

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
TUESDAY, JULY 8, 2014

WORKSHOP

Action 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, July 8, 2014 at 5:00 P. M., in the Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico.

Mayor Sandra Whitehead opened the Work Shop by explaining that *Commissioner Kathy Clark would be on the phone during the Work Shop, Mayor Whitehead made sure that Commissioner Clark could hear and that she could be heard in return.* Mayor Whitehead explained the Proposed Ordinance would Amend the City of Truth or Consequences Code of Ordinances; by adding a Section that authorizes, pursuant to Section 3-54-1 NMSA 1978, the Conveyance of a Leasehold Interest to Affordable Solar Installation, Inc. for the Purpose of siting Solar Electric Generating Equipment that will serve Municipal Facilities owned by the City Pursuant to a Power Purchase Agreement; Approving the Form of the Lease. Mayor Whitehead turned over the discussion to City Attorney Jay Rubin.

Jay Rubin, City Attorney, explained the Ordinance was in regards to the Solar Plant Facility which had come before the Commission. He noted that this item was discussed in the last meeting and the Commission had approved the Land Lease, or more commonly known as the lease of real property. started by reading the “Whereas” items and noted the change in item C - Whereas, the City owns certain real property located within its boundaries; noting the he had removed the wording “on which the City’s effluent building is located” as it was incorrect. City Attorney Jay Rubin made comments on the “lease” and explained that the City has negotiated a Power Purchase Agreement with Affordable Solar Installation Inc., pursuant to which Affordable will sell to the City electricity generated by a photovoltaic generation system to be located on the portions of the Premises. He noted that this would enable Affordable to construct and operate the System on the Premises pursuant to the lease in consideration of the rent specified therein which will reduce the amount that the city would pay for electricity pursuant to the Power Purchase Agreement (PPA). City Attorney Jay Rubin stated that the City has determined that the fair market rent for the Leased Property, taking into account the benefit of the reduction in amounts that will be due under the PPA in connection with the City’s purchase of electricity, is \$2,500 per year, on an annual basis. Stating that it is not less than \$2500, and noted if it appraised high must be approved by Ordinance; he mentioned that it was possible it would appraise higher than the amount, so the safest thing to do was to pass an Ordinance, for the Lease. He noted that the City is authorized to convey leasehold interests in real property pursuant to the provisions of Section 3-54-1, N.M.S.A. (1978). City Attorney Jay Rubin noted that this would probably start sometime in December and terminate on the 20th day of September 2039. The section of land to be used was described as the back of the property, which would leave room for additional construction or businesses in the front part of the land. City Attorney Jay Rubin stated that due to the fact this was real property; the Ordinance would be effective forty-five (45) days after its adoption. He noted that if approved this evening it would be 45 days for it to pass, instead of the 5 days which was normal for most Ordinances which did not involve real property. City Attorney Jay Rubin stated that the date of June 2014 on page four was incorrect and would be changed to read July 2014. City Attorney Jay Rubin explained Exhibit B, which shows the parcel to be used and noted that it was only a small portion of the entire property, noting that for this portion of the lease the drawing attached had not been from a survey. City Attorney Jay Rubin stood for questions.

Commissioner Kathy Clark, per the telephone, asked what was the meaning in the contract, on the Agreement portion, which stated “lease and demise”.

City Attorney Jay Rubin explained that the wording was a legal term and gave several examples of the use of the wording in contracts.

Commissioner Kathy Clark asked about item 7 - Assignment.

City Attorney Jay Rubin explained that it was pursuant to 17.1 of the Power Purchase Agreement.

Commissioner Kathy Clark made reference to a 1997 Ordinance signed by Lois River Black with acknowledgement having property available – having to do with economic development.

City Attorney Jay Rubin stated it was a different issue; the attempt made was to encourage those coming into the community, noting it was different for fair value for property, noting we have to follow 3-54-1.

When asked about the amount of \$2500 per year, Assistant City Manager Bill Slettom noted that our feeling was that property would be more than that parcel, and the property next to it came in at \$3200, so we felt it was a fair market value.

City Attorney Jay Rubin noted that the benefits were beyond the \$2500; he read item G. WHEREAS, the city has determined that the fair market rent for the Leased Property, taking into account the benefit of the reduction in amounts that will be due under the Purchase Power Agreement in connection with the City’s purchase of electricity thereunder, is \$2500.00 per year.

With no further questions or comments, Mayor Sandra Whitehead closed the Work Shop., and noted the regular meeting would begin at 6 PM.

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
TUESDAY, JULY 8, 2014
REGULAR MEETING
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, July 8, 2014, following the Work Shops, with the meeting starting at 6:00 P.M.

Mayor Sandra Whitehead announced that **Commissioner Kathy Clark was unable to attend the meeting and would be present by way of Telephone Conference Call.* Mayor Whitehead made sure that Commissioner Clark could hear and that she could be heard in return.

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

ATTENDANCE: Upon calling the roll the following Commissioners were reported present.

Hon. Sandra Whitehead, Mayor
Hon. Steve Green, Mayor Pro-Tem
Hon. Jeff Richter, Commissioner
Hon. Ruben Olivas, Commissioner
Hon. Kathy Clark, Commissioner - * by Telephone Conference Call

Also Present:

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

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

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

Mayor Sandra Whitehead called for the Pledge of Allegiance with Commissioner Ruben Olivas leading the pledge.

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

Commissioner Kathy Clark asked for changes to be made when the Consent Calendar was Presented.

“Mayor Pro-Tem Steve Green moved to approve the agenda.”

Seconded by Commissioner Ruben Olivas.

Motion Carried Unanimously.

COMMENTS
FROM
THE PUBLIC: Mary Ellis Truite approached and made comments regarding the Senior Joint Office On Aging. She noted that most in audience were pleased with David Crader, noting improvements he had made in his term at SJOA. Noting those in the audience were here In support of Mr. Crader.

Connie Langdon, Secretary for the Senior Programs Advisory Council, approached and made comments on behalf of the Senior Joint Office On Aging Senior Program, noting there was no confidence in the SJOA Board, noting that the SJOA was under a probation and Mr. David Crader had moved the program forward out of probation, they passed audits and assessments were 92% positive. She stated the Commission should fire and remove all of the Board.

Mary O’Neal approached and noted she also agreed that the SJOA Board be removed.

Charles Kim approached and made remarks that the Commission should see what type of support Mr. Crader had, by the audience participation. He also noted they should get rid of the Board.

It should be noted that there were approximately 35 people in the audience supporting SJOA, the 35 or so in the audience stood during the Comments above in favor of David Crader, and for the removal of the SJOA Board.

Linda DeMarino, MainStreet, approached and commented on the list of events to be held by MainStreet, noting the Down Town cleanup, the quarterly meeting and people coming to the area from across the State to participate; she commented on the quarterly business breakfast to be held September 9th, and the 2nd Saturday Art Hop to be held.

Greg D'Amour, Recreation Advisory Board, approached and noted that the Recreation Board needed two volunteers to replace two members leaving; he also noted exciting things happening with the Recreation in the Community.

David Crader, 112 N. Riverside Drive, approached and made comments regarding the By-Laws of the SJOA, noting the two term limit.

CONSENT
CALENDAR:

Mayor Sandra Whitehead noted there had been a request for changes to be made in the Consent Calendar, and because of that request she felt each item should be looked at Separately.

“Mayor Pro-Tem Steve Green moved to have each item stand alone and remove item #5 Accounts Payable June removed completely for the Consent Calendar.”

Seconded by Commissioner Ruben Olivas.

Motion Carried Unanimously.

City Commission Public Hearing & Regular Meeting Minutes June 10, 2014.
Mayor Pro-Tem Sandra Whitehead noted she was not at this meeting and would abstain from the vote.

“Mayor Pro-Tem Steve Green moved to delete item 5 from the Consent Calendar until the next meeting and to approve the Consent Calendar as amended, with corrections.”

Seconded by Commissioner Ruben Olivas.

Motion Carried four to one with Mayor Sandra Whitehead abstaining.

“Mayor Pro-Tem Steve Green moved to approve the Minutes for June 10, 2014.”

Seconded by Commissioner Jeff Richter.

Motion Carried Unanimously.

City Commission Special Meeting Minutes June 18, 2014.
Commissioner Jeff Richter noted he was absent from the meeting, his name should be removed from attendance.

“Mayor Pro-Tem Steve Green moved to approve the Minutes for June 18 with changes.”

Seconded by Commissioner Jeff Richter.

Motion Carried four to one with Commissioner Richter abstaining.

City Commission Regular Meeting Minutes for June 24, 2014.

Commissioner Kathy Clark noted on page 10 the item describing State Colonias money should be \$750,000 not \$75,000; in the Sub-Recipient Grants the amount for Matthew 25 Pantry needs to be \$6,000.

“Mayor Pro-Tem Steve Green moved to approve the Minutes for June 24, 2014, with amended changes.”

Seconded by Commissioner Jeff Richter.

Motion Carried Unanimously.

Golf Course Advisory Board Meeting Minutes May 14, 2014.

“Mayor Pro-Tem Steve Green moved to delete item 5 from the Consent Calendar until the next meeting and to approve the Consent Calendar as amended, with corrections.”

Seconded by Commissioner Ruben Olivas.

Motion Carried Unanimously.

Accounts Payables for June 2014. This item was removed from the Consent Calendar; by request of Commissioner Kathy Clark, noting she had questions, and wished the items removed until she could question City Manager Fuentes of her concerns.

PRESENTATION:

Mayor Sandra Whitehead announced Presentations, stated it would be an introduction and update from Sierra Vista Hospital CEO Michael Zimmerman.

Mr. Michael Zimmer approached and introduced himself, he explained that there has been substantial progress at the Hospital, noting that construction is underway and would be on going, he explained the new footings, noting that finances are in remarkably good shape. He spoke about Sole Community Provider monies, touched on some of the changes instituted, that aby 2015 he wants the Hospital to be in the black and in 2016 he wants the Hospital to be back in operating level. He commented on Urgent Care and health care for the Community. When asked about involvement with SpacePort he noted they were willing to be involved and would like into SpacePort needs.

Mayor Sandra Whitehead introduced the next Presentation on River Ramps Correspondence to BOR, asking Audon Trujillo to approach.

Audon Trujillo played a PowerPoint Presentation regarding his request for the City Commission sending a letter from the City Commission to the Bureau of Reclamation that will obtain permission to construct four ADA compliant ramps along the Rio Grande River. Mr. Trujillo noted it would promote recreational use of the Rio Grande by providing a safer means to enter and exit the Rio Grande, improve the image of the City, increase

recreational usage of the Rio Grande and increase tourism and generate GRT. Mr. Trujillo noted his proposed locations would be the northern most river entry, just below the bridge crossing the Rio Grande, just south of the Park; Ralph Edwards Park on the bend of the river; Rotary Park where present day floaters get picked up and Williamsburg just after the bend. He noted that once preliminary approval to build is obtained from the Bureau of Reclamation drawings, cost estimates and specifics on who will construct as well as a time line for construction will be provided. He noted local residents are likely to be involved in developing the estimates, drawings and funding. Local Bureau of Reclamation may decide to defer preliminary approval, if so he stated the City should be prepared to go up the chain of command until preliminary approval is obtained, which may entail letters to various Federal Offices as well as Senators and Representatives.

Mayor Sandra Whitehead thanked Mr. Trujillo for the presentation.

Commissioner Jeff Richter asked about ramps and noted that there were businesses which use the river for their clientele.

Commissioner Kathy Clark thanked Mr. Trujillo for the presentation.

Mayor Pro-Tem Steve Green echoed the accolades.

UNFINISHED

Mayor Sandra Whitehead noted Unfinished Business, Discussion/Action Contract for Sub-Recipients, and asked City Attorney Jay Rubin to address.

BUSINESS:

Jay Rubin, City Attorney noted the Sub-Recipient Agreements had come before the Commission, the Commission had requested changes in the Agreement and those changes are in front of the Commission tonight. He explained changes as follows: report due dates, if reports are not turned in on a timely fashion the recipient with forfeit 20% funding, he read statements made in each agreement, noting there were five groups, starting with the Boys and Girls Club, noting the recitals, the fact that the agreement commence on July 1, 2014 and continue until June 30, 2015. Attorney Rubin explained that each agreement was designed primarily for the mentioned group of five, The Boys & Girls Club ("The Club), Domestic Abuse Intervention Center (DAIC), Sierra Health Council (SHC), Sierra Joint Office On Aging (JSOA), Matthew 25 Food Pantry (The Pantry).

Commissioner Jeff Richter noted that the Agreement should clearly state who the reports should be turned in to, who would that person be? He also noted report due date must be clear and concise so there are no questions. He noted concern with the amount of money they would lose if the Reports are not complete, not just 20%, but 100%.

Commission comments and recommendations were as follows: Item 2.B. should contain that the written report should go to the City Clerk, if agreement not followed, and we would look at them again, we could look at them and check how the funding is being done, and where the money is going. They need for more advertisement in and out of town was discussed. It was mentioned that then we'll see the reports, to be sure the groups are following the Agreement. It was noted that if they want the money, they need to follow the Agreement, get their reports in on time and if not then they don't get the money. Without voting at this time, all Commissioners agreed.

Mayor Pro-Tem Steve Green noted that the Report should name the person to turn in the paperwork, stating we need to have more concise reports to know where this funding is

going. He explained that the information is too vague; each item should be broken down so we can tell what is being done. Mayor Pro-Tem Green stated that once the Agreement has the correct wording, it should name the person who will receive the reports, and noted that the Commission will see the reports coming in and be able to see where the money is being spent. Not only that, but we will have a better idea if the funding is working if we are getting people in here, spending the night and eating here. He noted that they would come back to them for review and approval.

Mayor Sandra Whitehead started that the Agreements need to be clearer, she asked City Attorney Rubin to make the changes and noted the fact that if not followed they would lose 100% funding, as discussed; she then noted that the Application should state that the reports should be turned into the City Clerk in a timely manner; and they would come back to us to review and approve.

“Mayor Pro-Tem Steve Green moved to approve the Sub-Recipient Grants with changes in documents as discussed.”

Seconded by Commissioner Ruben Olivas.

Motion Carried Unanimously.

NEW BUSINESS:

Mayor Pro-Tem Sandra Whitehead noted River Ramps correspondence to BOR, from the earlier Presentation.

Mayor Pro-Tem Steve Green asked if this had already been presented to the BOR and what was the outcome of that request.

Mr. Trujillo noted they weren't very helpful or interested. He noted that it may have to go to higher sources for approval.

Mayor Pro-Tem Steve Green noted he questioned the City's Liability, who would be legally responsible should something incur.

Commissioner Jeff Richter noted the required flow of the river. He stated he felt the Commission should see the letter first, before agreement.

Mr. Trujillo stated he could send the Commission the letter immediately.

It was noted that the next meeting was July 22 when the Final Budget would come before the Commission, along with other items scheduled.

“Mayor Sandra Whitehead agreed with Commissioner Richter and told Mr. Trujillo to draft the letter and return it to the Commission for review and approval; she moved to table the item until the letter is reviewed and returned to the Commission in a meeting.”

Seconded by Commissioner Ruben Olivas.

Motion Carried Unanimously.

Mayor Sandra Whitehead noted next was the Airport Lease Agreements, calling Bill Slettom to explain.

Bill Slettom, ACM/CDD explained that the Commission had the Agreement in front of them; he noted that the Airport Advisory Board had recommended approval of the Agreements, to be put into use for all new and renewal hangar leases. Mr. Slettom explained the old Hangar Lease Agreement had a lot of problems and did not cover the City's interest for the Airport; noting that this new Agreement now had better protection for the City, he noted several items, such as the wording that the hanger must be used for non-commercial transportation aircraft based at the hangar and for no other storage. After an explanation of the Lease, Mr. Slettom stood for questions.

Commissioner Ruben Olivas asked about how the City recovers if there is damage done.

Bill Slettom explained we go through insurance.

Commissioner Jeff Richter commented on people who store dishes and such in the hangars. Noting the phrase on 4b, using the hangar for non-commercial transportation. He stated the phrase should say operable aircraft, so we don't have junk in the hangars.

Ed Williams, Former Airport Manager, stated yes it was important to note operable aircraft, he explained the lease agreement was better than what we had in the past.

Mayor Pro-Tem Steve Green stated when items are presented it would be useful to have the old paperwork so they can see the changes.

“Mayor Pro-Tem Steve Green moved to approve the Hagar Agreement.”

Seconded by Commissioner Ruben Olivas.

Motion Carried Unanimously.

Mayor Sandra Whitehead noted next was Discussion/Action regarding the Proposed Ordinance for Publication Amending the Truth or Consequences Code of Ordinances; by Adding a Section that Authorizes, Pursuant to Section 3-54-1 NMSA 1978, the Conveyance of a Leasehold Interest to Affordable Solar Installation Inc. For the purpose of Siting Solar Electric Generating Equipment that will serve Municipal Facilities owned by the City Pursuant to a Power Purchase Agreement; Approving the Form of the Lease; Mayor Whitehead stated this item was discussed in the Work Session, she asked City Attorney Rubin for comment.

City Attorney Jay Rubin addressed the Commission, he noted that this item was discussed and the changes were noted. He explained the Proposed Ordinance was for Publication only and noted each of the wording changes requested by the Commission and explained the 45 day waiting period for the Ordinance to pass, instead of the 5 day which is the norm for Ordinances, explaining that this is real property. He also noted the change on page 4 from June to July.

Mayor Pro-Tem Steve Green asked if Affordable Solar had been sent the Ordinance.

City Attorney Jay Rubin answered that yes and added that a couple of the changes had come from Affordable. He noted the change in start date was from them.

Commissioner Kathy Clark noted Section 2 regarding item number 8 which is Insurance coverage, on page 3. Commissioner Clark stated she was not comfortable with the insurance statement.

City Attorney Jay Rubin went over the PPA insurance statement.

“Mayor Pro-Tem Steve Green moved to approve the Proposed Ordinance for Publication with suggested Changes.”

Seconded by Commissioner Ruben Olivas.

Mayor Sandra Whitehead called for a Roll Call Vote.

Hon. Steve Green responded AYE to a Roll Call Vote.

Hon. Jeff Richter responded Nay to a Roll Call Vote.

Hon. Ruben Olivas responded AYE to a Roll Call Vote.

Hon. Kathy Clark responded AYE to a Roll Call Vote.

Hon. Sandra Whitehead responded AYE to a Roll Call Vote.

Motion Carried four (4) to one (1)

REPORTS:

Assistant City Manager Bill Slettom – No Report.

City Attorney Jay Rubin – No Report.

Commissioner Jeff Richter – No Report.

Commissioner Ruben Olivas – No Report.

Mayor Pro-Tem Steve Green reported why he was not able to attend the Open Forum presented, he explained meeting with Kelly Winters and spoke about Trip Advisor, noted that the City needed to explore the broadband, as we have horrible internet access. He stated that Hans Townsend had explained a survey in which we ranked 639th out of 5,690 internet in the county, he noted we have to get better to promote those interested in coming to us.

Commissioner Kathy Clark, by way of telephone conference call, teased that she had been unable to find Commissioner Richter’s famous nostrils (making reference to Commissioner Richter’s vacation in North Dakota to the Crazy Horse Monument). She also wished to thank the Mayor for making it possible for her to attend the meeting by phone/long distance.

Mayor Sandra Whitehead – No Report.

RESPONSE TO

Mayor Sandra Whitehead noted next was Response to Public Comment, she made note that in the June 24th meeting, Dwight Schroeder had attended and asked why he was required to pay for trash service when he only recycled. The Mayor asked Assistant City Manager Bill Slettom to explain.

Bill Slettom, ACM/CDD explained two parts from the Statue, Chapter 11

Regarding Solid Waste collection fees and Solid Waste Division, State rule we must follow, we are obligated by State with the healthiness of the public.

Commissioner Ruben Olivas noted the many people who attended the meeting regarding the Senior Joint Office On Aging (SJOA), and were very upset about the current Board of the SJOA. He asked if we have to let this happen, as it seems they are upset with us for the Director being fired, and in reality we have nothing to do with it

Mayor Sandra Whitehead stated that we were not involved and she had been in contact with the City Manager regarding the problem, she noted they were trying to set up meetings to see what really happened and what we can do about it.

Mayor Pro-Tem Steve Green stated that SJOA cannot be allowed to fail. He asked Bill Slettom what we can do regarding the Board, so we don't violate the Bylaws; he noted the two term limit on Board Members, noting we should advertise for them.

Commissioner Kathy Clark noted she felt the comments were right on target, it is a difficult decision, how to deal with this so to keep SJOA moving forward.

Mayor Pro-Tem Steve Green made the comment that there could be two positions open on the Board, and again stating we need to advertise for positions.

City Attorney Jay Rubin made the comment at this was not on the Agenda for discussion.

ADJOURNMENT:

With no further comments, Mayor Sandra Whitehead called for a motion to adjourn.

“Mayor Pro-Tem Steve Green moved for adjournment.”

Seconded by Commissioner Ruben Olivas.

Motion Carried Unanimously,.

CERTIFICATION:

PASSED AND APPROVED this 22nd day of July, 2014, on a motion made by Commissioner Steve Green and seconded by Commissioner Ruben Olivas, and carried.

Sandra Whitehead, Mayor

ATTEST:

Judy M. Harris, City Clerk