

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
TUESDAY, NOVEMBER 12 2013

WORKSHOP

Minutes

The Truth or Consequences 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 Commission Chambers of said City, on Tuesday, November 12, 2013 at 4:00 P. M., in the Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico.

Mayor Mulcahy opened the Workshop for Discussion/Public Input:

1. Proposed Ordinance New Domestic Well Permits
2. Proposed Ordinance Discharge of Hot Mineral Water
3. Proposed Ordinance Amending Municipal Authority to Regulate Animals, NMSA 197

Item 1. Proposed Ordinance New Domestic Well Permits:

Mayor John Mulcahy read a prepared statement regarding the Protection of Geothermal Ground Water Resources, the importance to the City of Truth or Consequences of acknowledging that the Geothermal Waters are relevant to the City. He noted the imposed moratorium on the drilling of new wells within the City and the reason for such an Ordinance. Mayor Mulcahy noted that City Attorney John Appel would be joining in the discussion, by phone, regarding imposing limitations on the number and location of new domestic water wells to ensure protection of the Geothermal Ground Water Resources.

Attorney John Appel outlined the Proposed Ordinance, noting repealing the moratorium on drilling of new domestic wells and requiring a municipal permit for new domestic water wells, he explained imposing limitations on the number and location of new domestic water wells, and stated it was to ensure protection of geothermal ground water resources within the City. Attorney Appel noted the recent assessment of the sustainability of Geothermal Development Study, within the City of Truth or Consequences. Stating the geothermal ground water resources were resource for businesses in the city, and were a significant economic resource.

Noting that ground water flow and hydrothermal modeling conducted as part the assessment predicts that significant increases in diversion of the natural geothermal discharge of the Hot Springs Aquifer could result in a degradation of the resource by allowing cooler shallow alluvial groundwater to be drawn into the spa district of the City where the geothermal resource of the Hot Springs Aquifer is economically important. Discussion regarding restricting the drilling of new domestic water wells within the municipality took place between the Commission and Attorney Appel. It was stated that the City should require a municipal permit for new domestic water wells so that the City is aware of domestic water well locations and can ensure that the density of wells in not likely to harm the

aquifer, also noting that this would ensure that abandoned or disused wells are properly plugged and abandoned. Further discussion ensued regarding conditions and limitations which the City may have, verses which limitations the State Engineer required. The Commission discussed the collection and reporting of data regarding the volume and temperature of geothermal waters produced from the Hot Springs Aquifer. Various requirements were discussed; permit requirements for new domestic water wells, State engineer approval, plans and specification requirements for a permit, cost of permits, no cross-connection with City water utility.

Mayor John Mulcahy thanked everyone who spoke about the matter, noting that this is just the first in a series of discussions which would take place. City Attorney Appel stated he would review the information from tonight and explained he would work with the Commission to get the Ordinance ready for the next meeting. Mayor Mulcahy noted again, stating this item would be brought back to the Commission and the Public for further revisions.

2. Proposed Ordinance Discharge of hot Mineral Water:

Mayor Mulcahy turned the meeting over to Attorney John Appel, who spoke by telephone, via conference call, regarding the Proposed Ordinance. He explained the decision would need to be made regarding how to dispose of water; noting three options of discharge. Attorney Appel stated the geothermal waters of the Hot Springs Aquifer constitute a significant economic resource for businesses and residents of the City or Truth or Consequences, the geothermal waters derived from the Hot Springs Aquifer it is necessary for them to be collected and discharged to an appropriate location in such a manner as to avoid degradation of either ground water or surface water quality. Attorney Appel noted that the City is empowered to operate a waste water treatment and disposal facility, and is obligated to provide that discharges to the Rio Grande from the municipal wastewater treatment plant and from the City's hot water drain meet applicable water quality standards. He also noted that the Board of Commissioner find that the discharge of geothermal waters after use should be reasonably regulated to ensure that there is no degradation of either ground water or surface water quality. Noting that reasonable fees should be imposed to cover the City's cost incurred for the management and treatment of geothermal waters discharge to the Hot Ditch or to the City's wastewater collection and treatment system. Items Mr. Appel discussed were Management of Geothermal Waters after use, the definition and scope applying to the discharge or disposal of geothermal waters produced from wells within the City after the application of the waters to beneficial use, the application process for discharge or disposal of geothermal waters and permit process. Mr. Appel explained discharge or disposal by infiltration, noting the applicant would provide documentation showing that the discharge or proposed discharge has been permitted by NMED. The third option, discharge in to the Hot Ditch was discussed, it was noted that each applicant seeking a City permit for a domestic water well that is expected or intended to produce geothermal waters shall describe the proposed method for discharge or disposal of such waters, following their use. Discharge or disposal by method proposed and approved shall be a condition of the permit, and any person seeking to alter the actual method of discharge or disposal shall apply to the City for approval of the altered method for discharge or disposal of the geothermal waters before making the change; subject to the regulations and limitations, a user of geothermal waters within the City may discharge or dispose of such waters by one of three methods: 1) disposal to a French drain or land surface application if permitted by the New Mexico Environment Department (NMED) under applicable regulations; 2) disposal to the City's hot water drain (the "Hot Ditch") or 3) disposal to the municipal wastewater utility system. An applicant may propose an alternative method of discharge

or disposal which the City may approve if the applicant demonstrates to the City's satisfaction that the alternative method is at least as protective of water quality and the health, safety and general welfare as the specific methods enumerated in the subsection and it is not contrary to any applicable regulation of the State of New Mexico. City Attorney Appel also explained discharge or disposal by infiltration, Discharge to the Hot Ditch and discharge to the municipal wastewater system. As per the Proposed Ordinance, Attorney Appel explained the monthly fee for discharge of geothermal waters to the wastewater utility system shall be \$10.00 for residential users and \$ 30.75 for bathhouses and other commercial users. The volume of geothermal waters discharged to the wastewater utility system from each connection shall be determined by either accurate, continuous measurement of the discharge by a method satisfactory to the City.

Public Comment was made by Kathy Clark, Bathhouse Owner; Audon Trujillo, concerned citizen; Ken Merrick, of the Charles; Lee Foerstner, Riverbend; George Szigeti, concerned citizen and Klaus Wittern, concerned citizen.

3. Proposed Ordinance amending Municipal Authority to Regulate Animals, NMSA 197

Mayor John Mulcahy explained the Proposed Ordinance, noting that Animal Control Ordinance Officer Deb Peters and Vic Murphy were in the audience, should any question needed to be addressed.

Mayor Mulcahy outlined the proposed changes, at the same time a PowerPoint presentation was playing on the big screen. Noted changes were proposed to the abandonment of animals, changing the items to "more than 48 hours"; noting that most changes in the first part were in the definitions. Mayor Mulcahy noted proposed changes in the Service Animals definition; changes the Cruelty section; uncared-for animals; tormenting. Section 3-5-1 Illegal Possession was explained; Abandonment was redefined, as was harboring of pets; Kennel permit additions were made; spaying and neutering of dogs and cats was addressed, to include the shelter to make and keep the earliest possible appointment to have dogs or cats spayed within 30 days of adoption. The age of animal was defined as to when it needed to be spayed or neutered. In the case of establishment of Animal Control Center, the wording of Shelter is changed to Shelter in the Proposed Ordinance. Section 3-31 Restraint of animals noted changes to the length of lead required. Confinement during estrus was defined. In section 3-34 - Adoption from Animal Control Shelter was revised; several items were deleted and a new portion was added as to sterilization agreements and the sterilization deposit. The length of time to have animals vaccinated was extended; proposed is the license fees for registered service animals to be issued as sterilized. In Section 3-95, it is unlawful for any person to allow any animal to persistently or continually bark, howl or make noise common to its species or otherwise disturb the peace and quiet of the inhabitants of the City. Proposed Section 3-98 will address the disposal of an animal after death.

Public Input was received from Bobby Allen, January Roberts, Audon Trujillo, Diane Lambardo, Deborah Toomey and Animal Control Officer Deb Peters.

With no further Work Shop items, Mayor John Mulcahy closed the Work Shop.

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, November 12, 2013

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, November 12, 2013, following the Work Shop, with the meeting starting at 6:21 P.M.

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 Commissioners were reported present:

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

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

Mayor Mulcahy called for the Pledge of Allegiance with County Commissioner Bobby Allen leading the Pledge.

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

”Commissioner Steve Green moved to approve the Agenda.”

Seconded by Mayor Pro-tem Sandra Whitehead.

Motion carried unanimously.

COMMENTS
FROM THE
PUBLIC:

Audon Trujillo approached the podium and spoke regarding the Gazebo & sidewalk at Ralph Edwards Park, mentioning the Pool and Recreation Board.

Deborah Toomey approached the podium and spoke regarding Public Hearings, the Oath during Public Hearings, the Lawliss Appeal and land use.

Pat Freemyer approached the podium and spoke regarding lawsuits filed, nuisances and frivolous lawsuits.

Linda De Merino approached the podium and spoke regarding MainStreet holding "Old Fashion Christmas" this year on December 13th from 6 to 9 P.M.

Fire Chief Pool Tooley approached the podium and spoke regarding a Grant which had been awarded to the Fire Department, noting they were getting breathing apparatus bought with Grant monies.

Diane Lumbaro approached the podium and spoke regarding Veterans and the supportive Community.

Malissa Cordell, T or C Police Department, approached the podium and announced National Take back day had acquired over 49 lbs. of drugs over the weekend Take back event.

PRESENTATIONS:

Proclamation – November 15, 2013, America Recycles Day

Commissioner Steve Green read a Proclamation marking November 15th as America Recycles Day in the City. Commissioner Green praised the Sanitation Departments accomplishments, thanked Bountiful Alliance for their hard work, he also noted the George Szigeti and other volunteers which helped make Recycling in the Community a success.

Presentation – Ralph Edwards park Gazebo

Community Development Director/ACM Bill Slettom explained the work at Ralph Edwards Park concerning the replacement of the Gazebo. A PowerPoint presentation outlined the vision for the new design; Mr. Slettom thanked Tim Brown for his skills, announcing that Mr. Brown had donated his time to do the drawings and engineering work for the proposed Gazebo. Mr. Slettom stated the next items would be to obtain the CID permit.

Certificate of Appreciation – James Jacobs, Planning & Zoning Commission

Mayor Mulcahy noted the resignation of Board Member James Jacobs, thanking Mr. Jacobs for his service to the Planning & Zoning Commission. Mr. Jacobs was not in the audience, Mayor Mulcahy asked Planning & Zoning Commissioners in the audience to come forward to accept the certificate in Mr. Jacob's name.

CONSENT
CALENDAR:

Mayor Mulcahy noted the items on the Consent Calendar; City Commissioner Work Shop & Regular Meeting Minutes for 9/24/2013 and 10/08/2013; Recreation Advisory Board Draft Minutes 10/7/2013 and Accounts Payable for October 2013.

“Commissioner Steve Green moved to approve the Consent Calendar.”

Seconded by Commissioner Mike Kertesz.

Motion Carried Unanimously.

PUBLIC
HEARINGS:

1. Proposed Ordinance – Providing for Repeal of Section 6-46 through Section 6-50, Section 6-86 through 6-91, and Section 11-36 through Section 11-54 of the code of Ordinances.

City Attorney Jay Rubin read the Proposed Ordinance, noting the changes.

Mayor Mulcahy stated there were no signatures for Proponents or Opponents on the subject; he gave a final call for anyone wishing to speak.

With no one coming forward, Mayor Mulcahy closed the Public Hearing.

2. Proposed Ordinance Amended by Re-Codifying Article II, Iv and VI of Chapter 6 as Articles I, II and III or Chapter 6, providing for a Nuisance Ordinance.

City Attorney Jay Rubin read the Proposed Ordinance, noting changes.

Mayor Mulcahy stated there were no signatures for Proponents or Opponents on the subject; he gave final call for anyone wishing to speak.

Deborah Toomey came forward, signed in as an opponent and spoke noting the Ordinance made no sense.

With no further comments, Mayor Mulcahy closed the Public Hearing.

3. Proposed Ordinance Amended by Adding new Articles IV, V and VII of Chapter 6 of Code, Providing for a Nuisance Ordinance.

City Attorney Jay Rubin read the Proposed Ordinance, noting changes.

Mayor Mulcahy noted that three people had signed up for Opponents regarding the matter. Mayor Mulcahy asked those who signed up to please stand to take the Oath.

Secretary Harris read the oath to those in the audience.

Mayor Mulcahy called the first Opponent, Bill Sallee, to the podium.

Bill Sallee explained he was the noxious Weed Technician and Coordinator of weed management in the area. He passed out paperwork which described various weeds and then noted his concern that he had not been consulted when the Ordinance was proposed. *Information provided for the record.*

Bobby Allen was called to the podium as the next opponent. Mr. Allen spoke noting he was in favor of the Ordinance, noting neighbors which allowed their yards to deteriorate and neighborhood looks bad. After a point Mr. Allen noted he was in favor of the Proposed Ordinance, and had just signed up on the Opponent side instead of the Proponent.

Deborah Toomey approached and noted she was against the Proposed Ordinance, she also stated she had won a judgment against the City for Weeds on her property.

4. Proposed Ordinance to Repeal Section 11-10 (3) & (4) of Code of Ordinances.

City Attorney Jay Rubin read the Proposed Ordinance, noting changes were to repeal this section of the Code.

Mayor Mulcahy stated there were no signatures for Proponents or Opponents on the subject; he gave a final call for anyone wishing to speak.

With no one coming forward, Mayor Mulcahy closed the Public Hearing.

5. Proposed Ordinance Amending Section 11-54 Providing for Use of City Owned Dumpsters and Poly-Carts.

City Attorney Jay Rubin read the Proposed Ordinance, noting changes.

Mayor Mulcahy stated there were no signatures for Proponents or Opponents on the subject; he gave a final call for anyone wishing to speak.

With no one coming forward, Mayor Mulcahy closed the Public Hearing.

6. Proposed Ordinance Amended by Adding the Sections of the Code Providing for Residential/Commercial Poly-Carts.

City Attorney Jay Rubin read the Proposed ordinance, noting changes.

Mayor Mulcahy stated there were no signatures for Proponents or Opponents on the subject; he gave a final call for anyone wishing to speak.

With no one coming forward, Mayor Mulcahy closed the Public Hearing.

7. Lawliss Appeal- Battershell Process

Secretary Harris gave the Oath to those wishing to speak as Proponents, Opponents, Staff and Public.

Community Development Director/ACM Bill Slettom spoke regarding the City's position regarding the Lawliss project. Explaining, with the assistance of a PowerPoint presentation. Noting the Planning and Zoning Commission had denied the project, and the reason it was before the City Commission was for the Appeal portion. Mr. Slettom noted the variance requested, the size of the Billboard and various other signs in the City.

Building Inspector Robbie Travis spoke regarding the proposed signage requested by Mr. Lawliss; noting the reason for the zoning and other Billboards which were allowed.

Mayor Mulcahy next called for Proponents to speak.

Jeff Lawliss spoke as a Proponent, noting other signs which were allowed. Mr. Lawliss also mentioned that the proposed signage would be featuring a fee advertisement for City and use for events, such as the Museum and Veterans Museum, as free advertising. Mr. Lawliss described the sign, the type of lighting he was considering and noted the sign would be a free benefit to organizations such as the City, the Museum and the Veterans Museum because he would be willing to use his sign to give free advertisement to them. Mr. Lawliss showed a drawing of the proposed sign, and spoke of the lot which belonged to him.

Public:

Bobby Allen spoke for the billboard, noting the free advertisement for the Veterans Memorial Museum would be a bonus in getting people to visit the Veteran's Museum. He noted the area was perfect for the Billboard and the Commission should approve.

Deborah Toomey spoke stating there had been no publication for the Public Hearing,

only for the notice of appeal; she also requested to cross examine, and was denied by Attorney Rubin, who noted she was not directly involved and had no direct interest. Ms. Toomey quoted Code and cited the use of C-1 District, noting that the Code states 15' above ground not 9.

Jeff Dukatt spoke for the billboard, noting that signs were a benefit for businesses such as his own. He noted the loss of business, walk in and gross income also.

Linda De Marino spoke against the billboard, noting she did not agree with putting a large billboard on 3rd street noting it was a gateway to the City.

Marilyn Pope signed up as Public, but was not in the audience when her name was called.

Mayor Mulcahy closed the Battershell Hearing.

OLD BUSINESS:

Discussion/Action – Final Adoption - Proposed Ordinance #644 Providing for Repeal of Section 6-46 through Section 6-50, Section 6-86 through 6-91, and Section 11-36 through Section 11-54 of the Code of Ordinances

City Attorney Jay Rubin outlined the Proposed Ordinance.

With no discussion or comments, Mayor Mulcahy called for a motion.

“Commissioner Steve Green moved to approve Final Adoption of Ordinance #644.”

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 Vote.

Motion Carried Unanimously.

Discussion/Action-Final Adoption – Proposed Ordinance #645 Amended by Re-Codifying Article II, IV and VI of Chapter 6 as Articles I, II and III of Chapter 6, Providing for a Nuisance Ordinance.

City Attorney Jay Rubin Outlined the Proposed Ordinance.

Amended 6-22 to read Manager or his/her designee, instead of Manager.

Mayor Mulcahy called for a motion.

“Commissioner Steve Green moved to approve Final Adoption of Ordinance #644, with the Amendment.”

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 Vote.

Motion Carried Unanimously.

Discussion/Action Final Adoption – Proposed Ordinance #645 Amended by Re-Codifying Article II, IV and VI of Chapter 6 as Articles I, II and III of Chapter 6, providing for a Nuisance Ordinance.

City Attorney Jay Rubin outlined the Proposed Ordinance.

Mayor Mulcahy called for discussion. With no discussion, he called for a motion.

“Commissioner Steve Green moved to approve Adoption of Ordinance #645.”

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 Vote.

Motion Carried Unanimously.

Discussion/Action Final Adoption – Proposed Ordinance #646 Amended by Adding New Articles IV, V and VII of Chapter 6 of Code, Providing for a Nuisance Ordinance.

City Attorney Jay Rubin outlined the Proposed Ordinance.

Mayor Mulcahy called for discussion. With no discussion, he called for a motion.

“Commissioner Steve Green moved to approve Final Adoption of Proposed Ordinance #646.”

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 Vote.

Motion Carried Unanimously.

Discussion/Action Final Adoption – Proposed Ordinance #647 to Repeal Section 11-10 (3) and (4) of Code of Ordinances.

City Attorney Jay Rubin outlined the Proposed Ordinance.

Mayor Mulcahy called for discussion. With no discussion, he called for a motion.

“Commissioner Steve Green moved to approve Final Adoption of Ordinance #647.”

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 Vote.

Motion Carried Unanimously.

Discussion/Action Final Adoption – Proposed Ordinance #648 Amended by Adding the Sections of the Code, Providing for Residential/Commercial Poly-Carts.

City Attorney Jay Rubin outlined the Proposed Ordinance.

Mayor Mulcahy called for discussion. With no discussion he called for a motion.

“Commissioner Steve Green moved for Final Adoption of Ordinance #648.”

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 Vote.

Motion Carried Unanimously.

Discussion/Action Final Adoption -= Proposed Ordinance #649 Amending Section 11-54 Providing for Use of City-Owned Dumpsters and Poly-Carts.

City Attorney Jay Rubin outlined the Proposed Ordinance.

Mayor Mulcahy called for discussion.

Commissioner Steve Green noted he had viewed the new truck prior to the meeting and stated it was nice.

Other Commissioners agreed and joked they wanted to drive the new truck.

With no further discussion, Mayor John Mulcahy called for a motion.

“Commissioner Steve Green moved for Final Adoption of Ordinance #649.”

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 Vote.

Motion Carried Unanimously.

NEW BUSINESS: *Discussion/Action New Mexico Department of Transportation Consolidate Project Agreements.*

City Police Chief Priscilla Mullins approached the podium and noted the State Department of New Mexico issued grants to Police Departments for programs, noting the Project Agreements. She also noted the programs Operation Driving while Impaired, Operation Buckle Down and 100 Days and Nights Summer Project, noting each had separate individual project numbers.

Mayor Mulcahy called for a motion to approve.

“Commissioner Steve Green moved to approve the New Mexico Department of Transportation Consolidated Project Agreements.”

Seconded by Commissioner Sandra Whitehead.

Motion Carried Unanimously.

Discussion/Action – Operation Driving while Impaired (ODWI) Project 14-AL-64-104.

City Police Chief Priscilla Mullins noted this went with the Project Agreements and was for the Operation Driving While Impaired or ODWI.

Mayor Mulcahy called for discussion, with no discussion, he called for a motion.

“Commissioner Steve Green moved to approve Operation Driving while Impaired (ODWI) Project 14-AL-64-104.”

Seconded by Commissioner Sandra Whitehead.

Motion Carried Unanimously.

Discussion/Action Operation Buckle Down (OBD) Project 14-OP-RF-104.

City Police Chief Priscilla Mullins explained the Operation Buckle Down Project.

Mayor Mulcahy called for discussion, with no discussion, he called for a motion .

“Commissioner Steve Green moved for approval of Operation Buckle Down Project 14-OP-RF-104.”

Seconded by Commissioner Sandra Whitehead.

Motion Carried Unanimously.

Discussion/Action 100 Days and Nights of Summer Project 14-EE-DS-104.

City Police Chief Priscilla Mullins explained the Summer Project.

Mayor Mulcahy called for questions or discussion, with none, he called for a motion.

“Commissioner Steve Green moved to approve 100 Days and Nights of Summer Project 14-EE-DS-104.”

Seconded by Commissioner Sandra Whitehead.

Motion Carried Unanimously.

Discussion/Action Lawliss Appeal.

Mayor Mulcahy called upon Community Development Director/ ACM Bill Slettom for final comments regarding the Appeal.

CDD/ACM Bill Slettom explained the variance request, noted the previous hearing on the Project.

Mayor Mulcahy noted he was leery of a 300 foot Billboard in that location.

Commissioner Steve Green noted he was in favor of the free advertisements, and the donation of free advertising space for the City or non-profit businesses.

Commissioner Jeff Richter asked if this was to only approve the variance.

CDD/ACM Bill Slettom noted yes, it was only the variance, stating the project would have to come back to the Building Inspector for the sign permit and other items which would need approval.

Commissioner Mike Kertesz stated he liked the look of the sign, noting the new drawing of the proposed sign.

Paperwork provided for the Record.

“Commissioner Jeff Richter moved to approve the variance.”

Seconded by Commissioner Steve Green.

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 Resolution #14 13/14 Regarding Demolition of Trailers at the Shooting Range.

City Manager Juan Fuentes noted the two Trailers at the Shooting Range, showing a presentation of the trailers and damage, noting the conditions being beyond repair or saving. He also noted that his wish was to demolish the trailers and take the materials to the landfill while it was still open.

Paperwork provided for the Record.

Commissioner Steve Green asked if there were materials that could be salvaged, possibly the metal portions.

City Manager Fuentes said they would look into it.

“Commissioner Steve Green moved to approve Resolution 14 13/14 Demolition of Trailers at the Shooting Range.”

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 Vote.

Motion Carried Unanimously.

Discussion/Update Problem Properties.

CDD/ACM Bill Slettom and Building Inspector Robbie Travis gave a PowerPoint presentation regarding several Problem properties in the City limits. Noting 21 buildings Condemned, 12 in Court, 6 that had been demolished. Mr. Slettom stated they try as much as possible to work with the owners as much as possible to resolve the problem, noting that in some cases they had to take the owner to court, noting that the Judge was working with the City on the cases.

Building Inspector Robbie Travis noted the progress made; he also noted that they were attempting to work with owners to resolve the problem properties. Mr. Travis noted the Courts were working with them to get property owners to comply.

CDD/ACM Bill Slettom noted he and the Building Inspector would continue to follow the progress and would update the Commission with the progress.

REPORTS:

City Manager Juan Fuentes reported that the Department of Finance and Administration had sent out a questionnaire regarding SCOG being the fiscal agent for the Animal Shelter. He noted that as a Public Service the City would give out numbers for homes so that their location could be easier accessed; noting the public could come to the City Offices and pick up the numbers. He spoke regarding repair of Street signs. City Manager Fuentes spoke of the Audit findings, noting Capital Assets, getting inventory tagged and resources.

City Attorney Jay Rubin – No Report.

Commissioner Sandra Whitehead – No Report.

Commissioner Steve Green – Thanked MainStreet for the Halloween event, he also noted the Business owners which bought and distributed candy. He stated the Holidays are here and encouraged all to buy local.

Commissioner Jeff Richter – No Report.

Commissioner Mike Kertesz – No Report.

Mayor Mulcahy noted he felt that the Government in the town needed to change from a Commission/Management form of Government, noting that everywhere else it's a Mayor/Council form of Government, letting the people elect the Mayor; he noted it was take a referendum.

RESPONSE TO
PUBLIC
COMMENT:

None.

EXECUTIVE
SESSION:

“City Commissioner Steve Green moved that the meeting be closed for Executive Session pertaining to

1. Threatened or pending Litigation 10-15-1
 - a. Related to the Solid Waste Collection Center

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

"Commissioner Steve Green certified that only matters pertaining to:

1. Threatened or pending Litigation 10-15-1
 - a. Related to the Solid Waste Collection Center

was 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:

Sandra Whitehead, Mayor Pro-tem

Judy M. Harris, City Clerk

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Thursday, November 21, 2013

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 Regular Meeting in full conformity with the law and ordinances of said Commission in the City Commission Chambers of said City, on Thursday, November 21, 2013, at 6:00 P.M.

PRESIDING OFFICER: The meeting was called to order by Mayor-Pro-tem Sandra Whitehead who presided and Judy M. Harris, Deputy City Clerk acted as Secretary of the meeting.

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

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

Absent:

Mayor John Mulcahy

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

CEREMONY: Mayor Pro-tem Sandra Whitehead called for fifteen seconds of Silent Meditation.

Mayor Pro-tem Sandra Whitehead called for the Pledge of Allegiance with Commissioner Jeff Richter leading the Pledge.

Mayor Pro-tem Sandra Whitehead made the announcement that there would be a Public Hearing this evening, she asked any persons interested to sign in on the sheet located on the desk by the door.

APPROVAL OF
AGENDA:

Mayor Pro-tem Sandra Whitehead noted the items on the Agenda, stating that the Golf Advisory board Minutes contained a request regarding the Golf Course Restrooms, she noted that the vote would only call for approval of the minutes.. Mayor Pro-tem Whitehead called for approval of the Agenda;

Ron Fenn approached the podium; he handed out paperwork, and spoke about the Solid Waste Transfer Station. (Paperwork provided for the Record)

COMMENTS
FROM THE
PUBLIC:

Mayor Pro-tem Sandra Whitehead called for approval of the Consent Calendar.

CONSENT
CALENDAR:

“Commissioner Steve Green moved for approval of the Consent Calendar consisting of:
1) City Commission Work Shop and Regular Meeting Minutes from 10/22/2013 and 11/4/2013.
2) Recreation Advisory Board minutes from 11/7/2013
3) Golf Advisory Board Minutes from 9/11/2013
4) Public Utility Advisory Board Minutes from 9/4/2013 and 9/16/2013.”

Seconded by Commissioner Mike Kertesz.
Motion Carried Unanimously

Mayor Pro-tem Sandra Whitehead noted the sign in sheet for any wishing to sign up to speak as an opponent or proponent regarding the Public Hearing.

Mayor Pro-tem Sandra Whitehead noted no one had signed up to speak; she asked the audience if there was anyone who wished to speak, they should come forward at this time.

With no one approaching, Mayor Pro-tem Sandra Whitehead closed the Public Hearing.

PUBLIC
HEARING:

Discussion/Action – Proposed Ordinance #650 – Final Adoption – Providing that the

Code of ordinance for the City of Truth or Consequences, be amended by revising Section 14-116 of said Code Providing for an Extension of the Expiration Date for the Moratorium on Drilling.

City Attorney Jay Rubin noted this was for Final Adoption of the Ordinance, as it had been brought to the Commission in a previous meeting, he also noted that the Public Hearing had been held. Attorney Rubin explained the change would move the expiration date of the Moratorium on Drilling to February 28, 2014.

With no comments, Mayor Pro-tem Sandra Whitehead called for a motion.

OLD BUSINESS:]
"Commissioner Steve Green moved to approve Final Adoption of Ordinance #650, with an expiration date of February 28, 2014."

Seconded by Commissioner Mike Kertesz.

Hon. Mayor Pro-tem 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 Solar Array Project and Matrix Site Location.

Commissioner Mike Kertesz explained the process taken regarding the site selection decision for the Solar Array. He noted the Consultant on the project was Steve House. Commissioner Kertesz explained the panel considered access to suitable City power grid, site costs to prepare the site, the necessity of adjacent infrastructure upgrades, easements required for main power runs to City grid, likelihood of vandalism, adjacent economic development potential and visibility to public. Commissioner Kertesz explained the decision matrix scoring and rank; stating the City Properties considered were the Shutter factory land, Morgan Street North, Morgan Street South and the Waste Water Treatment Site. Commissioner Kertesz spoke of each of the considered properties, noting that the Waste Water Treatment site was considered, but the panel had discussed the possibility that the site would be needed if at any time the Waste Water Treatment Facility would need to be extended. Commissioner Kertesz noted the final scoring came out with the Morgan Street North coming to 88 points, Morgan Street South received 84, the Waste Water Treatment Site received 87; and the Shutter Factory site received the most with 118. A PowerPoint presentation was shown during the explanation.

City Manager Juan Fuentes noted the process taken, and concurred with the matrix and

site location.

Commissioner Jeff Richter asked what type of action was needed.

City Manager Juan Fuentes noted only the site selection.

Commissioner Jeff Richter stated without a full study on the site, he can't support the site selection, he also question that it is a flood site. Stating he disagreed with Commissioner Kertesz and that they were trying to move forward too fast, and that he can't support this.

Commissioner Mike Kertesz noted that when investigated then other decisions could be made.

Commissioner Steve Green stated that regarding whether a flood plain exists, this construction was not a ground level. Noting he disagreed with Commissioner Richter. He noted he thought they should test the market; the cost could increase with time. Commissioner Green thanked everyone in the work group.

“Commissioner Mike Kertesz moved to approve the location of the Shuttle Factory and move forward on the project, getting to the next step.”

Seconded by Commissioner Steve Green.

Mayor Pro-tem Whitehead called for the vote.

Motion passed with a 3 to 1 vote, with Commissioner Richter voting nay.

Discussion/Action swimming Pool project Change Order.

City Manager Fuentes showed a PowerPoint presentation of the proposed change order on the screen. He explained the items and called for Wayne Frank from WH Pacific to approach to answer questions.

Wayne Frank, WH Pacific approached and went over various items on Change Order #2. He explained that the Contractor was ESA Construction. He noted the two columns on the handout; showing the ESA total Price and WH Pacific design costs included in the Change Order. Mr. Frank explained the first item was Supplemental Unit cost and installation, noting ESA's price was \$4,172.91 and stated he did not feel this price was not accepted or necessary, noting the drawings require the contractor to design a supplemental unit to maintain inflation as required by code. Mr. Frank noted the second item was Electrical service design upgrade due to power needs. The cost for ESA was \$2,158.10 and Mr. Frank did not accept or find the cost necessary, noting the drawings required the

contractor to cover “all costs associated with an electrical upgrade if it was determined as necessary by the Electrical design of the pool system.” Mr. Frank continued to additional concrete, noting the ESA price was \$1,459.56, Mr. Frank determined this is a valid change for additional concrete was needed at the condenser unit. The next item Grade Beams ESA’s total price \$930.02, Mr. Frank noted that during excavation for the pool support grade beam several other concrete foundations (grade beams) were found to cross the pool support beam. This condition was not in any set of as-built information and not on the drawings, he noted WHP approves of this additional work.

Commissioner Jeff Richter questioned the additional charge for concrete, noting that this charge should have been foreseen in the requirements, and did not feel it was a charge the City should be responsible for. He also noted the charge for the concrete was to his estimation an excessive charge.

Mr. Franks noted that this was something WHP felt was not excessive and was to their estimation a good price.

Modify Light Poles and Exit Lighting charge for ESA was \$4,843.36 and for WH Pacific \$1,400.00, Mr. Frank stated the modification of the poles was required by the Fire Marshall and was not foreseen. This was not anticipated and was not included; it needed more welding and time for the contractor. WH Pacific had performed a lighting analysis of the space for approval by WH Pacific and they approved of this change.

Commissioner Jeff Richter asked why this work was not foreseen in the start of the project and why the Fire Marshall had not been involved.

Commissioner Green also noted it would have been nice if the Fire Marshall had been involved in the beginning of the project.

Commissioner Mike Kertesz agreed.

Exit Gates on East and West Side for ESA was \$4,978.63 and \$1,700 for WH Pacific. Mr. Frank explained that the changes to these gates were required by the Fire Marshal. The original design was for exiting from the pool only, WH Pacific had to provide additional design and the contractor is required to build for Certificate of Occupancy. He noted that WH Pacific approved the charges.

Commissioners questioned the charge and the Fire Marshall not being involved in the project earlier.

The Gate protecting light bases for ESA was \$3,119.65 and \$0 for WH Pacific, Mr. Frank explained that this is not a requirement of code, but rather something to protect the ballasts which can heat up from being touched by kids. It was suggested that the City of T or C would build it themselves if needed. He noted this charge was optional.

Mr. Frank answered several questions from the Commission, and finished his presentation

by noting that the total change order cost for ESA came to \$22,390.67, with the items he noted the items WH Pacific did not think should be in the change orders, were not accepted or necessary, and suggested the total cost for ESA came to \$12,940.01. Mr. Frank explained the total amount of change orders for WH Pacific came to \$3,100.00; with a total of the change orders to be \$16,040.01.

In the further discussion, Commissioner Jeff Richter noted he felt they should not pay for item 4, additional Concrete. He stated they should have further discussion, noting the as built and that they had made a deal and should stick to it.

Commissioner Steve Green noted the costs and that in order to get the Certificate of Occupancy they needed to move forward getting the Pool open.

Commissioner Mike Kertesz agreed with Commissioner Green and agreed the Commission had worked on this project for a while now, noting he also wished to get the Certificate of Occupancy so they could open the pool.

“Commissioner Steve Green moved to approve the change order.”

Seconded by Commissioner Mike Kertesz, to get to the discussion.

Commissioner Jeff Richter stated he felt the costs excessive and noted several items which he felt should have been considered or were not needed. He stated the contractor had made a deal with the City and they should stick to it.

Mayor Pro-tem called for a vote, noting a motion and second had been made.

Motion Carried with a 3 to 1 vote to approve; with Commissioner Jeff Richter voting Nay to the Change Order.

Mayor Pro-tem Sandra Whitehead noted the next item was the *Election Resolution, #15 13/14*, asking Secretary Harris to present.

Secretary Harris read a prepared statement noting various dates and requirements of the Election Resolution, noting the Election would be held March 4th, 2014, stating the consolidated Election site would be the Lee Belle Johnson Senior Recreation Center, 301 South Foch Street, and noting the three positions open, Position I, Position III, both for four year terms and Position IV for a two year term. Ms. Harris noted that Declaration of Candidacy shall be filed with the Municipal Clerk on Tuesday, January 7, 2014, between the hours of 8:00 A.M. and 5:00 P.M.

“Commissioner Steve Green moved to approve Resolution #15 13/14”.

Seconded by Commissioner Mike Kertesz.

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 Resolution #16 13/14 Budget Adjustment

City Manager Juan Fuentes introduced Finance Director Leo Silva to present.

Finance Director Leo Silva noted the items in Resolution #16 13/14

City Manager Fuentes noted the last item on Resolution #16 13/14 which was not on the sheets, the Golf Course Restroom Project, would be brought back at the next meeting, as was not to be considered in the Resolution tonight.

NEW BUSINESS:

“Mayor Pro-tem Sandra Whitehead moved to approve Resolution #16 13/14 Budget Adjustment.”

Seconded by Commissioner Steve Green.

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.

Mayor Pro-tem Sandra Whitehead called for Reports.

City Manager Juan Fuentes stated that the meeting next week would be canceled for the Thanksgiving Holiday, noting the next meeting would be December 10th. He also spoke regarding items to be presented at that meeting, one being the Water Moratorium.

City Attorney Jay Rubin: No Report

Commissioner Jeff Richter: No Report.

Commissioner Mike Kertesz: Had no Report, but noted that Sierra County Residents could take the SpacePort Tour for only \$25.00.

Commissioner Steve Green: Wished everyone a Happy Thanksgiving Holiday; thanked everyone for helping with Recycling Day, which was a success; he requested that the December 10th Agenda have a discussion regarding who would take the lead FOR Economic Development regarding the SpacePort, specifically the person to answer questions related with the SpacePort.

Mayor Pro-tem Whitehead: No Report.

None.

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

REPORTS:

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