CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, March 14, 2006

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, March 14, 2006 at 6:00 P.M.

PRESIDING OFFICER: The meeting was called to order by Mayor Rainey 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. Jimmy L. Rainey, Mayor
Hon. Lori Montgomery, Commissioner
Hon. Evelyn B. Renfro, Commissioner
Hon. Jerry D. Stagner, Commissioner
Hon. Freddie J. Torres, Commissioner

At this time Mayor Rainey welcomed the new Commissioners to the table.

Also present:

Jaime R. Aguilera, 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 Rainey called for fifteen seconds of Silent Meditation.

Commissioner Renfro called for the Pledge of Allegiance.

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

"Commissioner Montgomery moved approval of the Agenda as amended."

Seconded by Commissioner Renfro.

Motion carried unanimously.

REORGANIZATION MAYOR & MAYOR PRO-TEM: Mayor Rainey stated after each Election they go through a reorganization of the Commission to select a Mayor and a Mayor Pro-tem to serve in that capacity for the next two-years.

At this time he asked for nominations for the position of Mayor.

"Commissioner Renfro would like to nominate Commissioner Montgomery to serve as Mayor, and move that nominations cease."

Seconded by Commissioner Torres.
Motion carried unanimously.

For the position of Mayor Pro-tem.

"Commissioner Rainey would like to nominate Commissioner Stagner for the position of Mayor Pro-tem."

Seconded by Commissioner Torres.

"Mayor Montgomery would like to nominate Commissioner Renfro for that position."

Commissioner Renfro stated she would like to decline the nomination and go with Commissioner Stagner, and thanked Commissioner Montgomery.

Motion carried unanimously.

At this time it was turned over to Mayor Montgomery.

Outgoing Mayor Rainey was applauded by the audience, and he expressed that he appreciated the opportunity by serving the City of T or C as Mayor. He stated as a Commissioner he would continue his body and soul into the betterment of the City, and thanked everyone for that opportunity.

Mayor Montgomery stated she thinks she speaks on behalf of the entire Commission and thank him for his service. She indicated she has big shoes to fill and will try and do the best she can and appreciates everybody's support.

RESPONSE TO PUBLIC COMMENT:

City Manager Aguilera stated at their last meeting there was a lady who brought up the fact that the City has a dangerous dog act ordinance.

She indicated in her comments that not many people know about it, and that perhaps there is something that the City should do to inform the citizens about this ordinance.

City Manager Aguilera stated there are some changes that he is making which he has informed the Commission through his Friday memo related to the way they do the billing in the Utility Department.

He explained what they would be doing is changing from the postcard type of bill to a more informative full page billing, and indicated how that relates to this issue is that they will get a free one page insert from the Company that they will be doing business with.

City Manager Aguilera stated the idea behind this is to include inserts for the citizens such information as the dangerous dog ordinance. He stated they would continue with a community calendar for the various events in the community.

He stated it would be a new expense in the Utility Department but well worth it; however they will be saving money because they are reducing one staff person in that department and out sourcing the billing.

City Manager Aguilera stated they would also include an envelope with the billing if they choose to mail their payment.
COMMENTS FROM THE PUBLIC:

Mr. Jerry Englehart came before the Commission and stated he represents the NM Emergency Council which is the organization that oversees all of the volunteer search and rescue teams statewide.

He indicated he is also with the Search and Rescue for State Police District 11, and that he is here to thank the City for the great support that they gave them last week for their mini Search and Rescue Convention that they held at the Civic Center.

Mr. Englehart pointed out it was a big success, and had people from all over Southern New Mexico. He stated it included training for new volunteers as well as existing volunteers who wanted to refresh their skills.

He stated with the use of the Center provided by the City the Council was able to pay other expenses and they were able to make the event free for all the volunteers who attended.

Mr. Englehart stated the lake gave them free camping for those who took advantage of wanting to camp, and the fact that T or C has the cheapest motels in the State helped.

He stated they received positive comments and feedback about the community, restaurants, motels and the hot springs, and that it was a pleasant experience for those attending, and thanked the City on behalf of the Council, himself, and the NM State Police.

Mr. Tom Botosan came before the Commission and provided them with a photograph, and explained the photograph they have in front of them was taken March 11th at 3:20 pm from the construction site on North Date Street above the Chevron Station.

He indicated it shows blinding dust blowing off the construction site, and stated for anyone wishing to see the photograph it will be displayed in the front window of Parisi Jewelers at 420 Broadway.

Mr. Botosan stated the photograph represents 1 300 hundredths of a second of time, and indicated this situation has been repeated many times over the last few weeks, and yes they have had dust stirred up around town but nowhere near the level of dust and debris that has been whipped off this site.

He stated he has lived in the southwest for over 30 years and is well aware of the fact that dust is a part of life, but they don't have to add to the problem. At first glance this just looks like a matter of moving some real estate from T or C to Elephant Butte.

Mr. Botosan stated he has lived in New Mexico for 15 years and knows that the weather patterns here are very unique and come from all directions, and that when the wind blows from the northerly direction all of the dust and particulate matter will be aimed directly toward T or C with the first stop being the lungs of the children who go to school in the buildings just South of that site it will then to continue to spread into town and affect the elderly with respiratory problems as well as putting the general public at risk.

He stated the reason he is addressing this issue tonight is because he sat in this Chamber on two occasions when the developer of that piece of property, Mr. Randy Ashbaugh promised this Commission as well as the Planning & Zoning Commission that he would treat
this construction site in such a matter that this level of erosion would not happen, if it was done it is not working, and if it was not done why not?

Mr. Botosan indicated there is no environmental assessment of this site before, during or after the raking of this soil, and consequently they have no idea what it is they are spreading throughout the town and County. He stated the United States is experiencing an epidemic of juvenile asthma as well as upsurge of many respiratory problems in the young as well as in the general population, and indicated they have no right to further endanger their children and our neighbors.

He stated living in New Mexico he has learned that they have wind year around and then they have big winds, and that the problem is not going away and he is asking for them to find out what went wrong and get it fixed, and thanked the Commission.

Mr. Steve Berkstresser came before the Commission and stated he was on the computer on the State website, and noticed that the Legislature and the Governor were very generous with T or C.

He stated they received $200,000 for water system improvements, $250,000 for improvements at the WWTP, $100,000 for the Learning Center, and $200,000 to repair the water tanks, and indicated he thought it was a good sign to see that their infrastructure is going to be taken care and looks forward to seeing improvements.

CONSENT CALENDAR: Mayor Montgomery stated they have three items under the Consent Calendar, Minutes of the Regular Meeting of the City Commission – February 28, 2006, Request for reimbursement – February, LDWI/Grant 2006, and Accounts Payable.

"Commissioner Renfro moved approval of the Consent Calendar."

Seconded by Commissioner Rainey. Motion carried unanimously.

BOARD & COMMITTEE REPORTS: Mayor Montgomery stated the following are draft minutes from various boards provided to the Commission and are for information only and are non-action items.

PUBLIC HEARINGS: None.

APPOINTMENT TO HOUSING AUTHORITY: City Manager Aguilera stated they have a request from the Housing Authority to appoint for the position that was left vacant by now Commissioner Stagner.

He stated they have a recommendation from the Housing Authority, and at this time Mr. Rick Courtney representing the Housing Authority came before the Commission to request the appointment of Dr. Hegwer to the board.

Mr. Courtney stated he previously served 2 1/2 years on the board and retired from the schools, and indicated he was an exemplary Commissioner and they are very pleased that he would like to serve on the board.

"Commissioner Renfro moved that Dr. Hegwer be appointed to the
Housing Authority Board to replace Mr. Stagner.

Seconded by Commissioner Stagner.

Commissioner Stagner stated he worked with Dr. Hegwer when he was on the board and that he made a great Commissioner.

Motion carried unanimously.

City Manager Aguilera stated they are provided with a MOA between Sierra County and the City of T or C for the possibility of a joint solid waste disposal.

He indicated he met with Jan Carreo, County Manager and that they met with an engineer having to do with sanitation issues, and with both sanitation operators from the County and the City.

City Manager Aguilera stated they discussed the fact that the State is changing their regulations as to how the landfills are governed, and stated at this point they are exempt from regulations because they operate the landfill less than 20,000 tons a day.

He stated that the County is also operating under the 20,000 tons but they have a more difficult time proving that than the City does because they take in private loads, and explained that the City's tonnage is more regulated because the only thing that goes to our landfill is what they pick-up.

City Manager Aguilera stated they believe they do about 13,000 tons a day and well below the 20,000 tons. He stated they have a life span in their landfill of about 10 years, and explained the problem when the new regulations take place and he understands they may be adopted by next May.

He stated if that happens they will be given 1 year to either submit a closure plan for the landfill, or request a formal permit, and stated the permit to put that information together is about a $150,000 process, and reminded the Commission they have about a 10-year life span left in that permit.

City Manager Aguilera stated the County faces the same thing. He indicated they face having to get a permit and spend the same amount of money, and also face a bigger problem which is what happens when the development that seems to be taking place and taking hold in our community starts to grow and more trash in the landfill in those years.

He stated the City faces a separate issue which is the expansion of the Airport, and indicated they cannot expand the Airport because of the two landfills in the area, and explained the problem being that FAA will not approve Airports near landfills because of the bird problem.

City Manager Aguilera stated looking into the future it would behoove the City to start thinking about moving the landfills away from the Airport so they can expand. He stated he had a meeting today with the racetrack people who are still pushing the racetrack and seem to be making headway with the Federal Government about getting the land transferred over to them.

He stated there is an Iron Man Competition which is world wide competition of triathlon or tri-athletes who are interested in coming
to the area which would bring in about 5,000 people.

City Manager Aguilera stated that he and the County Manager have been talking about the change in regulations, as he thought it was silly for the City to spend a large amount of money in maintaining a landfill a quarter of a mile from the County landfill, and that they are spending more than the City. He stated they could join forces and save money in the process.

He stated the goal being they may want to form a Joint Powers Authority in which this separate entity becomes the owner and operator of the landfill, and indicated they do not have to go that way and they could decide that the City would become the owner and operator of the one landfill, or the County would become the owner and operator, and stated that it does not make sense to have 2 landfills side by side.

City Manager Aguilera explained the purpose of the agreement which is very innocuous, and that all it says is they will spend zero money and with a joint effort by staff of the City and County to investigate the possibility of putting together a joint powers authority or some other type of mechanism to save money, open a new landfill, close the existing landfills, and operate only one.

He stated the recommendation by staff is to allow them to enter into this JPA which gives them direction to investigate the possibility of forming a single landfill operation, and then it bring it back to the County and City for review, and recommends approval.

Mayor Montgomery stated for some clarification she had City Manager Aguilera read, Section One – Purpose... The purpose of this MOA is to provide a mechanism for the County and the City to explore the possibility of the creation and operation of a joint County/City solid waste disposal facility and/or authority.

And she assumes Mr. Rubin that you have taken a look at this, and City Attorney replied, “he has”, and indicated there are no liability from this stand point and no cost involved.

“Commissioner Stagner moved approval of the MOA between the County of Sierra and the City of T or C.”

Seconded by Commissioner Rainey.
Motion carried unanimously.

City Manager Aguilera indicated at the previous meeting he presented a contract with Dr. Cardwell which indicated that beginning on July 1st they would pay $2,500 a month for animal services provided to the City by Dr. Cardwell, and that is $30,000 a year, and they are currently paying $24,000 a year.

He stated when he first looked at this $30,000 a year seemed like a lot of money, but on the other hand stated they could not provide this service for that amount of money and seemed do-able for the City and he recommended approval.

City Manager Aguilera stated after that he came upon some information is that the County is also being approached by Dr. Cardwell for an increase for $30,000, and he called Williamsburg and they indicated last year they spent $10,000, and he also called Elephant Butte and they are spending about $20,000.
He stated if they total that it is $90,000 for animal services not to mention the City's animal control officers including their vehicles and time and so forth, and pointed out they also dispose of all animals from the veterinarian's operation, and that they pick-up all the animals from the other entities and take them to the landfill at no cost to Dr. Cardwell.

City Manager Aguilera stated looking at it from a financial point of view that $90,000 is a lot of money for those services and that perhaps the four governmental entities could get together and put that same amount of money or less towards an animal shelter that they could run.

He stated his recommendation is that they allow him to look further into this issue and maintaining our own animal shelter, and indicated this is something that he would do as a matter of course but because he knows that it can be a political issue he wanted the feedback from the Commissioners before he spent time looking into this.

Commissioner Renfro stated this would be coming back to them, and City Manager Aguilera replied, that's true. She wanted to know what the County did for animal control.

City Manager Aguilera stated that the County calls the City when they have a need to pick up an animal, and explained that the City has an agreement with each entity at $25.00 per call. He stated when all those animals died in that trailer fire the City provided the service for the County at $25.00.

He stated obviously they are not making money at this, and explained that fee is another issue that he has looked at during the budget process, and hopes to bring this back to them perhaps for revision because in a case like that there should be a different way of charging, and believes also there is a mileage issue, and for week-ends and nights are also different issues.

Commissioner Renfro stated for the two animal control officers with separate shifts, and indicated if they are going to be providing animal control services throughout the entire county she sees where there would be a need for added personnel.

City Manager Aguilera stated that the two officers would not be enough to operate a shelter and also provide services to the outline areas.

Commissioner Renfro stated there were various issues that they need to take into consideration, and explained some of the problems they had when they ran the shelter such as problems with the building, the help and euthanising of animals was a major problem, and keeping the premises in the condition that they were suppose to be kept was a big problem. She stated there was not a push for adopting out animals.

"Commissioner Rainey stated if there was no further discussion, he moved to authorize the City Manager to investigate the idea of a regional operated animal control."

Seconded by Commissioner Torres.
Motion carried unanimously.

Mayor Montgomery stated she would like to remind the
APPT. – JPC FOR SV HOSP.: Mayor Montgomery stated this is for appointment to the JPC for the Sierra Vista Hospital to replace Commissioner Lois Reaver-Black. She stated she was sorry to see her leave as quick as she is sure the Commission wanted to thank her for her service, and she is sure that they will do that at a later time.

"Commissioner Renfro moved that Commissioner Stagner be appointed to serve on the JPC."

Commissioner Stagner stated he would like to say something first and indicated his boat is really loaded and does not have the time to do this.

"Commissioner Stagner moved that Commissioner Renfro be appointed to serve on the JPC."

Seconded by Commissioner Rainey.

Commissioner Renfro stated she would do her best.

Motion carried unanimously.

APPT. – RPO FOR DOT: Mayor Montgomery stated the next appointment is for the Regional Planning Organization for the Department of Transportation to replace Commissioner Lois Reaver-Black.

Mayor Rainey stated he would like to volunteer for the RPO.

"Mayor Montgomery – Acceptance of the volunteer of Commissioner Rainey to the RPO."

All Commissioners Voted – Aye.
Motion carried unanimously.

Mayor Montgomery thanked Commissioner Rainey for volunteering.

PROPOSED ORD. – MEMORY CEMETERY: City Manager Aguilera stated these rules and regulations for the Vista Memory Gardens have previously been discussed. He indicated our City Attorney has prepared a proposed ordinance for their review, and they also discussed they would eventually like to do one for the Hot Springs Cemetery.

City Attorney Rubin stated they already had in place the rules and regulations that were adopted in 1973 and amended in 1978, and the proposed ordinance before them is similar to what they adopted back in the 1970’s, and indicated they have some changes that they talked about at their last meeting.

Commissioner Rainey stated he had a question on page 4 of 6 under 9-57, Markers, Liners and Vaults, under (a) 1 questioned the size of the markers, and asked why one of them was smaller.

Commissioner Renfro explained because of a single lot it would be the smaller one, and for a double headstone it would be for a husband and wife.

City Attorney also referred to Section 9-58, Fees and Charges, top
of page 5... All fees and charges will be approved by separate resolution from time-to-time by the Commission. These fees and charges include, but are not necessarily limited to, marker installations, lots, and openings and closings.

And explained this ordinance will not set the fees, and indicated the Commission would do that by separate resolution assuming this ordinance passes, and that would give them the option in the future if they need to change the fees they can do that without having to amend the ordinance.

"Commissioner Renfro moved that the Proposed Ordinance be approved for publication."

Seconded by Commissioner Rainey.
Motion carried unanimously.

OLD BUSINESS: None.

REPORTS:

CITY MANAGER—

City Manager Aguilera stated the first item he has a response to Commissioner Stagner who contacted him earlier in the week asking a question about the audit. He stated he noticed an anomaly the receipts from property tax that were reported. He indicated in 2004 the City received in property tax $319,000, and in 2005 the receipts dropped to $267,000.

He stated he asked Joanne to look into that issue, and that the bottom line is they still do not know, and stated they contacted the auditor, and they indicated they are reporting what the County reported to them, so obviously the next step is they need to talk to the County Assessor and find out where that difference comes from and why there is a drop.

City Manager Aguilera stated they have some suspicions about the fact there have been a lot of delinquencies in the County, and stated there is a move to capture all those delinquencies. He indicated as of to date they are far ahead of their projected revenue from property taxes as they are getting more than what they projected to get and are at the same level as they were last year, and they do not know why the County is fluctuating so much and hopefully he will have an answer at the next meeting.

He would also like to remind everyone that Randy Van Vleck the Attorney with the NMML will hold a training session on Wednesday, March 22, 2006 from 1:00 – 6:00 P.M., to answer questions on how to run a meeting and what is suppose to happen in closed session.

City Manager Aguilera indicated he had him scheduled to come for the City Commissions for the benefit of the Golf Course Commission and the Planning and Zoning Commission because they are a quasi judicial body, and as it turns out they have 2 new Commissioners and they will find it helpful to attend.

He mentioned that a meeting notice would go out that a possible quorum would be attending but no official action would be taken.

City Manager Aguilera reported on the Legislative Appropriations, and indicated they asked for $200,000 in water wastewater money, and they received $350,000, and pointed out that the Governor was
good to them. In water they asked for $450,000, and they received $400,000, and that the Learning Center received $100,000, and reported the bad news is that the Veteran’s Wall asked for $150,000 and the Governor vetoed that legislation, and that they are not receiving those additional funds that they were hoping to get in order to complete the museum.

He stated what this does for them especially in the wastewater situation it will allow them to do two things, one is to hire an engineer to plan out an expansion of the plant, and also to purchase, and stated that right now the plant is a little bit crippled, and explained that they have two drying beds and reported that one of the drying beds is out of commission.

City Manager Aguilera stated they have shifted all of their material from one drying bed to another to make one work well, and indicated the other one is not working now, and they do not have to have it, but it is a good backup.

He stated what they probably will do with these funds is purchase a belt press which is a machine that takes away the need for a drying bed, and explained that it squeezes the water out of the sludge, and that they can use a one meter belt press and service the entire plant in a few hours as opposed to several days of drying that is done now.

City Manager Aguilera stated he has worked with these machines before and that they are very reliable. He stated the cost is minimal in terms of electricity and indicated there is a polymer that is required, and that there are using the polymer now in the current method.

Commissioner Torres asked about the odor, and City Manager Aguilera stated it would reduce the odor because it dries a lot quicker, and able to take it out of the area to the landfill or through the compost process.

CITY ATTORNEY –

City Attorney Rubin congratulated Commissioner Torres and Commissioner Stagner and indicated that he is looking forward to working with both of them.

COMMISSIONERS –

Commissioner Rainey – No report.

Commissioner Stagner stated he was happy to be here, and Mayor Montgomery welcomed him aboard.

Commissioner Torres stated he was glad to be here and glad to be back.

Commissioner Renfro stated they received a memo from the City Manager, and that Peter Baca from the Parks and Recreation Department has been with the City for 10 years, and Moses Garcia with the Solid Waste Department has been with the City for 30 years, and she thinks it is great and thanked them.

She also mentioned that Lois’s family is hosting a retirement party for her on Sunday, March 19, 2006 at 3:00 P. M., at the Senior Meal site and invited everyone to join.
Commissioner Renfro congratulated Commissioners Stagner and Torres and that they are glad to have them.

Mayor Montgomery – No report.

EXECUTIVE SESSION:

“Commissioner Renfro moved that the meeting be closed for Executive Session – Personnel 10-15-1H(2), Pending or Threatened Litigation 10-15-1H(7), Purchase, Acquisition or Disposal of Real Property or Water Rights 10-15-1H(8).”

Seconded by Commissioner Stagner.
All 5 responded Yes to a Roll Call Vote.
Motion carried unanimously.

OPEN MEETING:

“Mayor Montgomery stated that the Commission was now in Open Session.”

CERTIFICATION

“Commissioner Rainey certified that only matters pertaining to Personnel 10-15-1H(2), Pending or Threatened Litigation 10-15-1H(7), Purchase, Acquisition or Disposal of Real Property or Water Rights 10-15-1H(8), were discussed in Executive Session, and no action was taken.”

Seconded by Commissioner Renfro.
Motion carried unanimously.

Commissioner Rainey stated that under Personnel 10-15-1H(2), Personnel, Sanitation Department, City Manager Aguilera reported some changes within that department, and is for information only for the Commission.”

Seconded by Commissioner Renfro.
Motion carried unanimously.

“Commissioner Rainey stated that under Pending or Threatened Litigation 10-15-1H(7), Pippen & York moved that they instruct City Attorney Rubin to proceed as directed.”

Seconded by Commissioner Renfro.
Motion carried unanimously.

“Commissioner Rainey stated that under Purchase, Acquisition or Disposal of Real Property 10-15-1H(8), Starchaser, City Manager Aguilera updated the Commission that they sent them a proposal, and that they had received 15 different proposals, and they instructed the City Manager to follow-up with a letter to Starchaser.”

Seconded by Commissioner Renfro.
Motion carried unanimously.

“Commissioner Rainey stated that under Purchase, Acquisition or Disposal of Real Property 10-15-1H(8), for Elite Shutters they instructed that City Attorney Rubin to proceed as directed.”

Seconded by Commissioner Renfro.
Motion carried unanimously.

ADJOURNMENT: There being no further business to come before the Commission the meeting was adjourned.
APPROVAL: PASSED AND APPROVED this 20th day of March 2006, on motion duly made by Commissioner Stagner, seconded by Commissioner [Signature], and carried.

LORI S. MONTGOMERY
MAYOR

ATTEST:
MARY B. PENNER
CITY CLERK