

THE CITY COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES  
REGULAR MEETING  
TUESDAY, MARCH 11, 2014

ACTION MINUTES

TIME & PLACE: The Mayor Pro-Tem 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, March 11, 2014 at 6:00 P.M.

CEREMONY: The meeting was called to order by Mayor Pro-Tem Sandra Whitehead who presided and Judy Harris, City Clerk acted as Secretary of the meeting.

Mayor Pro-Tem Sandra Whitehead announced the first item of business was to issue a Certificate of Appreciation to former Commissioner Mike Kertesz; noting his service to the City of Truth or Consequences.

Mayor Pro-Tem Sandra Whitehead noted the next item would be the Oath of Office to newly Elected Officials.

City of Truth or Consequences Municipal Judge Beatrice Sanders administered the Oath of Office to Commissioner Sandra Whitehead, Commissioner Ruben Olivas and Commissioner Kathy Clark.

ROLL CALL:

Hon. Sandra Whitehead, Mayor Pro-Tem  
Hon. Steve Green, Commissioner  
Hon. Jeff Richter, Commissioner  
Hon. Ruben Olivas, Commissioner  
Hon. Kathy Clark, Commissioner

Also present:

Juan Fuentes, City Manager  
Jay Rubin, City Attorney  
Beatrice Sanders, Municipal Judge  
Judy M. Harris, City Clerk

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

CEREMONY: Mayor Pro-Tem Sandra Whitehead called for fifteen second of Silent Meditation.

Mayor Pro-Tem Sandra Whitehead called for the Pledge of Allegiance with Commissioner Kathy Clark leading the Pledge.

Mayor Pro-Tem Sandra Whitehead called for approval of the Agenda.

APPROVAL OF  
THE AGENDA:

Commissioner Steve Green asked that he be allowed to respond to comments from the Public, noting that in the last meeting Ron Fenn had made public comments that were inaccurate. Commissioner Green stated that he wished to address the comments made earlier in the meeting as Mr. Fenn usually leaves before the Response to Public Comments, which is held later in the meeting.

Mayor Pro-Tem Sandra Whitehead asked the Commission if Commissioner Green's request to address Response to Public Comment earlier in the meeting.

The Commission approved of allowing Commissioner Green to respond earlier in the meeting.

"Commissioner Steve Green moved to approve the Agenda with the amendment of allowing Response to Public Comment earlier in the meeting."

Seconded by Commissioner Mike Kertesz.

Motion Carried Unanimously.

Commissioner Steve Green responded to a Public Comment made in the last meeting by City resident Ron Fenn.

Commissioner Green noted several inconsistencies with the report Mr. Fenn had compiled regarding the Sanitation Department and Director Leonard Carrillo. Commissioner Steve Green noted work and hours put in by the Sanitation Director, the hours, both work related and volunteer, that are put in by Mr. Carrillo, the awards he has been given for his determination, hard work within the Sanitation Department, and for the City.

COMMENTS  
FROM THE  
PUBLIC:

Ron Fenn, T or C, approached the podium and made comments regarding T or C shrinking due to lawlessness.

Diane Lambardo, President of AAT (Animal Actin Team) approached the podium and made comments about the spay or neuter program.

Sid Bryan, 605 Broadway, approached the podium and made comments regarding Commissioner Kathy Clark being elected to a position on the Commission, noting upset that she would have to recuse herself from items in discussion, he also stated the Geothermal Ordinance should be removed from the Agenda.

Lee Foerstner, Riverbend, approached the podium and made comments regarding the Geothermal Ordinance, noting questions and asked the Commission to delay the vote and have a work shop regarding the Ordinance.

Bobby Allen approached the podium and made comments regarding the Veteran's Memorial Park and a letter sent to the Attorney General, from Sophia Peron, complaining of inattention of the wall at the park. Mr. Allen assured that the park in in good condition and financially sound.

Klaus Whittern, 618 Charles, approached the podium and made comments regarding the election of Commissioners; addressed the Ordinance regarding Geothermal Waters and stated the Ordinance should be removed from the Agenda.

Ralph Stuart, 410 Austin Street, approached the podium and made comments about the Geothermal Waters Ordinance not being in the best interest of the City.

Hans Townsend, Chamber President, approached the podium and made comments about trying to bring in new business, noting one business owner who was trying to relocate and use the City airport to bring in his supplies; he stated the City never answered regarding information on the new business venture. Mr. Townsend also made comments regarding the new Commission members.

Randal Austin, 701 Poplar, approached the podium and made comments regarding the Pool success, scheduling hours and awards presented at the Pool opening.

Linda DeMarino, President of MainStreet approached the podium and congratulated the newly election members of the Commission. Ms. De Marino also announced clean up events in the coming weekend and the Department of Transportation's meeting to be held in T or C the 19<sup>th</sup> & 20<sup>th</sup> Of March.

Ron Pacourek, 603 N. Riverside, approached the podium and congratulated the newly election Commission members. Mr. Pacourek spoke of the need for

additional fire hydrants near his home, noting how there was insufficient protection for all the trailers in the block.

Hans Townsend re-approached the podium and gave the Commissioners notice that they need to address the State Highway Departments work being done in town.

Malissa Cordell, T or C Police Department, approached the podium and made remarks reminding everyone the Police Department "Take Back": would be held April 26<sup>th</sup>, 2014 from 10 AM to 2 PM.

Sophia Peron, T or C, approached the podium and made comments inviting all concern to attend the Meeting at Ralph Edwards Park, 11 AM, Saturday March 15<sup>th</sup>.

CONSENT  
CALENDAR:

Mayor Pro-Tem Sandra Whitehead asked for a motion on the Consent Calendar.

"Commissioner Steve Green moved to approve the Consent Calendar, consisting of: City Commission Regular Meeting Minutes for 2/25/2014 and Accounts Payable February 2014."

Seconded by Commissioner Jeff Richter.

Motion Carried Unanimously.

OLD BUSINESS:

Mayor Pro-Tem Sandra Whitehead noted next was Old Business, consisting of Discussion/Action: For Publication- Proposed Ordinance of the City of Truth or Consequences relating to discharge or disposal of geothermal waters from the hot springs aquifer system; providing alternative methods for the discharge of hot springs aquifer system; providing alternative methods for the discharge of geothermal waters; requiring a City permit for the discharge of geothermal waters to facilities owned and operated by the city; and providing for fees to cover City expenses incurred for the collection and treatment of geothermal waters discharged to facilities of the City; Juan Fuentes, City Manager.

Commissioner Kathy Clark recused herself from the discussion and left the room.

City Manager Juan Fuentes explained the Proposed Ordinance would require anyone discharge must apply for and pay fee for such asked City Attorney Jay Rubin to explain the reason for Recusal on items brought to discussion.

City Attorney Jay Rubin read State of New Mexico #10-16-4; Official act for

personal financial interest prohibited; disqualification from official act; providing a penalty. Explaining it is unlawful for a public officer or employee to take an official act for the primary purpose of directly enhancing the public officers or employees' financial interest of financial position. Noting the fourth degree felony pursuant to the provisions of Section 31-18-15 NMSA 1978; noting that the Act could harm the City – noting it would be wise to look at the appearance of impropriety of not recusing from a subject matter, if it relates to that person. *(Copy of State Code Section 10-16-4 included for the Record.)*

Commissioner Steve Green stated he was very upset the material that was given in the packet on Friday was updated 5 minutes prior to the meeting; noting that does not give them much time to study the material.

“Commissioner Green stated the item should be taken off the table and made a motion to postpone motion on the floor.”

Seconded by Commissioner Ruben Olivas.

Motion Carried 3 to 1; with a Nay by Commissioner Richter.

Commissioner Kathy Clark returned and resumed her position.

NEW BUSINESS: Mayor Pro-Tem Sandra Whitehead noted next was Re-Organization, with the selection of a Mayor and Mayor Pro-Tem, opening the floor for motion(s).

“Commissioner Jeff Richter moved to nominate Sandy Whitehead as Mayor.”

Seconded by Commissioner Ruben Olivas.

“Commissioner Steve Green moved to nominate Steve Green as Mayor.”

Seconded by Commissioner Kathy Clark.

Mayor Pro-tem Sandra Whitehead noted the two motions on the floor and asked for discussion.

Commissioner Kathy Clark asked both nominees to explain why they were the best person for the Job.

Mayor Pro-Tem Whitehead noted she was a lifelong resident of T or C, knew the needs and wants of the Community, has been in both County and City Governments, she felt she could do a good job, felt she dealt well with the City Departments, is attentive and listens before making decisions, she is here or the People and interacts with people well, attend meetings and was capable of

answering questions, she also stated she would do a good job.

Commissioner Steve Green stated he was nominated by a majority of vote, he mentioned the role for the Mayor, noting the Mayor has no more power than a Commissioner, other than they handle the gavel, control the meeting and are responsible to call out the National Guard in times of emergency. Commissioner Green explained that he has years of experience with the City Commission. Noting he represents the City on the SpacePort, was on the SCEDO Board, is the MainStreet Representative, and represents the City at COG. He also spoke regarding it was he who will best represent the City as a team and take it where we need to go.

Mayor Pro-Tem Whitehead noted the two motions on the floor, calling for a vote regarding Sandra Whitehead as Mayor.

Vote of the Commission was 4 to 1; with Commissioner Green voting Nay.

Mayor Pro-Tem Whitehead called for the vote for Steve Green as Mayor.

Vote of the Commission was 1 to 4, with Commissioners Whitehead, Richter, Olivas and Clark voting Nay.

Sandra Whitehead was voted in as Mayor for the Commission.

Mayor Sandra Whitehead noted next was the Mayor Pro-Tem position; she “moved to nominate Commissioner Steve Green as Mayor Pro-Tem”.

Seconded by Commissioner Kathy Clark.

Mayor Sandra Whitehead called for the vote.

Motion Carried Unanimously.

Mayor Sandra Whitehead noted the next would be discussion/action Selection of a JPC Board Member.

City Manager Juan Fuentes stated that former Commissioner Mike Kertesz had been a Board Member for the JPC (Joint Powers Commission), noting a new Member needed to be selected to fill vacancy.

Commissioner Ruben Olivas stated he was willing to volunteer to be on the JPC.

“Mayor Pro-Tem Steve Green moved to appoint Commissioner Ruben Olivas to the JPC.”

Seconded by Commissioner Kathy Clark.

Motion Carried Unanimously.

Mayor Sandra Whitehead noted next would be the selection of the SCCOG Alternated Board Member.

City Manager Juan Fuentes explained that an Alternate SCCOG Member was needed to replace Mike Kertesz.

Commissioner Kathy Clark volunteered to be the Alternate for SCCOG.

“Mayor Pro-Tem Steve Green moved to appoint Commissioner Kathy Clark to be an Alternate Board Member to SCCOG.”

Seconded by Commissioner Ruben Olivas.

Motion Carried Unanimously.

Mayor Sandra Whitehead noted the next item was discussion related to the Annual Review of the City Manager. She explained that in previous meeting the former Commission had met to review the City Manager as is done annually. Mayor Whitehead noted they reviewed criteria and wished to give City Manager Juan Fuentes a favorable review. Noting the support of the Commissioners in the job the City Manager has been performing.

Mayor Pro-tem Steve Green acknowledged that City Manager Fuentes was indeed doing a good job and hoped that he would continue for many more years, stating he was the right person for the position.

Commissioner Ruben Olivas stated that he was new to the Commission, and in the time he has spent with the City Manager he found him to be a good guy.

City Manager Juan Fuentes thanked the Commission for the praise noting he tried to do his best and his performance was good because of Staff and the City crews he worked with.

Mayor Sandra Whitehead asked City Manager Fuentes for his report.

REPORTS:

City Manager Juan Fuentes explained he wished to share that the Electric Department had been featured in the *Public Power* Magazine, noting the story caption was “The City That Dared”. He explained the story line featured City Employees and the Solar challenges we are facing, he stated he wished to commend them and recognize the work they were doing. City Manager Fuentes noted he had attended the Recreation Advisory Board Meeting and had heard the Swim teams wish to allow them to swim after hours, noting they would be accommodated through the end of the fiscal year, then during the Budget process it would be studied to see if it would be possible to extend the pool hours. *(Copy of Article provided for the record.)*

City Attorney Jay Rubin – No Report.

Mayor Pro-Tem Steve Green thanked Mike Kertesz, Ruben Olivas, Kathy Clark, January Roberts and Patty Freemyer for being willing to serve the Community during the recent election. He commended their participation and hoped they stay involved. Mayor Pro-Tem Green noted he had volunteered to help Mathew 25 feeding the needy, he spoke of the program they had for the needy of the community, especially since they function all by donation; he congratulated their work and commended their efforts. Mayor Pro-Tem Green asked that the news people in the audience acknowledge the illegal dumping in the City, hoping they would publish information notifying the Community not to dump next to the dumpsters as the City can no longer remove items. He also explained that the program did offer a fee of \$50 for special pickups, and encouraged all to look at private enterprises to remove the items which would not fit into the Poly-Carts. Mayor Pro-Tem Green acknowledged Sierra County Transportation pilot project which would start this month, a free service; and starting in April to last until November a service to provide transportation to Hatch. If the Citizens think the project vital they could vote in November to continue the service, noting the funding of \$175,000.00. Mayor Pro-Tem Green noted that on Thursday, 9 AM, there would be a group to assemble 100 more Poly-Carts.

Commissioner Kathy Clark – No Report.

Commissioner Ruben Olivas thanked the Community for their support in the Election. He explained he was honored to meet with some High School kids wishing to expand to succeed high tech business into the Community.

Commissioner Jeff Richter – No Report.

Mayor Sandra Whitehead thanked the voters and the vote of confidence, noting she would work with the Commission as a team. She stated she had been to

visit the Pool and noted at times it was over capacity, good turnout was mentioned and that a lot of people were visiting the pool. Mayor Whitehead mentioned she was pleased to visit the Shooting Range west of T or C, noting the trash clean up at the Range. She also wishes to see more Community involvement. She also mentioned the illegal dumping and asked the Community to take the trash to the Transfer Station and not dump it by Poly-Carts.

In further Reports/Comments: Mayor Pro-Tem Green asked City Manager Fuentes to speak to Fire Chief Tooley about the complaint of not enough fire hydrants on North Riverside.

Commissioner Ruben Olivas thanked everyone for their concerns and comments, and for coming to the meeting. He also thanked Space X.

Commissioner Kathy Clark thanked those who came. She spoke of the ADA Sidewalk issue on Date Street being a State Highway Department project. She wished to encourage new Business to come to the Community.

Mayor Pro-Tem Green spoke of the Business suppliers for Virgin Galactic, and a Business Opportunity March 27<sup>th</sup>, wishing the City would promote the Opportunity on their Website.

No Further Response.

RESPONSE TO  
PUBLIC  
COMMENT:

“Mayor Sandra Whitehead moved that the meeting be closed for Executive Session pertaining to:

EXECUTIVE  
SESSION:

1. Pending or Threatened Litigation 10-15-1H(7)
  - a. Solid Waste Collection Center
  - b. HSLD
  
2. Purchase, Acquisition or Disposal of Real Property 10-15-1H(8)
  - a. Former T or C Landfill, BBLM Lease and Turtleback Golf Course Driving Range.”

Seconded by Mayor Pro-Tem Steve Green.

Mayor Sandra Whitehead called for a Roll Call Vote.

Commissioner Sandra Whitehead responded AYE to a Roll Call Vote  
Commissioner Steve Green responded AYE to a Roll Call Vote  
Commissioner Jeff Richter responded AYE to a Roll Call Vote  
Commissioner Ruben Olivas responded AYE to a Roll Call Vote  
Commissioner Kathy Clark responded AYE to a Roll Call Vote

Motion Carried Unanimously.

Mayor Sandra Whitehead stated that the Commission was now in Open Session.

OPEN SESSION:

“Mayor Pro-Tem Steve Green certified that only matters pertaining to:

- 1. Pending or Threatened Litigation 10-15-1H(7)
  - a. Solid Waste Collection Center
  - b. HSLD
  
- 2. Purchase, Acquisition or Disposal of Real Property 10-15-1H(8)
  - a. Former T or C Landfill, BBLM Lease and Turtleback Golf Course Driving Range.”

“was discussed in Executive Session and no action was taken.”

Seconded by Commissioner Ruben Olivas.

Motion Carried Unanimously.

With nothing further to come before the Commission, Mayor Pro-Tem Steve Green moved to adjourn.”

ADJOURNMENT:

Seconded by Commission Ruben Olivas.

Motion Carried Unanimously.

APPROVAL: PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2014, on motion duly made by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and carried.

ATTEST:

\_\_\_\_\_  
SANDRA WHITEHEAD, MAYOR

\_\_\_\_\_  
Judy M. Harris, City Clerk

