

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, October 8, 2013

WORK SHOP
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 for a Work Shop in full conformity with the law and ordinances of said Commission in the Civic Center of said City, on Tuesday, October 8, 2013 at 4:00 P.M.

PRESIDING OFFICER: The Work Shop was called to order by Mayor Mulcahy who presided and Judy M. Harris, City Clerk acted as Secretary of the meeting.

ATTENDANCE: The following Commissioners were reported present for the Work Shop:

Hon. John Mulcahy, Mayor
Hon. Sandra Whitehead, Mayor Pro-tem
Hon. Steve Green, Commissioner
Hon. Jeff Richter, Commissioner
Hon. Mike Kertesz, Commissioner

Also present:

Mark Person, Hydrology Program NM Tech
Fred Phillips, Hydrology Program, NM Tech
Shari Kelly, NM Bureau of Geology & Mineral Resources-Aquifer
Mapping Program
Stacy Timmons, NM Bureau of Geology & Mineral Resources-Aquifer
Mapping Program
Jeff Pepin, NM Tech Student
Luck Blom, NM Tech Student
Kim Haar, NM Tech Student
Mark Mur0phy, Co-Investigator, NM Tech
Juan Fuentes, City Manager
Jay Rubin, City Attorney
Judy M. Harris, City Clerk

WORK SHOP:

Mayor Mulcahy opened the Work Shop, explaining the four items on the Agenda for the Workshop.

Discussion/Presentation: Assessment of the Sustainability of Geothermal Development within the Truth or Consequences Spa District; presentation made by Dr. Mark Person, Hydrology Program, NM Tech, Principal Investigator.

Dr. Mark Person outlined the Assessment of the Geothermal Development within the Truth or consequences Hot Springs District. Dr. Person gave a PowerPoint presentation outlining the approach taken with the study and the questions which would be answered.

Public Comments made by the following:

George Szigeti, Susan Lowe, Kathy Clerk, Klaus Wittern, Lee Foerstner

(Hard Copies of Study included for Record)

Mayor John Mulcahy explained the remaining items for the Work Shop, noting that there had been public input in the previous Work Shops regarding these matters. Mayor Mulcahy asked City Attorney Jay Rubin to outline the items.

Discussion/Public Input – An Ordinance Amended by Adding New Articles IV, V & VII of Code Providing for Nuisance Ordinance.

City Attorney Jay Rubin explained the proposed changes the Commission had requested changes made to the Ordinance, noting in the work shop two weeks ago. Attorney Rubin noted the red line items on the proposed Ordinance, showing the proposed changes. Noting the first items deals with junk vehicles, providing for the Nuisance Ordinance.

City Attorney Jay Rubin noted that after the Work Shop he was told staff met to discuss, Mr. Slettom, the Code Enforcement Officer and Building Inspector felt the changes were not really necessary as the current City Code enforces various items in the proposed Ordinance. Attorney Rubin requested Bill Slettom to speak on the matter. Noting the City Codes were equally good, compared to the Aztec Codes, because of elevation differences.

ACM/CDD Bill Slettom noted that staff had met, the liked the idea of combining several of the items for the Code. Mr. Slettom stated that after speaking with staff they felt that

the City Ordinance was very adequate, it was we are accustomed to enforce and what the public is accustomed to us enforcing. Mr. Slettom spoke of the evasive species and what a problem it was for staff; he spoke of the Aztec Code, noting how hard it is to distinguish the different types of weeds. He noted the current Code went by size of the weeds, which were easier to distinguish.

City Manager Juan Fuentes spoke of the three Ordinances that Attorney Rubin was working on, how they were attempting to change the three different Ordinances, working with staff and to incorporate the Aztec Codes into the City's to amend them.

Attorney Rubin noted it was a matter of the Commissions personal preference; noting that we were very active in the Courts and having better results.

Commissioner Kertesz noted he advocate of the Aztec Codes because the prior codes were on four chapters 50 pages making it hard to find anything, Aztec Codes are comprehensive, detailed and in order.

Deborah Toomey made comments regarding the Aztec model, which she supported.

George Szigeti made comments regarding the list of species, noting it was too particular in this case; he spoke of people who came to the City to complain about properties and the Code being inadequate.

Ron Fenn made comments regarding Mr. Szigeti's comments, the look of the community, weeds and City Properties.

Barbara Salison made comments on what does enforceable mean?

City Attorney Rubin noted the Code Enforcement officer would look at the property, write a letter to the property owner, then depending on what the property owner does depends on what comes next.

Barbara Salison made comments on fines, enforcing the Codes, and other options to make the process shorter.

Commissioner Green spoke of shortening the process, and bring something that takes 90 days and makes it 30 days instead.

City Attorney Rubin noted the time it takes to get items through the Court, noting the last action took only 20 days.

City Manager Juan Fuentes noted the City tried to work with the resident, giving them 15 to 20 days, trying to keep items out of the Court process.

Commissioner Sandy Whitehead spoke regarding the process of notifying the property owner.

City Attorney noted he did not believe they went on the property,

Proposed Ordinance Paperwork provided for the Record.

Discussion/Public Input – Ordinance Providing for Repeal of Section 11-10 (3) & (4) of Code of Ordinances

and

Discussion/Public Input – Ordinance Amending Section 11-54 Providing for Use of City-Owned Dumpsters and Poly-Carts.

City Manager Juan Fuentes noted that both of the next items were about the same subject and would be addressed together.

City Attorney Jay Rubin explained the proposed changes to the Code, noting one was to repeal items in the Codes and are all related to be considered for publication.

Ron Fenn made comments on the old Ordinance asking what happens to those who picked up trash on the streets; and are they required to take it home; he noted that it is ridged and wanted to know how we would enforce it noting those who threw trash on the streets.

Deborah Toomey spoke of fiscal mismanagement, new rates and Poly-Carts, stating her concerns, noting a letter regarding the BLM contacting the City with a letter. Ms. Toomey also spoke of misspent monies and the Transfer Station.

Mayor John Mulcahy stated Ms. Toomey was not speaking in regards to amendments to the Ordinance on Poly-Carts; when Ms. Toomey continued on the subject of the Transfer Station, Mayor Mulcahy noted they were delayed in the meeting and asked the Commission if they would approve if he adjourned the meeting for a few minutes and come back and start the Regular Meeting.

All on the Commissioners agreed, a short break was taken. .

Proposed Ordinance Paperwork provided for the Record.

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
TUESDAY, OCTOBER 8, 2013

REGULAR MEETING

ACTION MINUTES

TIME & PLACE: The Mayor and the City Commission of the City of Truth or consequences in the Country 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, October 8, 2013, starting at 6:22 P.M. following the Work Shop.

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

ATTENDANCE: Upon calling the roll, the following commissioner were reported present:

Hon. John Mulcahy, Mayor
Hon. Sandra Whitehead, Mayor Pro-tem
Hon. Steve Green, Commissioner
Hon. Jeff Richter, Commissioner
Hon. Mike Kertesz, Commissioner

Also Present:

Juan Fuentes, City Manager
Jay Rubin, City Attorney
Judy Harris, City Clerk

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

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

Mayor Mulcahy called for the Pledge of Allegiance with Commissioner Mike Kertesz

leading the Pledge.

APPROVAL OF
AGENDA:

Mayor Mulcahy called for approval of the Agenda.

City Manager Juan Fuentes stated he wished to note that Items E-5 & 6 should be listed for Publication only.

"Mayor Mulcahy moved to change Items E5 & E6 for Publication only.

Commissioner Steve Green asked for Item E-7 to be removed from the Agenda as he was not ready for that presentation.

Mayor Mulcahy stated we have a motion for Items E5 & E6 to be for Publication only, do we have a second?

Seconded by Commissioner Mike Kertesz.
Motion Carried Unanimously.

Commissioner Steve Green requested for item E-7 to be removed from the Agenda.

Seconded by Commissioner Jeff Richter.
Motion Carried Unanimously,

City Manager Juan Fuentes requested postponement of item E-2.

"Commissioner Mike Kertesz moved for the postponement of item E.2"

Seconded by Commissioner Steve Green.
Motion Carried Unanimously.

"Commissioner Jeff Richter moved to accept the Agenda as amended."

Seconded by Commissioner Mike Kertesz & Commissioner Steve Green.
Motion Carried Unanimously,

COMMENTS
FROM THE
PUBLIC:

Millie McLeod approached the podium and spoke in regard to the Hospital Helicopter Operation. *Paperwork provided for the Record.*

Cary "Jagger" Gustin, Current President of the Arts Council, approached the podium and spoke in regard to the Art Council and projects by the Council, providing a complimentary copy of the *project book for the record*. Mr. Gustin also noted Cindy Bellini and John Hendry and the fact that eight reporters would be coming to the City.

Cindy Bellini, volunteer for the Arts Council, approached and stated that 8 reporters would be coming to town for a tour over the weekend, noting that she had flyers for the Community.

Linda De Marino approached the podium and spoke in regard to MainStreet plans to close Main Street for Halloween and the MainStreet National Conference to be held in August.

Ron Fenn approached the podium and spoke in regard to an email of trash analysis, *Mr. Fenn provided paperwork for the Record.*

Deborah Toomey approached the podium and spoke in regard to Open Meetings Act Violations, the Old Fire Station, Commercial Construction and Asbestos removal. *Ms. Toomey provided paperwork for the Record.*

Melissa Cordell approached the podium and spoke in regard to Shop with a Cop Benefit Ball, noting they raised \$5500.00, she explained that the next National Take Back date would be October 26th.

CONSENT
CALENDAR:

Mayor Mulcahy noted next was approval of the Consent Calendar.

"Commissioner Steve Green moved to approve the Consent Calendar; items included City Commission Minutes Work Shop and Regular Meeting 9/10/2013, the Truth or

Consequences Veterans Memorial Park Advisory Board from 8/14/2013 and 9/12/2013, Golf course Advisory Board Minutes from 9/11/2013, Recreation Advisory Board Minutes from 9/9/2013, Planning and Zoning Commission Minutes from 8/6/2012, 8/20/2013, 9/17/2013 and 9/23/2013, Public Utility Board Minutes from 8/19/2013, and the Accounts Payable Report for September 2013."

Commissioner Green wished to note the Veterans Advisory Board Minutes requested that the current grounds keeping contract be reviewed, and wished staff to note the information

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

OLD BUSINESS: Mayor Mulcahy noted City Employees in the audience, thanking them for attending and their service to the City.

Mayor Mulcahy noted the next item was Old Business.

Discussion/Action Proposed for Publication – an Ordinance regarding Health and Sanitation; providing for repeal of Section 6-46 to Section 6-50, Section 6-91 and Section 11-36 through Section 11-54.

City Attorney Jay Rubin explained the Proposed Ordinance, noting the discussions taken place in the Work Shop; noting that the three items dealt with each other, he explained to the Commission as to how they wished to proceed. Attorney Rubin also stated that unless they approve items 3, then 1 and 2 are no longer under consideration. City Attorney Rubin noted he thought they could discuss the three items together, and then vote each separately.

Mayor John Mulcahy noted Attorney Rubin's concerns.

Commissioner Green stated that if they move to item 3; *Proposed for Publication An Ordinance Amending by Adding New Articles IV, V & VII*; suggested they delete 679 (evasive species) and 678 (weeds responsibility of owner);

Mayor Mulcahy noted the strip in front of their homes, wishing his neighbors would clean up the strip, instead of having the City do it. Mayor Mulcahy thanked Commissioner Kertesz and the City Attorney on their work.

Commissioner Green spoke of the beauty of some weeds, suggesting that the height of weeds allowed might be more important.

Commissioner Richter spoke of 679, evasive species, and 678; noting the City wanted people to take care of their yards. He noted if the list is the problem, then we rewrite the list, not take out the heart of the Ordinance.

ACM/CDD Bill Slettom stated that the resident is responsible for the front strip and the alley.

The Commission discussed evasive weeds.

Commissioner Green suggested they leave 679 and take out 678, noting intent and they the problem of enforcement.

Commissioner Mike Kertesz noted speaking to several people who complained to him regarding weeds, he suggested a height restriction.

“Commissioner Steve Green moved to go to Publication with and Ordinance for Health & Sanitation Providing for Repeal of 6-46 to Section 6-50, Section 6-91 & Section 11-36 through 11-54, for Publication Only.”

Seconded by Commissioner Richter.

Motion Carried with a vote of 4 to 1, with Mayor Pro-tem Whitehead voting Nay.

“Commissioner Steve Green moved for Publication For Publication Ordinance Health and Sanitation; Amending code by Re-Codifying Article II, IV and VI of Chapter 6 as Articles I, II & III of Chapter 6 Providing for Sanitation:.”

Seconded by Commissioner Richter.

Motion Carried with a vote of 4 to 1, with Mayor Pro-tem Whitehead voting Nay.

“ Commissioner Steve Green moved to approve for Publicaiton Ordinance Amending by Adding New Articles IV, V and VII of Code of Ordinances providing for Nuisance Ordinance.”

Seconded by Commissioner Mike Kertesz.

Motion Carried with a vote of 4 to 1, with Mayor Pro-tem Whitehead voting Nay.

Discussion/Action – Proposed Ordinance for Publication – Setting forth Fees and Guidelines for Residential/Commercial Poly-Carts and Dumpsters.

Sanitation Director Leonard Carrillo noted he was requesting approval for Publicaiton, right now we have been working without an Ordinance, he noted we had some use of Poly-Carts at this time with no guidelines.

Commissioner Mike Kertesz asked about collection days, since these are much smaller than the dumpsters., if there were any exceptions for Holidays or weather.

Sanitation Director Carrillo noted that they worked through most Holidays, he also noted that during weather the Poly-Carts would be accessable.

Commissioner Richter asked if those who used more than one full Poly-Carts, could they request another Cart,

Sanitation Director Carrillo answered that yes, they would be able to arrange for an additional Poly-Cart,

Comissioner Steve Green asked about smaller carts.

Sanitation Director Carrillo noted that would be something they would have to look at, he noted that most areas with Seniors would remain with dumpsters, and the Carts would be on the streets not alleys, which would make the weather no consequence. .

Commissioner Kertesz asked about the truk availability to pick up different sizes.

Sanitation Director Carrillo noted that the trucks were versital and the arms would need to be changed out.

“Commissioner Steve Green moved to approve the Ordinance for Publicaiton”

Seconded by Commissioner Mike Kertesz.
Motion Carried Unanimously,

Mayor John Mulcahy noted the next item on the Agenda was New Business:

Discussion/Action – Authorization to proceed with negotiations with Sierra Electric Co-Op to amend the current Electric Service Agreement.

NEW BUSINESS:

City Manager Juan Fuentes introduced Steve Hanse, from Triple H and Ed Williams, from the City Electric Department, who were in the audience if they had questions. Manager Fuentes noted problems with the existing agreement; he spoke of the Sierra Electric Co-op who agreed to work with the City regarding their contract. Manager Fuentes spoke of renewable energy. (Note: PowerPoint presentation shown)

Commissioner Richter asked about several items in the PowerPoint Presentation noting several wide open statements, asking about costs we would be responsible for,

City Manager noted there were several items and issues that would be talked about.

Steve Hanse noted he felt the City should be needs to settle on a proposal they will take back to SCC, there shouldn't be any cost associated with you for the renewable energy system. But you need to go to them with your proposal, noting he felt there would be no charge to the City. Noting that SCC wants to sell as much power as possible.

Commissioner Green noted that the wording was now in our current contract.

“Commissioner Steve Green moved to approve that City move forward working with

Sierra Electric co-Op to amend current Electrical Service Agreement.”

Seconded by Mayor Pro-tem Whitehead and Commissioner Jeff Richter.
Motion carried Unanimously.

*Discussion/Action - MOU with New Mexico MainStreet FY 2014/2015
Item was removed as postponed earlier during the Agenda portion of the meeting.*

*Discussion/Action – Authorization to Deposit/Withdraw and/or Re-Invest Balance
Amounts Maturing Certificates of Deposit for Capital Improvement Reserve, Emergency
repair Reserve, Waste Water and Electrical Construction Reserve Accounts.*

City Manager Fuentes explained the Certificates of Deposit for Capital Improvement Reserve, Emergency Reserve, Waste Water and Electrical Construction reserve Accounts, noted each item.

“Commissioner Steve Green moved to approve authorization for City Manager to Deposit/Withdraw or Re-Invest Balance Amounts.”

Seconded by commissioner Mike Kertesz.
Motion carried Unanimously.

*Discussion/Action Authorization to identify South Central Council of Governments as the
Alternative Fiscal Agent for Project #13-1783, Animal Shelter.*

City Manager Fuentes explained the change of Fiscal Agent to South Central Council of Governments for the Animal Shelter, Project #13-1783, noting that he had an appointment to meet with the National Guard to discuss the use of the Armory Building.

City Manager Fuentes noted he would update the Board after his meeting with the

National Guard personnel

Discussion/Action Ordinance for Publication Repeal of Section 11-10 (3) and (4) of Code of Ordinances.

City Attorney Jay Rubin explained the Proposed Ordinance, explaining that the Ordinance called for the Repeal of Sections 11-10 (3) and (4) of the Code of Ordinances. Noting that the Ordinance was in regard to Poly-Carts and use of City Dumpsters and was also related to Amending the Section of the Ordinance Amending 11-54 (next on the Agenda).

City Sanitation Director Leonard Carrillo spoke regarding the Ordinance, also explaining the next item on the Agenda providing for use of City-Owned Dumpsters and Poly-Carts.

“Mayor John Mulcahy moved to approve the Ordinance for Publication”

Seconded by Commissioner Steve Green.
Motion Carried Unanimously.

Discussion/Action – Ordinance for Publication Section 11-54 Providing for Use of City-Owned Dumpsters and Poly-Carts.

City Attorney Jay Rubin noted the Commission had heard Public Comment regarding this Ordinance, and had discussed the earlier Ordinance Repeal.

City Sanitation Director Leonard Carrillo addressed the Commission regarding the use of City Owned dumpsters and Poly-Carts, noting that the City did have use of several Poly-Carts at this time. Sanitation Director Carrillo explained that dumpsters would be replaced by Poly-Carts, which would also reduce the overflowing dumpsters and items being thrown on the side of Dumpsters. Mr. Carrillo also explained the Poly-Carts would be numbered and would have phone numbers and other information painted on the front of the Carts. He also stated that at this time the City of Truth or Consequences did not have an Ordinance regulating Poly-Carts.

“Commissioner Steve Green moved to approve for Publication the Ordinance regarding Section 11-54 Providing for Use of City-Owned Dumpsters and Poly-Carts.”

Sanitation Director Carrillo was asked whether there was a possibility of the use of smaller Poly-Carts for Elderly or disabled individuals; he stated that at this time they were looked at one size of Poly-Carts, but he would look in the use of smaller carts.

Discussion/Action – Authorization to proceed with a Request for Proposals for a Solar

Farm System. Item removed from the Agenda and postponed earlier in the Approval of the Agenda portion of the meeting.

REPORTS:

City Manager Fuentes reported about Street Signs, Only receiving one Application for the Pool, Closed Monday for the Holiday and Replacing Equipment in the near future.

City Attorney – No report.

Commissioner Mike Kertesz reported on Street Sign compaints, replacing or repairing Street Signs, he also noted road and gas cuts noting the City Departments work and the good job City Departments were making. Commissioner Kertesz noted attending the Police Department Ball, he also commented on the good food which was served.

Mayor Pro-tem Sandy Whitehead reported about the trash by the dupsters in town, and the Police Department Ball.

Commissioner Steve Green requested informaiton on the use of the street sweeper, noting that after the recent rains we had a lot of dirt/rocks in several areas of town. Commissioner Green commented on the feeding crews during the recent rains, he noted that a Thank you was due to several business in town, Walmart, Davis Fleck, the Bountiful Alliance, an several others who provided food/water for crews and those misplaced by the rains. Commissioner Green spoke about those who filled numerous sandbags; he also mentined that the City had been presented a Recycling Award and thanked Sanitation Director Carrillo and his crew and volunteers for the Recycling efforts. Commissioner Green noted the Veterans Home had lost their pool and hoped that the use of the City Pool could be used for those from the Veterans Home; he also thanked Lorena Miller for being the representative at the State Fair. Commissioner Green noted he wished for the City Clerk to make a list of Buisness Lisence holders available for the Commission, noting it would be nice for the Commission to get to know the business owners in the Community.

Commissioner Richter; No Report.

Mayor Mulcahy reported on investors, and noted the use of the Airport by future Businesses would be advantageous to the City.

RESPONSE TO
PUBLIC
COMMENT:

Commoissioner Steve Green noted the letter from Mr. Jay Hopkins regarding the problem of the Helicopter noise coming from the Medical Helicopter at the Hospital.

Mayor Mulcahy also spoke of the Hospital Medica Helicopter noise, stating that Commissioner Green and he would take the discussion to the JPC meeting for discussion.

EXECUTIVE
SESSION:

“Commissioner Green made a motion for the Commission to go into Executive Session, regarding”:

1. Potential or Threatened Litigation on 10-15-1H-(7) related to
 - A. Hot Springs Land Development
 - B. Rlated to the Solid Waste Colleciton Center
 - C. Related to the Tort Claim reference Jaime Diaz

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

Motion Carried Unanimously.

“Mayor Mulcahy stated that the Commission was now in Open Session.”

“Commissioner Green certified that only matters pertaining to:

- Potential or Threatened Litigation on 10-15-1H-(7) related to
- a. Hot Springs Land Development
 - b. Rlated to the Solid Waste Colleciton Center
 - c. Related to the Tort Claim reference Jaime Diaz

Were discussed in Executive Session and no decisions were made.

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

CERTIFICATION: Passed and approved THIS _____ DAY OF _____, 2013 ON A MOTION DULY MADE BY Commissioner _____, seconded by Commissioner _____, and carried.

ATTEST:

JOHN A. MULCAHY, MAYOR

JUDY M. HARRIS, CITY CLERK