

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, May 26, 2009

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, May 26, 2009 at 6:00 P.M.

PRESIDING OFFICER: The meeting was called to order by Mayor Montgomery 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. Lori S. Montgomery, Mayor
Hon. Jerry Stagner, Mayor Pro-tem
Hon. Steve Green, Commissioner
Hon. Evelyn B. Renfro, Commissioner
Hon. Freddie Torres, Commissioner

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 Montgomery called for fifteen seconds of Silent Meditation.

Mayor Montgomery called for the Pledge of Allegiance.

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

“Commissioner Green moved approval of the Agenda as submitted.”

Seconded by Commissioner Renfro.
Motion carried unanimously.

RESPONSE TO PUBLIC COMMENT: City Manager Aguilera stated that Mr. Foerstner came before the Commission at their last meeting and indicated that he would recommend that the City conduct a traffic plan for the entire City...and stated he agrees that is something that the City needs to do someday...but they do not have the budget to do that, and that they have talked about doing that in the past. And indicated all he can say if the budget turns around...hopefully they will be able to do something.

COMMENTS FROM THE PUBLIC: Mr. Ronald Fenn came before the Commission and stated he comes to them with some praise and commendation...unfortunately it is not for them, and indicated it is for the electric department which

proved worth their extra money for electricity in resolving a very serious electric problem at his house last week, and wanted to thank them for their efforts, and that they acted in a very professional and courteous manner, and would recommend that any citizen of T or C that has problems with their power...don't hesitate to call the power utility company.

Mr. Gerald Boland came before the Commission and stated under H-4...and doesn't know what this contract is with the golf course, and stated the last few years...when they see for a \$1.00 for a year, and let the party get all the resources...the water and all that and give him a monthly salary...to basically give anybody control of an asset for whatever it is...I think it was like \$1.00 something like that...I think is outrageous, and seeks the rest of his time to Debbie Toomey.

Mr. David Talmadage came before the Commission and indicated he is going to seek his time to Debbie Toomey.

Ms. Deborah Toomey came before the Commission and stated she would like to speak in honor of Memorial Day, and read her speech in its entirety. (Complete copy attached hereto and made a part hereof.)

CONSENT
CALENDAR:

Mayor Montgomery stated they have several items under the Consent Calendar – Minutes of the Regular City Commission Meeting – May 12, 2009, DAIC Monthly Report – April 2009 & LDWI Grant Reimbursement Request – April 2009.

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

Seconded by Commissioner Green.
Motion carried unanimously.

DRAFT
MINUTES:

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

BOARD
COMMITTEE
REPORTS:

& None.

PUBLIC
HEARINGS:

None.

CONTRACTS –
DWI FOR FY
09/10:

City Manager Aguilera stated the Commission had questions about these two contracts and making sure that they did not run a foul of state law regarding double payment for the same amount of time, and indicated he met with Ms. Sanders, and stated she has been turning in time sheets in to Ms. Kent, however she had not been turning those time sheets to the City, and that the issue is...time sheets working for DWI, and separate time sheets for the City should be turned in to the payroll clerk so she would be able to look at both time sheets for the same time period, and be reassured that they were not paying for the same amount of time.

He stated Ms. Segura indicated that she would do that and did not have a problem, and that she had been turning in the time sheets in the past...and that would seem to solve the issue for both Ms. Segura and Ms. Sanders, and the recommendation would be to

I REMEMBER

By Deborah Toomey

Truth or Consequences, New Mexico, United States of America, Planet Earth

May 26, 2009

In honor of all those who have defended and progressed American democracy, liberty and justice, I remember.

On this day of memory, I honor just a few of my heroes: Benjamin Franklin, Thomas Jefferson, Thomas Paine and all the founding fathers that set down in writing and principle the right and duty to dissent. I remember.

I honor the women of Lowell Mills and Daughters of St. Crispin, the coal miners and Pullman car strikers. Their struggles bestowed posterity a safe work environment and a decent living wage, ensuring the right to pursue happiness. I remember.

I honor Harriet Tubman, Abraham Lincoln, Rosa Parks, Martin Luther King, Jr. and the Freedom Riders. President Barack Obama on Inauguration Day eloquently stated: "all are equal, all are free, and all deserve a chance to pursue their full measure of happiness." I remember.

I honor Susan B. Anthony, Clara Barton, Billie Jean King, Hillary Rodham Clinton, and Dr. Meenakshi. I honor Jane Adams who built the first sewer system in the US one pipe at a time. I remember.

I honor Chief Seattle, Geronimo, Russell Means and Dennis Banks. The eloquence of truth in their words makes us better. I remember.

I honor George Washington, Gens. Patton and Pershing, Cpl. York and Sgt. Murphy. I honor my grandfather, my father, my ex-husband Brent and my best friend, Gouthum Karadi. I honor the McCain family who for 108 years has had a "John" in service. I honor the 40 million American men and women who have served in the Armed Forces. I remember.

On this day and every day, I am proud to say I am a patriot. My pride in country is not based upon a fervent nationalism but is based upon a lifelong study of the history and political theory of the United States of America. I spent the summer of my ninth year in front of the TV, arguing with my mother that it was more important I watch history in the making than play outside. Watching the Watergate hearings that summer of '74, I learned that we are a "government of laws, and not of men" (President John Adams).

At University, my love of country led me to study political science with a concentration in theory. I learned the factory worker is governed by the same rule of law as the local sheriff; the local sheriff is governed by the same rule of law as our President. No one is above the law in this nation, including our

leaders. This simple principle is what makes the United States of America different; this is what makes us “better”—the rule of law. Let’s not forget that.

But we are forgetting. The argument is currently being made that, “There are no absolute rules of conduct, either in peace or war. Everything depends upon circumstances.” This is not a new argument, but is the current argument by Bush, Cheney, Rumsfeld and many Americans to justify our use of torture: the circumstances require it; the torture gave us information that made us safe; “the ends justify the means.” Do you agree with these sentiments? Those that do may be shocked to know that you, Cheney and the Bush administration are in agreement with Leon Trotsky, the author of the above-quote, a Bolshevik revolutionary, Marxist theorist, and co-founder with Lenin of the Soviet Union.

I don’t give any credence to the idea that the “ends justify the means.” I prefer our actions and ideals be based upon our founding fathers and great American leaders. So let’s look at the issue of torture based upon American history and principles rather than attempt to justify it with Bolshevik and Marxist ideals.

A century ago the United States entered a debate very similar to what we face today. Atrocities of torture (including waterboarding) were committed by American soldiers against the Filipinos. A national debate ensued and a committee was formed in 1902 to “vindicate the National Character.” Secretary of War Elihu Root stated “nothing can justify or will be held to justify the use of torture or inhumane conduct of any kind on the part of the American Army.” Gen. Jacob Smith and officers who administered the “water cure” (which we now call waterboarding) were court-martialed and punished for the mistreatment of prisoners of war.

In 1945 and ‘46, both at the Nuremberg Trial and the Tokyo War Crimes Trial, war criminals were tried, convicted, and several were executed for committing torture, and specifically for waterboarding prisoners of war.

No war crime trials were held after the Korean and Vietnam conflicts, but there are numerous accounts of American soldiers being tortured by waterboarding, leaving our veterans scarred with lifelong trauma and destroying a generation of Americans.

In more recent history, in 1985, a Sheriff and his deputies in Texas were tried, convicted and sentenced to 10 years for waterboarding prisoners.

In 2004, seven US soldiers were tried and convicted for torturing prisoners at Abu Ghraib.

In every instance, whether the water cure was applied by Americans, to Americans, or simply reviewed by American courts, torture—including waterboarding—has been rejected as illegal and severely punished.

There are those that are attempting to justify the loss of our ideals as necessary to protect our nation. I reject this. Our history and founding principles reject this. As Justice Brandeis said in 1928: “Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a law-breaker, it breeds contempt for law; . . . it invites anarchy.” We cannot allow anarchy and despotism to destroy our democracy, to destroy

the United States of America. I agree with Pres. James Madison that “despotism can only exist in darkness.” Let us shine the light of truth.

The threat to our nation does not come from the outside, and most certainly does not come from terrorists. I reject as false the premise that a terrorist can ever destroy this great nation. We are not defined by bodies within our borders. As George William Curtis, one of the founders of the Republican Party, stated: “A man's country is not a certain area of land, of mountains, rivers, and woods, but it is a principle and patriotism is loyalty to that principle.” We are defined by our national character and by our firm belief in the rule of law, a necessary component of democracy and a founding principle of this great nation. Our destruction can only come from within—in the dark and in silence: by ourselves to ourselves.

On this Memorial Day, I remember. I think back through these past two centuries of the men and women who gave of themselves to protect America and to further freedom. We dishonor them when we ignore our history and principles—our rule of law. This is more destructive than any bomb or terrorist act can ever achieve.

We must open this debate as painful as it may be. As the great American Revolutionary Patrick Henry said: “For my part, whatever anguish of spirit it may cost, I am willing to know the whole truth; to know the worst and provide for it.” Let’s get to the truth; and when that truth demonstrates we broke our nation’s laws, we must prosecute. We are not a nation of kings and despots. We are a nation of the people, by the people, for the people, governed by the rule of law.

Let your neighbors, families, Congress and our President hear that we will not abide the destruction of America and democracy. “All tyranny needs to gain a foothold is for people of good conscience to remain silent.” (Thomas Jefferson) Do not remain silent. Do not remain in the dark.

Honor our past. Honor our future. In honor of Memorial Day, for every soldier and citizen who has looked into the light and shouted LIBERTY AND JUSTICE FOR ALL, I quote John Quincy Adams: “Posterity: you will never know how much it has cost my generation to preserve your freedom. I hope you will make good use of it.”

Make good use of it. Don’t give up on it now. Demand the rule of law. Demand prosecution.

Remember. Thank you and

God Bless America,
Land that I love.
Stand beside her, and guide her
Thru the night with a light from above.
From the mountains, to the prairies,
To the oceans, white with foam
God bless America, My home sweet home.

approve the two contracts.

“Commissioner Renfro moved approval of the DWI contracts for Beatrice Sanders & Sandra Segura for FY 09/10.”

Seconded by Commissioner Stagner.

Commissioner Green stated at the last meeting they decided to put in an alternate address McAdoo and 207 3rd Street as there will be an overlap during the course of the year.

Ms. Sanders stated she made a copy of the time sheet that she turns in, and provided the Commissioners and the City with a copy, and indicated the highlighted area is time worked for the City.

Mayor Montgomery stated under the Scope of Work please have them spell HIPAA correctly...not HIPPA.

Motion carried unanimously.

RESOLUTION
#41-08/09:

City Manager Aguilera stated this is the culmination of several days work with the Commission, and several weeks work from finance officer, Helen Belis, and provided them with a copy of the budget along with what the State is now expecting.

He stated they also have an update on the audit, and indicated they received an e-mail from the auditor, and that they had findings, and sent them the findings, and stated they have set up a meeting with them this week to discuss the findings, and the recommendation is for approval of Resolution #41-08/09 – for adoption of the preliminary budget for 09/10.

“Commissioner Stagner moved approval of Resolution #41-08/09 for the preliminary budget for 09/10.”

Seconded by Commissioner Renfro.
Motion carried unanimously

Mayor Montgomery thanked Ms. Belis for all of her work.

FY/10
CONTRACT NM
TOURISM:

– City Manager Aguilera stated he reported that the City received \$1,400 from the Clean & Beautiful Grant, and explained it is for island beautification, and clean-up after the Fiesta, and recommendation is for approval of the grant.

“Commissioner Green moved approval of the grant agreement with NM Clean & Beautiful.”

Seconded by Commissioner Renfro.
Motion carried unanimously.

CONTRACT
GOLF COURSE
MGMT.:

– City Manager Aguilera stated every year it is necessary to extend the contract with Mr. Tucker for the golf course management. At this time he read a letter from Mr. Jim Remy, PGA President, on the achievement earned by Mr. Howie Tucker for distinguished recognition of The PGA President’s Council on Growing the Game for his tremendous contributions to the sport of golf, and stated that the golf course board is happy with Mr. Tucker’s work, and that they have received letters from various individuals about the golf course, and recommendation is for approval to extend the contract with Mr. Tucker for another year.

Commissioner Torres commented that he is doing a good job, and asked if the play at the course has increased.

Mr. Tucker came before the Commission and stated they have been really busy, and stated the play was up during the winter...and that the membership was down.

“Commissioner Stagner moved to extend Mr. Tucker’s contract for the golf course management with the City of T or C.”

Seconded by Commissioner Green.
Motion carried unanimously.

AGREEMENT –
PARKS
SERVICES:

City Manager Aguilera stated they were provided with a contract for park services with some minor changes...on the first page where it refers that the **contractor** is to provide park maintenance services **not** grant writer. And stated there was mention of **he** in the contract, and that he changed those to **he/she**...so that it remains generic, and a typo in the telephone number for the City...so those minor changes have been made.

He stated Ms. Yarmal was hired by the City in the Parks and Recreation Department about 4 months ago, and that she has been working at the Veterans Memorial Museum/Park, and has been doing an excellent job, and that the Veterans Board is also very happy with her work.

City Manager Aguilera stated Ms. Yarmal has her own landscaping business, and stated she would like to go on contract instead as a City employee...and that it actually saves the City money because the contract is less than what she is getting as a City employee, and explained as a contractor the City cannot tell her when to work, and can only give her general instructions as to what she has to do...and as long as she accomplishes that work whether it is at midnight or Sundays...that is up to the contractor, and he is sure she wants to schedule her work around her other work, and the recommendation is for approval of the contract.

Commissioner Renfro stated during the budget they talked about utilizing her for the other parks...so this will be eliminating that...so are they going to look to hire somebody else.

City Manager Aguilera stated it will give them the ability to hire another person...part-time person.

Commissioner Renfro – okay as long as they do that.

Commissioner Green referred to the Scope of Work...Maintains restrooms...is that to include the restrooms in the museum, or is that just the outdoor restrooms.

City Manager Aguilera stated the outdoor restrooms are maintained by a company that they hired, and stated they will no longer be there when they open the museum, and so the wording in the agreement is similar to her job description now, but will also be for the restrooms inside the building.

He explained that the building maintenance department will maintain them on a day to day basis...but this is in case something happens during the day, and someone is not available, and if she is there she can take care of any problem that may occur.

Mayor Montgomery – so only in an emergency situation...

City Manager Aguilera – only if needed...not emergency perhaps...if something goes wrong...and to wait for someone from the City crew to go out when she is already there...then she can do the work.

Mayor Montgomery asked Ms. Yarmal is she had any comments about the Scope of Work...

Ms. Yarmal – that particular subject I do because of my hours, and if I'm not at the park during this emergency...would I be getting called at home.

City Manager Aguilera – no...there is an on call schedule for that department, and they would be called if something happened, but if she happens to be there working...then she would be asked to assist, but again normally it would be a call out, or if it is during working hours, and you are not around the city crew would be called.

Mayor Montgomery stated perhaps they need to include...when contractor is available on site.

“Commissioner Green moved approval of the agreement for Parks Services with the City of T or C & Cindy Yarmal.”

Seconded by Commissioners Stagner/Renfro.
Motion carried unanimously.

OLD BUSINESS: None.

REPORTS: **CITY MANAGER –**

City Manager Aguilera stated he received word today that the City has been awarded \$100,000 FAA Grant for the Airport.

CITY ATTORNEY – No report.

COMMISSIONERS –

Commissioner Stagner – No report.

Commissioner Green stated he would like to thank two organizations on behalf of the Community Garden, and indicated they had vandalism, and asked the police if they were in the area to check it out...and they found out their vandal was a raccoon, and they will be getting a cage from animal control...and that the police department and animal control were right on it, and thanked them.

Commissioner Torres – No report.

Commissioner Renfro – No report.

Mayor Montgomery – No report.

EXECUTIVE
SESSION:

City Attorney Rubin stated they have the Spaceport Agreement listed under Executive Session, and indicated he and the City Manager were talking earlier, and did he decide if they want to proceed or not tonight.

City Manager Aguilera stated he contacted the Spaceport folks last week and again today, and he did not receive a response as to whether they would be here, and would recommend they continue this for their next meeting.

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

APPROVAL: PASSED AND APPROVED this 9th day of June 2009, on motion duly made by Commissioner Stagnay seconded by Commissioner Dreese, and carried.


LORI S. MONTGOMERY
MAYOR

ATTEST:


MARY B. PENNER, CITY CLERK