

## CITY OF TRUTH OR CONSEQUENCES

Tuesday August 13, 2013

### REGULAR MEETING

Mayor Mulcahy stated before we begin the meeting tonight I would like to take a few minutes for all of us perhaps recognize the finest City Clerk I've ever met Mary Penner who retires the end of the month...We're all gonna miss you Mary, and you been on staff for 30 years, and you've been under incredible pressure in many, many situations that I've seen just in the last year, and you handled the city's business with integrity and honesty, and you have stood in for the City Manager on I don't know how many occasions in the 30 years...so I was thinking Commissioners that each of us might say a word, and then present what we have tonight a plaque for Mary Penner...and we'll have some applause.

Commissioner Green – Well it's a good day for Mary, and it's a sad day for the City, and to have Mary go out in a style that she would have liked to been accustomed to for the last 5 years I will not be attending the next City Commission meeting, and that I will be on vacation with one of my boys, and therefore the Commission meeting should be about an hour and a half shorter. And everyone knows this is my first venture into politics, and five years has been an absolute joy and a pleasure, and I will to you what Paula said to me when I finally retired...this is not a dress rehearsal you get one chance at this so don't mess it up, and I wish you the best for the next 50 years.

Commissioner Whitehead – Mary thank-you for all the years of service to the City of Truth or Consequences, and I've known and worked with Mary for over 30 years myself, and I've had the pleasure of learning a lot in the last few months being on the City Commission from Mary...Mary has always been there when I've needed her, and I will miss her...thank-you Mary.

City Manager Fuentes – Certainly as a former City Clerk for a small municipality, and we're certainly are a close family, and I certainly do appreciate Mary's friendship over the last couple of years since I've been here...and I'm also grateful for her because without her I wouldn't have the opportunity to serve the residents of T or C as your City Manager, and as your Finance Director, and I really appreciate her support and believing in me, and she certainly will be missed, and leaves a very capable staff behind her, and I just want to thank her, and definitely we'll miss her, and the State, and all the fellow Clerks throughout the State will miss her as well.

Commissioner Richter – Mary I appreciate your effort, and all the help that you have given me since I've been in office, and I hope you enjoy your retirement.

Commissioner Kertesz – Well Mary did anybody tell you you're benefits have been cut...We are gonna miss you, I being the newest Commissioner in the group I've really relied on your help, and really appreciate all you've done for me both during the election, and since I've been in office...my hats off to you...thank-you.

Mayor Mulcahy stated if there is anyone in the audience that would like to say something about Mary...we're all gonna miss her, and I know there is a lot of people in the public as well.

Ms. Sophia Peron came before the Commission and I do want to talk about Mary she's great...the other two clerks are wonderful. And that over the last 5 years we learned about public information requests, and open meetings laws, and we all learned together, and it's been a long process, but the clerks have been there all the time...I think they're the hardest working people in this town I respect them totally, and they keep their sense of humor, and if they're depressed and get really down...and I'm been a real good girl and haven't sent them anything, and I know Mary's gonna have a ball, and I'm gonna be seeing her all over town, and we're gonna be hanging out at the used clothes stores and everything else...so have a great time Mary.

At this time they presented Mary with a plaque from the City of Truth or Consequences signed by the City Commission and the City Manager.

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
Tuesday, August 13, 2013

REGULAR MEETING

ACTION MINUTES

**TIME & PLACE:** The Mayor and the City Commission of the City of Truth or Consequences in the County of Sierra and State of New Mexico met in Regular Session in full conformity with the law and ordinances of said Commission in the Commission Chambers of said City, on Tuesday, August 13, 2013 at 6:06 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  
Jay Rubin, City Attorney  
Mary B. Penner, City Clerk

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

**CEREMONY:** Mayor Mulcahy called for fifteen seconds of Silent Meditation.

Mayor Mulcahy called for the Pledge of Allegiance with City Clerk Penner leading the Pledge of Allegiance.

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

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

Seconded by Commissioner Kertesz.  
Motion carried unanimously.

Mayor Mulcahy reminded anyone who wanted to sign up for the public hearing.

**COMMENTS FROM THE PUBLIC:** Ms. Sophia Peron came before the Commission with comments regarding HSLD, and provided information for the record.

Mr. William Ritch came before the Commission with comments regarding his Pecan Orchid and HSLD.

Ms. Diane Lombardo came before the Commission with comments asking that Commission to re-visit the issue regarding the securing of animals in vehicles.

Mr. Leroy Henderson came before the Commission with comments regarding the

Cuchillo Flood Control.

**CONSENT  
CALENDAR:**

Mayor Mulcahy stated we have several items under the Consent Calendar – City Commission Minutes – Regular – 7/9/13, Airport Advisory Board Minutes – 7/3/13, Planning & Zoning Commission Minutes – 7/2/13, Public Utility Advisory Board Minutes – 6/17/13, Lodgers Tax Advisory Board Minutes – 7/25/13, and Accounts Payable Report – July 2013.

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

Seconded by Commissioner Kertesz.

Commissioner Green questioned payments to Gordon Environmental, and asked City Manager to look into these.

City Manager Fuentes stated he would research this and provide you more detailed information.

Motion carried unanimously.

**PRESENTATIONS: THE YOUNG DA VINCIS – JIA APPLE –**

Ms. Jia Apple came before the Commission with some of the members of the Young da Vincis to present a power point presentation regarding their project, and showed the panels that they painted.

Ms. Apple indicated they would be putting up the panels on Wednesday, August 14 at the Lee Belle Johnson Senior Recreation Center, and stated on Saturday at 5:00 PM there will be an un-veiling at the Rio Bravo. And thanked Adrianna and MainStreet, and the City of T or C.

**PUBLIC  
HEARING:**

**DISCUSSION – FINAL ADOPTION – ORDINANCE #638 – AMENDED BY  
REVISING SECTION 14-116 – PROVIDING FOR AN EXTENSION OF  
THE EXPIRATION DATE – JUAN FUENTES, CITY MANAGER –**

City Attorney Rubin explained Ordinance #638, and stated this is to Amend Section 14-116 of our code. And as you recall last year we passed an Ordinance which called for a Moratorium for the drilling of new domestic wells, and stated that Ordinance has six sub-sections A-F, and indicated everything would remain the same except paragraph (E), and when we passed the Ordinance last year we indicated the Moratorium would expire exactly one year from said effective date. And with this amendment would do is change that to where the Moratorium would expire on November 30, 2013...and the rest of the Ordinance would stay the same.

Mayor Mulcahy stated there are no Opponents or Proponents so I would like to open questioning up to the City Commission.

City Manager Fuentes stated under this section of public hearing...it would be for public hearing/public comment, and that we will be discussing this under item G-1.

Mayor Mulcahy closed the Public Hearing at 6:35 PM.

**NEW BUSINESS:**

**DISCUSSION/ACTION – FINAL ADOPTION – ORDINANCE #638 –  
AMEDED BY REVISING SECTION 14-116 – PROVIDING FOR AN  
EXTENSION OF THE EXPIRATION DATE – JUAN FUENTES, CITY  
MANAGER –**

City Manager Fuentes indicated as Jay described this ordinance will extend the Moratorium to November 30<sup>th</sup>, and this is also to follow-up with item G-13 which we will be discussing later on the agenda regarding the extension of the Agreement with NM Tech.

Commissioner Kertesz – Is this extension date adequate to allow them to get everything they need to get done.

City Manager Fuentes – To our best understanding...yes.

“Commissioner Green moved approval of Ordinance #608 – Amended by Revising Section 14-116 – Providing for an Extension of the Expiration Date to read November 30, 2013.”

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 – LEASE BETWEEN THE CITY OF T OR C & THE SIERRA COUNTY LAB., INC. – JUAN FUENTES, CITY MANAGER –**

City Manager Fuentes stated Ms. Jane Green is in the audience, and that I have been in communication with her for the past several months. And stated the Computer Lab has occupied a room about 500 sq. ft., in the Senior Center for several years now, and indicated in the course of those years the City never had a formal agreement with the Computer Lab, and that the entire building itself is for the most part is being occupied by SJOA...Senior Joint Office On Aging, and stated one of the benefits for having the Computer Lab there obviously it's available to the public, and we've been in communication about formalizing that agreement since obviously they occupy an office building that belongs to the City.

He stated we developed a lease agreement where the City would let them to maintain and occupy that office space, and that the City would in-turn receive some services as in-kind in lieu of payment of any rent. And I would like to offer an opportunity for Ms. Jane Green or Lisa to make any comments.

Ms. Jane Green came before the Commission, and wanted to thank Manager Fuentes for bringing this to the Commission to consider this, and that it has been a great privilege, and that the lab would not exist without the City's support, and that we have been there for 15 years. She stated it has been a highly successful operation that serves a lot of people.

City Attorney Rubin stated one thing I noticed...and I'm the one who drew this up...the paragraph under the Demise of Premises, and the last sentence I wrote; A room located at 360 West Fourth Street, Truth or Consequences, New Mexico, more particularly described as follows: And actually I thought it was going to get filled in...but I guess it never did.

Mayor Mulcahy and Manager Fuentes – It is filled in.

Ms. Majorie Powey, Chairman of SJOA came before the Commission...and stated I know there have been problems in the past...I have not seen any problems, and that the majority of the people using the lab are seniors.

Ms. Green stated our classes are solely attended by seniors.

Commissioner Green stated I am pleased to see that the two organizations have more or less partnered together in the same facility to serve each-others constituency, and I know in the past there has been some bumps along the road trying to get this ironed out, and I personally want to thank Manager Fuentes for kinda being the mediator here and bringing both sides together...and the community is the only one that gains...thank-you.

“Commissioner Green moved that the agreement between the City of Truth or Consequences and the Sierra County Lab. Inc., be approved with a room located at 360 4<sup>th</sup> Street, Rm. #117.”

Seconded by Commissioner Whitehead.  
Motion carried unanimously.

Commissioner Kertesz – For the record the amendment includes the square footage...do we have to add that as well.

“Commissioner Green – Amendment to show that the lease is for room #117 which is 524 sq. ft.”

Seconded by Commissioner Whitehead.

Ms. Green stated I did not notice but the name of the organization is Sierra County **Computer** Lab.

City Attorney Rubin – You can approve the lease with that change...and we can revise it.

Motion carried unanimously.

**DISCUSSION/ACTION – RECOMMENDATION – AIRPORT ADVISORY BOARD – RE: RE-APPOINTMENTS TO AIRPORT ADVISORY BOARD, BILL SLETTOM –**

Mr. Bill Slettom, Community Development Director/Assistant City Manager came before the Commission, and stated you were provided with a letter from the Airport Advisory Board. And at their July 3, 2013 meeting they voted unanimously to re-appoint 3 members to 2-year terms; Dennis Anderson, David Senn and Gerald LaFont.

Commissioner Green stated in the minutes of the Airport Advisory Board I noticed that there was another gentleman who applied...Chuck Vangelder, and I think the City should send him a letter of recognition for his willingness to serve, and I noticed that the board is suggesting that they keep his name on file for future use...and I think that should be recognized by the City as well...his willingness to volunteer.

Mayor Mulcahy – I have somewhat a different opinion about some of this in that I same Mr. Vangelder, and I’ve actually talked to him, and stated he is a pilot he is a qualified person that knows a good deal about aviation, and he has a plane. And I wish this board would reconsider his appointment simply because the people we have...considering re-appointing has been on this board for years, and years.

And I’m not trying to single it out...I’m certainly not faulting anybody’s service I appreciate everyone’s service, but this is one of the few opportunities we’ve seen on this particular board to bring in another perspective...another view, and to bring in some new blood.

Mayor Mulcahy stated we as the Commission have asked for the advisory board to bring us some ideas, and some things that we might consider as an advisory board should to improve and develop our airport. And I feel pretty strongly about getting some new people on some of these advisory boards, and I would like to understand why we can't have new people on there if the recommendation is always going to come back with the same people even though we have qualified candidates...shouldn't we ask them the question.

Commissioner Green – Mr. Mayor to your point what we might want to consider at some particular point is Manager Fuentes is looking at our advisory boards, and looking at term limits, and when their term is up if there is no one vying for that position, and they still want it then they can stay in that position until someone comes forward and volunteers...but this would make it more of an open and less appearance of a club atmosphere, and again I like the idea of bringing fresh blood, new ideas, and not to be dis-respectful for those who have served in the past, but sometimes you get into a rut, and you want someone with a new set of eyes to look at a situation, and come up with new ideas...so I concur.

Mayor Mulcahy...Commissioner you worked with me on that advisory board thing, and I did some research...and we don't do it like most of the other municipalities in the City, and that they require terms, movement and diversity, and that kinda thing, and I want to remind the Commission that the decision rests here it doesn't rest with the advisory board to name who they would like...we could make that decision tonight I don't want to do that I would prefer to say if the Commission is willing, and I'm not asking twisting any arms...send it back and say will you please re-consider the idea of having someone new on the advisory board, and we have ahead of us a vote to approve or not.

Commissioner Green – I just don't like changing the rules of engagement in the middle...I understand your point it's absolutely well taken, but until we can change our ordinances, and our codes I believe we have in the past relied on the expertise of those who have knowledge, and a passion for either golf or whatever it might be or flying, but I do think we should take a look at the system on which how we appoint, and for what periods of time those appointments are good for which I think would open up the process.

Mayor Mulcahy – I would be happy to send it back, and if it comes back the second time saying no we're gonna stick with this to step back from my position, but given what we have today I'm personally gonna vote no simply because I want to see some new people in that position...without any dis-respect to the people that have been there for years and years.

Commissioner Kertesz – If we decided we were going to impose a limit rule...how long would that take...does anybody have any thoughts on that.

City Manager Fuentes – This would be simply an amendment to our ordinance, and it would be a matter of drafting the appropriate language, and I can certainly work with Jay to draft that language, and bring it back to the Commission as a first reading ordinance, and then publication, and obviously yes it would follow the protocol for adoption of the ordinance, and as advisory boards this change would be included in all of the advisory board sections of the code, and as those members came up for renewal of their term then we would definitely start implementing that section of the code.

Mayor Mulcahy – Do I have a motion on this topic? Commissioners – apparently we don't have a motion...if that is the case I'm gonna ask you Mr. Sletton to return to the Airport Advisory Board, and indicate that we did not approve this...but we didn't vote for it either.

City Manager Fuentes – I was gonna ask Jay...do we need some sort of direction from the Commission.

City Attorney Rubin – I think we really should take some action.

“Mayor Mulcahy moved to return this to the Airport Advisory Board for re-consideration of the new candidate who appears to be a very qualified person, and we will accept their recommendation at the next available opportunity.”

Seconded by Commissioner Richter.

Motion carried unanimously.

**DISCUSSION/ACTION – SCHOOL RESOURCE OFFICE CONTRACT FOR 2013-2014 SCHOOL YEAR – PRISCILLA MULLINS, CHIEF OF POLICE –**

Chief Mullins came before the Commission and introduced Officer James Harrington, and that he has been with the department for 4-years, and that he has been doing a very exceptional job. She stated the item in front of you is to consider approving the School Resource Officer Contract for this year 2013-2014.

She explained that the Police Department has provided a School Resource Officer for the school district since 2006, and that the officer provides the school with ability to quickly respond to major disruptions, and handle all criminal offenses at the school, and to report serious crimes that occur on campus. And that he also serves as traffic control when deemed necessary for example; before school, during lunch and after school.

Chief Mullins stated the T or School District agrees to reimburse the City of Truth or Consequences \$30,000 a year for providing this service and that the term of this agreement is for one year ending August 5<sup>th</sup> of 2014. And stated the new superintendent Dr. Cummins signed the agreement on August 5<sup>th</sup>, 2013, and he was informed that it would be Officer James Harrington that would be this year's School Resource Officer, and stated this is the same contract.

Commissioner Green – Is there a back-up officer?

Chief Mullins – No, and they anticipate if we have an emergency ourselves that his first priority is to the police department.

“Commissioner Green moved approval of the Contract for the School Resource Officer for year 2013-2014.”

Seconded by Commissioners Whitehead/Kertesz.

Motion carried unanimously.

**DISCUSSION/ACTION – ANIMAL SHELTER SERVICES AGREEMENT – BETWEEN THE CITY OF T OR C & COUNTY OF SIERRA – JUAN FUENTES, CITY MANAGER –**

City Manager Fuentes stated the agreement before you is the Agreement for Animal Shelter Services the City as the fiscal agent for services with Dr. Dawkins, who has a permanent contract, and we are proposing a sub-agreement with the County of Sierra...and following that will be an agreement with the City of Elephant Butte.

He stated Sierra County has already approved, and agreed to the terms and conditions, and indicated it is a similar agreement that we have with Dr. Dawkins, and now it is with the City and Sierra County. And stated the County has agreed to pay the City a monthly fee of \$3,000 for the services.

Commissioner Richter referred to page 2, #4 – “Exhibit A”...calls for an

evaluation of fees, the compensation in this Contract may be adjusted in a proportionate amount...so will there be an adjustment at the end of the year...

City Manager Fuentes stated this original contract was between the City and Dr. Dawkins, and I believe this specific paragraph or sentence was more in line with what Dr. Dawkins wanted to see in the contract because if there was increase in activity obviously then she would in turn...because we have a similar agreement with her with that same language then she would like to maybe reconsider those fees at that time which in turn if we are charged since we are the fiscal agent, and our fees have increased then we will in turn pass it on as well.

“Commissioner Green moved approval of the Contract for Services between the City of Truth or Consequences and the County of Sierra as it pertains to the Sierra Veterinary Services, LLC.”

Seconded by Commissioner Richter.  
Motion carried unanimously.

**DISCUSSION/ACTION – ANIMAL SHELTER SERVICES AGREEMENT  
– BETWEEN CITY OF TRUTH OR CONSEQUENCES & ELEPHANT  
BUTTE – JUAN FUENTES, CITY MANAGER –**

City Manager Fuentes stated this is a similar agreement that we have with Sierra County, and the fee for the City of Elephant Butte is \$1,100 a month, and stated they already have reviewed and approved the agreement.

“Commissioner Green moved approval of the Animal Shelter Service Agreement between the City of Truth or Consequences and Elephant Butte.”

Seconded by Commissioner Kertesz.  
Motion carried unanimously.

**DISCUSSION/ACTION – LEASE BETWEEN CITY OF T OR C & THE  
DEPARTMENT OF WORKFORCE SOLUTIONS – JUAN FUENTES,  
CITY MANAGER –**

City Manager Fuentes stated there are a couple of people involved in this project...in the development of this lease, and indicated that the Mayor spearheaded this, and I would like for him to give a little background, and stated Jay has been working with the Department of Workforce Solutions, and the State in developing this lease.

Mayor Mulcahy stated almost a year ago the SCEDO Board recognized that we weren't going to be using some of the office space in the Civic Center going forward, and that we wanted to put out something that was still related to economic development, and support some of the things that are going on in the City that are needed...and as such proposed that we would talk to Workforce Solutions about possibly using a high visibility space with a professional setting to be able to conduct their services, and to reach out and provide the very best setting for people who are looking for a job in our community to find one, and also to make it easy for them to be found. He stated the Cabinet Secretary was here a few months ago and she thought it was a fabulous idea.

City Attorney Rubin stated he spoke to Ms. Sanchez, and what we have in the packet is what we're agreeing to except we made one change in paragraph 28...very simply the last part of paragraph 28 reads...upon the occurrence of one or more of the above events this lease shall terminate when required by law or upon the Facilities Management Division Director giving the Lessor **30 days**, and what you have in the packet says **90 days**...they wanted a **30 day** provision they felt it was kinda a minor lease in their eyes so they just wanted a shorter termination period.



Commissioner Green referred to page 1 #2 **Term** of lease is for one year, and on page 2 it says the total rent for the initial term is **\$2,400.00**, but on the break-out date begins 9-1-2013 it shows \$1,200.00...I'm just wondering what is the right number.

City Attorney Rubin – I think I know what happened here the initial proposal we got from the State actually was for a two year lease, and I think when we knocked it down to one year they probably forgot to make that change on the second page.

“Commissioner Green moved approval of the Lease between the City of Truth or Consequences and the NM Department of Workforce Solutions with the **two** corrections that was noticed; one was the total rent for one year for \$1,200.00, and on #28 that there is a **30 day** written notice change from **90 days.**”

Seconded by Commissioner Kertesz.  
Motion carried unanimously.

**DISCUSSION/ACTION – RESOLUTION #07-13/14 – APPROVING THE  
FYE 2013 4<sup>TH</sup> QUARTER REVENUE & EXPENDITURE REPORT –  
JUAN FUENTES, CITY MANAGER –**

City Manager Fuentes stated the Resolution before you is a Resolution that DFA is now requiring from municipalities to adopt a Resolution acknowledging that quarterly report was discussed, reviewed and accepted even though we discussed it at our last meeting when we reviewed the final budget for FY 14 never the less they do require a Resolution that is why this Resolution, and last quarterly report is included in here so we can satisfy that requirement from DFA.

“Commissioner Green moved approval of Resolution #07-13/14 – Approving the FYE 2013 4<sup>th</sup> Quarter Revenue & Expenditure Report for the City of Truth or Consequences.”

Seconded by Commissioner Whitehead.

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

Motion carried unanimously.

**DISCUSSION/ACTION – T OR C AIRPORT IMPROVEMENTS 2013-  
FUEL FARM UPGRADE REBID – BILL SLETTOM, COMMUNITY  
DEVELOPMENT DIRECTOR –**

Mr. Bill Slettom stated we are seeking your approval for the Notice of Award for the Fuel Farm Improvements, and this will go to D&H Petroleum & Environmental Services of El Paso, Texas. And stated we are accepting their bid \$693,000 excluding GRT, and indicated this is dependent on the funding available from NMDOT Aviation Division.

He stated they have given preliminary approval to this project, and that it will be a 90% grant...10% match, and this is a very good deal for us, and stated the Scope of the Project is to abandon the two tanks that we're using now, and have a new fuel farm with two above grade tanks...2-10,000 gallon tanks...one for aviation fuel and the other for jet-a gas, and that the aviation fuel tank will be on a card reader for self-service, and the jet fuel will still be put into our truck and taken out to the plane.

Commissioner Green – On the \$693,000.00 was there in the bid request a period of time that price will stay solid as we wait funding.

Mr. Slettom – I'm confident that we will be hearing back from NMDOT Aviation promptly.

Commissioner Kertesz – This self-service does that add any liability to the City.

Mr. Slettom – That's a good question...we can look into that to found out if it's gonna create a change in our insurance policy.

“Commissioner Green moved approval of the Award to D&H Petroleum & Environmental Services for the Fuel Farm Upgrade at the Truth or Consequences Municipal Airport.”

Seconded by Commissioner Kertesz.  
Motion carried unanimously.

Mayor Mulcahy stated the next item on our agenda is a couple of things coming up related to a Proposed Ordinance to repeal a section and add a section, and I'd like to make a couple of comments before we begin.

And in looking at this I believe we have to have a workshop when we have an ordinance, and while tonight we are discussing the publication of that ordinance, and we could have a workshop at the next meeting before we adopt it, and have a public hearing at a subsequent meeting. And it would be my preference that we have workshops the minute we have a request for publication so we can get all the information because if we have a workshop...and I would insist on it if that's the will of the Commission.

Mayor Mulcahy stated we could end up changing our published ordinance and having to re-do the whole thing so based on your feelings about this, and how good this ordinance looks...at the very least I would request at our next meeting Mr. City Manager that we have a workshop before the meeting specifically on this ordinance that we are considering publishing.

Commissioner Kertesz – Question to our City Attorney Rubin...What are the protocols involved do we have a precedent here already.

Mayor Mulcahy – I know the law basically it says we have to have a public hearing before we adopt the ordinance at our next meeting where we would vote for it, and we're not required to have a workshop however I do believe that's in the best interest of everybody.

City Attorney Rubin – Then let me ask you this would you even want to consider going to publication before you have the workshop because you go to publication...and then like your point is we go to a workshop and want to change everything we just wasted publication.

Mayor Mulcahy – My point to the Commissioners was if you felt strongly enough about what you've seen here I don't know that we would necessarily have a great deal of change or any change necessarily, but if you think that there could be community input that would say hey...we've got to re-write this thing...then it probably would be good to put this on the next agenda and have a workshop.

Commissioner Green – I think it's a good point it's a valid point, and I think it would actually make it more open for the public to be heard and make it smoother.

Manager Fuentes – So just for clarification for staff and direction for future ordinances would the will of the Commission be for any ordinance to have a workshop first before we even put it on the agenda for publication because basically this...workshops have not been required for ordinances usually we just put it for publication for discussion...but from here on out would that be the will

of the Commission for ordinances here on out...let's have a workshop first, and then at the next meeting put it for publication, and then for adoption down the road.

Mayor Mulcahy – I would, however I would not necessarily require that we have a workshop, and then we do publication two weeks later unless out of that workshop comes some concerns that would want us to postpone publication of that ordinance until a re-write happens.

City Attorney Rubin – I'm okay with what you are doing let me just make a couple of comments that might be helpful. You are right when you start phrasing this topic as coupling 10 & 11 together because item 10 seeks to repeal our present sections 4-226 through 4-237, and of course I would only want you to consider that if you're contemplating adopting the new ordinance because you don't want to repeal one without having the other one being ready to come in place.

Also let me mention about something we talked about a couple of months ago because if you remember part of the discussion was that we had these codes from the City of Aztec...and they actually coupled their dangerous building ordinances with the weed, litter, and junk vehicle all in their nuisance code now what I did, and that we already have a building chapter in our code...chapter 4 so I thought the appropriate thing to do was actually have the dangerous buildings by itself to present to you tonight I didn't want to give you the weed, litter, and the junk vehicle because I thought that was too much, and that would be a separate section, and I propose to have those in Chapter 6 under the Health, Sanitation Chapter.

City Attorney Rubin stated I already did a rough draft of the weed, litter, and junk vehicles so I don't know if we want to include that as part of the workshop or keep that separately...and my thinking was to do the dangerous building by itself.

Mayor Mulcahy – I agree with that I think they are two separate issues.

“Mayor Mulcahy moved to postpone items 10 & 11 until the next meeting prefaced by a workshop on this topic, and that we put the two together as one large discussion.”

Seconded by Commissioner Green.

Commissioner Green stated I would like to point out on item #10...the date should be changed it has July 2013.

Motion carried unanimously.

**DISCUSSION/ACTION – CITY'S OWNERSHIP INTEREST IN 307 MAIN STREET – JAY RUBIN, CITY ATTORNEY –**

City Attorney Rubin stated the good news is that we have completed the acquisition of property known as 307 Main Street. And as you recall the property had a structure on it that we had deemed to be dangerous previously known as the Buckhorn Bar. He stated after following our code and State Statues we had the building removed appropriately, and then pursuant to State Statute we then put a lien on the property of \$18,216.84, and then we were able to successfully negotiate an agreement with the landowners Jim & Bettie Brannon, and the agreement called for us to cancel the lien in exchange for the Brannon's conveying the two lots by a Warranty Deed. He stated the closing occurred last week, and also obtained on behalf of the City a Title Policy showing that we have insurable Fee Simple Title Interest on the property...so it's been a successful conclusion.

And several months ago we discussed some various liens that the City had, and

this particular lien was the largest in amounts so I am pleased that we have received full compensation and satisfaction for our lien. And I also want to commend the Brannon's for their cooperation in this process.

Commissioner Green stated I would like to suggest that Mr. Slettom bring this up at our next MainStreet Board meeting to see if they have any constructive ideas on good use of that land.

Mr. Slettom came before the Commission, and stated MainStreet has discussed possibilities for that lot so I think they would welcome the chance to give some creative input to it.

Information only.

**DISCUSSION/ACTION – AMENDMENT #1 TO SUBCONTRACT BETWEEN THE CITY OF TRUTH OR CONSEQUENCES AND NM INSTITUTE OF MINING & TECHNOLOGY – JUAN FUENTES, CITY MANAGER –**

City Manager Fuentes stated as discussed this was an amendment to the Subcontract with the NM Institute, and per their request to amend the agreement to November 30, 2013 to allow them sufficient time to complete their study, and have the necessary hearings for presentation purposes.

Mayor Mulcahy stated I would like to clarify if I may, and you and I spoke earlier today about the November 30<sup>th</sup> being the end of the cycle, but that is also the end of our Moratorium, and in my conversations with Dr. Person and communications as late as today he was willing to deliver the final study by the 1<sup>st</sup> of October so I would recommend Commissioners that we get his final study by the 15<sup>th</sup>...and he's okay with that, so we have it in our hands to work on drafting ordinances, and conduct workshops before we get to the 30<sup>th</sup>.

“Commissioner Green moved approval of Amendment #1 To Subcontract Between the City of Truth or Consequences, and NM Institute of Mining & Technology Re: “Geothermal Resource Assessment for the City of Truth or Consequences with the delivery due by October 15<sup>th</sup>, and the Moratorium to expire on November 30<sup>th</sup>, 2013.”

Seconded by Commissioner Kertesz.  
Motion carried unanimously.

**REPORTS:**

**CITY MANAGER –**

City Manager Fuentes reported with Mary's upcoming retirement I wanted to inform the Commissioners and the public that Judy Harris will be stepping in as the City Clerk.

He stated that in the next couple of meetings as discussed with the ordinances we will have a couple of workshops to begin at 5:00 PM, and on August 27<sup>th</sup> is a workshop to discuss 2 items; one is the ordinances that were on the agenda tonight, and also have an ICIP workshop as well to follow that, so maybe we can dedicate a half an hour for each of those items, and that we will have additional meetings for the ICIP since that is coming up, and the deadline for that is the end of September which will be the last meeting in September, and we will need to adopt the ICIP - Infrastructure Capital Improvement Plan, and the September 10<sup>th</sup> meeting we will have some workshops, and a Nuisance Ordinance that will be forth coming to the Commission, and following that we will have the Animal Control...and that there is a proposed ordinance on that as well.

City Manager Fuentes reported on the project for the swimming pool cover is moving along, and the latest communication is they received one of the

supplemental air units today, and hopefully the electrical will be completed by this week, and the tentative date for having the actual cover coming in is the last week of this month, and hopefully by early September we will have the structure up and running.

Weight Scale Project – Is moving forward, and that the contractors are out at the Collection Center setting up the foundation...as well as the restroom project at the Family Park, and that we are still waiting on the sub-contractor to go in and do a 2<sup>nd</sup> coating of the grey coat, and hopefully the roof.

Commissioner Green – Manager Fuentes...when you talk about the workshops on September 10<sup>th</sup> Animal Control Ordinance is that what Ms. Lombardo was talking about...the restraint of dogs or is that something different.

Mayor Mulcahy stated I'm working on Animal Control Ordinance amendments for a couple of months now, and that I've been working with Animal Control and some of the other people in the community.

Commissioner Green – I've had some questions about the gazebo at Ralph Edwards.

Mr. Bill Slettom stated the gazebo project is temporarily stalled until we can get drawings of what the gazebo is going to look like...how it's gonna be constructed, and how it's gonna be assembled so until we have those drawings, and we have not hired an engineer yet to do that, and stated we just received a referral today on somebody that can do that work. And that we don't want to proceed with this project without having stamped drawings.

Commissioner Kertesz – Do we have materials or is this going to be something that we have to order...or where do we stand. I had the impression that materials were already here.

Mr. Slettom – There were some materials that were ordered that we do have on hand, and those will be incorporated into the design.

Mayor Mulcahy – It seems Mr. Slettom that we got ahead of ourselves. Was there a safety issue.

Mr. Slettom – I'm not sure there was a safety issue...the roof was damaged and it was leaking.

Manager Fuentes – One of the key things in regards to this project is because the City will be submitting it for permitting...correct.

Mr. Slettom – That is correct.

Manager Fuentes – So we can submit it to CID...in the past the City our crew would go in and build the structure, and we are requiring now to submit it for permitting obviously CID will not permit it unless it has the drawings, and so forth...so that's part of the process as well.

Mr. Bill Slettom stated on Thursday at 6:00 PM the NMDOT will have an engineer here to do a public information meeting regarding the pedestrian improvements to Date Street from 3<sup>rd</sup> all the way up to Ashbaugh so this will be a chance for the public to look at the preliminary drawings, and ask questions of the State and of our staff, and invited everyone, and that we'll do a potential quorum notice. And indicated we mailed announcements to all the property owners on Friday, and also hand delivered to every business on the street last Friday as well.

**CITY ATTORNEY –**

City Attorney Rubin stated at the onset of the meeting I didn't get chance to express my gratitude to Mary Penner. And stated...Mary it was very enjoyable working with you, and you're gonna be missed, and I hope you enjoy your retirement.

#### COMMISSIONERS –

Commissioner Kertesz stated regarding Spaceport Tours, and as some of you may know Commissioner Green, Manager Fuentes and I have been working for some time trying to convince Sun Tours to acknowledge and promote our downtown, and indicated we had a conference call with Christine Anderson and Rose Bleth of Follow the Sun Tours then later we met with Ms. Bleth and reminded the parties the pick-up and drop off point is T or C by their contract with Spaceport not Elephant Butte. We also encouraged them to Follow The Sun Tours to consider a pick-up point at the heart of downtown, and we also suggested Follow The Sun Tours of paying a business license for T or C which they did not have, and it was later obtained by them.

As we were looking at spaces downtown Rose Bleth mentioned to me that she would like to consider a hotel so I contacted the Charles Motel because of the apex between Main & Broadway, and it would bring the buses right through town one way in and one way out, and that the owners were receptive using the Charles as a Spaceport pick-up point, and was certainly willing to talk to Follow The Sun Tours. And Commissioner Green then contacted Follow The Sun Tours and suggested the Charles to them but there is no reply.

Commissioner Kertesz stated that the July 31<sup>st</sup> Herald printed an article entitled **City Launches New Pick-Up Site For Spaceport Tours Starting August 2<sup>nd</sup>**, and it went into links about the information on how it was going to be handled at the Holiday Inn. And since the City was not contacted, and had no part in this I contacted the Herald to express concern, and they agreed to print a correction entitled for the record August 7<sup>th</sup> edition bottom page 3. August 5<sup>th</sup> we received an e-mail from Mark Bleth suggesting the City put a kiosk in the Holiday Inn lobby or maybe provide a real live City of Truth or Consequences Ambassador that is available to answer questions or promote the City when it tours originate and drop-off, and it is obvious to me that we need a continuing effort to have the Spaceport Authority help with the economic growth of our City, and we will continue to pursue this matter.

He stated the next item is **"KUDOS"** I think we owe KUDOS to the efforts of Denise Gomez who on her own accord parked a large utility trailer in front of Wal-Mart in July asking for water donations for firefighters...as they were out of water. And that she collected 21 pallets of water, and delivered them to the firefighters at her own expense. Thank-you.

Commissioner Richter – No report.

Commissioner Green - I'd like to seek my report time to City Clerk Mary Penner she would like to say a few words...and then I have some words to say.

City Clerk Penner – I want to thank everybody who made a speech tonight, and I have enjoyed working with the City...I've learned a lot, and I thought long and hard about this, and after 33 years I would like to spend time with my family and enjoy retirement, and thanked everybody for all the nice things they said tonight.

Commissioner Green – Well I'm doubly sad because I will be missing the party, and your last City Commission meeting, but I certainly wish you well.

He stated he received the information from NM Magazine that one of our local artist has been asked to create some stain glass pieces for their on line store, and her name is Candy Mesowlski. And that she was discovered by someone from

NM Magazine who was shopping in one of our stores downtown.

Commissioner Whitehead – No report.

Mayor Mulcahy stated he would like to make a couple of comments, and that he saw the decision for Follow The Sun to go to Holiday Inn Express, and I'm glad they are in Truth or Consequences.

Mayor Mulcahy stated I hope the Commission understands how much exposure we're getting, and indicated Will Smith asked to land his airplane at our Airport...I mean this sounds crazy, but this is big news, and Ted Turner people are looking at him like Warren Buffet saying...this is my opinion now...why are you investing in Truth or Consequences...this is a guy we need to look at...we need to look at it. Vince Gilligan – I offered to have him come down before and he did, but he has now written an article about our City, and stated he's probably one of the ten most famous people this week since this is the series finale of Breaking Bad.. And that we had video, a radio show, and most recently this week-end Truth or Consequences that Spaceport story went to Yahoo news.

RESPONSE TO  
PUBLIC  
COMMENT:

None.

Mayor Mulcahy stated for me but as a Commissioner to really thank Mary Penner for a long service, and offer up one more round of applause.

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

