CITY OF TRUTH OR CONSEQUENCES
PUBLIC UTILITY ADVISORY BOARD
MONDAY, SEPTEMBER 18, 2017

REGULAR MEETING

Regular meeting of the Public Utility Advisory Board of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Monday, September 18, 2017 at 5:30 P.M.

INTRODUCTION:

PRESENT:
George Szigeti, Chairman
Jeff Dornbusch, Vice-Chairman
Ron Pacourek, Member

ABSENT:
Randy Ashbaugh, Member
Gil Avelar, Member

ALSO PRESENT:
Juan Fuentes, City Manager
Renee L. Cantin, City Clerk
Melissa Torres, Finance Director
Bo Easley, Electric Division Director
Arnie Castaneda, Water/Wastewater Supervisor
Traci Burnette, Grant Project Coordinator
Sonya Williams, Utility Office Manager
Tammy Gardner, Electric Division Administrative Assistant
Angela A. Torres, Deputy City Clerk

APPROVAL OF AGENDA:

Chairman Szigeti called for approval of the agenda.

Member Pacourek asked that item 5.d be moved to the bottom of the agenda, and items 5.e & 5.f be moved up.

Member Pacourek moved approval of the agenda with the proposed changes.
Vice Chairman Dornbusch seconded the motion. Motion carried unanimously.

APPROVAL OF MINUTES:

Regular meeting of Monday, August 21, 2017:

Chairman Szigeti mentioned a few revisions to the minutes, prior to the meeting.

Member Pacourek moved approval of the August 21, 2017 minutes with changes previously noted by Chairman Szigeti.

Vice Chairman Dornbusch seconded the motion. Motion carried unanimously.

COMMENTS FROM THE PUBLIC:

Klaus Wittern – His comments are regarding item S.d - Code of Ordinances. He concurs in many respects the comments made by Member Pacourek. He is not sure he would go everywhere with it, but in concept, he believes it is desirable to have input from people who may have a conflict, but have specific knowledge about an area that may be under discussion. He concurs that they should abstain from voting, but he believes they are still part of the public, and should be able to listen to the discussion that is ongoing. Therefore, he encourages you to have a Public Hearing if there is a lot of interest in having that, because he believes that the ordinance needs to be re-written.

RESPONSE TO COMMENTS FROM THE PUBLIC:

Chairman Szigeti – That topic is going to be on the agenda and we will leave any discussion of it until that point.

Discussion/Update: Electric Department - Bo Easley, Electric Division Director:

Electric Division Director Bo Easley reported the following:

- They re-routed the primary underground at the hospital and they have to move three (3) more light poles, but they can't do anything until the dirt work is finished.
- A new 3 phase line has been built for the High School Fitness Center.
- The YESCO Project is scheduled to go before the City Commission at their next regular meeting.
- They are having the primary underground engineered at the Cielo Vista Subdivision.
- Upgrades at the New Mexico Veterans Home will include a replacement of the old transformer.

Member Pacourek – Is the Solar Array working?

Electric Division Director Easley – Half of the panels are not rotating with the sun, so they laid the panels flat for now until they can replace the trackers. Hopefully it will be back up soon. It's running, it's just not generating as much as it should.
Chairman Szigeti – Do you have a way of telling what the production is on the panels that are tracking, as opposed to the ones that are not? It would be interesting to know what we actually gained by them being able to track.

Electric Division Director Easley – I’m sure we can look into it and find out.

Discussion/Update: Water/Wastewater Department - Jesus Salayandia, Water/Wastewater Director:

Water/Wastewater Supervisor Arnie Castaneda reported the following:

- Smith Engineering and the contractor that provided the belt filter press were out here last week trying to fix some glitches with the communications.
- The city is trying to do an “in house” ground water discharge permit. They normally go through a consultant, but they are trying to save the city some money.
- They ordered a new vector truck, and will be expecting it around March or April 2018.
- They went up to Santa Fe to get an extension on the CDBG Man Hole Project because they fell into some issues. The next process will be the actual bid for a contractor to come in and start the work.
- Well #7 is back online, and is producing about 900 gallons a minute.
- They are short a few positions in the Water and Wastewater Department. They have two general labor positions open for both departments.

Discussion/Update: Sanitation Department – Andy Alvarez, Sanitation Director:

No update was given at this time.

Discussion: Ordinance 687 Section 2-276 recusal of Public Utility Advisory Board Members – Ron Pacourek:

Member Pacourek – it seems to him that their board has been let out of the loop again. The way the item was written on the City Commission agenda was “the recusal of Public Utility Board Members.” The item was for the members of the Public Utility Advisory Board to recuse themselves from participating in a particular item on the agenda. According to the way this ordinance is written, if there were to be a discussion regarding solar, Chairman Szigeti and I would have to recuse ourselves from the conversation because we have solar. But, there was an underlining scenario to this, because our City Attorney Jay Rubin, and City Manager Fuentes said if this got passed the way it is, then they are going to apply that to all of the other boards. I’m just going to spell it out...they are really after the Impact Fee Board, and having Member Ashbaugh recused from the Impact Fee Board. Randy has intimate knowledge of the impact fees, and bringing that knowledge to this board is important. Randy did recuse himself from voting. And, he doesn’t think he could sway him one way or the other, if he’s hearing the information correctly. It just feels like they are going around us. We got a new board member, and the guy filled out an application, but we didn’t see the application. Did he do an interview like we did? It just went to the Commissioners, and all of a sudden we got a new Board Member. What’s the point of this board if we are going to be left out of the loop? Could we have not had a discussion about this ordinance before it went to the City Commission? It makes him feel like our City Manager and City Commissioners don’t
value the input of his board, because they are going around us. We are not a governing board. We are a
discussion and suggestion board.

Vice Charmain Dornbusch – Right, so we should make decisions that is up to the City Manager and
Commission to make? We work at their bequest. They don’t work at our bequest.

Member Pacourek – Right, so when we have a discussion about something, we then we take the
discussion to them.

Vice Chairman Dornbusch – As I remember, our suggestion to them was to make up the Impact Fee
Board, and having the city take the responsibility of bringing in the other member, and they did exactly
what we requested them to do. I’m sorry that it makes you upset, and makes you think that we were
out of the loop, but really, you were in the loop. It’s not up to this board to decide what the City
Commission and City Manager decide to do when it comes to putting people on the board. It all has to
clear them first, before it comes to us.

Member Pacourek – Okay, then why did we have an interview? Why did we have to put in an application
that you all got to see? What’s the point then? And not just that issue, I’m talking about a bigger issue,
about them going around this board. What’s the point of Ordinance (#687) if we don’t have the power?

Vice Chairman Dornbusch – I am kind of pissed off at the situation of one of our board members, after
being appointed to the board, filing a law suit against the city. If I had known that he planned to file a
law suit against the city, I would have never of recommended him for this board, because it’s
contradictory to what this board stands for. This board is to help the city, not to sit around and nail it
down with a bunch of personal conflicts, and using this as a sounding board for his personal agenda.
That’s why I’m not happy with him not recusing himself from the meeting, because immediately he
started doing stuff to bring attention to his position, and that’s not proper use of the board. That is a
conflict of interest. The city has every right to come up with this ordinance, and they are not trying to go
around us in any way at all.

Member Pacourek – Really... I totally disagree with you.

Vice Chairman Dornbusch – Well then we will just have to agree to disagree.

Chairman Szigeti –I understand what both of you guys are saying here, but there are two reasons for the
recusal. There is an internal and external reason. Internally, you don’t want that person influencing the
other members of the board with their comments or the discussion. Now, he thinks we’ve got a good
board here, and as long as we understand what that individuals conflict of interest is... that means we
take everything that they say with a grain of salt. In light of that conflict of interest, like Mr. Witten said,
they may have valuable input, and that is kind of what bothers him with the City Commission. With the
membership now, if anything comes up dealing with the spas, Commissioner Clark has to recuse herself
from the discussion, but she is the one individual with the most intimate knowledge of the issues
surrounding the spas. Commissioner Clark having to recuse herself from the discussion takes some
valuable expertise out of the room. So I can see that point, but that’s only the internal part. The other
aspect is what the public perception of the board is, and if you have someone with a conflict of interest,
especially one as dramatic as this, with actually filing a suit against the city, and if that person is allowed
into the discussion, that creates a public perception that the board is being influenced by that individual,
and that undermines the reputation of the board as not being viewed as being trust worthy. Under the
current rules, we cannot force a person to leave the room if they do not want to, and that was the purpose behind this. Now on the other hand, if they are going to do this, it should just go blanket for all of the boards, not just target one board.

Vice Chairman Dornbusch – This is a small community, we don’t have the pull of resources. There is going to be conflicts, its unavoidable at some point, but as long as it’s dealt with in a rational, fair way, and there isn’t any kind of a public interpretation that it’s not, which is I think the strongest point you make, because we have a lot of critics that are very vocal and they will grab a hold of anything that they see being out of the norm. We want to do everything we can to keep everything open, and not have this conspiracy theory coming out of the woodwork every time we meet.

Member Pacourek – I think we should have had this conversation before it went to the Commissioners.

Vice Chairman Dornbusch – Under what sort of agenda, it’s not part of the Public Utility Advisory Board oversite. We don’t get to tell the City Commission what they can, and can’t do.

Member Pacourek – Don’t you think we should have at least, been informed of this.

Vice Chairman Dornbusch – I think it was on the agenda, was it not? It was notified.

City Manager Fuentes – I think a distinction has to be made between policy matters in regards to ordinances, which fall within the Commission. And as you stated, there is an ordinance that is going to be presented at the next meeting which covers all of the boards. The Commissioners amended their own rules of procedure with this same language.

No further discussion ensued.

Discussion: Village of Williamsburg Sewer Rate Increase – Ron Pacourek:

Member Pacourek – Shouldn’t we have been aware that there was going to be a negotiation that this was happening. Why can’t we be informed of these things that are happening?

Chairman Szigeti – You realize that we charge Williamsburg a set rate for the sewer, and then they determine what rates they charge the customers?

Member Pacourek – It would have been nice to at least been notified about it.

City Manager Fuentes - Section 14-91 which deals with the Village of Williamsburg, was adopted back in 2004, and in 2004, it says that the village establishes their own rates. We have nothing to do with the decisions the village makes. In April 2017 the Village of Williamsburg voted to raise their own rates, and that has nothing to do with the city.

Chairman Szigeti – Has the rate changed that we sell to the village?

Grants Coordinator Burnette – No.
Chairman Szigeti – Ron, we did not change anything in the contract. The contract between the City of Truth or Consequences and the Village of Williamsburg has not changed. The decision to raise their rates was made solely by the Village of Williamsburg, and it was not in response to anything we did. It was completely out of our jurisdiction.

No further discussion ensued.

Discussion: Code of Ordinances 14-94-b-1 & 11-14-1 fees – Ron Pacourek:

Member Pacourek - He feels that it is the Public Utility Advisory Boards responsibility to look at utility rates. He is concerned that the rates are going to go up for eternity, until they are at a very high rate. That concerns him because he is on a fixed income. So he feels that the board needs to look into doing something different about code of ordinances 14-94-b-1 & 11-14-1. He suggests that every March, both trash and sewer should be reviewed by the Public Utility Advisory Board, on whether the rates need to be increased, and if so the rate should be 0% - 5% and effective July 1st. He would like to make a motion to have this item on the next agenda as an action item.

Deputy Clerk Torres – You can request it, but you can’t make a motion because this is only a discussion item.

Chairman Szigeti – I see where you are coming from on this. Our inflation has been low lately, but when you have 10% inflation a year, a 5% rate increase in your utilities isn’t going to keep up with inflation. Now after having said that, part of the responsibilities of the board is to work with the Utility Departments and their budgets. That is within our purview, and there is no reason that we cannot sit down with the departments in the spring when they are preparing their budgets for the next year, and look at the status of the rates. The only problem I have is changing that ordinance now, to the point to where we actually have to write a new ordinance every year, because all we can do is make a recommendation in order to change the rates.

City Manager Fuentes – It did come before this board when we were looking at the Wastewater USDA Application. We had a Workshop at the Civic Center with the Board. The rates and the financing of the USDA loan were discussed, and, one of the things the analysts looked at was our rates, and how the rates changed over the years... and it has never changed. That’s why the Wastewater Fund was always being subsidized by the Electric Division. So what they mandated for the city was, if you want help from USDA, then this is what you have to do, and it is what other funding agencies have told municipalities across the state. They told us that we need to do our part, and increase the rates to keep up with the demand, and build up a fund to where we can replace Infrastructures and some of the Capital.

Finance Director Torres- Budgetary wise, the problem is, if you guys are just looking at actuals, you are not giving the departments the “full shake” in regards to, they have a lot of lists that is not on the expense. For example, the Sanitation Department has been saving for replacement of his garbage trucks, but he had a backhoe that went down, and he had to get a new backhoe, so guess what happens to those trash trucks, they get pushed down the line. So you can’t look at just the customer’s view in regards to keeping the bill low or high.

Further discussion ensued regarding clarification on why the city must increase the rates annually.
COMMENTS FROM THE BOARD:

Member Pacourek – Has the pass thru rate ordinance been passed, and if not, is it going to be on the agenda someday?

City Manager Fuentes – I believe that was something Chairman Szigeti proposed, and he is not sure where that ended up.

Chairman Szigeti – I presented it to the City Commission, and they approved it. I believe the next step was to draft it into an ordinance, and that would have to go through the City Attorney.

City Manager Fuentes – Since the item was presented by Chairman Szigeti, he recommends that Chairman Szigeti work with City Attorney Rubin to draft the ordinance.

COMMENTS FROM STAFF:

There were no additional comments from staff.

ADJOURNMENT:

There being no further business to come before the Public Utility Advisory Board, George Szigeti, Chairman, declared the meeting adjourned.

APPROVAL:

PASSED AND APPROVED this 16th day of October, 2017, on a Motion, duly made by [Signature], seconded by [Signature], and carried.

George Szigeti, Chairman
Public Utility Advisory Board