcahy stated they have three items under the Consent Calendar – Special City Commission Minutes – 2/5/2013, Public Utility Advisory Board Minutes – 1/22/13, and the DAIC Monthly Report – January 2013.

Mayor Mulcahy stated I saw one item on the Consent Calendar that I want to point out as a possible correction, and if we can do this as a simple amendment to the Consent Calendar I think it would be sufficient, but I would leave it to you to help me decide that.

And referred to the Special City Commission minutes of February 5th, it says that I came out and stated...that the Commission **was not** back in session from Executive Session, and I think we should correct that to say that **we were back** in session.

“Commission Green stated with the clarification on those particular

minutes moved approval of the Consent Calendar which consists of Special City Commission minutes – 2/5/13, Public Utility Advisory Board Minutes – 1/22/13, and the DAIC Monthly Report – January 2013.”

Seconded by Commissioner Whitehead.
Motion carried unanimously.

PUBLIC
HEARINGS:

FINAL ADOPTION – ORDINANCE #635 – AMENDING SECTION 7-35 – PERTAINING TO DEFAULT/PENALTIES FOR BUSINESS REGISTRATION FEES, BY AMENDING THE DUE DATE FOR BUSINESS REGISTRATION FEES –

City Manager Fuentes stated the Ordinance before you amends the existing section of our City Code, Section 7-35, and the current language under that section...the first sentence states...The business registration fee is due by January 1st each year, and stated there is a previous section of the code...Section 7-33 **Renewal** that requires that prior to March 16th each year...any person with a place of business is subject to this article shall apply for a renewal of business registration. And stated there appears to be potential for misinterpretation of course if applicant's are allowed to apply by March 16th then they potentially are not to be required to pay the registration fee until January.

He stated what we're trying to do here is under this proposed ordinance is to change the requirement that the fee must be paid by March 15th of each year which is prior to the requirement for businesses to apply for their renewal, and the rest of the language under that section remains the same.

At this time Mayor Mulcahy asked if there was anyone else that would like to testify tonight about this Ordinance, and that he would like to call the Opponents, and stated there are no Proponents that are listed, and called Mr. Ron Fenn, and stated testimony per our rules of procedure is limited to 5 minutes.

Mr. Ron Fenn came before the Commission, and stated he has spoken on this item on a couple of other occasions, and obviously my logic has escaped this fine organization. And asked...when is the last time you went into register your automobile that was due on January 1st...and said I'll pay for it on March 15th...”I think you'd be laughed out of Motor Vehicles.” I think when you sign up for a license for your dog you don't get until March 15th to pay for it, and I think that if you sign up for a license for another kind of commercial business...payment is due with the application or with the submission of the permit or license. He stated this entire matter was gone through 2 years ago...in 2010 and it was hotly debated, and it was decided that it didn't make any sense for people to be licensed from January to March without having paid the registration fees...it doesn't make any difference when you start your business you don't have to wait until March 15th or January 1st to pay for your license...I registered my business in August or September or maybe it was May whenever it was I paid my registration the \$35.00 at that time when I registered my business, therefore my business is registered and paid for on the day that I registered it, and everybody else's business that is already registered needs to pay for it on January 1st, or prior to January 1st to make it legal otherwise the day after January 1st if they haven't

paid they do not have a valid license or registration, and they are operating in violation of the City's ordinances which requires this registration.

He stated now the changing of one of the sections of the code if you're gonna change one the enactment of this in 2010 to change back to January 1st due date with its lower penalties for people who were late in paying...that law or that ordinance should have superseded any previous conflicting laws which is the way law normally acts otherwise will go back to the drawing board, and start looking at when these ordinances were enacted, and I do believe that the ordinance even though it's dated in 1962...it was enacted in 1992 by the City Commission when they accepted that new set of ordinances...but 1992...1962 it doesn't really make any difference when you enact a new regulation which was done in 2010 it should supersede, and change anything that conflicts with it...not the other way around, and I think that this is a horrible mistake for a City to make it just makes everyone laughable.

Ms. Deborah Toomey came before the Commission, and stated she agrees with what Mr. Fenn has said...it actually seems quite ridiculous to have registration required by the 1st...and yet you don't pay until the 15th. You pay when you register, and stated there actually doesn't seem to be any reason for allowing the businesses to not pay their registration fee for 3 months, and there is no rhyme or reason to this so I'm definitely opposed to it, and if the ordinance needs to be written to where it is not conflicting then re-write the ordinance to where it is not conflicting...don't change the dates and allow businesses to operate without having paid their business registration. And I also believe the State Statutes state that if you are doing business registration fees you are to do business registration for everybody so if you're doing business registration on the 1st, and not making them pay until the 15th...you're not doing it for everybody because also payment is due at registration...I believe there is something about that in the Statute...they have to pay for the business registration...so what you're kinda saying is you get business registration, but you don't have to pay for it for several months. My last comment is...is I'm noticing on the agenda that this is a public hearing while at the same time the City has determined that the phrase public hearing is ambiguous, and therefore I'm have been refusing to respond to an IPRA request so did the phrase become unambiguous in the past couple of weeks, and if so do I get a response to my IPRA request, or do I file an enforcement action.

Ms. January Roberts came before the Commission, and stated I'm just going to boldly ask that you guys might table this...if it's possible, and the reason I say that is because I actually submitted some paperwork to Mr. Slettom because we have talked about this, and I totally agree with Mr. Fenn that the registration should be January 1st through December 31st...plain and simple...let's put the law down let's say if you're gonna be in business...I remember when I opened up in October 3 years ago I still had to pay the full fee for 3 months, and then last year for some reason I was reading the ordinances, and I thought oh wow I have until the 15th...well then I went in, and they said oh know you're late, and I paid a \$10.00 late fee...so even me as a business owner for 4 years...even I'm confused about what we're doing. And I think that phrase about March 15th should totally be eliminated...just have a

registration January 1 to December 31st, and that's the law...make it simple as a business owner that's how I feel.

Mayor Mulcahy asked if there was any other testimony about this public hearing, no other comments were received...the public hearing was closed at 6:30 P. M.

OLD BUSINESS: DISCUSSION – SOLID WASTE COLLECTION CENTER & CITIZEN INITIATIVE – CITY MANAGER, JUAN FUENTES - DISCUSSION/ACTION – FINAL ADOPTION – ORDINANCE #635 –

City Manager Juan Fuentes stated at our last meeting the Commission had several questions that they would like for me to address, and he included in the packet the original presentation from that meeting...but I will skip the first 15 pages of that presentation, and basically go down to the alternative plan.

He stated the alternative plan that I'm proposing is direct hauling, and for those members of the public I'll go over really quick briefly the bullet points;

The NMED administrative orders and/or fines/penalties if the landfill is not closed by the deadline, and stated that deadline is coming up next month on March 23rd, and if the City fails to transition to an alternative plan to disposing of its solid waste, and the City has approximately 3,800 customers to provide uninterrupted solid waste services.

The Alternative Plan is Direct Hauling...and there was a question about whether we could do the direct hauling...and we are able, and the State does allow municipalities to do direct hauling to a registered and permitted solid waste landfill or facility.

Two of the critical services that we're providing...that we would have to provide are the municipal solid waste, and construction and demolition. Currently the current service which you see here, and the direct haul of course at the original presentation I was covering the equipment that we're currently using to provide this service... on your left under current use, and showed all the vehicles that we have in operation at this time, and the number of trucks that are used to deposit the solid waste at the landfill, and the type of items that those vehicles are used to carry. He referred to Direct Hauling if we have to do direct hauling, and stated out of those 7 vehicles that are listed only 3 are in good enough condition to make the round trip to the Solid Waste Collection Center in Las Cruces at the South Central Solid Waste Authority. And that under Direct Hauling we would have some hours of operation which will provide the employees as soon as they begin the work day between the hours of 6:30 and 9:30 to collect the solid waste, and then from that time, and an hour and a half to transport it to South Central Solid Waste in Las Cruces, and we will give them some time for their break, and the tipping of that solid waste, and then the trip back...so basically it would only allow for one trip to the South Central Solid Waste Authority.

What are some of the costs associated with direct hauling of course we will have greater wear and tear on the City refuse trucks to transport the solid waste to the original landfill...we will definitely

wear and tear the tires, and the tires range between \$316 - \$378 per tire, round trip mileage is 190 miles to SCSWA, and the estimated annual mileage per vehicle is going to be 54,720 miles. The replacement cost for these vehicles is ranging between \$210 - \$230k for a side loader, and a rear loader truck between \$105 - \$220k. He stated the original presentation at the last meeting I presented to the Commission that if we were to direct haul we would originally propose to purchase 2 new vehicles...but replace those vehicles every 4 years. And after further discussion with our solid waste director 4 years would put over 200,000 miles that would be a little bit unrealistic so went to a 3 year cycle which would still rack up 164,000 miles on those vehicles which is still pushing those vehicles with that many miles.

He stated the estimated annual debt service payment for those 2 vehicles is \$153,000, and I will go into more detail about that debt service payment, so we would require additional personnel...a CDL driver increase disposal and fuel expenses for the department and the facility debt, and service loan payment that we are required to pay. And under the original plan using the contract that we have with SCSWA the contract calls for an annual base rate of \$77,000...we're estimating a disposal cost of \$247,000, and a transportation cost of \$61,000 for a total annual cost of \$386,000, and that is about \$44.00 a ton, and I will go into a little bit more detail where those numbers are coming from. Under the revise Plan B for direct hauling...the equipment if \$153,000, and it has increased because of going to 4 years we have gone to 3 years which is a little bit more realistic...personnel with still remain the same, and we will need to hire an additional CDL driver, service will increase to \$38,600, disposal cost will be \$267,000, and the transportation cost for Plan B will be \$182,000 for a total of \$683,000 and that will be a 43% higher than Plan A, and stated this is only on year 1, and 2 because basically what I stated is on the first year, and the second year we are only buying 2 new trucks, but remember we have 3 existing trucks that we're gonna use for the first 2 years...so eventually those 3 trucks we're gonna have to replace, and that will be 3 vehicles, and the debt service will be higher than the \$153.

So what are the costs associated with Direct Hauling again...we will definitely have a significant impact on the services currently being provided to City/County residents...local and State entities, and there will be no public facility for residents to dispose of the waste directly, and that the City will only provide services to its customers...collection will be limited to our ability to collect MSW commercial and large items in City alleys and near dumpsters, and that is the reason why I'm saying that we're only providing to our customers. Direct Hauling will result in higher cost for all solid waste customers, and the solid waste fund is an enterprise fund, and DFA Local Government Division requires these funds to be self-supporting through the rates charged to customers. And it is estimated direct hauling will result in an additional \$296,000 or 43% more than using SCSWA.

City Manager Fuentes stated that residents outside of the City limits will have to contract with a private hauler, and or a direct haul to a regional landfill in Las Cruces or Socorro. And indicated these are some of the questions asked at the February 12th meeting, and will the State mandate us to manage the landfill...yes the City is

obligated to under the NM Environmental rules to close the landfill on March 23rd pursuant to our post-closure plan regardless of the outcome of the Citizens Initiative...would the warranty of the trash vehicles be valid if used for hauling. He stated our solid waste director did contact Heil of Texas the vendor, and basically we were informed that the warranty would be canceled if there would be a neglect to service the vehicles. Where would the funds come for the additional expense...again the solid waste is an enterprise fund, and it needs to be self-supporting so any additional expenses would have to be recovered from the customer, and user fees that would be implemented? What is the biggest equipment that we can get...our solid waste director contacted a vendor in Heil residential equipment is about 33 yards...that's about 1.18 tons, and stated Mr. Carrillo is present, and can address specific questions regarding the equipment...but in a nutshell the type of equipment...the capacity all depends on what he described to me as the...equipment that's inside the container that would compress the trash inside the container, and depending on that capacity or that ability the cost of the truck would obviously either be higher than if it has more capacity. What is the additional debt service...due to the closure of the landfill next month, the City would need to outright purchase two new vehicles using the ending cash balance in the Jt. Utility Fund, and the City would need to amortize these vehicles on a three year period, and set aside those funds in a revolving fund to purchase three new vehicles to replace the three existing older models. And this is the detail that I presented at the last meeting regarding the SCSWA Agreement that we have, and went over Exhibit A. A copy of the presentation is available at the Office of the City Clerk for anyone wishing to review. And also went over Exhibit B for T or C Direct Hauling. So hopefully I have addressed some of the questions about the costs...additional costs that we would incur under Plan B, and I do want to address one other question that I received/provided via e-mail...and the question was...why can't the City purchase its own trucks to haul the waste, and basically the reason why we can't purchase our own trucks is because if we don't have a solid waste collection center to use the truck in then why buy a tractor with a trailer if we can't deposit the waste at the Solid Waste Collection Center...so that's not an option if we can't use that facility. And if we use the facility definitely down the road that would be an option for the City to haul it ourselves but that will be down the road.

Commissioner Green – Manager Fuentes...When you checked there has been some discussion about a municipality having the legal right to haul within their own County to a landfill...so my question is...when you spoke to NMED did you let them know that we would be hauling across a County line to Las Cruces in another County.

Manager Fuentes – Yes, and I did speak to the Bureau Chief of the Solid Waste Bureau Ms. Auralie Ashley-Marx and she indicated that is something that we are allowed to do, and that it is a fairly simple process...so we would be able to direct haul our solid waste if we have to.

Commissioner Green – On the equipment...the \$230,000 is that the largest side loader double ram that we can buy.

Mr. Carrillo – Yes sir the biggest compactor is a 36 yard, and the

manufacturer stated it all depends on the type of compaction around that you have on those things for your extra compaction on those trucks...36 cubic yard is the largest.

Mayor Mulcahy – We're gonna be making 1,440 trips instead of 487.

Manager Fuentes – If we direct haul yes because we will be using all of the vehicles.

Mayor Mulcahy – So from a transportation stand point...it's not even close. Tell me again about how much we have to set aside for new equipment on a 3-year basis.

Manager Fuentes – For the immediate purchase we definitely need to set aside somewhere in the neighborhood of \$550,000.00 if we are going to be replacing 3 vehicles...2 vehicles we are estimating \$230, so that is \$460, but eventually we're going to have to increase that revolving fund to be able to replace the 3 existing vehicles.

Mayor Mulcahy – If it is \$297,000 incremental cost and 3,800 households...and \$78.00 per household incremental cost...is that a true statement. \$297, divided by 3,800.

Manager Fuentes – Yes.

Commissioner Green – Am I correct that the 53' Wilkens Walking Floor Trailer...that has a...if loaded properly has a capacity of between 18 to 20 tons legally that you can transport over the highway...so is that a fair honest statement.

Mr. Carrillo – Yes sir it is...that's the most you can carry on those trucks legally.

Commissioner Green – So then to follow-up on the Mayor's question it would take two of the 9 ton capacity double ram garbage trucks to carry...

Mr. Carrillo – Correct.

Commissioner Green – To carry the same amount of tonnage that 1 53' trailer would carry.

Mr. Carrillo – Correct.

Commissioner Green – Therefore wear and tear extra trips, oil, gas the whole 9 yards.

End of discussion.

Mayor Mulcahy stated he would like to read part of a letter that they received from the Administrator of the Dispatch Office –

I'd like to ask the City of T or C to recognize and commend some of our hero's within the T or C Volunteer Fire Department. At that last Friday February 8th Chief Tooley was in the area of Charles Street, and saw a puff of smoke he called dispatch via radio, and requested the Volunteer Department to respond. Mind you during

the whole event we received zero 911 calls reporting this fire, and the newspapers describes the events that happened are accurate.

The hero's that I think need to be commended are the firefighters, and the Fire Chief that were there, and pulled Mindy Barnes out of the burning house to give her a fighting chance at life. She was 24 years old and just starting life. These firefighters don't get paid to do this as the other folks do in this equation...they volunteer to go into burning buildings...put out fires, and do so willingly without complaint or compensation...they risk their lives to do these actions...this time they did pull Mindy out of an active fire, and started CPR on her immediately...it is unfortunate Mindy succumbed to her injuries early the next day...but at least the firemen gave her a fighting chance to survive.

We are certainly proud of our volunteers...and on this day of February 2013 they showed us what heroes are made of. T or C Fire Chief Paul Tooley, Firemen; Anthony Zagorski, Dee Brown, Ron Hoskins, Carl Teston have our most respect and gratitude for what they do, and should be commended for it.

Commissioners I would like to allow an outburst of applause.

NEW BUSINESS: FINAL ADOPTION – ORDINANCE #635 – REGARDING BUSINESS REGISTRATION FEES –

Mayor Mulcahy asked the Commission to step forward with any questions they'd like to have or begin a discussion.

Commissioner Green – I don't have a question...I have a statement. I think the 3 speakers had some really valid points, and I would suggest that the City postpone the vote on this...put it back into staff's hands, and possibly bring it back at a future date so we can make something that's fair, reasonable and right...and then move on.

Commissioner Whitehead – I echo Commissioner Green's, and the public that got up here and spoke. I would like to put it back, and bring it forward again next time with...

Mayor Mulcahy – Mr. City Manager can you the address the issue related to the March 15th...and let me ask the question...is it a function of renewing that's kinda of a problem collecting it on the due date or what has caused this, and I know this has been structurally done before.

City Manager Fuentes – Let me just...I want clarify just to make sure there is no misunderstanding...the section that we are amending is not in regards to people when they apply for a new business registration because under Section 7-32...it clearly states that any person purposing to engage in business within the municipal limits of Truth or Consequences after July 1st 1981... shall apply for, and pay a business registration fee for each outlet, branch and location within the municipal limits. So any new business that comes in to the City that wants to do business in the City is required to not only apply, but they are also required to pay for the fee...so otherwise the City Clerk's office will not issue a business registration to that business if they don't pay it initially.

And what we are talking about in the renewal process, and the renewal process under Section 7-33 states that prior to March 16th because the business registration application carries for one year up until March 16th that's why on...it states in Section 7-33 it states that prior to March 16th any person with a place of business in Truth or Consequences, and subject to this article shall apply for a renewal of the business registration with the municipal clerk, so the businesses in T or C are required to apply prior to March 16th to renew their business registration...we're not talking about new applicant's we're talking about those who are existing. And what we are proposing under the new language is that the current businesses that are seeking to renew their license...all we're asking them is to pay their renewals prior to March 15th, and the language that reads...is the business registration fee is due by March 15th...if it is not paid by March 15th then a penalty fee of \$10.00 will be assessed.

Mayor Mulcahy – Is there a reason why we wouldn't just collect on the due date of the 30th or 31st of December...is there some reason why that is a hardship or a problem for the City.

Manager Fuentes – Well again currently under the current code the penalty does not apply until after January 1st if December 31st comes then the if businesses can apply to renew prior to March 16th, but it could be interpreted that they could wait until December so essentially that's part of the problem that we are trying to address that if simply come in apply, and just don't pay the fee does that mean that they can come back in January, and essentially the City would be holding the bag for those months without having those businesses pay...at least encourage them to pay the registration fee, and if they don't pay the registration fee then we will assess a penalty fee, and the hammer on the penalty fee unfortunately under the current code does not apply until after January 1st.

Mayor Mulcahy – If a person opens a business in November and doesn't pay until January aren't they unable to open that business.

Manager Fuentes – If a new business comes in to the City Clerk's Office and applies they have to pay right then and there...the City Clerk will not issue a business registration.

Commissioner Green – So I understand this...I move to town I open up a business January 1...I pay my \$35.00 I get a certificate... come December 30th of that year that business license expires, and it's due for renewal on January 1, but you're giving me a 2 and a half month cushion...so basically the license is for 14 and a half months...not for 12 months...am I'm missing something here or is that the way someone could interpret this, and play out that opportunity.

Manager Fuentes – What I'm looking for briefly here is there is no...the time frame when you apply is not on a calendar year I don't think anywhere in our code does it say that it is on a calendar year...basically you're renewal has to be prior to March 16th, and I believe this is taken out of the State Statute as well for business registrations, and if currently under our code if you're a new business, and you come in let's say in November you pay \$35.00, and that would be good up until March 16th when you have to

submit for your renewal...you have to pay another \$35.00 because you have to reapply for that application.

Commissioner Richter – It appears to me that we’re just rectifying the dates between Section 7-33, and Section 7-35...right is that correct, and where we’re giving people until March of year is just basically a grace period from January 1st to March 15th to pay their business registration, and the resolution we’re looking at today is we’re rectifying the date...it’s due by January 1st, however we’re giving you a grace period to March 16th, and all we’re doing here is rectifying the two dates between the two sections.

“Mayor Mulcahy stated I would like to postpone this until the next meeting.”

Seconded by Commissioner Green.
Mayor Mulcahy, Commissioners Green/Whitehead
Voted Aye
Commissioner Richter Voted Nay
Motion passes 3-1

DISCUSSION/ACTION – RESOLUTION #26-12/13 – A RESOLUTION AUTHORIZING AND APPROVING SUBMISSION OF AN APPLICATION TO THE NMFA FOR THE PURCHASE OF A CLASS A PUMPER – FIRE CHIEF, PAUL TOOLEY –

Fire Chief Paul Tooley came before the Commission, and stated in January they elected new officers, and wanted to recognize Ron Hoskins, and indicated he had 16 years at the Williamsburg Fire Department 14 as assistant chief, and is now the T or C Assistant Chief, Brad Spencer has been the First Captain for the last 5-years, and Neal Weeks...this will be his first year as Captain, and has been in the department 9 years.

He stated the State Fire Marshal was here, and before we get into the Resolution has certified the Williamsburg Fire which is now our second main station so July 1st we will be receiving another...based on last year’s numbers \$84,279.00 for that station as well \$84,279.00 for our station, however we had to sacrifice our sub-station out there funding because we are too close to a main station now, so part of this Resolution is gonna be that we’ll be able to move a Class A Truck out to the airport to get our sub-station back which is about \$28,000 a year...so we will go into the Resolution, and what we’ve done over the last couple of years we’ve looking at replacing and adding to our fleet another Class A Pumper, and the base price with HGAC which is on contract with the State which is under the State Contract FS12-11 Code LC01, and stated the base price on that is about \$213,000, however we did have some options some published options that were in there on some upgrades to that truck as well as some unpublished to allow us to equip the truck so that when it comes in we would have to buy that equipment as well to put it on that truck...so what we’re looking at is \$226,402.00, and what we’d like to do is get approval through the Finance Authority to proceed with this, and we have received a letter from Louis Gonzales with the State Fire Marshal to allow us to proceed, and tonight the Resolution is to allow us to go ahead and move forward.

He stated currently the T or C Fire Department has no debt with the Finance Authority, and that they have paid everything off last year and this is no money out of the City. And this entire process will be funded through our State Fire Fund, and usually what they do if we have a Finance Authority debt they will take that money off the top before we receive the check from the State Fire Marshal for that years-service.

Fire Chief Tooley so what is presented tonight is Resolution No. 26-12/13 to allow us to proceed with funding towards the Finance Authority to purchase this truck. And that we are going to finance this for 10-years...and we hope to pay it off sooner, and we know that 22, 23, 24,000 a year is not going to kill us out of our State budget to have a new Class A Pumper for the citizens.

Commissioner Richter – So this truck will be paid for completely from your Fire Protection Fund allocation...every year...every payment.

Chief Tooley – Correct.

Commissioner Richter – Our authority here is...you're asking for authority so Finance Authority can bind you in that.

Chief Tooley – Correct. And stated there are many ways you can basically take money for this through the Finance Authority...one of those options is through State Fire Funds so one thing we tried to do is make sure that if we need something we have plenty of money to get it done...if we need a truck then we finance it for 5 or 10 years get that paid for, and then we start looking at whatever else we need to replace. So right now what it is going to allow us to do is have 2 Class A Pumpers on the South side of town, as well as 2 on the North side with a ladder truck, as well as put the older Class A Pumper out at the airport.

Commissioner Richter – Is there any situation where the City would become responsible for that debt.

Chief Tooley – Well you are ultimately responsible...as long as we receive fire funds every year then you will have no money...

Commissioner Richter – As long as you receive fire funds what would cause cessation...

Chief Tooley – If we didn't have a fire department anymore basically.

Mayor Mulcahy – Commissioners we are the Board of Finance so this is under our authority.

Commissioner Green – Financing over 10-years...23, 24 it's gonna leave you about \$144,000 to run your department...is that enough money with a little bit of a cushion if a whoops happens that you'll be able to deal with that.

Chief Tooley – Absolutely even right now we have to subsidize the South station until July 1st...so I had enough money in Capital Outlay to allow us to maintain that as well...so being a Class-5 we do receive quite a bit of money from the State Fire Marshal.

Manager Fuentes – We have been in contact with NMFA and Mr. Cordova, and passed out a proposed debt service schedule that he prepared, and stated he did give us some good news for the fire department because the fire department would qualify at 0% disadvantage rate of up to \$75,000...so as you can see the debt service schedule \$75,000 would be at 0% so basically for a 10-year \$228,000 loan we would only pay in interest \$17,000 so that is a pretty good deal, and as the Chief stated this will be paid for directly from the fire fund, and the City will not see...we will not have to cut a check it will automatically be taken out.

“Commissioner Green moved approval of Resolution #26-12/13 – Authorizing and Approving Submission of a Completed Application for Financial Assistance, and Project Approval to the NMFA for the purchase of a Class A Pumper.”

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 – RESOLUTION #25-12/13 – BUDGET ADJUSTMENT – LINDA LANHAM, FINANCE DIRECTOR –

Ms. Linda Lanham, Finance Director came before the Commission, and stated she brings before you Resolution #25-12/13, and that she has 3 adjustments for the budget, and explained each one;

The first one is to increase the revenues of \$50,000 in the Capital Improvement, and explained during January 8th Commission meeting they approved, and authorized execution and delivery of a Local Government Planning Grant by the NMFA for our PER, and stated it was approved, and we were awarded the \$50,000.

The second and third go together, and explained there was a balloon payment that was due for the John Deere Bulldozer in 2006, and that she needs to transfer out of the Solid Waste Division \$77,000, and transfer it in to the Landfill to increase the expensed for the principal, and interest of the \$77,000.

City Manager Fuentes stated he would like to address at this time... Ms. Salasin’s question about why we bring these budget adjustments, and she pointed out, and sometimes these things...the funding does not come at the beginning of the fiscal-year, and when they do come...as the example of the PER...the \$50,000 we have to make that adjustment in the budget since it was not originally in the approved budget of July 1st, so some of these items that were not included in the budget definitely when the issue is made known then we have to include it in the budget...otherwise there would be an over-expense, and as the board of finance the City Commission is required to maintain the budget within the approved limits since we cannot over spend a budget that has not been approved by the City Commission...therefore that is why we bring these budget adjustments before this body.

Commissioner Green – The bulldozer seems to be assigned to the landfill so am I correct in stating that it will still stay out there to help cap the landfill that is our legal requirement, and will then be there when that wedge starts to fill up for the C & D, and until that is totally done and capped then we can re-purpose that bulldozer to another department or put it to another use...is that a fair statement.

Manager Fuentes – That is correct, and as you know the landfill once it closes on March 23rd would only be for receiving MSW, but we'd still be able to use it for construction and demolition, and so we'll need that equipment out there.

Mayor Mulcahy – Ms. Lanham & City Manager Fuentes I want to thank you for your flexibility, and making sure these moves are done.

“Commissioner Green moved for approval of Resolution #25-12/13 – Requesting Budget Adjustments in the Revenue & Expenditure Budget for FY 2012/2013.”

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 – APPROVAL OF STATE GRANT AGREEMENT FOR AIRPORT PROJECT – BILL SLETTOM, COMMUNITY DEVELOPMENT DIRECTOR –

Mr. Bill Slettom came before the Commission, and stated this is a discussion item to authorize and approve an Agreement, and Application for funding to the City to assist in the financing of Airport Maintenance and Equipment, and to commit matching funds.

He stated this is a grant agreement with the NM Department of Transportation Aviation Division, and we go to them every year with projects where we are seeking funding. And explained this project is a 90% - 10% match which is very generous...and we're very lucky to get that, and stated it is for a piece of very necessary maintenance equipment. And FAA requires us to maintain our airport to keep the weeds down...to keep it swept, and Mr. Ed Williams came before the Commission to describe the piece of equipment that we're looking at. He stated it is called a Tool Cat... basically it is a Bob Cat that we can get attachments for...it was put in for a sweeper to sweep the runways and taxiways...a cutter to mow, and a bucket so we can... gravel whatever it may be to maintain the airport, and that it can be used year-around.

Commissioner Richter – You're gonna purchase a skid steer loader...right...medium size one...big one with this money.

Mr. Williams – It probably most likely be a medium to the other size large.

Commissioner Richter – Okay then all the attachments like how many several attachments are there.

Mr. Williams – Well you can get any attachments...however we're putting in for the three...the broom sweeper to sweep the gravel, and whatever may be on the runways and taxiways...a mower, and a bucket...it's a combination bucket.

Commissioner Richter – Are these funds sufficient to cover the whole purchase.

Mr. Williams – The 90/10.

Mr. Sletton – The price of the equipment is \$68,000...90% will be paid for/by NMDOT Aviation...our match is \$6,800, and we do have the budget for that...so I might add that when this grant is received from the State we will be coming back to you for a budget adjustment.

Commissioner Green – Since this is purchased for the Airport... does that piece of equipment have to stay at the Airport...or when it's not in use can we use it in other divisions or departments.

Mr. Williams – It's Airport property...its Airport...and that's where it stays.

Mayor Mulcahy – Mr. Williams...is this piece of equipment going to be helpful to us on the dirt runways to clear those, and make those presentable.

Mr. Williams – It will definitely help more than what we have now, and will be able to maintain them better.

“Commissioner Green moved approval of the State Grant Agreement for Airport Project for the purchase of Bob Cat with the three attachments; broom sweeper, mower, and a bucket.”

Seconded by Commissioner Richter.
Motion carried unanimously.

DISCUSSION/ACTION – AWARDING & APPROVAL OF LEGAL SERVICES AGREEMENT BETWEEN THE CITY OF T O R C & COPPLER LAW FIRM – CITY MANAGER, JUAN FUENTES –

City Manager Fuentes stated in my Commission Action Form that in light of recent litigation, and potential future litigation I felt it was in the best interest of the City to seek additional legal counsel even though we have an existing contract with our Attorney Jay Rubin, and stated it is not uncommon for us to have two professional services agreements...we do have them under engineering category we have Smith Engineering and WHPacific who assists us in our various water and infrastructure Airport related projects.

He stated the City published a request for legal services in December, 2012, and we received about 5 proposals from 5 different firms, and the evaluating committee reviewed the

proposals based on the criteria published, and it is the recommendation of the evaluating committee to recommend the award, and approval of the legal services contract to the Coppler Law Firm, and stated Jay Rubin has reviewed the contract and has approved it as to form.

Mayor Mulcahy stated I did some calling, and I looked through all the RFP's that were responded to, and I made phone calls to a variety of people, and I looked over all of the contracts...the Coppler Law Firm is a good deal, and they are certainly engaged with us at this time, but in reading through one of the other contracts that was in second place according to the score card... Sutin, Thayer, Browne I saw a great deal of expertise in area of economic development at that firm, and that's important to me to have a law firm that can help us with the LEDA Act, and the bonding authority, and stuff like that so I want to check with the Commission, and the City Manager to kinda comprehend why we wouldn't go with Sutin, Thayer, Browne when while they are more expensive they didn't charge any mileage...they're closer, and seemed to be a wider base of specialization...they can do personnel issues...they can do a lot of stuff out of that firm.

He stated I did call a couple of references...one of them was the City Manager in Grants, and he spoke extraordinary high of the Sutin, Browne Firm who has been engaged there for 16 years, and also with the NMML who spoke extremely highly of this particular law firm...so a couple of really good references...a little more wide based in terms of the ability of them to serve the City, so I ask the City Manager to address or questions from the Commissioners about that.

City Manager Fuentes – And I can only speak for myself, and I will not speak for the other members of the evaluating committee...but in reviewing the proposal the firm you described in my opinion the individual they were recommending to assign did not have the extensive training experience and background on the areas that we would need, and compared to the person that has been assigned under the Coppler contract which is Gerald and John Appel...their experience is much more extensive, and their years of experience is greater than the individual that was being proposed to be assigned to the City under the other law firm. He stated that weighed heavenly on my end because although they may have different resources it doesn't not necessarily mean that those are the folks that we're going to be directly assigned to the City as the point of contact, and the lead counsel for the City.

Mayor Mulcahy – Is there a concern related to the current litigation that would cause us to push the ball in one direction or another with respect to Coppler.

Manager Fuentes – No Mr. Mayor...again there is the other members, and I did include a copy of the scoring sheet from the other members of the evaluating committee...I can only speak for myself...I just felt the firm has the years of experience in dealing with numerous municipalities, and assisting them in a wide range of issues...ranging from personnel, and I believe I included a copy of their proposal in which describes extensively their experience in a wide range of municipal issues, and I felt in my opinion and I can only speak for myself that they were the most qualified, and I

believe under my scoring sheet the other firm was close, but unfortunately the fact that they were assigning a Jr. in my opinion that was a Jr. legal counsel as opposed to a more Sr. seasoned counsel weighed heavily on my evaluation.

Mayor Mulcahy – I have an enormous respect for Mr. Appel...I have seen him...I've talked to him...I've met with him...I've met with the other people in the Coppler Law Firm...I just felt in this particular case that we should probably take a look at these other people a little bit more closely, and part of the reason I did was that in reading the Commission Action Form it says that the evaluations were based on 4 criteria...if you'll look at that section...it's on page 77...education and experience, conflict of interest, proximity of service, and terms for billing service...so those 4 categories if you come down to the scoring area I could not really...you did supply and I do appreciate that, but at the end...

Manager Fuentes – You mentioned the cost, and I believe under the Coppler contract it is \$165.00, and I believe under the Sutin contract it's closer to \$205.00, and I don't know if that is directly related to the individual that they assigned.

Mayor Mulcahy – I take you to the score sheet on page 101, and I don't...I'm having trouble correlating the four criteria with this score sheet.

Manager Fuentes – You have a, b, c, d & e criteria, and we will have to match those to the RFP criteria...if you will bear with me maybe I might be able to match them up...but we can certainly provide that to the Commission. He stated the spreadsheet was prepared by our Procurement Officer, and she did separate them by category unfortunately she did not identify what a, b and c stand for.

Mayor Mulcahy – In the interest of making this real transparent and clear I've got 5 criteria and 4 listed as the actual criteria and I think we ought to go back and take a look at this.

Commissioner Richter – The question you just asked...are we facing a dis-continuation of professional services within a certain amount of time.

Manager Fuentes – No we're not...we can certainly bring this item back on the next regular meeting.

Commissioner Richter – I'd like to see the score sheets, and see a, b, c, d and e broken down, and I'd like to see the proposals from each firm prior to making a decision.

Manager Fuentes – We can certainly provide you copies with the other proposals.

Commissioner Richter – An explanation of the evaluation sheet also.

Manager Fuentes – Because these are still proposals since the Commission has not made a determination I will have to seek some Counsel on if we are able to discuss this in open session.

Commissioner Green – I don't know Manager Fuentes if this is appropriate because the RFP process has already taken place, but you had mentioned or the Mayor had mentioned that we would be assigned from Sutin, Thayer and Browne a Jr. member of the firm would that \$205 billing price can we find out if we got someone who is more Sr. if that \$205 would be the billing rate per hour, can we do that or is that in violation of this process.

Manager Fuentes – I can speak on my opinion as part of the evaluating committee, but if we're gonna go into the copies and discussions of the details of the other RFP's I would just want to make sure that we don't...I mean it is what they presented, and that is what they submitted...and that's what we have to go by.

Commissioner Green – And I agree with the Mayor I think we should take a look at this, but in your opinion...did the Coppler Law Firm have the best resume of dealing with municipal law, and the trials and tribulations of municipalities as they move forward.

Manager Fuentes – In my opinion they do, and again as I stated in light of some of the recent litigation, and potential litigation that may be upcoming I felt comfortable that they do have the experience as the Mayor pointed out I have seen Mr. Appel, and he has done a very good job for the City so far, but that does not mean if another firm would have come in that was more qualified it would have weighed heavily on that as well. And stated the people that have been assigned to the City are both seasoned, and have quite a number of years of legal experience dealing specific with municipalities.

“Commissioner Richter moved that we table further any action on this until we get a chance to look at it further.”

Mayor Mulcahy – May I ask you to re-phrase the motion as a postponement.

“Commissioner Richter moved to postpone any action on awarding and approval of legal services agreement between the City of T or C and the Coppler Law Firm”

Seconded by Commissioner Whitehead.

City Manager Fuentes – If we are postponing I would like to bring it back at the next meeting.

Motion carried unanimously.

“Mayor Mulcahy moved to amend that motion to postpone this until the next meeting.”

Seconded by Commissioner Green.

Motion carried unanimously.

DISCUSSION/ACTION – PROPOSED ORDINANCE (FOR PUBLICATION) – ESTABLISHING A FEE SCHEDULE FOR SOLID WASTE COLLECTION – CITY MANAGER, JUAN FUENTES –

City Manager Fuentes stated with the upcoming closure of the

landfill on March 23rd, and hopefully transitioning into a solid waste collection center staff has proposed to the Public Utility Advisory Board a schedule of rates for the solid waste collection center that we have attached.

As stated in my presentation the solid waste collection center will be set-up as an enterprise fund which means that the fees we collect at that center would have to be sufficient for the operation, and hopefully to include the debt service as well.

Manager Fuentes stated that the Public Utility Advisory Board reviewed and approved the fees presented by staff, and they are recommending to the City Commission that the Commission consider a discount to the residents of T or C who use this facility, and indicated they did not recommend a percentage or an amount, and that would probably be at the discretion of the City Commission.

And with that I would ask our Solid Waste Director, Leonard Carrillo to give an overview of his rate schedule that is in your packet.

Mr. Leonard Carrillo came before the Commission, and stated what I did I took a survey between here and Albuquerque, and I started in Valencia County, and I started off in Socorro, and worked my way North. And indicated Socorro takes in their own solid waste in trash trucks, and that they charge their residents for yard waste and C & D...\$30.00 per ton for yard waste, and C&D is \$35.00, \$3.00 for un-loaded tarps for residents, and \$10.00 for commercial un-loaded. And Belen owns their own transfer station, but is run by the Waste Management out of Rio Rancho. And stated the collection center uses punch cards for their collection fees...it comes out to...one truck load is a 2 cubic yard, and they charge \$2.50 per cubic yard...4 truck-loads - \$8.00 a cubic yard, and 10 truck-loads - \$20.00 a cubic yard.

He stated Waste Management does their services for the pick-ups at the houses...it is one pick-up a week for poly-carts, and one poly-cart is \$20.73 per month, and an additional poly-cart is \$7.38, and there is also a \$25.00 charge for any additional pick-ups that the City has to do on the side of the poly-carts. And stated Waste Management charges \$20.42 per ton for the disposal at their landfill which is on Highway 6 going towards Grants. Village of Los Lunas has their transfer station, and they only take in their own City residents, and they have a trash service of one pick per week for one poly-cart at \$21.20 per month...additional poly-cart is \$3.32...outside residents is \$23.49 per month for one pick-up, and there is an extra charge for any other trash...Valencia Village of Los Lunas owns their own transfer station, and their own vehicles and do their own transporting. He stated they transfer to the same location Waste Management of New Mexico, and they get charged at \$32.00 per ton for their disposal. Conijo Transfer Station is owned and operated by Valencia County Equipment, and they charge \$5.00 per truck load, and up to \$45.00 depending on the size of the trailers they take in, and they also dispose at the Waste Management's Landfill at \$20.42 per ton.

And on to our South Hillsboro Community Center Transfer Station is owned by the community, but is operated by the SCSWA, and

they charge by coupon also, or punch tickets...\$12.00 for one ticket, \$24.00 and \$48.00. Dona Ana County does the same thing, and they are also operated by SCSWA. SCSWA Transfer Station takes in MSW, yard waste, and C&D...\$4.00 up to 200 pounds, \$8.00/200-400 pounds, and \$12.00/400-600 pounds, and for regular other than the contracts it's \$30.70 per ton. Sierra County with their new rates they charge \$2.00 each per 13 gal. bag, 32 gal. bag is \$5.00 each, and a 50 gal. bag is \$8.00 each, and they dispose at our landfill, and have rates for our community, and stated we take in MSW, yard waste, and C&D and at this time we charge \$3.00/cyd plus GRT, and residential trash is \$22.37 per month which provides regular trash pick-ups once a week...brush truck/large item pick-up, yard clean-up, regular service wood chipping at residential locations, heavy metal, e-waste and tire collection on the side of the containers. And that we also accept televisions, monitors, freezers and refrigerators which the City pays to get rid of the Freon, and monitors and TV's.

Mr. Carrillo stated we are in the same range as other communities in New Mexico, and we provide more service than they do.

City Manager Fuentes in your packet, and stated Mr. Szigeti did his own analysis on these rates, and I would like to give him an opportunity to share that information that he presented at the Public Utility Advisory Board.

Mr. George Szigeti came before the Commission, and stated this is very similar to the presentation I gave at the Utility Board meeting it outlined the projected tipping fees for the collection center, and I wanted to go back and do an analysis on it to see whether it's reasonable, and whether the amount that we're charging would be sufficient to cover our costs. I went back and crunched through a bunch of numbers, and we're gonna have to go through a few other things before we get to the tipping fees.

He stated there were several assumptions made at the beginning first of all the fact that the landfill closure fees have already been collected and put aside for that so we don't have to consider the landfill closure in this calculation. And the assumption is that the operating cost of the collection center will be approximately the same as that used at the landfill. Another assumption is...is that there is one ton of waste generated per person per year, and in the County I used approximate figures 12,000 population for the County, and 7,000 for the City...I realize that's a little bit high but these numbers will change.

Mr. Szigeti indicated in Manager Fuentes assessment he had a 12% diversion for recycling, and a 15% diversion for green waste...and this is by weight...so I calculated this into the figures...now looking at the population the City population is 58.3% of the County, and so under this assumption we're saying that the City generates 58.3% of the waste, and if this is true then the City customer should pay 58.3% of the hauling costs. And since the City actually fronted the cost of the collection center I figure we should give the City resident's a bit of a break on the loan service, so I figure let's just break that 50/50 between the City resident's and the County customers. And the other assumption I made was that any rate increases would be spread evenly across residential and the business customers, and I know these are not in any way

suggestions for rates for our residential and business customers, and what I was trying to do here is calculate what increase would occur if we were looking at these different costs, so the monthly hauling cost under the agreement with SCSWA would be is estimated to be \$32,221 taking 58.3% of that yields \$18,700, and if we divide that by the approximate 3,800 City customers we have this comes up to a \$4.94 additional charge per residential per customer per month.

And I think people might argue that diversion amount, so I went back and re-figured it...saying okay we're not diverting any for recycling or for green waste when you go back through those figures the monthly hauling cost becomes \$41,760, and running through the percentage and dividing by the number of customers the increase is \$6.41 additional per customer per month. Now the loan service is \$118,000 per year, and if we decided to put 50% of that on the City customers that's \$59,000 per year or just over \$4,900 a month...again dividing this out by...spreading this out on the 3,800 customers that gives an additional \$1.29 per customer per month. So now looking at the two scenarios for a residential customer if we have a 27% recycling and green waste diversion the cost would be \$22.37 plus 4.94 plus 1.29 or \$28.60 per month, and if there was no diversion the cost 22.37 plus 6.41 plus 1.29 or 30.07 per month. In these figures you can see that the more that we can divert from the waste stream especially through recycling the lower the cost per customer is going to be, and in addition the more we recycle the more revenue we generate by sale of these materials, and that revenue will not only cover the cost of the recycling centers operation but then can be used to offset the operating expenses of the Solid Waste Division. Under this scenario the refuse collection rates will have to be reviewed regularly because of the dynamics of this situation...and hopefully as more of our customers are participating in recycling we can start to bring the rates back down. And I had to get that figure out so we could actually look, and go back and look at what the rest of the cost is... what the County and other non-residents would be paying at the tipping center...or at the collection center.

He stated here they would have to make-up 41.7% of the cost of the hauling cost...and again 50% of the loan service...so again we have a monthly loan service of just over \$4,900...41.7% of the hauling is \$13,400 for a total of \$18,352.83 per month. Again going back assuming a 27% diversion we have for the total County again 1,000 tons per month...take out the diversion that's 730% per month, and 41.7% of that is 304.4 tons per month...when you divide the total the \$18,000 by 304 tons we come up with the 60.14 per ton tipping fee which surprisingly comes out very close to what staff has suggested.

Mr. Szigeti stated I went back, and again looked at the figures that Manager Fuentes presented for the City Hall...Plan B. In this case there would be no diversion for recycling or green waste, and we would have trash pick-up, MSW and yard waste...and we may have to have special pick-up for C&D waste, and there would be no trash drop off for City or County residents or for commercial haulers. Now under this scenario the monthly hauling and disposal cost is estimated to be \$50,800, and we would be paying 100% of the loan service...so that total cost is \$60,718, and when you divide that by 3,800 customers we have an increase of \$15.98 extra per customer per month or a total of 38.35 if you add that to the current

rate. The figures that were presented or calculated on the assumption that each of the trucks were full when they made the trip, however that total figure was around 9,000 tons, and under this assumption that we're working the actual waste that we would be generating would be more like 7,000 tons...so I came back and reduced the tonnage figure to correspond with what we projected, and when you go through the same calculations that comes out to an increase of 14.45 a month per customer, however we would still have the yard waste pick-up, and other pick-up that...much of the other services that we currently have, and the citizens would have the ability to leave out as much trash as they may generate...so they would still not be limited in the amount that would be picked up.

I want to reiterate that our plan is to continue charging customers... our trash collection customers at the same rate they are paying until the collection center has been in operation for several months, and we have some real figures that we can use. At that time the PUAB will review the total operating costs with the Solid Waste Division in order to calculate the new rate structure...if we find that revenues being collected under the current rates are sufficient to cover these costs, and the cost of the collection center, and the hauling we may not have to increase the costs at all, but that we will not know until the collection center is in operation, and we have those figures. Now I have to add another note here because there has been a slight change in the picture. Up until this morning we were operating under the assumption that there is no other trash transfer facility within the County, however Ms. Toomey in Court this morning asked whether anyone knew about a new trash transfer facility that was being collected by...constructed by NM Waste Services, and apparently no one knew about this...well I sent my agents out to check on this, and we found a couple of things, and indicated NM Waste Services has paid a permit fee to NMED on a collection center located on Eldred Road South of Cuchillo Creek, and Cuchillo Creek goes underneath I-25, and comes back, and the property at the end of the road is the property in question, and when we checked the County records...found that the property belongs to Rodosoviech Carol Revocable Trust. My agents also checked out the site and looked at it, and found out there are no large structures there that would be sufficient to contain an enclosed tipping facility...but what they did see there is a semi-tractor trailer with the NM Waste Services logo on it...a couple of trash collection trucks, and a couple of hundred small dumpsters or poly-carts. I'm just saying if we do have an alternate site in the County that does change the equation, however it is still up to the NMED to approve their plans, and give them an operational permit.

City Manager Fuentes stated these proposed fees as presented by staff...and you will see at the end we are looking at establishing at \$60.00 per ton at the solid waste collection center, and what we would like the Commissioners to consider tonight is one; authorizing to proceed for publication of the solid waste rates in Ordinance form for Commission consideration, and also there is a pending recommendation to the City Commission whether the Commission would like to consider a proposed discount to T or C residents who use the facility directly.

Commissioner Richter – I'm assuming that these rates are gonna be sufficient to operate the center, and to continue in in good repair... the idea that we should consider a discount to the residents of T or

C...one would think that we're charging too much in the first place...if you use it you gotta pay for it...this is an enterprise fund...so I reject the idea that we should give the citizens of T or C a discount just for the idea that they live within the City limits.

Commissioner Green – I have a point of clarification Manager Fuentes...on the 1st page of the presentation it talks about construction and demolition, and it talks about new rates minimum fees on a tonnage basis. Is it fair to say that those rates would not go into effect until the C&D portion of our landfill is closed... because we have no scale at the landfill so we would still have to use \$3.00 a cubic yard?

Mr. Carrillo – Yes.

Commissioner Green – So until the landfill that portion of the landfill is closed we would use \$3.00 a cubic yard, and when that section is closed off and we're out of space then they would come into the collection center then we would have the scale there this would be the price that would go into effect at that particular point.

City Manager Fuentes – That is correct.

Mayor Mulcahy – We need to get the other entities to use this in order to see economy of scale. And the County has already implemented their plan, and low and behold their revenues are going down. I think we need to make sure all these entities are players with this solid waste facility...and that they should pay for it based on the cost of operating it. I appreciate your analysis the numbers match up beautifully, but guess what it's \$80.00 per household per year, but we shouldn't plan on what they're gonna do because we can't count on that...we need to understand our costs, and we need to basically make people pay so that we can support this thing as a self-supported entity, and I think we need to move toward bigger problems...bigger ideas like curb-side, but in the meantime we need to make sure that the PUAB is understanding what it costs to run this thing so that we don't suddenly run it at a loss because our garbage collection rates go way up while the County's go down.

City Manager Fuentes – And part of the packet...And I'll address Commissioner Richter's question about establishing rates that will cover the cost I included the analysis the spreadsheet that was used when we entered into the agreement with SCSWA...and we're looking at the total cost...the estimated total cost for the hauling and disposal at \$386,000...and the next page basically taking the same tonnage that we would generate under the RFP...add \$60.00 a ton...if we were to process 8,760 tons then we are looking at generating with the tipping fee of 60.00...\$525,000. Our Solid Waste South Central Solid Waste Authority cost is \$386, our debt service payment is about \$118, so that would be a sub-total of \$504,000 so that will be a small amount of \$20,000 that we could set-aside and use for the facility...and again this is specifically on the solid waste collection center to answer Commissioner Richter... these fees that we are proposing at \$60.00 a ton, and along with the other smaller fees we'll be hopefully in our analysis sufficient to cover the cost, and as much as I would like the entities, and the State Parks to come in...hopefully they will see that \$60.00 a ton is reasonable, and unfortunately it's their call what they decide to do

when we initially did the analysis we thought it was going to be higher than that, and we're recommending now to be at \$60.00 which Mr. Szigeti's own independent analysis kinda ended up around the same range anyway, so we are confident and hopefully this will be sufficient to cover the operating expenses for the solid waste collection center, and as it has been stated by Mr. Szigeti and Commissioner Green, and we've stated at Commission meetings our goal is initially to allow the operation to continue to operate for the first two months so that we can gage what our actual costs are going to be.

He stated we are not going to consider increasing resident...our customer rates because we want to be able to determine what our actual costs are gonna be...but these rates are for people who will be taking the solid waste to the solid waste collection center, and essentially this become an enterprise within the City...the City itself will become a customer of this solid waste collection center... so the \$60.00 per ton will be charged to the City for the amount of trash that we deposit...just the same way as the electric division charges the City for lighting its buildings, and water charges for any water consumption and sewer and so forth...so this will become an independent enterprise fund that we'll have to be self-sustaining and our goal ultimately will be not to transfer any funds from any other fund to subsidize the operations of this new enterprise fund.

Mayor Mulcahy – I think we need to figure out what our costs are gonna look like before we can make any determination about discounts, and that kind of stuff...we need to charge everybody... this is a great proposal, but we're not gonna know for several months into this about what it is, and I think at that time it's time to come back and say...we got an issue with the County...we got an issue with Elephant Butte...we got an issue...if we can do that I don't have any problem...whoever is bearing the debt service on this needs to pay for it...and I think that's everybody using the facility, but until we know our cost we need to put something in place, and see how it goes.

Commissioner Green – Is it a fair statement Manager Fuentes to state that if a resident does not deliver any solid waste to the collection center until...and once that collection center opens, and we've had an opportunity to see what our costs are, and then work with the PUAB they will crunch the numbers...come back for a recommendation...that if someone does not deliver themselves their rate is gonna be at a residential \$22.37 per month...it's not going up...it that a fair statement?

City Manager Fuentes – Yes that is a fair statement for our customers there will be no change.

“Commissioner Richter moved for approval of the Solid Waste Collection Fees for publication.”

Seconded by Commissioner Green.
Motion carried unanimously.

DISCUSSION – SOLID WASTE COLLECTION CENTER & CITIZEN INIATIVE – MR. RON FENN -

Mr. Ron Fenn came before the Commission with a power point presentation consisting of a “Point-Counterpoint” production to answer several questions that I find very un-answered by the previous proposals made by the City. This is “Point-Counterpoint” produced by designed for a better community, and presented Commissioners with a potential third option which he referred to as Plan “C”.

He stated this is the Solid Waste Collection Center & Citizen Initiative Plan “C” because there was none prior to this, and talked about the New Mexico Bill of Rights – Section 2, Article 11 states; All political power is vested in and derived from the people, all government of right originates with the people is founded upon their will and is instituted solely for their good. All persons are born equally free, and have certain natural, inherent and inalienable rights, among which are the rights of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and of seeking and obtaining safety and happiness. It is time for those whom we have elected and appointed to represent us do the right thing and truly serve us for our good, not the good of a few who have been profiting from our labors for too long. This is about our economic good.

Mr. Fenn stated that Plan “C” answers these, 1. State requirements, 2. Services provided to customers, 3. SW Fleet Overview, 4. Alternative Plan – Direct Hauling, and 5. Costs associated with direct hauling. (Copy of Mr. Fenn’s presentation is available at the Office of the City Clerk for anyone wishing to review.)

He referred to as Plan “C” which essentially shifts all the City’s solid waste concerns to the private sector, and added comments to City Manager Fuentes proposed Plan-A, and Plan-B maintain that customers should not be required to pay for services they do not use.

Mr. Fenn explained how a private firm would be able to provide regular trash pick-up for our municipal customers, and that special items such as appliances, yard waste, tires, and other items could be contracted by an individual on an as needed basis.

He went on to discuss the City’s fleet, and regarding the City’s fleet stated this operation which should be eliminated by contracting with a Commercial Service that must be competitive, and showed the fuel use analysis by vehicle from January – June 2012, and also reported on information from NM Waste Service, and showed basic trash services that could be provided to our customers for \$15 - \$20 per month depending on the size of poly- carts used.

Mr. Fenn talked about the Alternative Plan – Direct Hauling...Plan “C” is an alternative plan. And it calls for Commercial Hauling, and indicated that Commercial Haulers could come and pick-up 3,800 customers a month...a week...and stated they do this automatically. Cost Associated with Direct Hauling...out the door, and Cost Associated with Direct Hauling...Not Necessary with Plan “C”. He talked about Other Alternatives – Transitioning from dumpster to poly-cart service...Feasibility of contracting out services. So Exhibit A – all these figures not necessary, Exhibit B – these numbers unnecessary...but curiously there is a couple of numbers that I could not quite figure out...I don’t know why in

Exhibit A, oil changes are done every 8,000 miles, and under Plan “B” if we self-haul we have to change our oil every 5,000 miles... but this is the kind of thing I don’t quite understand. He showed the Solid Waste Divisions operating budget for 2012-13.

Commissioner Green – Just a couple of points of clarification...the recycling trailers that Ms. Fenn referred to do not cost the City a dime, and stated we have an MOU...and correct me Manager Fuentes if I misspeak with the County, and with Elephant Butte...it is their responsibility to handle the trailer in a professional manner...any damage done to the trailer is on their dime...not ours...it’s their piece of equipment that hauls the trailer from its location in their community or the County to our recycling center... so I don’t accept your point.

Mr. Fenn – That’s what percentage of our recycling...Mr. Green.

Mayor Mulcahy – How did you get the fuel usage by vehicle?

Mr. Fenn – With a lot of work...a great deal of work. From an IPRA.

Mayor Mulcahy – Did you get...you call them true rates for the Commercial Hauler...tell me how you arrived at those numbers... \$15.00 & \$20.00 per customer.

Mr. Fenn – I saw that in a letter that was written by the president of the NM Waste, and also it was testified to by Kathleen Sloan that she pays \$14.00 a month to NM Waste for a 65 gal. container and I have a bill from Mr. Childers for \$62. for a quarter for a 95-gallon...so you do the math and it comes out...

Mayor Mulcahy – You got some bills and you established that they were paying \$15 - \$20...

Mr. Fenn – And the letter from the president of NM Waste saying that they would be able to provide service for the City at that same rate.

Mayor Mulcahy – The last thing...and I’d like to recommend this for future presentations, but I think it’s important that the things that are brought to the Commission need to be the same things that are presented to the Commission prior to the meetings so that we are not adding material...it may impact the decision about whether it’s appropriate for the Commission meeting, so I’d like to ask that if you’re gonna add pieces about recycling, and other parts that you go ahead and give it to us on Friday so we know what the agenda is.

Mr. Fenn – If I had time to do that I would have...I’ve been working on this for. I gave you most of it before, but I was still working on the recycling area.

Commissioner Richter – Yea I’d challenge the mile per gallon rates that Mr. Fenn showed on his presentation...I’ve driven trucks like that much heavier loads than that, and they don’t get that poor of mileage. And whatever the problem is those trucks do not physically get that kind of mileage per gallon. I could consider myself an expert on that whatever the figures are there is something

wrong there.

Commissioner Green – Yes just a couple of points on the presentation...so I'll pose my question to Manager Fuentes...is it a correct statement that the recycling trailers that were part of the recycling coalition grant that the City received that have been positioned in the County, and in Elephant Butte that the City has no cost of maintenance upkeep if a flat tire happens on the trailer...it's not our dime...we have a contract...an MOU with the County, and Elephant Butte that it's their responsibility to take care of those equipment's, and are legally responsible...and have assumed responsibility for what of a better word...health and welfare and maintenance of those trailers...is that a fair statement?

Manager Fuentes – Yes Commissioner Green...the entities who have those trailers are required to insure them and maintain them properly.

Commissioner Green – Okay...and it's interesting that Mr. Fenn talks about a letter from NM Waste saying that he would pick-up the City's refuse solid municipal waste for \$15.00 to \$20.00 a month depending upon the size of the container when on June 1 he wrote a letter to Williamsburg saying that...as soon as the landfill will be closing because he is presently using our landfill as his place of where is ultimately going...his talking about roughly \$28.00 for 65-gallons, and \$34.00 for 90-gallons, so I would like to suggest that...that's where the number that Manager Fuentes put up in his presentation that's where that comes from...it's not a number that someone has miraculously pulled out of the sky. And stated it is on letterhead stationary...I asked the City Clerk...Ms. Bauer from Williamsburg about the proposed new rates...and this is what NM Waste is proposing \$28. and a couple of cents, and \$34. and a couple of cents for just picking-up poly-carts no other services are involved in that cost, so I just wanted to clarify that point that Mr. Fenn made that yes \$15 - \$20 might be the price today but I guarantee you after March 23rd it's not gonna be.

Manager Fuentes – Commissioner Green in that same letter I believe NM Waste indicated that the rates for Elephant Butte customers have already gone into effect and have increased, so I understand the representation has only been only on Williamsburg customers, but NM Waste also provides services to Elephant Butte customers...and I believe those rates have already been increased.

Commissioner Green – And I did not check with Elephant Butte.

Mayor Mulcahy – Are you aware of any letter like that?

Manager Fuentes – I have seen that letter...

Mayor Mulcahy – The one for 15 & 20.

Manager Fuentes – No not the one...no I have not.

REPORTS:

CITY MANAGER –

City Manager Fuentes reported that our application for the Water Trust Board, and Bill has been working on that along with our engineers...this was an application for the Asset Management Plan

as well as for a PER for our water system, and indicated it has passed the first round...the review process, and is now currently part of Senate Bill #228 that is being considered in the legislature so hopefully if this Bill is approved then the City will have an opportunity to present before the Water Trust Board our application and request for funding, and hopefully we'll be fortunate enough to get funding, and I wanted to let you know that Bill 228 is being considered along with other municipalities that are seeking funding from the Water Trust Board.

He stated we did receive the fully executed Resolution that was adopted by Sierra County designating the T or C as a Colonia, and that this will give us an opportunity to apply for Colonia funding through the State as well as the USDA...staff Bill Slettom along with our engineers from Smith Engineering are preparing the application for the State, and hopefully we'll be submitting that within the next 2-weeks.

Manager Fuentes stated on February 20th I attended the 24th Annual Municipal Day hosted by the NMML, and indicated at the morning session we had brief presentation by Governor Martinez, and one of our legislative requests, and priorities this year is to protect the Hold Harmless Provision in the GRT, and I'm happy to report that this presentation by Governor Martinez she did commit herself, and would not be supporting any Bill that comes across her desk that will essentially do away with the Hold Harmless Provision.

He stated NMML has prepared a list of what the impact would be to all the communities if the Hold Harmless would be repealed, and for the City of T or C that would be a loss of distribution of about \$400,000 to the City so definitely that would be a big impact to our General Fund, so everyone that was there was happy to hear that Governor Martinez is willing to protect that.

And I wanted to share, and passed out some information for them to read at their leisure that the local Rotary Club updating them on some of our projects not only those that are in progress but those that have been completed, and stated Mr. Bill Slettom was part of that presentation.

COMMISSIONERS –

Commissioner Richter – No report.

Commissioner Green stated he had a couple of calls questioning an article that was written in the Herald about this transporting municipal waste to either Las Cruces and Socorro, and I think it was probably a misprint in the paper...it's quoted as a round trip to the Socorro landfill is 110 miles, and that is incorrect...I spoke to Mike Lucero who is in charge of the landfill for Socorro, and in fact it's 156 round trip miles.

And my last thing is a thanks there is a gentleman Chris Devlin who is a property owner here in T or C who is responsible for bringing a group that has a wonderful name Balneology of North America known as BANA, and indicated they had their board meeting here, and I wanted to thank some people who were involved in that; Mr. Devlin, the Mayor, Sherry Fletcher did a wonderful presentation, all the Spa owners, Kathy Clark, Linda

DeMarino, and the presentation at the Lee Belle Johnson on Saturday...Mr. Devlin made note that they were considering having a North American Conference somewhere in America, and that Colorado has already thrown in their hat as well as California, and the Mayor and I have spoken about this, and if this needs City approval I'm not quite sure, but we would certainly like to throw our hat in the ring as the site of the first North American full conference for the BANA non-profit organization, and I'd like to work with the Mayor on drafting a letter, and I've already began to speak to some organizations who I think would be appropriate to welcome them, and help us plan a phenomenal period of time that they are here in our community, and I thought the Chamber, MainStreet, Art Council, Bountiful Alliance, Sierra Health Council, Tourism Board, SCEDO, Healing Waters Trail, the Spa's, and the Healing Arts Industry...we could put together a phenomenal presentation to them, and right now I would like to get our hat in the ring so when they start talking about consideration of where to have this it would be tremendous publicity for our community if we could get them to have it here.

Commissioner Whitehead – No report.

Mayor Mulcahy – Commissioner Green let me tag onto what you just said. And stated they came here with full participation of the Hot Springs Business Community, and that Mr. Kertesz was there...to help us create something with this, and they said let's all get in the pool and figure out where we want to go with our healing waters...not hydrotherapy but mineral waters which have very specific reasons to and evidence to support people getting better, but take that...we have that...the #1 Hot Spring in the United States according to them, so if we could gather together a task force...get the rest of the businesses that were down there...let's get together and figure out where we want to go with this, and get them to help us become the region they've already recognized us to be.

He stated that he and Commissioner Green spent an afternoon with a gentleman to look at water harvesting, and he made a couple of really good points, and he would like to come back and do a study, and stated we have a downtown that floods, and he had a couple of points; and one of them was...you don't start at the bottom of the hill to figure out how to slow this down...you slow it down at the beginning up at the top so that it starts going into the aquifer up there, and it was a real tough case because his ideas of putting catch man areas downtown won't work because they'll fill up with hot spring water the minute we start digging, so we have to take some measures in that direction, but the other two things were fascinating...one was look at these streets down here...these wide double-wide streets if you cut them in half, and created an open area where the water could go into the ground instead of down the street you're gonna cut you flow in half on those particular places so I think that is something we maybe need to get behind, and figure out can we cut down some of the concrete that exists in the area that we complain about flooding, and the last was...the idea that our streets all lead toward river courses/slash streets...lead toward the river maybe we need to take a look at that area that is undeveloped down there toward the end, and divert some of that water into what was apparently formerly a wetland area, and is now just a drain...is it a solution to rain water run-off...absolutely not

this is only to slow it down and make it less.

Mayor Mulcahy reported that he went to Phoenix, and that he had 9 appointments with Commercial Investment Brokers, and none of them heard much about T or C, and stated these were the real heaviest hitters in the City of Phoenix...the thing was the number 1 complaint was our corporate income tax is almost double what it is in Arizona.

He would like to thank the County for their support of the Colonia's, and appreciates their help on that.

RESPONSE TO PUBLIC COMMENT: City Manager Fuentes stated he would like to address the question posed by Mr. Mike Kertesz about the State Appropriation that we received for the construction of the Collection Center...In my opinion if we are unable to use the Solid Waste Collection the State will not be asking for those funds back, and that it will not affect any future funding as there is obviously some litigation that is currently on going. And stated any future funding that we have with the State Legislature for the Animal Shelter, and the Wastewater Treatment Plant will not be affected by that.

EXECUTIVE SESSION: "Mayor Mulcahy moved that the meeting be closed for Executive Session pertaining to – 1. Potential or Threatened Litigation 10-15-1H (7) – Related to HSLD, LLC, 2. Purchase, Acquisition or Disposal of Real Property 10-15-1H (8) – Related to Lease Agreement – HSLD, LLC, 3. Personnel 10-15-1H (2) – Related to – City Manager Annual Evaluation."

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.

OPEN MEETING: "Mayor Mulcahy stated that the Commission was now in Open Session."

CERTIFICATION "Commissioner Green certified that only matters pertaining to 1. Potential or Threatened Litigation 10-15-1H (7) – Related to – HSLD, LLC, 2. Purchase, Acquisition or Disposal of Real Property 10-15-1H (8) – Related to Lease Agreement – HSLD, LLC, 3. Personnel 10-15-1H (2) – Related to City Manager Annual Evaluation discussion incurred and no action was taken."

"Commissioner Green moved that no action was taken for HSLD, #1, or #2, and agreed to proceed the process to move forward with the evaluation process for the City Manager."

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 _____,

2013 on motion duly made by Commissioner
_____, seconded by Commissioner
_____, and carried.

JOHN A. MULCAHY, MAYOR

ATTEST:

MARY PENNER
CITY CLERK

