

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, October 22, 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 22, 2013, starting at 6:00 P.M.

PRESIDING OFFICER: The meeting was called to order by John Mulcahy, Mayor, and Judy M. Harris acted as Secretary,

ATTENDANCE: Upon calling the roll, the following members 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 M. Harris, City Clerk

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

SILENT MEDITATION: Mayor John Mulcahy lead fifteen minutes of silence

Pledge of Allegiance

Mayor Mulcahy requested that Detective Mike Lanford lead the Pledge of Allegiance,

COMMENTS FROM THE PUBLIC:

Pricilla Mullins, Chief of Police, approached and stated she wished to acknowledge Detective Mike Lanford, noting that he was retiring from the Police Department; Detective Lanford has served in the Police Department since May 2004. Chief Mullins presented Detective Lanford with a plaque of appreciation.

Malissa Cordell approached and noted that Saturday from 10 till 2 would be Take Back day, where those in the Community could dispose of unwanted or expired medications/prescription drugs.

Howie Tucker, Golf Pro, and Les DeFour, Chairman of the Golf Advisory Board, came forward and acknowledged Imogene Start for her service on the Golf Advisory Board.

Jay Hopkins approached and noted the various complaints about the Helicopter from the Hospital, stating the Helicopter is a deterrent to health for those in its path. Mr. Hopkins played a tape of the Helicopter flying at 11 PM at night.

Deborah Toomey approached and spoke of the corruption at the Hospital was writing off \$35,000 in bills, she also noted the noise from the Helicopter at the Hospital, and the Helipad.

CONSENT CALENDAR:

Mayor John Mulcahy noted next was the Consent Calendar, noting that they would extract the Airport Advisory Board Meeting Minutes to discuss later after the Consent Calendar.

“Commissioner Steve Green moved to accept the Airport Advisory Board Minutes.”

Seconded by Mayor Pro-tem Sandra Whitehead.

Under discussion, Commissioner Green stated that on the second page of the Airport Advisory Board Minutes, Steve Spaw noted under the Airport Manager’s Report, he noted there would be a visit from Virgin Galactic; Commissioner Green wished for more information on the findings/impressions they found about that visit.

Commissioner Mike Kertesz noted the Minutes were only draft minutes.

Commission Secretary Harris explained the Minutes were brought to the Commission because the Airport Advisory Board only met quarterly, the next regular meeting would take place January 8th; noting that if there were any corrections to be made on the Minutes they would be brought back to the Commission.

Motion Carried Unanimously.

Mayor Mulcahy noted next were items C.2 and C.3.

Commissioner Steve Green noted they had a recommendation from the Airport Advisory Board to add Chuck Vangelder as a member of that Board.

“Commissioner Steve Green moved to approve Chuck Vangelder as a member of the Airport Advisory Board.”

Seconded by Commissioner Mike Kertesz.

Mayor Mulcahy noted he wished show his thanks to the Airport Advisory Board in moving forward.

Motion Carried Unanimously.

Mayor Mulcahy noted next was items C.3.

“Commissioner Steve Green moved to approve the appointment of Mike Shannon to the Golf Advisory Board.”

Seconded by Mayor Pro-tem Sandra Whitehead.

Motion Carried Unanimously.

PRESENTATION: Mayor John Mulcahy recognized the staff of Domestic Abuse; Blanca Chavez, Director, Klarene Rich, Elena Baraza, Konni Hayes and Sue Gower; noting that November was Domestic Abuse Month, he also read a proclamation in recognition of the event.

Mayor John Mulcahy noted a Certificate of Appreciation to George Wright, who recently resigned from the Airport Advisory Board, Mr. Wright served on the Board since June 1998. Bobby Middleton, Chairman of the Airport Advisory Board, accepted the Certificate for Mr. Wright.

Mayor John Mulcahy noted a Certificate of Appreciation to Imogene Stark,

OLD
BUSINESS:

who recently resigned from the Golf Course Advisory Board, Ms. Stark served on the Board for 18 plus years.; Golf Advisory Board Chairman Dufour accepted the Certificate for Ms. Stark.

Mayor John Mulcahy noted the service of Detective Mike Lanford, recognizing his service to the City of T. or C.

PUBLIC
HEARING:

Mayor Mulcahy noted there were three Public Hearings to be held, giving notice to the sign in sheets for each Proposed Ordinance:

- a. *Proposed Ordinance #641 – Amending Uniform Traffic Ordinance.*
- b. *Proposed Ordinance #642 – Amending Section 14-33, providing for an exception to Tampering with Meters.*
- c. *Proposed Ordinance #643 – Amended by addition of Sections of Code, Providing for a Two Term Limit for All City Advisory Boards.*

Proposed Ordinance #641 Amending Uniform Traffic Ordinance; Jay Rubin, City Attorney.

City Attorney Rubin read the Amendment to the Uniform Traffic Ordinance, noting the Amendment was proposed by the State and noted that normally the City approves the Amendment in order to stay with the State's Code of Ordinances, as passed by the New Mexico Legislature, as a mandatory provision.

Note: The Proponent and Opponent sign in form was left blank; no one signed up to speak.

Mayor John Mulcahy gave final notice for Proponents or Opponents, with no one coming forward, *the Mayor closed this Public Hearing.*

Proposed Ordinance #642 Amending Section 14-33, providing for Exception to Tampering with Meters; Jay Rubin, City Attorney.

City Attorney Rubin read the Ordinance, noting the change of the Ordinance, noting that the addition was to provide for a possible exception.

Mayor John Mulcahy noted no one signed up to be a Proponent or Opponent, the Mayor gave a final notice; and received one person who wished to speak on the Ordinance. Mayor John Mulcahy called Deborah Toomey to the podium.

Deborah Toomey approached and offered to take the Oath.

City Attorney Jay Rubin noted there was no requirement for the Oath in this instance.

Mayor John Mulcahy stated she asked for an Oath, I'd like to give here one.

Ms., Toomey stated she did wish to take the Oath.

Mayor Mulcahy read the Oath to Ms. Toomey;
“Do you swear to tell the Truth, the whole Truth and nothing but the Truth?”

Ms. Toomey stated she was an Opponent to this because it was not well written; and was poorly done.

With no further public coming forward, Mayor Mulcahy *closed this Public Hearing*

Proposed Ordinance #643 Amended by Addition of Sections to the Code, Providing for a Two Term Limit on all City Advisory Boards.

City Attorney Jay Rubin noted he was requested to draft by the City Commission, noting he listed the various Boards that we have in the City, and stated that each Term would be limited to two consecutive Terms, unless it appears that at the end of the consecutive Term there are no qualified applicants to succeed.

Mayor Mulcahy noted one person had signed up as Proponent, Deborah Toomey; and three people signed up as Opponents, Klaus Wittern, Howie Tucker and Les Dufour.

Mayor Mulcahy called Deborah Toomey to the stand as the listed Proponent.

Deborah Toomey approached and was given the Oath, by Secretary Harris, She stated yes as her answer.

Ms. Toomey stated she was torn by this one, the good reason for Term Limits was to open it up, at the same time, spending your life on a particular Board led to continuity.

Mayor Mulcahy asked for any more Proponents, none came forward.

Mayor Mulcahy called for the three listed Opponents to all stand to take the Oath; Klaus Wittern, Howie Tucker and Les Dufour.

Secretary Harris gave the Oath, Mr. Wittern answered yes.

Note: Mr. Tucker and Mr. Dufour were no longer in the audience.

Mr. Klaus Wittern approached and stated he did not believe we had such an enormous pool of applicants that we need to limit the terms. He felt the interview process was sufficient and the Commission should select the most qualified applicant. He stated the Commission was doing the Public a

disservice by eliminating anyone for this purpose.

Mayor Mulcahy noted the next person on the Opponent list was Howie Tucker, noting he did not see Mr. Tucker in the audience. As noted Mr. Tucker was no longer in the audience.

Mayor Mulcahy noted the next person was Les Dufour, noting he no longer believed Mr. Dufour was in attendance. As noted Mr. Dufour was no longer in the audience.

Mayor John Mulcahy called for any further Proponents or Opponents. No one came forward.

Mayor Mulcahy *closed the Public Hearing.*

OLD
BUSINESS:

Mayor John Mulcahy noted next was Old Business; with the first item on the list being

Discussion/Action – Final Adoption – Proposed Ordinance #641 – Amending the Uniform Traffic Ordinance. Mayor Mulcahy called for further discussion.

“Commissioner Steve Green moved for approval of Ordinance #641”

Seconded by Mayor Pro-tem Sandra Whitehead.

Mayor Mulcahy called for a Roll Call Vote:

Hon. John Mulcahy responded Aye to a Roll Call Vote
Hon. Sandra Whitehead, responded Aye to a Roll Call Vote
Hon. Steve Green, responded Aye to a Roll Call Vote
Hon. Jeff Richter, responded Aye to a Roll Call Vote
Hon. Mike Kertesz, responded Aye to a Roll Call Vote

Motion Carried Unanimously.

Discussion/Action – Final Adoption – Proposed Ordinance #642 – Amending Section 14-33, providing for an Exception to Tampering with Meters.

City Attorney Jay Rubin notice a typo in the Ordinance, noting the last word in the Ordinance saying “devises” and should say “devices”, he felt it was a minor Change, also where it says September it should say October. \

Commissioner Mike Kertesz noted the definition of net metering, and suggested we include something which defined the wording of net metering.

Mayor Mulcahy noted that he felt Commissioner Kertesz was saying we should add some language which defines net metering, and without that it's hard to act without having it in front of us.

Commissioner Steve Green noted Commissioner Kertesz point is well taken and if we take this and moves it to a later date, and possible the Public Utility Advisory Board might have language which could be included so there is no misunderstanding that would be eligible and how the process would work.

Mayor Mulcahy called Ed Williams to the podium.

Ed Williams, Electric Supervisor, noted that when they spoke of Net Metering we are speaking about when the customer is connected thru green power, wind, biomass, anything along those lines is connected to the City grid. Net metering would tell us what they use.

Commissioner Kertesz asked more questions which he felt were vague.

Ed Williams noted it was a single phase by directional meter, or a by directional meter, but it's the size of a normal meter.

City Manager Fuentes noted the intent of this code without this amendment it is illegal for anyone to have a solar system or to be connected; all it says is for a customer to be connected to this system. He noted the City is working with WH Pacific on an agreement. This simply provides us to move toward the next step.

Mayor Mulcahy noted that a lot of our Ordinances are fairly broad, the only question he had was this Ordinance enforceable.

City Attorney Jay Rubin noted that yes, it is enforceable.

“Commissioner Steve Green moved to approve Ordinance #642 with two changes; being to correct the spelling - devices and change the date from September to October.”

Seconded by Commissioner Mike Kertesz.

Hon. John Mulcahy responded Aye to a Roll Call Vote
Hon. Sandra Whitehead, responded Aye to a Roll Call Vote
Hon. Steve Green, responded Aye to a Roll Call Vote
Hon, Jeff Richter, responded Aye to a Roll Call Vote
Hon. Mike Kertesz, responded Aye to a Roll Call

Motion Carried Unanimously.

Discussion/Action - Final Adoption – Ordinance #643 – Amended by Addition of Sections of the Code Providing for a two Term Limit for all City Advisory Boards.

City Attorney Jay Rubin noted this Ordinance was discussed in the Work Shop and it's a simple, it's to add a two term limit on All City Boards.

Commissioner Mike Kertesz noted we not only have Boards but one Commission also, suggesting the wording be changed to Boards/Commission.

City Attorney Rubin stated that was fine.

Commissioner Steve Green noted the additional wording that states that it also includes someone who is termed out can apply again and that the Commission can then make the decision who to put on the Board.

“Commissioner Steve Green moved to approve Ordinance #643 with the amendment of wording from Board to Board/Commission.

Seconded by Commissioner Mike Kertesz.

Hon. John Mulcahy responded Aye to a Roll Call Vote
Hon. Sandra Whitehead, responded Aye to a Roll Call Vote
Hon. Steve Green, responded Aye to a Roll Call Vote
Hon. Jeff Richter, responded Aye to a Roll Call Vote
Hon. Mike Kertesz, responded Aye to a Roll Call

Motion Carried Unanimously.

Discussion – Van Clothier’s Storm Water Harvesting Assessment Report.

Mayor John Mulcahy outlined the Storm Water Harvesting Assessment Report, explaining that Van Clothier had been here during our rain storm on the 12th, noting they took pictures and studied the basin. Mayor Mulcahy did note that the main drive was NMDOT property and they needed to be consulted on the problem. Mayor Mulcahy showed a slideshow presentation on different areas in the report; and noted that a copy of the report was available at the City Clerk’s Office for review by the public.

Copy of Study supplied for the record.

Commissioner Jeff Richter noted this was a long term project.

Commissioner Steve Green thanked Mayor Mulcahy for taking the lead on this.

Mayor Mulcahy noted he would get with City Staff and see what they could get done.

Mayor John Mulcahy thanked City Employees in the audience.

City Manager Juan Fuentes introduced the new Finance Manager Leo Silva.

Finance Manager Leo Silva said a few words, introducing himself.

NEW
BUSINESS:

Mayor Mulcahy noted next was New Business; starting with a Resolution between the City of T or C and MainStreet.

ACM/CDD Bill Slettom and Linda De Marino approached and spoke of the MOU to be between the City of T or C. and MainStreet, and the New Mexico MainStreet Program. Assistant City Manager Slettom explained Resolution # 11 13/14, and explained the process and the MOU noting the favorable achievements MainStreet has made to the Community.

Ms. De Marino showed a brief PowerPoint presentation showing some of the projects MainStreet sponsored; noting they would be putting on Old Fashion Christmas on December 13th, noting they have been a MainStreet Organization for about four years now. Some of the projects they sponsor are: the Hot Springs Festival, the Second Saturday Monthly Art Hops, the Healing Waters Trail, working with Consensus Planning on the Downtown Plan.

Mayor Mulcahy asks about Old Theaters.

Ms., De Marino noted the local Theater is privately owned.

“Commissioner Steve Green moved to approve Resolution # 11 13/14.”

Seconded by Commissioner Mike Kertesz.

Hon. John Mulcahy responded Aye to a Roll Call Vote
Hon. Sandra Whitehead, responded Aye to a Roll Call Vote
Hon. Steve Green, responded Aye to a Roll Call Vote
Hon, Jeff Richter, responded Aye to a Roll Call Vote
Hon. Mike Kertesz, responded Aye to a Roll Call

Motion Carried Unanimously.

Mayor Mulcahy noted next on the Agenda was a Project by SCOG, Resolution # 13 13/14, Community Development Block Grant Policies, inviting Tony MacRoberts to the podium.

Tony MacRoberts, South Central Council of Governments, noting the Community Development Block Grant Policies plan, the Fair Housing Policies. Noting items which fell under the Section 3 plan.

Commissioner Steve Green moved to approve Resolution No. 12 13/14.”

Seconded by Commissioner Mike Kertesz.

Hon. John Mulcahy responded Aye to a Roll Call Vote
Hon. Sandra Whitehead, responded Aye to a Roll Call Vote
Hon. Steve Green, responded Aye to a Roll Call Vote
Hon, Jeff Richter, responded Aye to a Roll Call Vote
Hon. Mike Kertesz, responded Aye to a Roll Call

Motion Carried Unanimously.

Mayor Mulcahy requested Tony MacRoberts to explain the next item,
Resolution # 13 13/14 Fair Housing Policies.

Tony MacRoberts, CDBG, noted this was also a Federal requirement mandated by Housing, we have to update this yearly, noting that the City of Truth or Consequences has a Fair Housing Ordinance.

“Commissioner Steve Green moved to approve Resolution # 13 13/14, Fair Housing Policies.”

Seconded by Mayor Pro-tem Sandy Whitehead.

City Attorney Jay Rubin asked a question about page number two.

Mr. MacRoberts answered.

Hon. John Mulcahy responded Aye to a Roll Call Vote
Hon. Sandra Whitehead, responded Aye to a Roll Call Vote
Hon. Steve Green, responded Aye to a Roll Call Vote
Hon, Jeff Richter, responded Aye to a Roll Call Vote
Hon. Mike Kertesz, responded Aye to a Roll Call

Motion Carried Unanimously,

Discussion/Action Fiscal Agreement for Professional Services SCCOG.

City Manager Juan Fuentes explained that he just received a 9 page letter from the Department of Finance and would be traveling to Albuquerque regarding the guidelines regarding this matter. He noted the agreement in front of the Commission tonight was drafted by City Attorney Jay Rubin, stating that SCCOG to be our Fiscal Agent for \$400,000.00. He also noted that DFA had a deadline and he wished for the flexibility to be able to meet

the deadline.

“Commissioner Steve Green moved to approve of the Professional Services with SCCOG, and move forward with the Fiscal Agreement for Professional Services with South Central of Governments.

Seconded by Commissioner Mike Kertesz.

“Commissioner Steve Green asked to Amend his motion adding for Project #13-187 - Animal Shelter.”

Motion Carried Unanimously.

Discussion/Action – review and approval of change orders related to the Swimming Pool Cover Project.

City Manager Juan Fuentes explained the Change Order needed regarding the Pool Cover Installation. Noting that the State Fire Marshall is requiring addition items before signing off on the Project. The City Manager showed a list of items on the big screen, noting that there were two items which were not priced at this time. City Manager Fuentes recommended that the item be postponed until the totals are complete; he also noted a final walk through would take place once the project was complete.

Commissioner Kertesz asked if the two items were after the fact items.

City Manager Fuentes explained that the Fire Marshall was requiring the additional items.

Commissioner Jeff Richter noted he was tired of change orders on all projects, noting that we need to hold the contractors to their original numbers, that they should figure all these items when submitting bids on projects.

Commissioner Steve Green noted the point Commissioner Richter was making.

“Commissioner Mike Kertesz moved postpone the item until all prices come in.”

Seconded by Commissioner Steve Green.

Motion Carried Unanimously.

Discussion – City Engineering Services Agreements.

Mayor John Mulcahy noted he recently attended two meetings, one being the NNML Infrastructure conference and the other being the Airport Manager’s Conference; stating that there were many Engineers and Architects which

attended, and was told by several that we should consider adding additional Engineers to the City Contract. The Mayor noted it would be an advantage to the City to have more information from different Engineers, as many specialize in different fields.

City Manager Juan Fuentes noted the current two Engineering firms on Contract would expire this next year, and that he could extend the pool of Engineers.

Commissioner Steve Green stated he thought it was a great idea.

No action was taken on this item.

Discussion/Action – Authorization to proceed with a request for Proposals for a Solar Farm System.

Commissioner Steve Green noted he had been able to tour the Silver City Plant, noting relevant information. Commissioner Green spoke about a meeting with Sierra Electric Co-Op Board; he thanked several for the help and direction given to him during this process. Noting that the Solar Array was 1.49 megawatts. He noted that the action requested was to go out for Proposals only on the Solar Farm System, and stated that other items would be discussed at a later time.

City Manager Fuentes noted the process and stated it would depend on whether we could use an existing agreement, making sure to follow procurement codes.

Commissioner Jeff Richter asked if other sources were researched such as Bio.

Commissioner Steve Green answered no, other sources had not been proven and Solar was. He also showed a list of possible locations, noting that all were City Properties; he identified one location West of the East Side of Morgan Street for a possible location.

Commissioner Jeff Richter asked how many houses this would service.

Commissioner Steve Green answered that we were not looking at that yet, right now we were only considering going out for Proposals. He also stated that this would not cost the City any money; it would be all on the Contractor. Commissioner Green also noted it would be in the area of 1.5 Megawatts.

“Commissioner Steve Green moved to approve authorization to proceed with a request for Proposals for a Solar Farm System.”

Seconded by Mayor Pro-tem Sandra Whitehead.

Motion Carried Unanimously.

REPORTS:

City Manager Juan Fuentes reported that the Scale was in place and operational at the Transfer Station, noting that we would have accurate weights for the charges. City Manager Fuentes noted he and Commissioner Kertesz attended the Armory Board meeting and noted he would have more information after tomorrow when he would be attending the Infrastructure Conference and then meeting with DFA.

City Attorney Jay Rubin - No Report.

Commissioner Mike Kertesz reported about a meeting with the Armory Board, and BG Salas agreed no need they had no need for the facility, he also spoke of a group meeting to learn more about the facility.

Commissioner Jeff Richter – No Report.

Commissioner Sandra Whitehead – No Report.

Commissioner Steve Green reported that he, Commissioner Mike Kertesz and City Manager Fuentes were attempting to move the Spaceport tours along, he noted the tour was preparing a video of the City, Elephant Butte and the County which would be shown during the tour drive. He noted that when the Tour comes to 3rd Street, they would be taking a left into town and the route would take them around town and back towards the drop off point. Commissioner Green announced that the Hospital Tax levy was due to be turned in on October 29th. Commissioner Green stated that November 15th was National Recycle Day, noting an event would take place at the Lee Belle Johnson Senior Center on Saturday, featuring recycled materials turned into Art, an award winning documentary would be shown, and recyclables would be accepted, noting that anyone who brought two bags would receive a free Recyclable Bag from Bullocks Grocery.

Mayor John Mulcahy reported that he has been mostly unemployed for the last two year, although he had received job opportunities. He stated he had taken a position in Chaves County and would be resigning his position effective December 1, 2013.

Commissioner Steve Green thanked Mayor Mulcahy for his service to the City; he was joined by others on the Commission, in thanking Mayor Mulcahy.

RESPONSE TO
PUBLIC
COMMENTS:

None.

EXECUTIVE
SESSION:

“Commissioner Steve Green motioned to go into Executive Session regarding:

1. Threatened or Pending Litigation 10-15-H(7)
 - a. Hot Springs Land Development
 - b. Related to the Solid Waste Collection Center

Seconded by Mayor Pro-tem Sandy Whitehead.

Hon. John Mulcahy responded Aye to a Roll Call Vote
Hon. Sandra Whitehead, responded Aye to a Roll Call Vote
Hon. Steve Green, responded Aye to a Roll Call Vote
Hon. Jeff Richter, responded Aye to a Roll Call Vote
Hon. Mike Kertesz, responded Aye to a Roll Call

Motion Carried Unanimously.

EXECUTIVE
SESSION:

Mayor John Mulcahy stated that the Commission was back in open session.

“Commissioner Steve Green certified that only matters pertaining to:

1. Threatened or Pending Litigation 10-15-H(7)
 - a. Hot Springs Land Development
 - b. Related to the Solid Waste Collection Center

was discussed in Executive Session, no decisions were made.”

ADJOURNMENT: “Commissioner Steve Green moved to adjourn the meeting.”

Seconded by Commissioner Whitehead and Commissioner Kertesz.

Motion Carried Unanimously.

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.

Sandra Whitehead, Mayor Pro-tem

Judy M. Harris,
City Clerk

