

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, April 9, 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, April 9, 2013 at 6:00 P.M.

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

ATTENDANCE: Upon calling the roll the following Commissioners were reported present:

Hon. John Mulcahy, Mayor
Hon. Sandra Whitehead, Mayor Pro-tem
Hon. Steve Green, Commissioner
Hon. Mike Kertesz, 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 Richter leading the Pledge of Allegiance.

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

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

Seconded by Commissioner Whitehead.

Commissioner Green stated when I asked for #6 to be put on the Agenda...I misspoke, and that it was not the Clerk's fault it was mine...the number should have been \$4,000, and not \$3,960, and I would like to correct that.

Motion carried unanimously.

Mayor Mulcahy stated he would like to invite anyone who wants to

testify tonight in either of the two Public Hearings that are on the Agenda, and asked that they please come and sign up. And indicated we have a Public Hearing on Ordinance #636 – Solid Waste Collection Center Rate Fees, and stated the public is invited to testify as either a Proponent or an Opponent, and also have another Public Hearing – Ordinance #635 – Amending Article II of the Business Registration Fee.

COMMENTS
FROM THE
PUBLIC:

None.

CONSENT
CALENDAR:

Mayor Mulcahy stated we have three items under the Consent Calendar – City Commission Minutes – Regular – 2/26/13 & 3/12/13, Golf Course Advisory Board Minutes – 3/13/13 & Accounts Payable Report – March 2013.

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

Seconded by Commissioner Whitehead.
Motion carried unanimously.

PUBLIC
HEARINGS:

FINAL ADOPTION – ORDINANCE #636 – ADDING SECTION 11-14 – “SOLID WASTE COLLECTION CENTER RATE FEES”, LEONARD CARRILLO –

Mr. Leonard Carrillo came before the Commission, and explained our rates right now are at \$3.00 a cubic yard plus GRT, and in order for us to cover our cost, transportation and disposal...we are looking to raise the fee to \$6.00 a cubic yard to cover our costs for transportation and operational fees for the South Central Solid Waste Authority. And stated the rates will also increase as far as the size of load we’re taking in which will be at \$60.00/per ton.

He stated C&D will also be included in this ordinance at a different rate which comes out to \$65.00/per ton, and for small commercial trucks, and by weight...trees, branches is also included at \$3.50/per lb., and goes up which comes out to \$35.00/per ton for tree branches.

At this time Mayor Mulcahy asked if there was anyone who wanted to sign up as an Opponent or Proponent for this Ordinance...seeing no testimony this hearing is closed.

FINAL ADOPTION – ORDINANCE # 635 – AMENDING ARTICLE II, “BUSINESS REGISTRATION FEE” – MARY PENNER, CITY CLERK –

City Clerk Penner explained this is Amending Article II of the Business Registration Fee, and stated it is adding two sections under Section 7-33, and in Section 7-35 the first paragraph has been deleted since it has been moved to Section 7-33 (B), and a new section has been added...Section 7-36...Providing that all businesses to ‘Display’ their current business registration license, and indicated it has been duly published.

At this time Mayor Mulcahy asked if there is anyone who would like to testify as an Opponent or Proponent on this Ordinance...seeing none this hearing is closed.

OLD BUSINESS: DISCUSSION – CITY MANAGER ANNUAL REVIEW – MAYOR MULCAHY –

Mayor Mulcahy stated the Commissioners met in Executive Session on 3/12/13, and reviewed the City Manager's Annual Performance using criteria established by the International City & County Association. And on 3/26/13 we again met in Executive Session, and the City Commissioners delivered a favorable review to Mr. City Manager Fuentes, and I would like to categorically state that Juan Fuentes as City Manager has the full faith and support of this Commission, and that we are happy with his management of the City, and would further like to say that the Commission has laid out several priorities for Manager Fuentes to focus on this year, and we will be directing ourselves to the City budget to support and pursue these priorities...Thank You Mr. Fuentes we're very grateful for your skills and for your efforts, and I open the floor for any further comments.

Commissioner Green – I second your comments, and I think that this community is very lucky to have quality of an individual such as Juan Fuentes to be part of the leadership team that's gonna bring us forward...Thank You.

Commissioner Whitehead – I ditto your comments and Commissioner Green's comments too.

Commissioner Richter - Manager Fuentes has brought stability and leadership to the City that we haven't had in several years, and I'm glad he's here.

Commissioner Kertesz – In the short time that I have been exposed to Juan as a Commissioner...I'm impressed with his vigor and his enthusiasm, and I am sure that he will continue to grow, and I give him my hats off.

Mayor Mulcahy – I want to thank all the Commission for your solidarity and your support of Manager Fuentes.

City Manager Fuentes – I certainly appreciate the comments, and appreciate the confidence, but I do want to recognize the employees, and especially the department heads because obviously it's not a one man show...it's not even a small group it takes team effort, and we have some very dedicated department heads on staff that I'm very proud to work with, and I appreciate the opportunity to serve as your City Manager, and also to the public for this opportunity, and I do welcome the challenges and the priorities, and I will certainly be working on those to move the City forward, and thanked them.

NEW BUSINESS: DISCUSSION/ACTION – FINAL ADOPTION – ORDINANCE #636 –

Mayor Mulcahy asked the Commission if they had any questions for Mr. Carrillo or the City Manager.

Commissioner Green – I have one point of clarification on the Commission Action Form...the last line...it says...If approved, staff will advertise as required by State Statutes and implement as soon as a scale has been installed, but on the Ordinance it says effective date shall be in full force, and effective 5 days after this approval, adoption and publication...so I just wondered which is...

City Manager Fuentes stated I did speak to Jay, and under State Statute 3-17-5 it does require that this Ordinance become effective only after we have published it in the local newspaper, and it only becomes effective 5 days after that date of publication...unfortunately right now we do not have our scale, so we are relying on the current fees to collect whatever solid waste is coming into the facility, but we'd like to propose is moving forward with the proposed ordinance...however we would not publish it until the scale comes in, and I have asked Jay to look into the State Statutes, and he does agree that as long as we hold off on the publication we'll be fine...as soon as that scale comes in we will go ahead and proceed so that the fees will go into effect, and we are working with Gordon Environmental...the construction documents have already been submitted for review by legal so we're hoping we can advertise as soon as possible so we can get a scale in that facility.

"Commissioner Green moved for approval of Ordinance #636 – Adding Section 11-14, "Solid Waste Collection Center Fees, of the City Code of the City of Truth or Consequences, New Mexico."

Seconded by Commissioner Kertesz.

Commissioner Kertesz – When will this be advertised for public domain so we can start moving forward with correct fees.

City Manager Fuentes stated the documents are being reviewed by legal for the RFP so we have to wait for the scale.

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 Kertesz responded Aye to a Roll Call Vote
Commissioner Richter responded Aye to a Roll Call Vote

Motion carried unanimously.

**DISCUSSION/ACTION – FINAL ADOPTION –
ORDINANCE #635 –**

"Commissioner Green moved for Ordinance #635 – Amending Article II 'Business Registration Fee' of the City Code of the City of Truth or Consequences, New Mexico."

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 Kertesz responded Aye to a Roll Call Vote
Commissioner Richter responded Aye to a Roll Call Vote

Motion carried unanimously.

**DISCUSSION/ACTION – AUTHORIZING & APPROVING
THE AGREEMENT AND APPLICATION FOR FUNDING
TO THE CITY FOR TAXIWAY 'A' PAVEMENT
MAINTENANCE AND TO COMMIT MATCHING FUNDS –**

Mr. Bill Slettom, Community Development Director came before

the Commission, and stated this action will authorize, and approve the agreement that we have with the State Department of Transportation Aviation Division. And explained this project is to fill the cracks and re-seal Taxiway A, and close 7,000 feet of Taxiway that they will be repairing, and re-marking, and that the total amount of the project is \$266,667.00.

He stated under our agreement with Aviation Division for this project...this is an 90% FAA funded project, and then the balance is split between us as the Sponsor and Aviation Division...so this is a very good deal for us, and stated until this agreement is executed we won't know when the project will start or how long it will take, and that this is not a bid project...and that this is going to be carried out under the State Procurement Act probably because all of the work is more or less unit priced, but it will include inspections from our engineers, and stated this project does include all the engineering on it.

Mr. Slettom stated our share is \$13,334.00, and that will be paid out of the Airport funds.

City Manager Fuentes stated in reviewing our records...something better yet, and we do have some funds, and as you all may recall the City was a fiscal agent some years...last year, and that there are some remaining funds in the ending cash balance of those funds that we will be eventually transferring over. And a Resolution will be forth coming that we have enough to cover the matching funds for this grant...because we need additional Airport money for some other improvements.

Commissioner Green – On page 3, #3...Maintain in force a **Maintenance Resolution**...do we have that?

Mr. Slettom – A Maintenance Resolution is something that is part of our agreement with our open contract with our engineers...WHPacific, and I could do some research to try and find where this document actually is, but this is part of all our grant agreements, so when we sign this grant agreement we are committing ourselves to maintaining the Airport.

Commissioner Green – And the only reason I ask because it's in bold black print, and I thought if we didn't have a Maintenance Resolution...then that's something we might want to certainly consider having so nothing comes back to bite us...so to speak.

Ms. Slettom – We will research that and report back to you.

Mayor Mulcahy – The Airport is a very important item for us, and I hope we continue to grow it...I do agree with Commissioner Green...we need to see a Resolution. And we heard today...they've extended the funding from the General Fund to the Department of Transportation Aviation Division for the next...until 2018, and there is gonna be additional monies in a year from now, so it may be an outstanding opportunity for us to continue to engage in the 90/10 contractual agreement for the fuel farm, and the other stuff.

Mr. Slettom stated we do have a revised scope of work for the fuel farm...under review so we should be able to re-issue that for bids.

“Commissioner Green moved for authorization and approving the agreement, and application for funding to the City for Taxiway ‘A’

Pavement Maintenance, and to Commit Matching Funds with the State Grant Agreement for Airport Projects with NM Dept. of Transportation Aviation Division.”

Seconded by Commissioner Whitehead.

Commissioner Kertesz stated it's been a very good job that has been done by our staff, City Manager, and Bill Slettom, and they are to be complimented.

Motion carried unanimously.

DISCUSSION/ACTION – AWARDING OF THE FINANCIAL AUDIT SERVICES CONTRACT FOR FY ENDING 2013 –

Ms. Linda Lanham, Finance Director came before the Commission, and that before you is the Annual Financial Audit Service Contract for FY ending 2013. And although the City Commission approved the multi-year contract it is recommended that the Commission award the contract annually...this will be the third-year for the multi-year contract with Accounting & Consulting Group, and the cost is approximately \$49,400.00 excluding the GRT, and if approved the notification of award will be forwarded to the Office of the State Auditor for review and approval.

Commissioner Kertesz – City Manager...is this in line with what we anticipated.

City Manager Fuentes stated this is a multi-year contract.

“Commissioner Green moved approval for one-year contract for the firm of Accounting & Consulting Group, LLP...cost to be approximately \$49,400.00 excluding GRT.”

Seconded by Commissioner Kertesz.
Motion carried unanimously.

DISCUSSION/ACTION – RESOLUTION #29-12/13 – SETTING A METHOD BY WHICH LODGERS TAX IS ALLOCATED ON A YEARLY BASIS –

City Manager Fuentes stated the Resolution before you amends the distribution and allocation of lodger's tax money. And stated the City years back adopted a Resolution that allocated funds for Public Arts Administrative Fee for the City's marketing plan for fees for distributing for entities...local entities that we use it for marketing, and also for the Golf Course and the Civic Center.

He stated in the proposed Resolution the allocations have changed slightly...we still have 1% for Public Arts, and we will keep the 10% Administrative Fee with both of those totals to \$16,542, and the big difference is in the allocation of the remaining funds which is about 35% would be used to be allocated to eligible entities to apply.

City Manager Fuentes stated that last year the amounts were about \$72,000...this year the amounts is proposed to be at \$46,843. And stated the City's Advertising Marketing Plan for marketing leases it would be 30% of the remaining funds which would be around \$40,000...for the Golf Course and Civic Center, and that would be \$46,843. He stated the reason for the City Advertising Marketing since you have approved a contract with Griffin & Associates, and

that the City has submitted an application for the NM Tourism Department for a Coop Marketing Agreement...that requires the City to match any grant amount that we get...so for example this year we received a \$30,000 grant which means we would have to spend \$60,000 in order to get \$30,000 back, so this would allow the City to have those matching funds...when we submitted the Coop application we are also partnering with some other entities as well that are very familiar with the State's Coop Marketing Plan...like the Sierra County Tourism Advisory Board, and the Geronimo Trails, so we would work with them to make sure that we work with Griffin & Associates to market the City to maximize our lodgers tax funds to try and bring more people...tourists to the area to not only stay at our lodgings, but also come in and spend some money, and generate more GRT for the City and everybody.

He stated the Resolution was taken to the Lodger's Tax Advisory Board, and they did approve the revision, and the revision before you is the recommendation from staff.

Commissioner Green – Manager Fuentes I compliment you on taking the lead...the initiative on this...this is long overdue for the City to stand on its own and market, and be proud of what we have to offer to our own citizens and visitors. On my attachment...I've got 2 attachment 'A's...one shows a 35% allocation for the entities that would be eligible to receive lodgers tax, and another attachment 'A' shows 25%, and was wondering which one do I look at, and which one should I throw out.

Manager Fuentes – The 35% the first one is the correct one.

Commissioner Green – In my opinion it's certainly the right thing to do, however with that said...certain organizations have contractually obligated themselves on contracts such as the museum has billboards on I-25...the Memorial Park, and the museum have billboards, so if we dealing with a smaller pot of money I think...I would hope that the Lodgers Tax Board that's going to interview, and take a look at the application's, and make a recommendation to this board...to the Commission that they realize that...what we don't want to do is where we have supported an organization to have billboards on a contract, and then all of a sudden reduce their money where that money is not available to honor that contract, so I just want to make sure that is understood at the Lodgers Tax Board level...that certainly people who have contracts, and have counted on the past years for their lodgers tax to pay those rental bills on the billboards that we don't cut them off at the knees.

Mayor Mulcahy – Stated we're really taking it to the businesses that are accommodating our tourists by saying we're raising your price 5% in order for us to pull this money so that we can intentionally put that money to work in a better way so that you'll have more people staying in our lodging. And I would like to leave it to the Lodgers Tax Board to absolutely consider the contracts. I think we should set some perimeters that says...like other City's do...this market needs to be far enough away from the City that we know they have to stay overnight, but I'd like to consider giving the Lodgers Tax Board direction from this Commission...saying this is what our expectation is... not only do we expect them to put people in beds with this money because that's who is paying for it, but also to consider the idea that in any marketing plan that comes before them ought to be reaching people that need to spend the night, and not just pull off the highway.

Commissioner Green – I would like to add on to that, and make sure that we're advertising...something that we know that the entity knows that money that is being spent is pulling people into our community...it's gotta be tracked so we know if we are getting a good return on the citizens dollar...if it's a good investment.

“Commissioner Green moved approval of Resolution #29-12/13 – Setting a Method by which Lodgers Tax is allocated on a Yearly Basis.”

Seconded by Commissioner Kertesz.

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 Kertesz responded Aye to a Roll Call Vote
Commissioner Richter responded Aye to a Roll Call Vote

Motion carried unanimously.

DISCUSSION/ACTION – APPLY FOR 1% FOR PUBLIC ARTS TOWARDS CAPITAL OUTLAY –

Commissioner Green stated where the State uses public dollars to build buildings 1% of that is put aside for Public Art...if it's a State building it is basically handled up at Santa Fe. And where State dollars are used to build a building in a municipality where the City owns that building then we are eligible for that 1%, and we get to choose the piece of art.

He stated he spoke to Chuck Zimmer who works out of Cultural Affairs, and that he is in charge of the Art in Public Places Program, and that \$4,000 which is the 1% of the \$400,000 that we received from the legislature for the Collection Center, and indicated he needs to receive a letter of intent that we will be applying for that by the 15th of April.

Commissioner Green stated they will then be a call for Public Art starting on the 20th and the 22nd, and I would like if this is approved...I think the City should take out a little bit of a public notice ad...Call for Art, and maybe the Art Council can do a big e-mail ad...so basically what we would do is I've spoken to Leonard, and Manager Fuentes...and if the Commission agrees that next to our recycling center...possibly a piece or pieces of recycled art, and that we have some wonderful artists that deal with recyclable materials. And what we need is for the City Manager to say that we are interested in applying for the 1% for Public Art since the money is sitting up in Santa Fe...if we agree that we would feel would be appropriate for a piece or pieces of recycled art to be at our Collection Recycling Center, and indicated what they do...is they assign us someone from Cultural Affairs who will come down and meet, and that they want us to put together a committee of no more than 3 people, and we have a Public Art Board, Manager Fuentes...maybe Leonard, and someone from the Public Art Board...then that committee would whittle it down to maybe a choice of two or three or four pieces of Public Art, and then it would be up to the 3 members to decide where to proceed, and I'm asking for a motion or permission to have the Manager send Mr. Zimmer a letter saying that we're in.

“Mayor Mulcahy moved to direct staff to make the application for

the Public Arts Award, and put together a team from the Public Arts Board to move forward on this project.”

Seconded by Commissioner Green.
Motion carried unanimously.

REPORTS: CITY MANAGER –

City Manager Fuentes stated he would like to go over the list of the Capital Outlay Projects that survived the legislative process: Elephant Butte Water System received \$214,000, Sierra County Building Infrastructure - \$100,000, Sierra Vista Hospital Facility - \$150,000, Sierra County Solid Waste Trucks, Trailers & Compactors - \$250, T or C Animal Shelter - \$100,000, T or C Senior Center Improvements - \$25,000, and T or C Senior Center Meals & Equipment - \$3,100. And that total is \$842,100.

He stated in addition to these there were also some allocations to the Veterans Home here in T or C, and that it did not specify an amount, but I believe at the end of the day Sierra County would have received probably over a million dollars in Capital Outlay money which is definitely going to help all of the entities here in the County, and hopefully our GRT with the construction activity that we are going to see hopefully next year.

COMMISSIONERS –

Commissioner Kertesz stated he has talked to several people who have been out to the Waste Transfer Plant recently, and that they are very impressed with the cleanliness, and the housekeeping that has been done. And he spoke to our manager Leonard Carrillo, and I understand that the process of loading the trailers is very efficient and very full every time we take the trailers out...so hats off to Leonard Carrillo.

Commissioner Richter stated he spoke with Barry Ragsdale, Director of Sierra County Flood Commission concerning our letter of map amendment for areas affected by the Morgan Street Project, and spoke with our consultant the Larkin Group, and made inquiry with FEMA for records they might have, and that they didn't get a whole lot so they were gonna have some field survey done this week or next week, and possible update in the next 4-6 weeks.

Commissioner Green...Two quick Thanks, and I know that Leonard Carrillo submitted an application for a grant...a no match grant for NM Solid Waste for \$18,000, and I know that George Szigeti was a little bit instrumental in helping with that grant application...so I want to thank you George...I appreciate that.

And I want to thank Hans Townsend, and that he ran some Sierra County brochures to the Civic Center so that our guests who were in town for the NMML Training were able to take home something...bragging rights about T or C and Sierra County.

Commissioner Green stated that Leonard has announced, and I think it might be in the newspaper that the City and the Bountiful Alliance will once again start the recycling drive on the last Saturday of every month from 10:00 AM – 2:00 PM at our recycling center. And our Collection Center is up and running and that recycling becomes really important.

Commissioner Whitehead – No report.

Mayor Mulcahy stated he would like to thank the Commissioners for being at the NMML Meeting today, and thought it was a strong show of force, and also staff that was there. And would like to thank the City Manager for putting that together, and coordinating all that.

He stated as the Chairman of the NM Rural Economic Development Council...I'm hosting a party at Dam Site, and that they are going to have everyone from the State come down, and that is going to be on the 22nd from 10-2, and then go out to the Spaceport after that.

Mayor Mulcahy mentioned the fact that people are going out to the State Parks to dump their trash.

He stated he is working on a couple of things, and that he is working on some animal control issues, and some discharge permitting for the hot springs...we're coming close to the end of our moratorium. And he and Commissioner Green have been talking with a gentleman who is going to give them an idea of what he can do for rain water harvesting.

Mayor Mulcahy stated as part of our budget process we need to take a look at our electric bills...what we're doing with that accounting.

Commissioner Kertesz- What sort of timing did you have in mind for the electric bill issue...a meeting or a work session.

Mayor Mulcahy – I think I'm gonna bring to the Commission some of the findings, and I think we will be having workshops.

RESPONSE TO PUBLIC COMMENT: None.

EXECUTIVE SESSION: None.

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

APPROVAL: PASSED AND APPROVED this _____ day of _____, 2013 on a motion duly made by Commissioner _____, seconded by Commissioner _____, and carried.

JOHN MULCAHY, MAYOR

ATTEST:

MARY PENNER
CITY CLERK