

CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, OCTOBER 25TH, 2017

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 and asked us to keep the family of Kathy Mitchell, Destiny Mitchell's Mom in our thoughts. She was a long time resident of Truth or Consequences, a business woman, she owned a hair salon hear in town and was a vital asset in our community.

3. PLEDGE OF ALLEGIANCE

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

4. APPROVAL OF AGENDA

Commissioner Hechler moved to approve the agenda with the following changes: Item G.2 will be G.1 and move Executive Session K.1 under #3 of Unfinished Business; then #1 the meter reading discussion as the last item under Unfinished Business. Mayor Green asked to do the quarterly before the Automated Meter Reading. So basically it will be Animal Control; Night Sky Ordinance; Acquisition Disposal of Property at the Airport; Quarterly Report; and last will be the Automatic

Meter Reading. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.

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

Mayor Green called for Public Comment, noting the three minute rule applies

Gary Woodcock, 312 Marr St. addressed the Commission related to:

1) He and his wife enjoy walking in the downtown in the residential. Too often they see loose dogs are out there and a few weeks ago they encountered one. Fortunately, Animal Control must've been called and they intervened before they were injured. Given what has happened when other community members have been attacked, one seriously injured and traumatized, including one community member killed, some young children refuse to play outside. We need to come together as a community so people can feel safe and are safe on the streets of Truth or Consequences. A community where dogs are treated humanely, a place where people walking won't need to even think about aggressive and deadly dogs. When we take a hard look at it, this is really a people problem. Dog owners are responsible for the actions of their pets. Clearly understood ordinances, backed up with monitoring for compliance, backed up with violations coupled with immediate removal will turn this unwelcome situation around quickly. He's dedicated to working with other community members you are not willing to accept this any longer. People who are dedicated to standing up and doing whatever it takes to have Truth or Consequences become known as a safe welcoming place for people and their pets to feel safe and be safe. This is our responsibility to do what's right for our elderly and our children. This is our future and we just need to get to work. After all, we are a great community.

Jessica Murphy, 819 Ivy and President of Wildflowers addressed the Commission related to:

1) They are a grass roots Non-Profit that provided free activities and the sense of community to families with children in Sierra County. They are official incorporated as of June 2017. They graduated from the Bountiful Alliance and want to share their gratitude to the board who supported their organizations growth since 2013. They are excited to invite the community to the upcoming Open House Party on October 26th from 4 -6 pm at 400 and 402 Broadway at Wildflowers and Little Things Matter. Refreshments and snacks will be provided by Tresco. They will be open offering information about services, games, and activities. They will also be offering a ring sling at no cost to parents. Come, make a sling to carry your baby, enjoy free food, games, crafts, and connect with other families in the community. Also invite them to their event on Halloween for games, free crafts, and stickers for Trick or Treaters. Thank you to the City of Truth or Consequences for your continued support of their organization and to the children and families in our community.

Mayor Green forgot to add if you want something for the record to please put it in the black box.

CITY COMMISSION OCTOBER 25, 2017 REGULAR MEETING MINUTES

Klaus Wittern, 618 Charles addressed the Commission related to:

He requested to speak for 5 minutes, he feels it would be helpful in their future deliberations. He asked if someone in the audience would be willing to give him their two minutes, he would certainly appreciate that. Mayor Green responded that we have a three minute rule and if we start to break it and deviate, everyone will want a five minute opportunity. He will certainly bow to the will of his fellow Commissioners, and there was no response. Mayor Green announced he has his three minutes. Mr. Wittern asked if he can get two minutes from someone else. Mayor Green let him know he has three minutes.

1) You have heard him speak in support of replacing all water and electric meters at previous meetings. Today is no exception, however, as in previous sessions, he remains that city staff can take on this task with the exception of the approximately \$350,000 electronic AMI system which will include, and integration cost and training of staff to the tune of \$180,000. The entire cost would be less than \$2.7 million or less than half of the proposed cost by YESCO. Especially if you would include the approximately \$1.7 million 20 year data management costs that are not included in the so called turnkey costs proposed. Neither are the financial costs included in the proposal. He's very disappointed that what is being proposed as a cost benefit analysis is merely an expenditure reflection. But by no stretch of any imagination would it pass as a cost benefit analysis which by the way was a requirement by the Commission before you would go forward with the state required audit. And to gain the support by the Commission and to start, Jeff Richter who's seat is now held by Commissioner Hechler, and Commissioner Clark. He's keenly aware of the staff and City Manager's attempt to absolutely minimize the city's expenditures that would impact the budget. He will provide a copy.

Hans Townsend, addressed the Commission related to:

1) Commented where Date St. joins Main St., there are sprinklers on that corner and there was an accident with a car who hydroplaned and went through the front windshield of the building opposite Sea Properties. He notices there was water on that corner again this morning. So it hasn't been resolved. It's a sharp turn for someone who doesn't know that area, so if we could try to make sure that water doesn't go on the road.

Randall Lawson, 701 Poplar St. addressed the Commission related to:

1) His last appearance here stirred up a little controversy he takes it, because he got a letter from our distinguished Mayor. And he's here to respond to Mr. Green. He read the comments the Mayor made in a letter addressed to him. *He said "first, he doesn't remember any Commissioner putting forth a motion to close the pool because of financial drain of our limited budget."* Mr. Lawson continued, no sir, he did not hear anything from the Commission about closing the pool. But, whenever the pool is inspected once again, sometime in February if he's not mistaken, it will be closed. And that's going to take the monkey off your back you think. But they will hold the Commission's feet to the fire on this pool. He guarantees them they will. Also it seems like they had the impression that he was threatening them with a word that he used. When he talked to Manager Fuentes two or three years ago, he told him, he could be his biggest supporter or his worst nightmare. He didn't get offended and wasn't threatened. But then when he said it to the Commission, the Mayor becomes threatened and sends a letter in the mail. He did a definition of nightmare, which is a frightening or unpleasant dream. He had a nightmare

CITY COMMISSION OCTOBER 25, 2017 REGULAR MEETING MINUTES

after watching a horror movie. Or a person, thing, or situation that is very difficult to deal with. Such as, Mr. Green and his decisions are a nightmare; or you may say, Mr. Lawson's pressure on closing the pool, is one hell of a nightmare.

Ron Fenn, addressed the Commission related to:

1) Meter Program. To make things very simple, we are looking at close enough to \$8 million dollars for 4,000 customers. That's \$2,000 per customer for meters. There is nothing that covers the water lines that lead up to the meters. So where the leaks are, you are not addressing. Of course the addressing of the water lines in this city, is a \$20+ million budget. And with the revenues, you're looking at a 40-50 project for replacing water lines. And that's only one of the utilities that needs serious consideration. The city is 100 years old, and for 100 years there has never been a definitive plan for the replacement of utilities. And as far as the data processing these people offer this city, it's a joke. Because there is not one person in the city who can analyze data or choose not to analyze data to make decisions. We buy and buy, and we are buying ourselves into extinction. This city cannot afford to spend \$8 for new meters until after the water lines are replaced. And that is probably a 30 or 40 year project. But it won't start until somebody makes the plan and starts working the plan and making it happen. We cannot do 60 miles of roads or thousands of electrical lines and transformers unless we build it some place else. Use some discretion here folks, this is our city, not Mr. Fuentes' city. Some Architect of all of these disastrous contracts that the city has been embroiled in over the years. Think about it please.

Jeff Dornbush, 1122 W. 8th Ave. addressed the Commission related to:

1) Here as a private citizen to address his concerns with the Meter Project proposition. He has to agree with Mr. Fenn, we have serious infrastructure issues that will cost us some money. For \$5.3 million we will get about \$1 million worth of meters. They will be installed quickly and efficiently and we will get an information storage contract to go along with that and a calibration fee contract to go along with that. He didn't get to \$8 million, he only got to \$7 million, but that's a lot of money for \$1 million worth of meters. He also finds there is a conflict of interest for the YESCO presentation that shows that we cannot do it ourselves without losing a lot of money. He takes umbrage at that. He thinks we can work together to come up with a plan to replace our meters in increments and have the whole thing down in five years. Then all of the money will be ours without additional contracts. Then we can start addressing the 21% of our pumped water that goes missing even after our 5% increase in efficiency. The big issue here is that 21% of our pumped water is going bye-bye. Like Mr. Fenn said, these meters only tell you what's going on downstream, it cannot tell you what's going on upstream. The information they are going to be collecting is nothing more than usage information. It's not going to tell us where the leaks are except on the property owner's property if there is a leak. As someone with experience in the field, he would be willing to volunteer his time to help the city set up a program to replace these meters if we choose to do it ourself, which we are totally capable of doing.

Linda DeMarino, MainStreet Truth or Consequences. addressed the Commission related to:

- 1) Thanked Don Armijo and their crew for replacing some of the sidewalks downtown. We got a grant through AARP to replace some of the crumbling sidewalks.
- 2) Also part of the AARP grant we are starting with the Walk Downtown on Friday at 10:00 a.m. and on Monday, at 6:00 p.m. Mayor Green will be starting us off with a walk downtown starting at the Healing Waters Plaza.
- 3) Tomorrow they are hosting with the Chamber of Commerce for Manufacturing Day at the Brewery starting at 4:00 p.m.
- 4) Trick or Treat Downtown on October 31st, 2017 starting at 6:00 p.m. They will be blocking off Broadway for that. Events start at 5:00 p.m. and Trick or Treat starts at 6:00 p.m.

Collysue Lawson, 701 Poplar addressed the Commission related to:

- 1) Invited everyone to the 3rd Annual Halloween Bash at Grapes for the Friends of the Pool, starting at 6:00 p.m. There will be cake contest, and other activities. The cost is \$12 per person or \$20 per couple. This is mainly to cover some of the costs at the pool, they try to buy each year. She would like a status on the resurfacing at the pool. She understands it has been talked about, but she doesn't know any details.

D. RESPONSE TO PUBLIC COMMENTS

Commissioner Clark briefly thanked Mr. Wittern, Mr. Fenn, and Mr. Dornbush for the incredible amount of thought they put into their comments for the meter reading issue.

City Manager Fuentes responded to Ms. Lawson about the resurfacing of the pool. For those who were not at the last meeting, the Commission did authorize to go ahead and close the pool and find the funding, and contracting for the resurfacing of the pool. That's why it has been closed since October 15th. Grants Projects Coordinator Burnette has reached out to some of the vendor's and we have a quote from Pool Pro for \$97,000. He is working with the Finance Director to get a Purchase Order issued so they can get the project scheduled. He believes they can get it done within the time frame and we will be seeing more activity in the next two or three weeks. So as you heard there is no action to close the pool permanently, but the resurfacing has to be done so the inspection can occur. That's where we stand on that and we will be seeing more activity in the next two to three weeks.

Mayor Green asked if he is correct in understanding there are two quotes and we are taking the more expensive one because it will last longer. City Manager Fuentes confirmed this an added is a more long term solution, so it will last longer.

E. PRESENTATIONS

1. Presentation – Sierra Co/T or C Chamber of Commerce App. Hans Townsend, President and Rolf Hechler, Commissioner

Commissioner Hechler commented he recently met with Mr. Townsend and had a discussion of how we can make more people aware of the app so we can get it used by the community and visitors. He encouraged all citizens to download the app and for

businesses to please post the information so we can get the word out to anyone seeking information about businesses and events in Sierra County.

Mr. Townsend started by showing the app which has twelve different links for different areas. Links include Maps; Lodging; Dining; Attractions; Contacts & Businesses; Spaceport America; Art & Shopping; Outdoor Adventures; State Parks; Hot Springs; and Events. He asked if anyone sees any information that needs to be updated, please let them know so they can keep it as accurate as possible. This is something they can download and use to see what is going on. He can encourage people to install it and have it with them when they are visiting so they have all of the information. It's something we should encourage people to use.

Commissioner Hechler asked how this app is being promoted other than word of mouth. Mr. Townsend responded he made a flyer and laminated them and put them in a lot of the hotels at the front desk. Commissioner Hechler asked how businesses would get a placard to post conspicuously. He would like to put them in each business. Mr. Townsend agreed that is a good idea. It needs to be used because they spent a lot of money putting it together. Even he was surprised putting it together, things he didn't know and he's lived here ten years.

Mayor Green had a follow up and for the future that maybe where Non-profits who are using Lodger's Tax money that we require them to put this information on their ads. Another suggestion is, he talked about maps, we might take things and put them on the maps so people know how to get there. Mr. Townsend said the Hot Springs Map is on there. Every business that they know of, list their businesses.

Mayor Green then read part of the proclamation that was presented related to Manufacturing Month. They appreciated the Chamber partnering with MainStreet on that one. He also announced the Top Hat Award recipient from the New Mexico Hospitality Association for the Chamber being a finalist for the best print campaign. He wished them well.

F. CONSENT CALENDAR

1. City Commission Regular Minutes, September 27, 2017
2. Public Utility Advisory Board Minutes, September 18, 2017
3. Public Arts Advisory Board Minutes, September 18, 2017
4. Subrecipient Quarterly Reports
5. Lodger's Tax Quarterly Reports

Mayor Pro-Tem Whitehead moved to approve the consent calendar as noted. Commissioner Frankel seconded the motion. Motion carried unanimously.

G. UNFINISHED BUSINESS

CITY COMMISSION OCTOBER 25, 2017 REGULAR MEETING MINUTES

1. Discussion/Action: Animal Control and Ordinance change. Steve Green, Mayor

Mayor Green recapped that two weeks ago Mr. Woodcock came before them and shared their experience and other also shared theirs. At that time we asked for this to come back to see what else we could do to the ordinance to make it more strict.

City Attorney Rubin said if you look back at the event that came up in 2007-2008, we took time and coordination to put a new ordinance into place. We believe we have a good ordinance in place. He read some lines from the ordinance called Restraint of Animals which should address the recent issues we have had. We also have another ordinance called Vicious Animals which would also allow the dog to be put down with one violation. He referred to the Chief for other incidents.

Police Chief Alirez reported on October 16th they had an informal Town Hall meeting to discuss Animal Control. We do have the ordinances in place to address these issues. Judge Sanders was also there. There was discussion about taking a more aggressive stance on the ordinances we have in place. They are looking at building a new citation any officer can issue and won't have to wait for Animal Control. They do have a small group and will get together to talk about the fencing issues and other things that need to be done. They also had a meeting with some from the Gun Range and that was also very productive

City Attorney Rubin added he did not mean to suggest that he wouldn't be willing to look into a new ordinance if they wanted to.

Mayor Green responded to the Chief's comments about fencing having your dogs staked outside. Are they required to have an enclosed yard or fence where that dog is. Police Chief Alirez said the leash laws need to be enforced and they will be looking at the fence law. It's difficult to enforce that. They are going to offer the service that they will immediately do an on-site inspection.

City Attorney Rubin gave them a copy of section 3-31 which is the section we are talking about. At the end it says all animals shall be contained; and the other section says it should have a lead not less than 25 ft.

Mayor Green is willing to bet the rate of recidivism is high. He doesn't feel the mandatory \$100 sends the right message. We want to be a dog friendly community, but he feels we should make it a mandatory \$300 fine. Police Chief Alirez said on the punitive side, one of the issues that came up is repeat offenders we don't have the records to determine how many times we have been to one place for enforcement. It has to be either shall or may be fined in the ordinance. At the same time, we have some small pets who are very protective of their owners. He doesn't want to create an environment where there is a blanket law, they want something flexible.

Mayor Green agrees they don't want to punish the smaller dogs who aren't necessarily a threat. He asked City Attorney Rubin if it was a mandatory fine. City Attorney Rubin responded it was a mandatory minimum of \$100 for the fine.

Police Chief Alirez said they are going to develop a mission and vision statement for the department. Mayor Green asked City Manager Fuentes if Police Chief Alirez can come back in January and give us an update to see where we are with this at that time.

2. Discussion/Action: Request to proceed with the Night Skies Ordinance.
Kathy Clark, Commissioner

Commissioner Clark presented the copy of the draft. This is basically the same thing except both Tammy and Electric Department Director Easley have their names on it so it makes it more personal.

Mayor Green asked how they would like this information to be distributed. Commissioner Clark agreed we can have it at the utility office when they sign up for a new account. here are a lot of people who already have services and might be interested. So maybe we can put it in the Utility Bill.

Mayor Green asked how Electric Department Director Easley see's this being distributed so people know how the program works. Electric Department Director Easley responded we could put it out in the bill or in the ordinance. City Attorney Rubin responded he doesn't think it needs to be in the ordinance. He thought they might want to explain the second option of the letter for the public. Electric Department Director Easley added we could also put it on the website to let people know.

City Attorney Rubin read the second option for the public to be aware they can request to have this changed out if they want to pay to have it changed.

Mayor Green asked if there is any value that they would be replacing for recycling. Electric Department Director Easley responded there is no value when they are burned up. If someone wants one replaced they use the working light for another place.

3. Purchase, Acquisition or Disposal Real Property (Airport).

City Manager Fuentes presented the item which was required to be discussed in an open meeting instead of Executive Session. The purchase of the mobile home does not qualify as real property and therefore cannot be discussed in closed session. They submitted an offer and he met with them last week for \$9,000 with a 90 day period for her to vacate the property. As far as what we will do with the property, he will present that to the Airport Advisory Board and staff before it comes back to the Commission.

Mayor Pro-Tem Whitehead asked where the \$17,000 is coming from. City Manager Fuentes said the offer is for \$9,000 and it will come from the General Fund.

CITY COMMISSION OCTOBER 25, 2017 REGULAR MEETING MINUTES

Mayor Green mentioned there is a gentleman on the Airport Advisory Board who is concerned about security at the Airport. There are valuable planes there in the hangars on the lots. That was the original agreement with the previous residents. He feels this might be one way to solve two things. We have an opportunity to have a home site who could supply security for the airport.

Commissioner Hechler assumes that by making this offer that he has visited it to make sure it will be able to use for something in the future and won't just have to be removed in a couple of years. City Manager Fuentes responded he has been inside and Ms. Johnson maintains it very well and it's in good condition. The improvements they've made helps with the security. It has propane and would be move in ready for someone.

Commissioner Clark asked who is paying utilities. City Manager Fuentes said part of the agreement was the city would help pay for the propane. It would depend on the arrangement that is made if someone is to live there.

City Manager Fuentes said the Airport Advisory Board will review all of that and make a recommendation to the Commission.

Mayor Green moved to approve to authorize staff to move forward with the purchase of the 1999 Cavco Model 1656F at the price of \$9,000. Commissioner Hechler seconded the motion. Motion carried by a vote of 3-2-0. Mayor Pro-Tem Whitehead and Commissioner Frankel voted nay.

Commissioner Frankel doesn't see a lot of value in an 18 year old mobile home. Mayor Pro-Tem Whitehead feels the same and if it's not lived in it will be run down and what will we do this it then.

NEW BUSINESS: 1. Discussion/Action: DFA Quarterly Report. Melissa Torres, Finance Director

Finance Director Torres presented the quarterly report as included in the Agenda Packet. Overall we did a great job on our revenues and expenditures.

Mayor Green thanked her and thanked her for burning the midnight oil.

Commissioner Clark said having the Capital Projects and the Debt Service kind of excuses the whole scenario. She feels it would be better to break that out. She also knows the Utility Office has tightened up when their bills are due. She thinks it's taken a lot of people by surprise. We've gone from 30 days to 15, so there might be some of that involved in this reporting. She also added that Finance Director Torres is doing a great job.

Mayor Green also wanted to give kudos to Finance Director Torres and the Utility Office Manager. He appreciates them breaking out that Gross Receipts Tax. But not only the hospital and the Wastewater Treatment Plant will be something we may have to look forward to.

Mayor Pro-Tem Whitehead moved to approve the quarterly report. Commissioner Clark seconded the motion. Motion carried unanimously.

Mayor Green recessed the meeting at 10:37 p.m. and reconvened at 10:43 p.m.

4. Discussion/Action: Automated Meter Reading Project for Electric and Water System - Yearout Energy Services Company. Traci Burnette, Grant/Projects Coordinator

Grant/Projects Coordinator Burnette reported we stand before you today in hopes that you will approve for both City Manager Fuentes and staff to proceed forward with the automated meter reading project with YESCO. She feels the supporting document is enough for making the decision.

Mr. Scott Griffith gave the presentation which is included in the agenda packet.

Commissioner Clark has gone through these numbers and none of them will pencil out. The biggest problem she has is the loan amount when you add the interest and the extra dollars for the storage system and the calibration, the \$9 million that is projected for savings is going to our cost and the money out of our pocket, we aren't getting any benefit. At the end of the day, she just can't find the benefit of this. The benefit she sees is if we do the meters ourselves. She doesn't see how the projections can work. She's concerned that with some of the electric meters going in, the houses won't be able to handle that and they may be condemned.

Mayor Green said since some of the questions are financially related, maybe Mr. Valenzuela can start with his presentation.

Chairman Szigeti asked to speak and has to admit that this item has been the most contentious issue that came before the PUAB. They had a lot of questions about the numbers that have been presented. He thanked Scott and the other YESCO people who kept coming to present this. There are several things that can be done here. If we want to realize substantial increase or savings on the water side, it could be done in house at a minimal cost. But it would boost our revenue. One of the other issues that came up is all of the problems we've had with getting the meters read properly. The new system would help with that and there are other benefits to the user. Such as being able to immediately know when there are problems with their usage in a much quicker time. Aztec said they had been working on theirs for ten years and when you do that, you have to have two systems running at the same time because only a fraction of your meters are hooked up. As he gets older he finds it's easier to hire someone to do the big projects so you can get something done right. When you look at it in a different perspective, we are manning and using our utility systems in exactly the same way as we did when they were installed. What installing a system like this does is bring the management into the 21st Century. It's going to be a challenge to learn how to use these new tools, but the end result is we will have much better control over these utilities. We'll know immediately

when transformers are having troubles and other issues before they are a problem. When a town shows a willingness to upgrade a system that utilized updated systems that shows that we are being proactive and ready to grow. We want to show that we are a modern community. Just because we are a small town, some think we should stay in the stone ages just because we don't want to spend the money. There are other ways to do this and he thinks borrowing money may be better for other issues in our community. Mayor Green thanked him and his board for the hours they have put in over this item.

Mayor Green reported the Public Utility Advisory Board forwarded this item to the Commission with a 3-2 vote, which was a cautionary vote and 2 of the people still had concerns.

Mark Valenzuela from George K Baum introduced himself and let the Commission know he is the Financial Advisor and his obligation is to the city. They have experience with these projects and were also the Advisor to Silver City for their project. He provided information on the Public Facility Energy Efficiency Act which has created this opportunity. Based on the questions and comments he's been hearing, he wanted to start on page 8.

Commissioner Clark had a question on the savings, where it reads the savings must meet or exceed costs. That's one of her arguments because if she extends the amortization and add the extra \$1.9 million that may come out of our pockets, it doesn't really seem that we are saving much. And we're not saving anything because we are generating revenue by having the new meters. But it just seems to her that we have to prove that we are exceeding what the cost will be, and she doesn't see it.

Mr. Valenzuela referred them to slide #8. The Act provides an opportunity for a qualified provider, in this case, it would be YESCO, to come in and construct these improvements. And as Commissioner Clark mentioned, take the opportunity to generate, not savings per se, but the revenue loss to the current system. It's water that goes unbilled for currently. So with new higher performing water meters, you will capture the readings that you could not before and be able to bill for those gallons that are running through the pipes. The savings is just additional revenue that the system will generate that it was formerly losing. They contemplate that those savings would pay for all of those improvements and ideally provide some additional revenue to the city using the product or structure. The question earlier is what is the benefit to the city? In essence, you're taking the opportunity to improve your infrastructure at little cost to the city, and collecting the revenue you should be collecting. So you can look at it from that perspective. It's that money that pays the city back. In going through the process it allows the city to use YESCO to assist with this. This would be done through a Lease Purchase Agreement where the city would undertake a financing arrangement which would be based on the cost of capital from the provider. And that's a private company that would be providing \$5.2 million of financing because they are fronting the cost for the improvements. So what he advises his clients is that based on the city's ability to borrow tax free, the borrowing cost would be lower if the city chooses to take on the financing itself. He believes that YESCO is amortizing over 20 years. In his view, he thinks we could lower the cost of funds and there may be some savings there. The savings would be on the sewer and water system, and staff

time. They dissected those a little more and they have to rely on those numbers. What is included in the \$5.2 million is the replacement of the water and electric meters at the same time. Then the savings from the water system should pay for both of those. They received YESCO's numbers and have questions in a couple of areas. As you pointed out there is an escalation on the savings numbers. That escalation is based in part on a perspective that the Commission would be increasing their rate structure in time, 3% per year. They didn't allow for growth the way YESCO was showing. He referred to slide 9, where it shows the savings over time would produce \$9.2 million. And the financing would also have to escalate similar to the savings so the city is not out any dollars for the bond financing. Their cost is 3.4% for 20 years. Compared to the debt, you do have minor savings over the debt. Overtime the savings would escalate further. Again, they did not put savings on the electrical side, and they feel these numbers are very conservative.

Commissioner Clark said so we are taking YESCO's numbers and working with them. In the beginning they asked for a cost benefit analysis which they didn't get. There was discussion about the cost benefit analysis which was handed out to the Commission. Commissioner Clark comes up with hard costs of \$2.5 million, if it's over \$5 million, where is that other money? Or does she have wrong costs.

Mr. Griffith responded what they provided for the IGA was the detailed cost analysis for every part of the project. He said that was provided for the PUAB, and he thought they would've shared that. Mr. Montano brought extra copies for the Commission.

Mayor Green announced that he hates when something is handed out to them and they have 30 seconds to digest a document. He said this is the first time, he has heard of a rate increase. For funding when we are asked about our rates, they are surprised at how low it is. We could look at raising our rates or go with performance contracting where the whole project could be funded by the increased revenue generated by a more efficient system. It won't tell us where the leak is, but that there might be a leak. Was there ever talk of a rate increase? Mr. Szigeti responded when they met they had discussed the rates for Solid Waste and for Wastewater. Part of that rate review has been a stipulation that those rates increase 5% every year. The Board hasn't reviewed the rates for water or electric yet, but when that happens, he feels they will look at the 5% increase for those as well.

Mayor Green said then this presentation is on the assumption that the Commission is going to vote on a rate increase, and if you take that assumption away, does it not change the whole dynamic of the project? Mr. Szigeti said the automatic rate increase as shown by Mark is taken out. Mayor Green asked Mr. Valenzuela to clarify that his analysis does not include the increase. Mr. Valenzuela responded the analysis they see does include increases. That comes from a 3% increase each year for the rate structure. What you are not seeing is the amount of the efficiency of the system. Mayor Green also noticed the projection of the population is shown as going down, he had further questions about that. Mr. Valenzuela said he can't speak to YESCO, they may have factored in the usage.

Mr. Alex Montano responded they are right. Natural behavior will cause people to look at consumption when the bill goes up, so they do factor that in. When they do their analysis, they determine based on calculations, they factor in between 4%-6% in there for that reason. Water and Sewer have been underpriced across the U.S. for some time now. Beyond water and sewer, they do a lot of energy focus, including renewables. Utilities will always get higher as we run out of resources and things of that nature. The PUAB had already recommended 5% on the sewer side, and there hasn't been any recommendation made on the water side. Their analysis used 3% across the board, so they were below what the projections were for the city, so there would be some upside beyond the guaranteed. He wanted to address Commissioner Clark's question that the city is not going to get rich off of this project. It's to find the necessary amount of savings or revenue to fund the improvements that will bring the city to the next level of technology without having to come out of pocket yourselves. If there's any additional benefit, which there will be, that goes directly to the city. They have no piece in that, they don't share in those benefits. They try to engineer the solution, and they would be happy if it was \$1 positive. That's really all you need to fund the project.

Commissioner Clark said the current CPI is 2.2%, why would she want to raise the rates for the people 5% instead of 2.2%? Mr. Montano responded the city has already put in the 5% escalation prior to this project on the sewer side. Water and sewer are typically heavily underpriced as to what it is costing to deliver those services. If you look historically PNM rates are going up 6% on average every year. Water is even projected to do more than that.

Mayor Green reported one of the things on the loans when asking for money, the enterprise fund cannot pay for other enterprise funds to operate. The loans require that enterprise to support itself by the revenue generated. Mayor Green said his final question, without a rate increase the scope of this doesn't work? Mr. Montano responded yes, it would just be a lesser scope of work. Water is subsidizing the Electric System, you are going to have a great benefit to the city for this new Electric Infrastructure. There are no funds being carried to the cash flow on this project. That's how we are structured so there is minimum risk to the city or borrowing more than what is needed.

Mayor Green asked if he would be correct in the assumption that if people change out the meters and they are billed for a more accurate consumption that it will also include the sewer. Mr. Montano believes that's his understanding. Mayor Green said so if we capture more money going into the home, we will also capture more money coming out of the home. Mr. Montano agreed. He explained more about what makes it to the wastewater system and the billing, so they were not overestimating that side.

Commissioner Clark asked about the construction fees. She asked how much profit is built in to that for the subcontractor? Contingency/Overhead/& Profit and if that means they built \$790,215 in for them to keep. Mr. Montano responded that's a 5% contingency that's built in to address unforeseen conditions. There are some foreseen conditions shown on the other document, and these are known items that are accounted for. There is always something unforeseen which you will not know until construction. That needs

to be there because of what type of project this is. They are not allowed to come back and ask for more, they only go to the bank once. So that 5% is there and any unused of that contingency will be applied back to an addition of another scope if it's needed. Commissioner Clark said if it were her recommendation at this point, she can't make a decision on \$5.1 million or up to \$8 or \$9 million for her people. She feels it should go back to the PUAB who would understand these costs and can digest them better than she will. Mr. Montano announced both of these documents were in the PUAB's packet and they reviewed these extensively.

Chairman Szigeti announced as Jeff mentioned before the copy they receive was a draft and he would have to compare them to see if they are any different. Mr. Montano said it is about 5% lower than what they presented to the board. Chairman Szigeti said those numbers are the concerns they expressed when they forwarded this project back to the Commission.

Mayor Green asked Mr. Valenzuela at the end of the day what is the bottom line the city will owe monthly or yearly and what is the amount of bond? Mr. Valenzuela referred to his slide 9 at \$7.4 million. Taking out any rate growth, that bottom line is \$9.1 million, with zero growth the bottom line is \$6.5 million and you're still about \$1 million short. He ran another scenario tying in to Commissioner Clark's question about inflation and CPI. If the Commission were to put in an inflationary CPI adjustment every year, even with only a 1.5% increase, the revenue amount should be \$7.1 million. He hopes that is helpful to consider how the debt could related to savings. Having said that the YESCO guarantee is on the performance of the meters. If it's not capturing 97% of the water going through the meters' then they would write you a check at the end of every year. There could be leaks in the system somewhere else.

Mayor Green wanted to go on record to say, he loves the concept. If we do it ourselves it's a slow painful process and that money goes against our debt capacity if something happens and we need to borrow it, we would be near our capability to borrow. Mr. Valenzuela responded if the city takes out a loan it would be taking away from the future available capacity. If you tie it to the savings then you have more capacity. Mayor Green also heard that someone has come up with another idea for people who are in a substantial income bracket to go and buy the meters and lease them to the city where they could get tax advantages and we could accomplish the same thing. Mr. Valenzuela said it ultimately comes back to what the cost of financing is and what the city can borrow.

Commissioner Clark shared a story, from visiting a friend in Silver City.

Mr. Colby Garrett, YESCO reported that situation was a little different because their system is a little different. This system they are proposing is 6-8 ours in the rear and Silver City is about 30 days in the rear for any leaks they may detect.

Mayor Green also wanted to point out. If we should go to this project and the rate increase is what makes it work, we are in essence approving to proceed with the rate increase. They want to make sure the rates we are charging can pay back the loan to redo our pipes. City Manager Fuentes said not necessarily, USDA doesn't look at it in that manner.

CITY COMMISSION OCTOBER 25, 2017 REGULAR MEETING MINUTES

You increase rates, but it's dedicated to a specific project. What a lot of the funding agencies, as Grants Projects Coordinator Burnette reported when she went before the Water Trust Board, they basically just ask what the current rates are. They don't ask about the current debt against those rates. The city has not increased its rates in ten years. They have met with USDA and they have already told us the same thing that compared to other systems our similar size, our rates are low. So if we are going to compete with others for funding then we will need to increase our rates. But they look at whether we are keeping up the pace with our rates and what our system is generating and able to handle that kind of debt.

Commissioner Clark said if she remembers correctly from a previous meeting, it was about how much we could raise it per year for that particular Wastewater project and it was 5% per year. So the point she is hearing is if we have 5% pledged for this, and we need water lines, that cuts that particular funding out. Mayor Green said he didn't realize that he made the assumption that if we were to raise the rates to make this happen, then we could not do it again. And this project would not be financially viable for the scope. He thought the enterprise fund would have to stand on its own to pay down the loan.

City Manager Fuentes said and many times if we were to have our rates at a comparable level than other systems, it would qualify us for grant money as opposed to loan money.

Commissioner Hechler doesn't want to over simplify this too much. But what if we just take on part of the project with water? We are using the water to pay for the electric and if they generate their own money, why can't they pay for their own upgrades. City Manager Fuentes said again, this was to put the whole package together with electric. He doesn't know if that's something that can be split up. It's a different procurement method if they split it up. Mr. Griffith said originally they were only doing water. They were trying to find out a way to fund the electric meter portion to put it all together and consolidate the water and electric system. The amount it takes for the full auditing, they were trying to figure out how the fund the electric meters so one system is reading both water and electric systems. They can look at other funding mechanisms on the electric side. But the problem with the federal and state money is it's zero and there's nothing out there. So they tried to be creative in how we do this and they want it to be a positive for the community and not a negative. The escalating factor they put in is the actual numbers the state give them. The Office of the State Engineer, will validate these numbers and have been involved through the whole process. They have to make sure the numbers are very conservative. Las Cruces is also doing this and are doing it by a performance contract, so it's happening on a big and small project. These are complicated technical installations, and they got great data from the city, better than the numbers they got in Roswell. So they feel pretty good about those. But the financing will depend on what works for the city. In the instance of Silver City, they did not have the escalation on their, because they had gone up on their rates 4 years prior so they were ok. But part of this project could happen with a lower escalation rate. So if the Commission wants them to go back and figure that, they certainly could.

Mayor Green asked if the contract would guarantee those escalating payments. Mr. Griffith confirmed this. Mayor Green asked how that works for the whoops factor. Mr. Garrett explained they do take out a guarantee bond for the length of the project using these numbers already included in the project cost. That basically says if there is shortfall within a given year. Then for some reason YESCO is not around in year 14 and there is a shortfall, that bond will pay for the shortfall. It basically says they are taking a baseline consumption and they will do the same audit to test it every year to make sure it's functioning at the level that is guaranteed for that given year. If there was a shortfall or inaccuracy on the meters, they would pay the difference to get the city the revenue was guaranteed.

Mayor Green said his concern is the guarantee is not for the City's payment, it's for the revenue which may not necessarily be the amount of the payment. Mr. Garrett said the development of the financing depends on it. They can guarantee the efficiency and longevity of the system they are putting in.

Commissioner Hechler said procedurally do we have to provide a rate increase or does it automatically happen as we approve this. City Manager Fuentes said if we included these projects as a whole, then it may require an escalation to make it work. If we are going to separate it, then it may not require the separation. If the Commission needs more time to review the numbers, we need to determine if we want to revise the project and do it separately, or do we want to take the project as a whole.

Mayor Green asked Chairman Szigeti if the PUAB is looking at a rate increase for water. He asked what it would be initially and what would he envision the frequency moving forward. Chairman Szigeti said that is his understanding, yes. Mayor Green asked what he would envision the frequency of increases moving forward. Mr. Szigeti said it has been the will of the Commission that when they raise the Water Rates, they used a 5% increase. The 60% or 70% all at once, that we give an annual 5% so we don't cause as much hardship on residents. He envisions doing the same kind of thing with the water rates, and an annual increase afterwards. His opinion is in order to do what they need to do with the utility system he feels we need to increase it 10%, but with the amount it would be for the citizens, 5% is better. Not only to support our position when looking for grants or loans but to have our own reserve so we don't have to go out for grants or loans for improvements.

Mayor Green asked Mr. Valenzuela if his projections were predicated on a 3% increase? Mr. Valenzuela confirmed this.

Commissioner Clark moved to approve that we send it back to the PUAB Board with the current information and with the rate increases included if we have to do that. Mayor Pro-Tem Whitehead seconded the motion.

Mayor Green asked Mr. Valenzuela if the numbers will be the same.

Mr. Garrett said is numbers have gotten better instead of going up. But the numbers they have now are good for 60 days. But they can probably hold it for 90 days. Mayor Green

just wanted a framework for time. And he would like to come up with some kind of solution.

Commissioner Clark asked for the Labor and Materials to be broken out. Chairman Szigeti said they did ask for the breakout at the last meeting.

Mayor Green just wants to make sure, the PUAB is hearing this again and we are asking them to look at the project we are talking about right now. He's not hearing lets look at leases or loans, just this. Commissioner Clark agreed with the specifics and what they would feel comfortable presenting to the public as a rate increase. In addition, they could come back and say they have looked at it and have another option. City Attorney Rubin brought up the rate increases that need to be done by ordinance.

Motion carried unanimously.

I. NEW BUSINESS

1. Discussion/Action: DFA Quarterly Report. Melissa Torres, Finance Director

Discussed after Unfinished Business.

J. REPORTS

- a. City Manager

None.

- b. City Attorney

None. He requested to excuse himself for another meeting at 1:00 p.m.

- c. City Commission

Commissioner Clark said her report is we could not have approved this anyway without a rate increase in place.

Mayor Green reported

- 1) The Solid Waste Collection Center and Recycling yard is closed on Saturday, Nov. 4th and will open again on November 6th for maintenance.
- 2) He thanked Commissioner Clark who took the lead on the letter to Holloman Air Force Base. It's in the mail and he appreciates all of the comments from the Commission and the public.
- 3) He heard two of our spas have lost pressure and maybe temperature. It was pointed out the dam is lower than it has been last year. If that's the problem it will be looked into.
- 4) Thanked Andy and the Bountiful Alliance Recycling Committee. They had a fun Yard Sale and will have another on November 11th. And part of the proceeds will go to help the students in the Environthon, and they came third in the country.

- 5) Senior Center improvements. Thanked Rotary who funded the shade and tables and chairs for the patio at the Senior Center. It certainly adds a new quality of life to being a Senior.

K. EXECUTIVE SESSION

- a. Purchase, Acquisition or Disposal Real Property (Airport) *Pursuant to 10-15-1(H.8)* – Requested to move item to Unfinished Business.
- b. Limited Personnel Matters (City Manager Annual Evaluation) *Pursuant to 10-15-1(H.2)*

Mayor Pro-Tem Whitehead moved to approve going into executive session at 12:30 a.m. to discuss Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2). Commissioner Frankel seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Green reconvened the meeting in open session at 2:01 p.m.

Mayor Pro-Tem Whitehead certified that only matters pertaining to Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2) was discussed in Executive Session and no action was taken.

**L. ACTION ON ITEMS DISCUSSED DURING EXECUTIVE SESSION, if any.
ADJOURNMENT**

Mayor Pro-Tem Whitehead at this time it's disheartening for her to do this and she feels for the best interest of the City of Truth or Consequences, the employees, and the community, she moves that we ask for the resignation of City Manager Juan Fuentes effective immediately and that Clerk-Treasurer Cantin take the reins and advertisement be done immediately in order to look for a new Manager. Commissioner Frankel seconded the motion. Motion failed by a vote of 2-3-0. Mayor Green, Commissioner Clark, and Commissioner Hechler voted nay.

Commissioner Hechler feels he's done a pretty good job and was instrumental in obtaining pay increases for all employees.

Commissioner Hechler moved to approve increasing City Manager Fuentes' salary by 3% and as a signification that we feel he's doing a good job. Mayor Green seconded the motion.

Commissioner Clark's discussion was to take a look at the position or working with current staff to bring them up to the level where we are. Mayor Green said to take a look at the job description of the Director of Public Works if it needs to be tweaked to get the desired results. Commissioner Hechler added it should include all Department Heads.

Motion carried by a vote of 3-2-0. Mayor Pro-Tem Whitehead and Commissioner Frankel voted nay.

M. ADJOURNMENT

CITY COMMISSION OCTOBER 25, 2017 REGULAR MEETING MINUTES

The meeting was adjourned at 2:06 p.m.

Passed and Approved this 15th day of November, 2017



Steven Green, Mayor



ATTEST:



Renee L. Cantin, CMC, City Clerk