

CITY COMMISSION  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
Tuesday, November 21, 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 Regular Meeting in full conformity with the law and ordinances of said Commission in the City Commission Chambers of said City, on Tuesday, 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;

COMMENTS  
FROM THE  
PUBLIC:

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

CONSENT  
CALENDAR:

Mayor Pro-tem Sandra Whitehead called for approval of the 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

PUBLIC  
HEARING:

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.

OLD BUSINESS: *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.

] “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, where 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.

NEW BUSINESS: 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 4<sup>th</sup>, 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.

“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.

REPORTS:

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 10<sup>th</sup>. 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 10<sup>th</sup> 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.

RESPONSE TO  
PUBLIC  
COMMENT: None.

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