

CITY COMMISSION  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
Tuesday, July 12, 2011

REGULAR MEETING

Minutes

TIME & PLACE: The Mayor and the City Commission of the City of Truth or Consequences in the County of Sierra and State of New Mexico met in Regular Session in full conformity with the law and ordinances of said Commission in the Commission Chambers of said City, on Tuesday, July 12, 2011 at 6:00 P.M.

PRESIDING OFFICER: The meeting was called to order by Mayor Pro-tem Renfro who presided and Mary B. Penner, City Clerk acted as Secretary of the meeting.

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

Hon. Evelyn B. Renfro, Mayor Pro-tem  
Hon. Steve Green, Commissioner  
Hon. Frances Luna, Commissioner  
Hon. Freddie Torres, Commissioner

Absent was:

Hon. Lori S. Montgomery, Mayor

Also present:

Ellen Lindsey, Acting City Manager  
Jay Rubin, City Attorney  
Mary B. Penner, City Clerk

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

CEREMONY: Mayor Pro-tem Renfro called for fifteen seconds of Silent Meditation.

Mayor Pro-tem Renfro called for the Pledge of Allegiance.

APPROVAL OF AGENDA: Mayor Pro-tem Renfro called for approval of the Agenda.

“Commissioner Luna moved to approve the agenda as presented.”

Seconded by Commissioner Torres.

Commissioner Green asked that item H-10 be deleted from the agenda, and stated he is not quite ready to do the presentation.

“Commissioner Luna moved to approve the agenda as amended.”

Seconded by Commissioner Torres.  
Motion carried unanimously.

RESPONSE TO None.

PUBLIC  
COMMENT:

COMMENTS  
FROM THE  
PUBLIC:

Mr. Joe Kovosi came before the Commission with comments.

Mr. Brad Grower came before the Commission with comments.

Ms. January Roberts came before the Commission with comments.

Mr. Steve Buckley came before the Commission with comments.

CONSENT  
CALENDAR:

Mayor Pro-tem Renfro stated they have two items under the Consent Calendar – City Commission Meeting Minutes – Regular – June 28, 2011, & Accounts Payable Report – June 2011.

“Commissioner Green moved approval of the Consent Calendar as presented.”

Seconded by Commissioners Luna.  
Motion carried unanimously.

DRAFT MINUTES:

Mayor Pro-tem stated the following are draft minutes from various boards provided to the Commission for their information, and are non-action items.

BOARD &  
COMMITTEE  
REPORTS:

Consider Appointments/Re-appointments –

**Airport Advisory Board –**

Acting Manager Lindsey stated the Airport Advisory Board has requested approval of the following, Gerald La Font to fill the vacancy left by Richard Woodsum, and the re-appointments of David Senn and Dennis Anderson, and staff recommends approval the appointment of Mr. La Font, and the re-appointments of Mr. Senn and Mr. Anderson.

“Commissioner Luna moved approval the appointment of Mr. Gerald La Font to fill the vacancy left by Mr. Woodsum, and the re-appointments of David Senn and Dennis Anderson to the Airport Advisory Board.”

Seconded by Commissioner Torres.  
Motion carried unanimously.

**Planning & Zoning Commission –**

Acting Manager Lindsey stated the Planning & Zoning Commission has requested approval of the following, re-appointments for January Roberts, Joey Perry and James Jacobs, and staff recommends the re-appointments of those three individuals.”

“Commissioner Luna moved approval the re-appointments.”

Seconded by Commissioners Green/Torres.  
Motion carried unanimously.

**Public Utility Advisory Board –**

Acting Manager Lindsey stated the Public Utility Advisory Board has requested approval of the re-appointment of James Hunt, and

staff recommends the re-appointment.

“Commissioner Luna moved approval of the re-appointment.”

Seconded by Commissioner Green.  
Motion carried unanimously.

**Veterans Memorial Park Advisory Board –**

Acting Manager Lindsey stated the Veterans Memorial Park Advisory Board has requested approval of the following re-appointments for Dr. Vincent Barrett, American Legion Post #44, with alternate of Warren Roberts, Jerry Predmore, Legion Riders Chapter #5, alternate Don Armijo, and Tony Grundler, VFW Post #1389, alternate Rob Leavitt, and staff recommend the above re-appointments.”

“Commissioner Luna moved approval the re-appointments.”

Seconded by Commissioner Green.  
Motion carried unanimously.

**Public Utility Advisory Board –**

Acting Manager Lindsey stated the Public Utility Advisory Board voted unanimously to recommend that the pass-through remain unchanged. She stated the increase to the City is 0.00105 which is a minimal amount, and staff recommends leaving the pass-through rate at the current level.

“Commissioner Green moved approval of the recommendation from the Public Utility Advisory Board that there be no increase in the pass-through rate.”

Seconded by Commissioner Luna.  
Motion carried unanimously.

**PUBLIC  
HEARINGS:**

None.

**RESOLUTION  
#01-11/12:**

Acting Manager Lindsey stated this Resolution is designating the manner in which all meetings of the City Commission, Its Boards, Commission And Committees will be held and the method of public notification pursuant to the requirement of the Open Meetings Act, Section 10-15-1 NMSA 1978, and stated staff recommends approval of Resolution #01-11/12.

City Attorney Rubin stated this is the identical resolution they’ve had in past years.

Commissioner Green asked if we post the meetings on the City web-site.

Acting Manager Lindsey replied “yes we do.”

“Commissioner Green moved approval of Resolution #01-11/12.”

Seconded by Commissioner Luna.  
Motion carried unanimously.

Commissioner Luna stated it isn’t mentioned in there that is one of the places that it will be published...and thinks that is very wise,

and indicated if the internet goes down, and someone is unable to access it that way they can't...And thinks it is a courtesy that we do, but not mandatory.

RESOLUTION  
#02-11/12:

Acting Manager Lindsey stated this is a standard resolution that is done every year. And stated this is the Participation in LGRF Program administered by NMDOT, and the project is improvements on Pershing Street – 9<sup>th</sup> Street to Marie, and stated the total cost of the project is \$51,833.00, and the NMDOT share is 75% or \$38,875.00, and the City share proportional share is 25% or \$12,958.00, and staff recommends approval of Resolution #02-11/12.

Commissioner Green asked...the \$12,958.00 is that going to come out of the street department's budget or are we going to take that out of the loan that we have with NMFA.

Acting Manager Lindsey stated it is budgeted in the street department, and that it does not come out of the loan.

“Commissioner Green moved for approval of Resolution 02-11/12.”

Seconded by Commissioner Luna.  
Motion carried unanimously.

CONTRACT FOR  
SERVICES:  
CARDWELL:

Acting Manager Lindsey stated this is a renewal contract for services between the City of Truth or Consequences and Dr. Cardwell to provide services for an animal shelter for the housing, feeding, adoption and final disposition of all impounded and unwanted animals.

She stated there are no changes to the contract for this fiscal year, and indicated next fiscal year they will need to adjust the scope of work among other things as they will need to provide for cremation of animals due to the closing of our landfill. And indicated the contract has been reviewed and approved by our city attorney, and staff recommends approval of the contract for services.

“Commissioner Green moved for approval of the contract for services between the City of Truth or Consequences and Dr. Bill Cardwell.”

Seconded by Commissioner Luna.  
Motion carried unanimously.

ANNUAL  
CONTRACTS –  
PUBLIC  
DEFENDERS:

Acting Manager Lindsey stated the Municipal Court is requesting the renewal of annual contracts for services of public defenders for the court, and indicated contracts were submitted from Isabel Jerabek, Pedro Pineda, Stephen Kortemeir, and Steven Sage, Attorneys at Law, and stated these have been reviewed and approved by the city attorney, and staff recommends approval of the public defender contracts.

Commissioner Luna asked if they had to be listed individually, and City Attorney Rubin stated they could approve all four of them.

“Commissioner Luna moved approval of the annual contracts for services for the public defenders for the Municipal Court articulated by Ms. Lindsey.”

Seconded by Commissioner Green.  
Motion carried unanimously.

NM ADJUDI-  
CATION GRANT:

Acting Manager Lindsey stated that Judge Sanders is applying for a grant from the NM Juvenile Adjudication Fund to continue providing teen court services. And stated we anticipate that the grant award will be between \$5,000 - \$15,000, and that these monies will go towards supplies, training and books, and stated the grant requires a 10% match of in-kind or cash, and provides 5% for indirect administrative costs.

She stated Judge Sanders is here if they have any questions regarding this grant, and my recommendation is that the city be the fiscal agent for this Juvenile Adjudication Fund Grant.

Mayor Pro-tem Renfro asked if we are going to have the matching funds.

Acting Manager Lindsey stated the matching is in-kind, and that Judge Sanders and I discussed what kind of in-kind...the in-kind services as opposed to cash of 10%.

Mayor Pro-tem Renfro stated she thinks it is a very good program, and Commissioner Luna agreed.

Commissioner Luna asked Judge Sanders if she would be running this program or is there a conflict with you being the judge because I know you ran it before, and was wondering how that was going to work.

Judge Sanders came before the Commission, and explained this came out of House Bill 700 that they had lobbied for a long time, and stated it is \$1.00 coming out of every Magistrate Court citation in the State of New Mexico, and indicated that \$1.00 will go to fund the NM Teen Courts throughout New Mexico.

She stated what she is going to do is...has an idea who is going to manage the program, and stated it is a person that has a lot of education, retired teacher, and that she would oversee the program because she wants to make sure that we don't have something happen here like before, and stated that Sierra County should have by all means had the honors of being the very first Teen Court in the State of New Mexico, but because it was dropped Grant County took it, and indicated that Teen Court has been in Sierra County since 1990, and that she has had it, and I want to find someone that feels just as ambitious about helping our youth as I am.

Judge Sanders stated the monies would be used primarily for the salary, and the training materials that they need for the youth and the person that is going to do the training.

Commissioner Green asked to do you perceives this...do you have a sense that this program will be funded from the State Legislature every year.

Judge Sanders stated yes, and stated it only stands to grow because right now it is only Magistrates that are in on this, and that they are still working on getting Municipal Courts throughout the State to join in and do the same thing. And stated this is going to allow for this program to be self-funded.

“Commissioner Luna moved approval of the NM Juvenile

Adjudication Fund Grant.”

Seconded by Commissioner Green.  
Motion carried unanimously.

APPOINTMENT–  
SVHGB:

Acting Manager Lindsey stated that the City received an application from Mr. James Hunt for the SVHGB. And stated she reviewed the list of desirable qualifications from the board, and stated the main things they are looking for is someone that is knowledgeable in the area of financial statements, understands quality processes, performance improvement, and is well versed in establishing policies and procedures.

She stated Mr. Hunt seems to possess these skills, and staff recommends that we set up an interview with Mr. Hunt for the position on the governing board.

Commissioner Green requested to know if it was the same James Hunt, who serves on the Public Utility Board.

Acting Manager Lindsey answered yes. She noted that in the past when we had numerous interviews, and only one for this position. And since there was only the one application, it was possible that the Commission would want to by-pass the interview process.

Numerous Board Members voiced the opinion that Mr. Hunt seemed well qualified.

Commissioner Green stated he felt that would be breaking policy, and felt it may cause others concern. Out of common courtesy to the applicants, and the process that had been agreed to participate with, have an 10 minute interview with Mr. Hunt, possibly prior to the next city Commission meeting, and also to let the community know that there is still one more slot available on the Hospital Governing Board.

TRANSFER  
STATION:

Acting City Manager Lindsey stated she had received a call from Mayor Gorden Mishler, suggesting an alternate site for the Transfer Station. The sight suggested is just north of the Waste Water Treatment Plant. Noting that the City owns acreage there, and is vacant; the location provides access from Veater Street, the location has utilities are there. The location is flat; there would be dirt work prior to placing the Transfer Station on that property. She had brought it to the Commission to open it up for discussion, and to look at this area alternate place for the Transfer Station.

Commissioner Torres thought it was a perfect location, close to the interstate, close to the Sewer Plant. He had spoken to the Mayor, and he was pleased because the Community had seemed to go along with it.

Commissioner Green noted in looking at the provided map, prevailing breezes are out of the southwest, and there was only one home in the area, which had been there for some time already with the Waste Water Treatment Plant, so he didn't see any pickets or uprisings from the masses, by placing the Transfer Station there. He agreed with Commissioner Torres and Manager Lindsey, he thought it was the perfect spot for it.

Commissioner Torres asked about how much land was in the area.

Mayor Pro-tem Renfro also asked the same question on acreage.

Acting City Manager Lindsey answered 5 acres, leaving land for the expansion of the Waste Water Treatment Plant. She had a larger map available to view.

Mayor Pro-tem Renfro noted that it was important that there was enough land for expansion.

Commissioner Green noted that he had heard that there was a possibility that the Trustees of Williamsburg had explored the possibility of applying for Colonias money through the USDA, to build this Transfer Station, asking Acting City Manager Lindsey if she knew if the process was moving forward, or was it only being discussed.

Acting City Manager Lindsey stated that it was a true process. In here conversations with Mayor Mishler that is exactly what he had said. She went on to say that he is waiting for a definite site to move forward, as quickly as possible, on obtaining that funding, so that the Transfer Station can be built.

Commissioner Green asked if Williamsburg would own it, and it would be on T or C's land.

Commissioner Torres answered that Williamsburg would have to own the land to get this money, they would buy the land from T or C and then it could be managed, or privatized, he believed. T or C would do the billing.

Acting City Manager Lindsey said there were options of privatizing the Transfer Station or, the City operating and manning the Transfer Station.

Commissioner Green asked for clarification, so they would own the land, they would have the money for building the Transfer Station – but they would contract out to T or C to run it?

Acting City Manager Lindsey answered; to T or C or another private entity.

“Commissioner Green motioned to approve the site, to be located somewhere in the 14 acres of land that is North of the Waste Water Treatment Plant”.

Acting City Manager Lindsey stated that August of 2012 is when the City Landfill needs to be closed.

Commissioner Luna noted she thought everyone was in agreement that is the area it should be, and worry about other matters later. That everyone was in agreement with the location.

Commissioner Torres stated that the City needed to find out what the funding options would be.

“Commissioner Green motioned that we designate this piece of property, that has been presented, that the Transfer Station me located somewhere on the appropriate site on that property. Where it does not impact the future expansion of the Waste Water Treatment Plant.”

Seconded by Commissioner Luna.  
Motion carried unanimously.

INCENTIVES FOR  
BUSINESS:

Acting City Manager Lindsey stated she had asked to place this on the Agenda; to start a discussion on what type of incentives we may be offering to businesses coming into town. She mentioned including in the packet, the Article 7 Economic Development Plan, which provides an avenue for the City to provide land, buildings and infrastructure. She noted in the City Code, Section 4-4-13, 14 & 15. Which allows the City to offset or reduce a part of the fees accessed for right of way easements, water distribution, waste water collection, water & waste water impact fees – impact fees seem to be a way to help attract new businesses to our community, especially tourist related businesses, because more and more we are a tourist destination. She noted she had thought of a couple of different options on impact fees, we could do a moratorium on impact fees for an amount of time, 2 years – 3 years. Economic times are obviously hard for businesses, for developers, for the City, everybody. Impact fees could be spread out over a couple or more years; divide what the amount of the impact fees are and spread them out. Adding impact fees to the utility bills, about the same difference. She noted the need to be fair, to the existing business which wish to expand, business that are coming to town – regardless of their size. She wanted to open this up for discussion and get feed back from the Commission.

Commissioner Green first thanked Acting City Manager Lindsey, for taking the initiative to do this. He thought the information was very confusing, speaking of something in Chloride, about Sierra County Economic Development, about a review financial committee. He requested a workshop, involving the Chairman of the Board of the Chamber of Commerce and the Executive Director of the Chamber, the Chairman of the Board and the Executive Director of SCEDO, people who were a actively working with the Business Community as it exists, and trying to bring in or entice new business to see what walls they are hitting. To make us a better place to set up business. He noted several examples. Stating the he would like to see re-wording, to make it not so confusing. To have a workshop to kick around ideas, and see if we could come up with an ordinance that serves the City.

City Attorney Rubin noted that the Ordinance was patterned after a still existing State Statue, 15 years ago the State Legislature decided to come up with this as an exception to the anti donation clause. Research would be needed before changes could be made.

Commissioner Luna requested to add asking SCEDO, and that the work with MainStreet and several Business owners whom have been here for years, get with them and see what incentives we could offer to current, loyal owners as well as developers, the realtors. She thought they should look at a MOU to suspend 90% of the impact fees, under the current economic times there is not much development, both residential and commercial. She went on to note that while we still need to get reserves for our own infrastructure development, noting she thought no new house being built at this time in the City. Need to inspire growth by reducing to 10% of the impact fees, and if they are not able to come up with it at the time, we could put it on the utility bill, to make sure we get the money. Prepare a MOU and bring it back.

Commissioner Torres agreed. He thought a workshop or something was needed.

Mayor Pro-tem stated she understood it was the consensus of the Commission to ask SCEDO to prepare for a workshop, also to have a MOU prepared of the impact fees.

Commissioner Luna stated she thought it would not be fair to the City of T or C and its residents to wave fees, in case something major fails in the future what would they have to fall back on. Reduce fees to 10%, we are still collecting something.

Mayor Pro-tem Renfro noted that they have the ability to pay in installments, on the utility bill.

Commissioner Torres noted to say it up front, that they can stretch it out over three or four years.

Acting City Manager Lindsey stated that the impact fees are calculated at a little over a thousand dollars per toilet.

Members discussed the information. How the impact fees could be a hardship to businesses.

Commissioner Green stated he thought it sent a positive message that the City of T or C is open for business, and that we're business friendly, that said – he noted the gorilla in the room; that being the Waste Water Treatment Plant, this is going to be out of compliance. Noting that for 2 years, we can't get out of that stream. So if we give away the store, with motels that are coming in that might have 60 or 70 toilets, where is the money going to come from, where is that revenue stream; when we are forced by law to expand our Waste Water Treatment Plant. He went on to note that he agreed with Commissioner Luna, that we should do something; as we still have to generate revenue, he would prefer it to be open for discussion – because we still have to generate revenue, and to expand our community.

Acting City Manager Lindsey stated that if we don't have the growth, we don't have the impact fee. If we have growth we can get impact fees, if our impact fees are so high, and they are unaffordable – it makes a hardship on these businesses – the we are not going to get the growth, not going to have the impact fees to go to the Waste Water Treatment Plant anyway.

Commissioner Green suggested taking a look at other Communities who we might be in competition with, as the Spaceport gets on board – what their impact fees are. Here in the County and also some of our close neighbors, see if we are competitive with what the market place out there is. Suggesting that someone from the Clerk's Office or the Manager could do research to see what the market is doing right now.

Commissioner Luna stated she thought if we had any remodels/growth among our current local business or any new development- we also are going to be billing them for utilities. We will still get some income coming in. Possibly look at a USDA loan to help with the Waste Water Treatment Plant.

Acting City Manager Lindsey said she was comfortable with suspending these impact fees for a amount of time, even at 90%, because the more business we get to come to this community, the

more everybody benefits, it becomes a win-win situation for everybody. Stating the name of the game was to encourage businesses to come to town.

Mayor Pro-tem requested the Acting City Manager prepare a MOU and present it at the next meeting for approval.

FINAL  
BUDGETWORKS  
HOP:

Acting City Manager Lindsey wanted to consider whether they wanted to meet at 5:00 for the July 26<sup>th</sup> meeting, just to go over some of the changes that the Finance Director and she were going to present for the Final Budget. She noted they had come across some things that she had not expecting. She found no major items, just in-house things she felt were not put into the preliminary budget she felt they should have been. There are a couple of proposals she would like to make to the Commissioners for their consideration. Such as the City borrowing money, that had not been put into the budget. Having a workshop before the meeting might help answer questions for the Commission, before they go into the meeting.

Commissioner Green agreed, stating he thought it was a good idea.

Mayor Pro-tem asked when they might get the paperwork to review.

Acting City Manager Lindsey thought the paperwork would be available on the 21<sup>st</sup>.

Commissioner Green asked if they could have the interview for Mr. Hunt's interview and the workshop in that time limit.

Commissioners agreed that it should be enough time; they thought that Mr. Hunt's interview should be scheduled for August 9<sup>th</sup>.

The Budget Workshop was scheduled for 5 PM on the 26<sup>th</sup>.

REPORTS:

**ACTING CITY MANAGER -**

Acting Manager Lindsey had two items. First she wished to thank the Sierra County Junior Women's Club for a donation of a rug and a caterpillar table, to the children's section of the Library.

She also noted that Pat O'Hanlan requested she mention that the Hot Springs Women's Club and made a sizable donation of children's books to the Library.

She wished to thank January Roberts and Steven Buckley, the trash cans on Broadway and Main, have been painted different colors and do stand out, it's a wonderful complement to the downtown area.

Commissioner Renfro requested that a framed Certificate of Appreciation be made for those whom made donations, and then presented, so that they can get some recognition for their donations.

**CITY ATTORNEY -**

Jay Rubin explained that just after the Workshop last week, Mr. Van Fleck had gone by his office the next day and complemented our Community on the excellent comments that were presented and also complemented the Commission. He stated he had already started on the amended ordinances and should be on pace to get to the Commission by the next meeting.

**Commissioner Green --** No report.

**Commissioner Luna –**

Wished to commend the Police Department for the excellent job they did during the rain storm. The Officers were out there patrolling, blocking traffic/slowing traffic, keeping people safe, in general doing a great job.

**Commissioner Torres –** No Report.

**Mayor Pro-Tem Renfro –** No Report.

EXECUTIVE  
SESSION:

“Commissioner Luna moved that the meeting be closed for Executive Session – Purchase, Acquisition or Disposal of Real Property or Water Rights 10-15-1H(8);”

1. Proposal submitted by Frank & Deann Chavez – involving a desire to sell approximately 12 acres of land east of I-25.
2. Site for Spaceport Welcome Center

Seconded by Commissioner Torres.

Mayor Pro-tem Renfro responded Aye to a Roll Call Vote  
Commissioner Green responded Aye to a Roll Call Vote  
Commissioner Luna responded Aye to a Roll Call Vote  
Commissioner Torres responded Aye to a Roll Call Vote

Motion carried unanimously.

OPEN MEETING:

“Mayor Pro-tem Renfro stated that the Commission was now in Open Session.”

CERTIFICATION:

“Commissioner Luna stated that the only matters pertaining to – Purchase, Acquisition or Disposal of Real Property or Water Rights 10-15-1H (8); 1. Proposal submitted by Frank & Deann Chavez – involving a desire to sell approximately 12 acres of land east of I-25, to the City. Commissioners requested to have a draft letter to Frank & Deann Chavez, to thank them for the proposal, however at this time the City is not interested.”

Seconded by Commissioner Steve Green.  
Motion carried unanimously.

“Commissioner Green moved that on the Site for Spaceport Welcome Center, the Commission would direct Acting City Manager Lindsey to offer 10 acres of land, how to offer, giving, selling or leasing and if the choose site then we would bring it back

to the Commission and decide how the City would want to negotiate that.”

Seconded by Commissioner Luna.  
Motion carried unanimously

ADJOURNMENT: There being no further business to come before the Commission the meeting was adjourned.

APPROVAL: PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011, on motion duly made by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and carried.

\_\_\_\_\_  
EVELYN RENFRO  
MAYOR PRO-TEM

ATTEST:

\_\_\_\_\_  
MARY PENNER  
CITY CLERK