

CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
TUESDAY, SEPTEMBER 27, 2016

A. CALL TO ORDER

The meeting was called to order by Mayor Steve Green at 9:00 a.m., who presided and Renee Cantin, City Clerk-Treasurer, acted as Secretary of the meeting.

B. INTRODUCTION

1. ROLL CALL

Upon calling the roll, the following Commissioners were reported present.

Hon. Steve Green, Mayor
Hon. Sandra Whitehead, Mayor Pro-Tem
Hon. Kathy Clark, Commissioner
Hon. Rolf Hechler, Commissioner
Hon. Joshua Frankel, Commissioner

Also Present: Juan Fuentes, City Manager
Renee Cantin, City Clerk-Treasurer

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

2. SILENT MEDITATION

Mayor Green called for fifteen seconds of Silent Meditation.

3. PLEDGE OF ALLEGIANCE

Mayor Green called for Commissioner Frankel to lead the Pledge of Allegiance.

4. APPROVAL OF AGENDA

Commissioner Clark moved to approve the agenda. Commissioner Hechler seconded the motion. Motion carried unanimously.

C. COMMENTS FROM THE PUBLIC (3 Minute Rule Applies)

Mayor Green called for Public Comment, noting those wishing to comment would get three minutes, may only approach the podium once, and any material for the Commission was to be left in the black box by the podium.

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Billy Lacy 925 W. 9th St. addressed the Commission related to:

1) He is here to say he is ashamed for what was done to Trevor Whitehead. He was here at the hearing and was asked to be removed. He told Juan he should do an investigation and Juan decided he should listen to a man who just spent five years in prison, is on parole, and he got Trevor terminated.

2) He tried to help the town as much as possible with the pool. He told them how to save hundreds of thousands of dollars on the pool and nothings been done. They were going to open a business in this town and there is no way he's going to. It's such a hateful place and he can't stand it anymore. His house is for sale and he just stuck a ton of money into that house. It was supposed to be his last home. He volunteered because he doesn't need a job. He managed multi-million dollar operations until the Dr.'s made him quit. He offered to be the Safety Officer, he offered to be the Training Officer, free of charge and nothing was ever said or asked of him. He went out and cleaned the pool and spent hours and hours on that pool by himself. This was not under some phony outfit called Friends of the Pool. Not too long ago, he told the Commission he could repair that pool for \$10,000 because you guys had that \$80,000 bill for repairs. He had already inspected the whole pool. Instead of anybody calling me, they went and called Sue and said Billy Lacy can't do that. So he was no longer part of the Friends of the Pool, he was the Co-chairman. It seems like nobody wants anything done but they all want to be in charge and it's a damn shame. Once upon a time when his wife first came here and was a Geologist, this was a nice town. He knows he's just a stupid cowhand but he has is Doctorate and his wife has her Doctorate. He can't believe the stupidity in this town all over hate and this town should be ashamed of itself.

Diane Lombardo, Silver St. addressed the Commission related to:

1) She is just above poverty level and doesn't get a lot of the perks that others do. She lives on a very tight budget. Which means if she gets an extra hundred bucks, she has a list of things that she needs to do for her house, her car, and other things she could spend that money on. She has medical bills because she doesn't have a good supplement which means she pays her 20%. 20% is a lot of money for somebody who doesn't have it. When she gets a bill like the Electric bill and she is assured the bill is correct, and it is low because she hasn't been using her cooler, she feels well maybe they're right, and she can use that money for something else. Then she turned around the next month and she got the highest bill she ever had for electric services, and she hadn't used her air conditioner at all. It kind of pisses her off because she didn't save that \$100 to pay this next month. She looks at some of the excuses like you have to keep the weeds away from the meter. She can walk up to her meter concrete, it's a little high but she can read the numbers from six feet away. There's no excuse for it to be misread. My gas meter is in the alley and she's ashamed to say, she doesn't knock down the weeds because there is a beautiful batch of monkey flowers she hates to take down. But her gas bill is always accurate. She says is it the office? If someone made a mistake and that's understandable, but this is happening to a lot of people. Then it's a question of is the person doing it, poorly trained or is the person who should be reading the meters not actually reading them every month, but is making up numbers?

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Audon Trujillo, 506 W. Third St. addressed the Commission related to:

1) He is speaking on the new Business item 2 for the Extension of the Lease for the Follow the Sun Tours on the Lee Belle Johnson Center. The City Mayor received a Letter on September 23rd from the Office of the State Auditor for various violations for 3-54-1 which included the Solar Lease, the Geronimo Trails Scenic Byways Lease the Follow the Sun Tours Lease and Chamber of Commerce Lease. There are probably other properties that have been on there too, like the property for the Riverbend. But in any case he just wanted to recall on January 30th, 2015 he wrote the Commission a letter, the City Manager was copied and he sent them the source document of 3-54-1. He sent an explanation of how he thought the lease was illegal and asked them to consult with their lawyer. Sandy responded the day after and said thank you she will look into this. But then he didn't really get anything, he sent an email on February 10th to the City Clerk and he really just didn't get any response. On April 20th after filing an IPRA, he got a response from the City Clerk that said the market rate was established by looking at leases. The letter says you will find the attached showing the comparables we received from a local realtor regarding the commercial values in downtown Truth or Consequences. The law itself states you cannot use leases to determine market value. The law says you've got to go through a certified appraiser and we didn't do that. Sandy and Steve you're aware when I sent this out, I wasn't saying you violated it, I said you might have violated it. I was trying to be a nice guy. He knew they had violated it, but consult with your lawyer. Well that Lawyer and that man up front our Mayor has tried no only violating 3-54-1, but they're putting up false facts basically. We didn't have to go through this and have these findings on us. There are honorable ways to act, so let's act honorably. Write a letter that is truthful and he will work with you all. Any two of you can call him and he will work with you to get a letter of response to the Auditor.

Sue Penner, Finance Director for SJOA addressed the Commission related to:

1) Reminded the City they need two appointees for the SJOA Board for representatives for the City. Rita Johnston's term expired and John Wheeler was the other representative for the city and he resigned for personal reasons. They have also had a resignation from the Village of Williamsburg, so they are three members short. They only have two from Elephant Butte and two from the County. One of them is gone and they do not have a quorum. The State is making some changes and they have been directed to do a five percent cut for their budget. So they really need the input of their board members. She asked the Commission to put that on their priority list to start taking applications and look at those who might be qualified to serve on the board, they would really appreciate it.

Sophia Peron addressed the Commission related to:

1) Read the letter received by the Mayor from the Office of the State Auditor regarding four violations of New Mexico State Law 3-54-1 which is the authority to sell or lease municipal property and utilities and other things. It will be made part of the record. She is handing this over to one of her colleagues, Ron Fenn to accomplish this and many others.

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Ron Fenn addressed the Commission related to:

1) He stated the Commission has copies of this, he sent it to them upon his receipt from the State Auditor. Now the State Auditor at his request letter has turned this over to the Attorney General's Office for possible litigation. This is serious, this is serial violation of state law. One after another. The last four leases at least have been in violation thanks to Mr. Fuentes. And you all are complicit because you all have been notified. But you have instead allowed the newspapers to denigrate people like myself who have brought this to your attention, instituted a Citizen's Initiative Ordinance to return the Lee Belle Johnson Center to the people who it belongs to. And instead we make me the fool. But it's not me that's the fool, and the State Auditor has now confirmed that. You are in violation. And if you go forward today, with this extended lease of an illegal lease, believe me, there will be legal ramifications for all of you. This is fraud against the people. Everything you have done in this lease has defrauded the citizens of Truth or Consequences the real value of that piece of property. And you've done it with Mr. Green and his looney ideas of the value of the Spaceport in New Mexico and a Visitor's Center. It's utterly ridiculous and it's been proven to be ridiculous. The numbers say it's a failure and will continue to be a failure.

Space industry is growing all over the country, but not in New Mexico, because it wasn't done right or done in the right place. It wasn't done in an area where there was even a workforce to man it. We are diluting ourselves, this is a retirement community. Recognize the fact that it's a retirement community and purpose your actions towards making it a better one. So that people like Mr. Lacy doesn't have to leave the town in disgust. He has been hounding the Commission about this for years to do the law. You make laws. You charge me and take me to court over having a business card. And when he complained about the same thing for Follow the Sun Tours, with no explanation, no license, he says we will tell them to get a license. But he goes to court and gets found guilty and fined for no business for a business card. And yet, a business who operated for three months with no business license is given a pass. Let's see, what does that say, since I was the only person in 11 years to be charged with that ordinance. Discrimination is unbelievable. All of you folks know about it and you continue.

Ariel Dougherty addressed the Commission related to:

1) She is here to speak about two issues: 1) F.5 the agreement between the City and the Boys and Girls Club and H.2 Extension of Lease with Follow the Sun Tours. Prior to last night's presidential debate, during it and after it, there has been a national fire storm about fact checking. She dare say we here in Truth or Consequences could use some form of truth process (despite the city's name.)

1) On item F.5, her overarching concern is public monies going to any agency that proselytizes any particular religion as a part of its services. This violated the separation of church and state in the U.S. Constitution. The three-way urgings among CYFD, the City, and Boys and Girls Club is problematic. She sees no vehicle on the part of the City for oversight on such a program. Which brings her to Number 4 of the agreement. She urges striking "and will renew automatically each year that funding is provided etc".

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No agreement should be open ended like this. Last, there exists no review or oversight process in the agreement. She urges rejection of this agreement based on this lack of any accountability to the City, and us its citizens, for use of State public funds.

2) On Item H.2 the Follow the Sun Tours, The Office of the State Auditor has stated the City may be in violation of 3-54-1 over the original lease with Follow the Sun. Second, the City is in violation of its own lease agreement with Follow the Sun which requires an advance of thirty days for any renewal and an increase of rent to \$1,400. Third, she sees no willingness on the part of Follow the Sun Tours to continue operating these services. How many people actually went on this tour to the Spaceport? – not much more than 2,500 over the course of a year. This is not even 15% of the great promise Commissioner Green gave us of 20,000 visitors. And what about the GRT? It's going down, not up as promised. Please, let's just admit that taking away the Senior Recreational and City's Cultural Center from public use has been an abysmal failure. The vaguery of this proposal for a new lease is equally absurd. The Spaceport has no intentions of moving forward with another RFP on such a service. Item H2 is pie in the sky. She urges the City reject this action. Services for our Senior Citizens are really an issue, not phantom visitors, thank you.

Linda DeMarino on behalf of MainStreet Truth or Consequences addressed the Commission related to:

1) As part of the USDA Speaker Series, we have a speaker tomorrow by the name of Pamela Herman giving a talk on Customer Service. She is a really dynamic presenter, so we are looking forward to that.

2) In relation to the Hot Springs Festival, which will be in May, the weekend after Fiesta. They went to a similar festival in Santa Fe, this weekend. They passed out a bunch of cards with the date on it to recruit vendors and participant speakers. They got a lot of really positive reception. So they are looking forward to a really great festival this year. One of the most noticeable things they noticed when they were passing the cards out, is a good portion of the people responded how much they love Truth or Consequences, and others said they heard that is the cool place to be.

3) She just wanted to let them know because our reputation around the State is improving and it's a good thing for all of us.

LaRena Miller, Executive Director of Geronimo Trails Scenic Byways who operates the Visitors Center addressed the Commission related to:

1) Geronimo Trails Scenic Byway. She gave an update on the visitor's numbers at the Visitor's Center since they have moved into the Lee Belle Johnson Center which has been up 40% to 50%. They have people from all over the world coming in for the Hot Baths and the view the Spaceport and to ask questions about it. Most of them want to know where they can go eat, they are looking for a place to spend the night, where is a good Supermarket, and shopping. It has increased their visitation traffic at the Visitor's Center. They are absolutely thrilled the City has asked them along with the Chamber of Commerce and MainStreet to assist in keeping the Spaceport Visitor's Center open. Because this is a very viable destination for people to come and visit and inquire about. They are glad to work with the city to promote tourism and to keep people coming here. They send things out to people all over the state with requests, and they come and say

they have been to town before but it's their first time in there and they love the beautiful building. Some have been coming back for years. So we get a lot of fantastic comments from visitors and very few negative ones.

George Szigeti addressed the Commission related to:

1) He wanted to formally let them know John Hendry has brought a substantial amount of fencing he is donating for use at the dog park. This is all stored at the Old Asylum and Sid Bryant has the keys. It's all there ready for us to take to the site and start putting up.

D. RESPONSE TO PUBLIC COMMENTS

Commissioner Clark thanked Mr. Trujillo for his offer to help.

Mayor Green said reference has been made by three people about the letter from the State Auditor, he clarified one of the line in the letter that repeats itself, saying "Sierra County valued the building of the land at" the City Hall where the Chamber of Commerce is located. He wanted to take the 207 S. Foch St. which is the building some of the City Hall offices are located at and the Chamber. The Sierra County Assessor valued the building and the land in 2014 at \$2,281,935. And obviously the position the State Auditor has taken is factored in. There was a mistake made at the Sierra County Assessor's Office, they still could not come up with an answer when we reached out to them yesterday of what happened. But the real number that we were given as of 2:54 pm yesterday from the Assessor's Office is that the building is valued at \$174,483 and the land at \$62,916. Decisions and positions were taken by erroneous information. No one knows how that happened, but its not \$2,281,000. On the Lee Belle Johnson, once again the land was predicated on 2014 and the value of the building and in 2014, was because the building had the Municipal Court and the Skate Zone attached to it as one complete unit. That the value of the building and the land was \$1,701,819. However, he would like to point out in 2014 the Lee Belle Johnson did not house Follow the Sun Tours or Geronimo Trails Scenic Byway. When the Municipal Court was taken down and we had to take down the Skate Zone, the building was reappraised and as of 2:54 pm on Monday, the value of the Lee Belle Johnson now is \$631,230 and the land is \$83,970. There are discussions ongoing by the city to bring this unfortunate mistake to the State Auditor and we will keep you informed.

E. PRESENTATIONS

1. Presentation of the New Sierra County Film website. Cary "Jagger" Gustin, Film Liaison

Mr. Gustin and Ruanna Waldrum presented the new website for Sierra County Film. He thanked them for the opportunity to showcase the new website. Ruanna is responsible for the web design. He thanked City Clerk Cantin for her help and he recognized and thanked Kim Skinner, the Chair of the Sierra County Lodger's Tax Advisory Board and the Board for the funding assistance. The site is at: www.sierracountyfilm.com

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This site gives a lot of location pictures throughout Truth or Consequences and Sierra County. The new County film permit is downloadable for film companies to list their projects and information, so the County and City Officials are in the loop for projects. You will also find the filmography; contact information; links to other sites including: Local Governments, Sierra County; MainStreet; and Chamber of Commerce and Sierra County Tourism Board. Finally there is a form that can be filled out asking for additional area information. In closing it's a great website and he hopes they will pull it up and see all that Sierra County has to offer for Film activity. Ruanna let them through some of the features.

Mayor Green said that was Lodger's Tax from the County that was well spent. He asked if this website is tied to the New Mexico Film Website. Mr. Gustin confirmed it is. Mayor Green asked how they would know to go to our website, even though there is a link there. Is there anything we can do if you are looking for the Desert, Mountains, Lakes, Rivers, and all of that. And how do we get them from the New Mexico Film Website to ours? Mr. Gustin responded he is not sure about that question. Ms. Waldrum said if you Google Sierra County Film it comes up, but as far as desert locations, they have not altered those terms yet but they could. They could also add more content, etc. but it's a good suggestion. Mayor Green said they may want to reach out to John Hendry to help with that.

The other thing is, his brother who is retired owned a film company and produced films and won a lot of awards and stuff. He told his brother about he website and he said with Location Scouts, in the issuing of permits, time is the critical factor. And you should put on the website somewhere a statement saying we are committed to expedite that process. Because evidently a lot of Film Companies become very disillusioned when they choose a location and the Governmental red tape is so long and arduous and tedious, they pull out and go someplace else. So if we make that as a commitment statement, that would ring a bell to the location. He stated they did a great job in getting this done.

Mr. Gustin also reported a film that is being recorded now. The film is tentatively titled the Rose. It starts Cybil Shepherd, Josh Brolin, and Pam Grier and they are working along some of our city streets. Their primary location is the Old Dee Rush house on Riverside Drive. He thinks they will be using some streets up in Hillsboro, as well. Mr. Gustin said if you see these people welcome them and we are certainly trying to help them any way we can. Mayor Green would like to have the name of the Production Company and the Director and their address, he would love to have the Commission formulate a letter signed by all of us and the City Manager that we appreciate them coming into our town and we hope they will come back again. Mr. Gustin will do that.

F. CONSENT CALENDAR

1. City Commission Regular Minutes, September 13, 2016
2. Public Utility Advisory Board Minutes, August 15, 2016
3. Golf Course Advisory Board Minutes, July 6, 2016
4. Termination of Agreement and Lease for Hot Springs Falls, Inc.

5. Cooperative Agreement with the Boys & Girls Club of Sierra County for Fiscal Agent Services related to the Juvenile Justice Advisory Council.

Commissioner Hechler had a question on Item F.5 and if we approve this, he wants to make sure we are able to do so on the agreement being dated for July 1st, 2016. City Manager Fuentes responded the city is the Fiscal Agent for these funds but the Boys & Girls Club will be performing the services. The agreement has been reviewed by the state and they are fully aware of this document being dated to July 1st because that is the term of the grant agreement we have with them. Otherwise, we will not be eligible for reimbursement under that grant agreement and there will be grant funds that will be lost. They have been performing the services since July 1st and have had numerous Juvenile Justice Advisory Council Meetings. He feels confident that this is something that we can proceed forward with as presented. And again it has been vetted and reviewed by the state and they have signed off on it.

Commissioner Clark had a similar question on the grant agreement. It's very similar to the grants we get from the state for matching funds when it's supposed to be for July and indeed we don't get the contract for a couple of months afterward, so we can actually back date an agreement even though we don't sign for a couple of months afterwards.

City Manager Fuentes said again, that is correct. The whole intent we thought with the grant agreement we executed as being the Fiscal Agent would be sufficient. But, since they are a subcontractor, they wanted us to enter into this agreement. It is an agreement that began on July 1st at the beginning of the Fiscal Year. This will be a recurring program that will be funded every year, so with all of the agreements in place, we will definitely not have that issue moving forward. But there hasn't been any concerns with the state regarding the dating of this agreement.

Commissioner Clark asked if it is not going to be renewed each year, is it better to not put a name underneath it and just put JJAC Coordinator in there. Mayor Green said he thinks that's a good position to take and leave it open ended and then we don't need to revise it every time a name is changed.

Commissioner Clark moved to approve the consent calendar including the City Commission Regular Minutes for September 13, 2016; Public Utility Advisory Board Minutes for August 15, 2016; Golf Course Advisory Board Minutes for July 6, 2016; Termination of Agreement and Lease for Hot Springs Falls, Inc.; and the Cooperative Agreement with the Boys & Girls Club of Sierra County for Fiscal Agent Services related to the Juvenile Justice Advisory Council and pulling the name of Rebecca Dow out of the agreement and just include Juvenile Justice Advisory Council Coordinator. Commissioner Frankel seconded the motion.

Mayor Pro-Tem Whitehead asked if this is common practice that we approve after the date and is there anything that will protect us that this is allowable or is it just heresy. City Manager Fuentes responded we do not have anything in writing as to this specific question. They received this from the CYFD office who have reviewed it and have

approved it as to its form. So they are fully aware of that date. As Commissioner Clark pointed out, it's not uncommon for us to get agreements because of the time frame of the agreement to come in at a later date. For example, the Co-op Marketing Agreements, those take some time to come in but we always know it's starting from a certain period before the date it's actually approved by the Commission. Commissioner Clark agrees with her concern, but not once have they received an agreement from the state before the contract due date. So there is a precedent that has been established by the state itself in one of their major departments which is the Tourism Department which we could fall back upon if it ever came up.

Motion carried unanimously.

G. ORDINANCES, RESOLUTION, & ZONING

1. Discussion/Action: For publication Ordinance No. 674 2016/2017 change proposed by the Public Utility Advisory Board for Discounted Utility Rates for large businesses. Renee Cantin, City Clerk-Treasurer

City Clerk Cantin stated the PUAB Board approved a proposal which came to the City Commission for action at the August 23, 2016 meeting. The Commission Action was to "authorize staff to proceed with formatting the ordinance and taking it to legal and bringing it back to the Commission in a timely manner with amending the hours to 400 hours per week." The proposed ordinance is in your packet for approval and the minutes from the previous discussion. She did get a response from John Appel as to the legality of passing this ordinance. He did caution one thing in passing this ordinance and that was that some federal funding may find this unacceptable to discount rates, which we can cross that bridge when we get there if we run into that. That was the only issue that he brought up. With that information we are asking this ordinance to be approved for publication and to be brought back for a Public Hearing.

Commissioner Clark corrected the date should have been August 23rd and not October 23rd as she stated. City Clerk Cantin confirmed that is correct. Commissioner Clark asked Mr. Szigeti to come up and present how they feel about this ordinance.

Mr. Szigeti said he didn't really have anything further to add, since he was the one who pushed this through, he was in favor of it. He thinks it's one of those things we could use to help entice businesses in town. It would not only give them a reasonable discount but hold them responsible for staying here for a period of time and maintaining that level of employment. We have seen too many issues where company get tax abatements and other incentives, and as soon as those incentives expire they pack up and leave. This is to make sure that they stay here beyond that initial incentive period. And hopefully by that time, they will realize this is a good place to be doing business.

Mayor Green expressed his thanks to Mr. Szigeti and the Board. He is a little concerned about the amount of money, but he doesn't see 100 new companies jumping through the hoops to move into our community. He doesn't feel the incentive amount is

too much to interfere with our funding ability. We might have to pledge the revenue from a certain enterprise fund.

Mayor Pro-Tem Whitehead moved to approve for publication Ordinance No. 674 2016/2017 related to the Discounted Utility Rates for large businesses. Commissioner Clark seconded the motion. Motion carried unanimously.

2. Discussion/Action: Resolution No. 07 16/17 for Parks Fees adding the Healing Waters Plaza. Renee Cantin, City Clerk-Treasurer and Don Armijo, Public Works Director

City Clerk Cantin reported during a previous Commission Meeting it was suggested to come up with a Policy or Application for the use of the Healing Waters Plaza. Upon the research of our current City Park Fees Resolution, we discovered it already incorporated the fee structure for the use of City Parks. So with that in mind the Rental Application in the Clerk's Office was amended to add the Healing Waters Plaza. Another change was to add some wording about the Placement of Memorials.

The Clerk's Office Staff met with the Public Works Director, and Parks Staff which was very beneficial because we all work together for the Parks Rentals. We determined the current fees for Facility use were not user friendly to the customers who may want to reserve the parks for use. After a review of the Utilities that are spent on the City Parks and the Parks Staff time that is put into the upkeep of these parks, we have prepared the attached resolution that they feels should be more user friendly for those who wish to reserve the parks in the future.

The fee changes are basically for those who wish to have exclusive use of a park or area of a park. If there is no rental contract in place then the park will be open to the public for free. We don't want to take away the free use of parks. In the packet is the draft of the Rental Agreement and the Placement of Memorials page to use.

City Clerk Cantin reviewed the draft version of the Resolution and the changes that are being suggested for approval which is included in the Agenda Packet. What we are proposing is something simple and easy where we might also be able to obtain a little bit of revenue and give people who want to have an event in the parks the ability to put a Rental Contract in place to use a portion exclusively. We are proposing charging for those who are using Electric because we don't want to give those services for free. With that she opened it to the Commission for questions and is open to postponing the item until the next meeting so we can work on the changes.

Commissioner Frankel said concerning memorials and disaster's don't keep bankers hours. What happens if something happens on the weekend, can they come in on a Monday to fill out the paperwork or will they not be allowed to do it? City Clerk Cantin responded she feels they would be open to allowing them to come in on the following Monday so we can have an idea of a contact. She doesn't feel City Staff or the Police Department would be so heartless to go and move it because they didn't have a permit.

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Commissioner Clark complimented staff for hearing and remembering what they have spoken about in having two consecutive day events which is critical to our community for the Heads on Beds. She also appreciated their consideration if it's a Non-Profit and waiving the fee for more than a one day event. Next, having been an Ex-Tennis Player, she is having a hard time realizing why there is a \$500 fee for the lights unless someone is going in and turning them on and not turning them off. Most of the Tennis Players she knows like to play in the mornings, and not in the evenings. She feels those she know would not leave the lights on. She is just curious how that happens, because if you've got \$10 per day, per person and you've got 6-8 players in the morning, that is a lot of money for them to have to come up with. She asked us to rethink that a little bit. If it was a daytime player, she would just charge them a key fee, and if they are a night time player and will use the lights, she is ok with \$10 fee. She doesn't think the people who play will want to put out \$80 to play.

Commissioner Clark's second question was about what kind of memorial we were talking about. If we were talking about something like the burning man or are we talking about something with a cross with flowers on it. City Clerk Cantin responded this was intended for placing memorials such as the loss of the Officer in Hatch or the Florida incident where people want to just pay their respects. We made it as simple as possible for the requestor to sign up with what location they would like. She suspects the Healing Waters Plaza will be the favorite place to do that. She added it's not intended for a permanent structure just temporary place where people can bring flowers and things you see left at a memorial where people can pay their respect. Commissioner Hechler wondered if we can put it as a small memorial with a caveat. Mayor Pro-Tem Whitehead thinks it's going to be something simple and only there for 30 days. She feels it can be maintained and sometimes small memorials. City Clerk Cantin added the 30 days was just a starting point for the time frame. It could be two weeks. You never know how long it needs to be for the grieving process. City Manager Juan Fuentes added the intended purpose was to provide some flexibility to staff and the organizers of the memorials. He thinks if there is a huge structure that may propose a safety issue, then we would have our building inspector get involved in that. The intended purpose was to allow the things to occur, but to have the flexibility where the Clerk's Office can coordinate with them. We want to be respectful and at the same time make sure there is a time frame, and to have a contact person in case an issue arises. Commissioner Clark said that brings her back to Mayor Pro-Tem Whitehead's comment. She can see candles being lit and she thinks that's a hazard. She would like to see the City Clerk or City Manager approve the content of the memorial so we don't end up with a candle too close to a piece of wood and next thing you know, we have a fire going. City Clerk Cantin responded that is a very good suggestion. We can put a statement in there saying the City Manager's designee or the City Clerk has the right to review items placed at the memorial for the health, safety, and welfare of the citizens.

City Clerk Cantin continued on her question about the Tennis Courts, we could charge a fee only for Electricity or when it was used. We are open to that. This is a starting point

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to see what is really fair for the citizens. Commissioner Clark will give contact information from a woman who was the Tennis Association President for many years.

Mayor Pro-Tem Whitehead also had a question on the statement that's included about any complaints of public affray may affect your ability to use City Parks and who is going to mandate that and watch over that. And who will take the complaints, and how will that be handled. She knows recently there were some disgruntled players at the Baseball Field. And they were run off and stopped having baseball or whatever. She asked if that was for a temporary time or a period of time. Who would be responsible for enforcing that? City Clerk Cantin said the Parks Department doesn't want to be in charge of that. For example with the Civic Center if there is any problems or damage at an event, and the cleaning deposit doesn't cover it, they will notify the Clerk's office and we charge them accordingly. City Clerk Cantin views this issue in the same way where we would get the information of who it is, and if it were that bad, there would have to be a Police Report. That is why we included the City Manager or his designee, so we could run it all through him if there is any serious issue.

Commissioner Hechler first of all agrees with Commissioner Clark on the fees for the Tennis Courts. He feels we should not charge for the day time use. The night time use a little different. Perhaps we could establish a fee for Special Events at the Tennis Courts because they might want to hold a tournament or something like that. He was looking at the application or rental agreement where it says no alcohol will be allowed on the premises. He asked if we want to have times where we have events where we may want to establish a beer tent or something else to facilitate that particular event? Now that we have Micro Brewery coming to this community. We also have another one established here. He asked if this excludes that opportunity or do we need to modify that? City Clerk Cantin responded if we want to modify that, we absolutely could. But the reason it's in there is because it's a City Ordinance. So if we wanted to make that change, we could do it through the City Code by Ordinance. Commissioner Clark said we could put a caveat that it could be with a Picnic License. So it would be done with someone else's liability on our property. City Clerk Cantin responded it could be changed by ordinance so it would be allowed. Commissioner Clark, Mayor Green, and Commissioner Hechler agree that is a good point and would increase the turnout for events. Commissioner Hechler added we realize they would have to have state permitting. But as the Micro-breweries become more successful, there may be more events that we want to be supportive of the Micro Breweries to be a part of that. He would recommend that change.

The other recommendation Commissioner Hechler had was, he noticed we have the Hold Harmless on there and that's fine. We should have something on there that requires additional insurance for events that may be more high risk or that involve more activity that may provide a potential for a lawsuit. He knows that at the state level, we had that discretion, so when we had some events that were more dangerous, they would ask for additional insurance. City Clerk Cantin responded we do already look for that. Anything that we are not insured for with the New Mexico Self Insurers' Fund, should require insurance naming the city as an additional insured. Commissioner

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Hechler asked if that was something we should put into the Rental Agreement? Or how would that be decided. City Clerk Cantin agreed it wouldn't hurt to put into the rental agreement.

Commissioner Frankel said in reviewing this document, he didn't see any mention to the Gun Range. He asked if there are any fees associated with using it or any daily fees for using it. City Clerk Cantin said she is not aware of that, but it might be one that would not hurt to add in here. As far as she knows, it's open and free. Commissioner Frankel said there is a drop box out there to put money in, but he doesn't think there's a set amount that is encouraged. But they hold events out there or trainings and we may want to include that in the scope of work. City Clerk Cantin would be interested in looking into the use of it and what value that might be. She confirmed with them this is one of the City Parks and agreed this should be included on the Resolution.

Mayor Pro-Tem Whitehead had more discussion about the Gun Range. We should have signage out there too on all of our Parks that specifies if you pack it in, you pack it out. So they don't leave our Parks trashy and a mess, anything you take in, you also bring out. Commissioner Clark asked Police Chief Alirez about the range. Police Chief Alirez said they do use that range and other groups use it as well. He said there is some plans for taking what is existing and making it more usable for training purposes for the Police Department, Sheriff's Department, and Border Patrol. They are there almost every week. Commissioner Clark suggested to Ms. Cantin that we exclude the fees for Law Enforcement, but the regular citizens that wish to use it should pay a fee. Police Chief Alirez said that range is used all the time by the public. It's popular on the weekend and sometimes during the week.

Mayor Green hopes to have a workshop with the County on the rodeo arena. The way he reads it is misleading because it reads \$15 per animal per day and \$100 per event. If you have a Gymkhana with 60 horses, that is \$900, plus \$100 for the event. So he would like to see the word lodging or overnight stay. City Clerk Cantin said we kind of had that in mind there in the beginning. Commissioner Clark said the term would be boarding.

The other comment Mayor Green had was that any Non-Profit holding an event that requires at least two consecutive days, rent will be eligible for 100% reduction on fees, he completely agrees with Commissioner Clark and appreciating staff taking this position because of past discussions. He would like to see the words added on to include, "that is advertised out of town." Which means if they are holding a two day event, we charge them 50% of the fees initially. When they come to get their deposit money back and that organization can show us they advertised in the El Paso or Albuquerque newspapers or anything that would attempt to bring visitors into our community, they would get all of that money back if everything was turned over clean. He would like to see that, otherwise we might have two days of a local events. There is nothing wrong with local events but that concept, was put in to bring people into the community. And also encourage two day events so they would sleep overnight.

He is a little confused on the Tennis Courts but he will let greater minds work that out. He sees them as \$10 per day, not per person. It just says Tennis Courts, \$10 per day. So if you have 8 people playing its \$1.25 each. He thinks that has to be cleared up a little bit so there's no misunderstanding. It will also take the onus of explanation away from your office, because it will be clear what the intent is. He thinks this is a great start, he would like to ask someone to make a motion that

Commissioner Clark moved to ask staff to take the suggestions they have heard and revise this document to bring back at some particular appropriate point. Mayor Pro-Tem Whitehead seconded the motion.

Mayor Green thanked all of those involved in this change. They appreciate the work they have done on it. **Motion carried unanimously.**

3. Discussion/Action: Resolution No. 08 16/17 related to the Elephant Butte Lake Minimum Pool. Juan Fuentes, City Manager

Commissioner Hechler has read the resolution. There was a similar move a few years ago to get this accomplished. He is not positive if Elephant Butte still has a minimum pool. If they did, the water is probably evaporated away and they no longer have it or it was let downstream. He has talked to some from the Bureau of Reclamation and they are the proper agency to go through. But we have to keep in mind they cannot introduce Legislation, they can only oppose or stand for the legislation. But they would be the entity that can provide information to get this done. He gave some examples of how water can be purchased. He feels they can give us some ideas on how to pursue this. He thinks the Resolution is fine with some minor changes.

City Manager Fuentes said the intent is to join all of the Sierra County Entities to get together and come up with a reasonable minimum pool. This is just that first step for us to be a party for that effort.

Commissioner Clark thanked County Commissioner Fletcher who brought her information and talked to her about the County's support on this Resolution. There was a set for 57,000 acre feet for the minimum pool at the Lake, with 6,000 acre feet annually delivered from the San Juan Chama Lake into the river to cover evaporation purposes. That was done in 1974 and the delivery was to last no longer than 10 years. The deal was unclear as to how we lost the 50,000 acre feet. She heard the dam tripped and the first 50,000 going out took care of the minimum requirement, she's heard that wasn't the case and it was supposed to be an average amount of water put in there. She agrees the BOR is probably a great place to start. She suggested this to be reworded a little bit. Suggestions included in the first sentence, changing the Elephant Butte Dam was "completed" in 1916, not established in 1916. Also in the whereas, the water could be used by farmers for irrigation of their crops "seasonally" and not during the dry seasons. Since she has been here the irrigation starts in the Spring and ends in the Fall or whenever we get to and amount of water that is determined to turn it off. Then under the "Now, therefore be it resolved" they would like to add "and any other authorities" after the Bureau of Reclamation. If we want to call

upon the Governor also, we need to have that included and not just the Bureau of Reclamation.

Mayor Green said it's an absolute joy and pleasure to serve on a team that has so much passion and knowledge about specific concerns that seem to be coming towards us every single day and this is really a think tank and he appreciates everyone.

Mayor Green moved to approve Resolution No. 08 16/17 related to the Elephant Butte Lake Minimum Pool with the suggested changes including: the Elephant Butte Dam was "completed" in 1916, not established in 1916; also in the first whereas, the water could be used by farmers for irrigation of their crops "seasonally" and not during the dry seasons. Then under the "Now, therefore be it resolved" they would like to add "and any other authorities" after the Bureau of Reclamation. Mayor Pro-Tem Whitehead seconded the motion. Roll call vote was taken by the Clerk. Motion carried unanimously.

4. Discussion/Action: Resolution No. 09 16/17 authorizing and approving the submission of a completed application to the New Mexico Finance Authority Water Trust Board for Cook Street Water Treatment Facility Improvements. Traci Burnette, Grant Projects Coordinator

Grants Projects Coordinator Burnette presented this application consists of Phase 1 which is a 300,000 Water Storage Tank, a new Gas Chlorination Disinfection System, and upgrades to our existing SCADA System. The amount we are requesting will be \$1,490,000 and applications are due October 3rd. This is a required resolution for the Water Trust Board.

Commissioner Clark asked if it was including installation of water lines. Ms. Burnette responded not on the Phase 1.

Mayor Pro-Tem Whitehead moved to approve Resolution No. 09 16/17 authorizing and approving the submission of a completed application to the New Mexico Finance Authority Water Trust Board for Cook Street Water Treatment Facility Improvements. Commissioner Clark seconded the motion. Roll call vote was taken by the Clerk. Motion carried unanimously.

5. Discussion/Action: Resolution No. 10 16/17 Approving the Finance Policies and Procedures. Melissa Torres, Finance Director

Finance Director Torres stated approving this by resolution will give us the avenue to apply for grants that require these policies to be approved by Resolution.

Commissioner Clark asked if there were any changes to this that were different than when it was presented by Lori Montgomery. Finance Director Torres responded there were no changes at this time, she feels the best time to make changes will be after the audit is performed to see if they recommend any changes.

Mayor Green has two observations under Purchasing under 4-4-1, he has a problem with it singling out the Mayor and making that person appear to have more power than the other Commission. He feels this sends a bad message and our Mayor does not have any more power than the other Commissioner's. The last thing under purchasing we don't give any additional value for being a Local Owned Business, or a Veteran Owned Business etc. to get a preference. He would like to see us come up with a formal help to support the local economy. Finance Director Torres said she will look into it. At this point she doesn't think we can, we have to follow the state purchasing code. But she will look into it.

Commissioner Clark moved to approve Resolution No. 10 16/17 Approving the Finance Policies and Procedures as presented with the proviso to look into the 5% discount or that it comes back as a LEDA adjustment. Commissioner Hechler seconded the motion. Commissioner Clark complemented the Mayor for publicly recognizing the Mayor has no more power or jurisdiction as any other Commissioner who is elected.

Roll call vote was taken by the Clerk. Motion carried unanimously.

6. Discussion/Action: Resolution No. 11 16/17 and Resolution No. 11-A 16/17 approving the required Community Development Block Grant (CDBG) Annual Certifications and Commitments and Fair Housing Policy. Traci Burnette, Grant Projects Coordinator

Grants Projects Coordinator Burnette presented the Annual Certifications and Resolutions which are a requirement for CDBG funding. In the Resolution it says we will also adopt a Citizen Participation Plan, the Fair Housing Resolution, Residential Anti-Displacement & Relocation Assistance, Section 3 Plan, as well as, the Procurement Policy that was just approved. The first resolution says we will adopt this on a yearly basis, it makes us eligible for CDBG funding, which is a requirement. We have already been awarded the CDBG Grant for \$500,000 for Manhole Replacement. The plans are how they relate to the CDBG Construction Project, meaning in the relocation plan relates to if we have to move someone as a result of the grant itself.

Mayor Pro-Tem Whitehead moved to approve Resolution No. 11 16/17 and Resolution No. 11-A 16/17 approving the required Community Development Block Grant (CDBG) Annual Certifications and Commitments and Fair Housing Policy. Commissioner Frankel seconded the motion. Roll call vote was taken by the Clerk. Motion carried unanimously.

7. Discussion/Action: Resolution No. 12 16/17 authorizing submission of an application for Airport Aid to the Federal Aviation Administration (FAA) and Obligation of Sponsor Matching Funds, and Authorization to accept the resulting Grant Offer. Juan Fuentes, City Manager

City Manager Fuentes notified the Commission the Grant Agreement for this funding from the FAA is in the packet. We have been trying to get this funding for over 4 years. The City went out to bid numerous times and the bids always came in higher than what we had funding for. This last bidding process our consultants reached out to FAA hoping we can get it funded. They agreed and this will fund part of the project cost which is \$627,000 with the other money coming from the State and the City which is \$34,862 for the state and the city which makes it a great deal for us. We will be one of very few communities where FAA has funded a Fuel Farm. We may have another opportunity in the future to come back and fund the entire project. The State is willing to put in additional money for the tanks themselves. The total cost of the Fuel Farm will be close to \$900,000 which is why we couldn't get funded in the past. Staff recommendation is for approval of the Resolution so we can proceed forward.

Commissioner Clark asked Commissioner Hechler since he is the Airport Representative if he is familiar with the project. Commissioner Hechler responded he is to some degree and thinks it's fine.

Commissioner Frankel moved to approve Resolution No. 12 16/17 authorizing submission of an application for Airport Aid to the Federal Aviation Administration (FAA) and Obligation of Sponsor Matching Funds, and Authorization to accept the resulting Grant Offer. Commissioner Hechler seconded the motion. Roll call vote was taken by the Clerk. Motion carried unanimously.

Commissioner Hechler announced a typo on the Resolution where a sentence was duplicated. He will get with the Clerk to make sure it's changed.

H. NEW BUSINESS

1. Discussion/Action: Agreement with South Central Council of Governments (SCCOG) for Community Development Block Grant Services (CDBG).
Traci Burnette, Grant Projects Coordinator

Grants Projects Coordinator Burnette asked the Commission to agree to enter into an Agreement with SCCOG for the Administrative Services for this grant. We do have \$10,000 in Administrative Services in the grant at this time.

Mayor Green asked if he is correct in understanding the project is \$490,000 and they are going to give us that \$10,000 for Administrative Services or is it coming out of the City's pocket. Ms. Burnette responded the grant was for \$500,000 with a 10% cash match, so we have allocated \$550,000 for the Manhole Project. Within the \$550,000, \$10,000 was allocated for Administrative Services. She believes it was actually from grant money itself and not from the cash match.

Commissioner Clark said we have a 2% Admin. Services going to them. Ms. Burnette said CDBG is one of the most complex grants we have.

City Manager Fuentes responded the CDBG project is one of the most complex and the State has been very strict on these projects. Many municipalities use either an Engineer or their local COG to administer these grants. Mayor Green spoke to the Executive Director of the SCCOG and they also get hit with 5% cuts across the board.

Mayor Pro-Tem Whitehead moved to approve the Agreement with South Central Council of Governments (SCCOG) for Community Development Block Grant services (CDBG). Commissioner Clark seconded the motion. Motion carried unanimously.

2. Discussion/Action: Extension of Lease for Follow the Sun (FTS) Tours.
Juan Fuentes, City Manager

City Manager Fuentes presented the current lease expires on September 30th. The New Mexico Spaceport Authority, Follow the Sun Tours, and the City desire to keep the Spaceport Visitor's Center open. Right now they are going through a transition with a new Executive Director. We are working with some of our local entities who can assist in keeping it open in an Interim basis. We are asking for authorization at this time for city staff to coordinate with all of the entities, along with the Non-profits to operate and maintain the Spaceport Visitor's Center. He opened it up for any questions from the Commission.

Commissioner Clark added it's her understanding is the extension of the lease is built into the original lease and will be extended with the original lessee. The City will just be stepping in with three incredible non-profits that are volunteering to keep the visitor's center open. These include the Geronimo Trails Scenic Byway; the Chamber of Commerce; and MainStreet. She has to give them a lot of credit for stepping up to the plate for the community. Mayor Green echoed Commissioner Clark's comments.

Mayor Green read a statement he got at the Mayor's Summit. The City on its own can do only so much. Stronger partnerships with organizations and Citizens to move our economy forward is what is needed for success. He thanked Geronimo Trails Scenic Byway; the Chamber of Commerce; and MainStreet for stepping up and helping us move forward.

Commissioner Clark moved to approve an Extension of Lease for Follow the Sun (FTS) Tours as presented by City Manager Fuentes. Commissioner Frankel seconded the motion. Motion carried by a vote of 4-0-1. Commissioner Hechler abstained because he is employed by a subcontractor of the Spaceport and in the interest of a possible conflict of interest, he doesn't want to vote on this. Commissioner Clark appreciates any questionable conflict of interest or one that might appear as one.

I. REPORTS

1. City Manager

He and the Mayor will be traveling to Albuquerque because our Solid Waste Collection Center has been nominated to receive the Most Innovative Solid Waste Project of the Year and it's something we should be very proud of and they will be joining Andy to accept the award.

We have also been awarded the \$4.5 million funding for Phase 2 b of the Wastewater Treatment Plant project and it does require a \$700,000 loan. That will get us closer to completing the entire project. There is one more phase which is Phase 3 that we will be going after, we will need funding from the State Colonias Program.

Thursday he will be traveling to Ruidoso for the required Safety training to receive the Dividend Credit for the New Mexico Self Insurers' Fund.

2. City Commission

Commissioner Hechler added a correction in the third whereas that needs to be made to the Resolution on G.7. Mayor Green let him know it has been corrected.

In accordance with Rule 7, he is notifying the City Manager and the City Clerk that he will not be at the October 11th meeting because he will be traveling out of state.

Commissioner Clark thanked staff who attended.

Commissioner Frankel gave an update on the Water issue. Just to familiarize himself with the situation with the assistance of the City Clerk, he has pulled all of the past minutes of the Commission meeting where it was discussed in 2013. He also got the Van Clothier Report that he submitted to the city and read through that report. He has visited some of the site locations that were listed in this report. Still to be forthcoming, he will be reaching out to Van Clothier to let him know we are back in the loop with this program, as well as, getting with Traci to familiarize himself with the E-Civis to start looking for some funding. Mayor Green thanked him for the report and for agreeing to spearhead this project.

Mayor Green read a letter from the letter from NMDOT on an audit with no findings for the Local Government Road Fund Projects. It stated it was great work by the staff for the City of Truth or Consequences.

He commented on volunteerism. The City can only do so much partnerships with organizations. Two weeks ago, private citizens, Billy King and Dr. Matt Felts were helping to pour the new floors for the dugouts for the new T-Ball Field. Volunteerism last week, Truth or Consequences Rotarians, under the leadership of our City Manager and Little League Volunteers continue working on the T-Ball Field at Louis Armijo Ball Park. That's the juice that makes this city work and he congratulated all of those volunteers.

Mayor Green attended the Mayor's Summit he reported what he learned. It was doom and gloom from the beginning to the end of every report from John Arthur Smith to Bill Fulginiti. As you all probably know, the state is in the bucket \$671 million. That was two weeks ago this past Thursday. The Governor looks like she is going to call a special session and it looks like she can't take the Tobacco money and move it without the approval. So she is looking at taking money that was given for health and preventive maintenance for people with smoking and emphysema and cancer and swing that over to the General Fund. We did hear from Bill Fulginiti who is the very respected Executive Director of the Municipal League, is that there is no program that is going to be left out. Everything is going to be on the table. This includes our Hold Harmless which before did not affect communities who were 10,000 or under. Gross Receipts are down 6.6% at the State Level. They are suggesting the Finance Department get with Tax & Revenue and there is a 455 report on who paid taxes and you're supposed to match their list with your list of businesses to see if they are reporting back. This was recommended very highly. They are afraid the Governor is going to pull back everything and the small rural communities will be affected and have to look for every dollar that is owed to them. They talked about Solo Jobs, where Millennials are just working from home now. Many Southwest Airline employees work from home. Broadband is critical to having jobs in a rural area. Pay attention to values and culture and behavior. He read some GRT figures from other communities.

On the website, do stories about people who do a good job. To let staff know we appreciate when they do a good job. He would like the Commission to entertain the idea of companies that have charitable trusts for funding. The Lodgers Tax Board can help the Commission determine what foundations have money. There are other foundations that Non-profits can apply for. We might be able to free up some of our money for other marketing projects for the city. Lodger's Tax Board might consider going on every website that has to do with spas and restaurants, and lodging whether events and assets are included on the city website and tied into tourism. We just have to do a better job. In challenging times you've got to think creatively and outside of the box.

J. EXECUTIVE SESSION

1. Purchase, Acquisition, or Disposal of Real Property (613 Gold St.),
Pursuant to NMSA 1978, 10-15-1(H.8)

Mayor Pro-Tem Whitehead moved to approve going into Executive Session at 11:11 a.m. to discuss Purchase, Acquisition or Disposal of Real Property (613 Gold St.) pursuant to NMSA 1978, 10-15-1 (H)(8). Commissioner Clark seconded the motion. Roll call vote was taken by the Clerk. Motion carried unanimously.

Mayor Green stated that the Commission was now in Open Session at 11:30 a.m.

Mayor Pro-Tem Whitehead certified that only matters pertaining to discuss Purchase, Acquisition or Disposal of Real Property (613 Gold St.) pursuant to 10-15-1 (H)(8) was discussed in Executive Session and no action was taken.

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Commissioner Clark moved to authorize staff to proceed with the foreclosure process on 613 Gold St. Commissioner Hechler seconded the motion. Motion carried unanimously.

1. ADJOURNMENT

Meeting was adjourned at 11:32 a.m.

Passed and Approved this 11th day of October, 2016.


Steven Green, Mayor

ATTEST:


Renee L. Carlin, CMC, City Clerk