CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, August 11, 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, August 11, 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.

Commissioner Torres called for the Pledge of Allegiance.

APPROVAL OF AGENDA: Mayor Montgomery called for approval of the Agenda, and asked City Manager Aguilera if there were any changes to make, and City Manager Aguilera stated on item F. (b) – fees for the misc. zoning ordinance he would like to remand back to the Planning & Zoning Commission for further study.

Commissioner Torres stated he thinks they should discuss it tonight...people are here.

Mayor Montgomery stated that it still needs quite a bit of work and would say that it needs to go back to Planning & Zoning, and have them do some more research before they bring it back to the Commission.

Commissioner Stagner agreed that they need to do a lot more research and justify why they are doing...

Commissioner Renfro – exactly and when they do comparisons they need to compare municipalities our size, and not Las Cruces or Albuquerque or towns that are way beyond our size. And stated
there has to be some thought given because I see some charges for things that staff should be doing...that's what they are getting paid for, and why should they turn around and charge the people for it...that's ridiculous.

“Commissioner Renfro moved they remove item – F1 (b) and remand this issue back to Planning & Zoning for further research.”

Seconded by Commissioners Torres/Stagner.
Motion carried unanimously.

RESPONSE TO PUBLIC COMMENT:
City Manager Aguilera stated regarding Mr. Fenn, and stated that was a direct attack to me and my family, and indicated they were here in town and somehow causing some economic harm when in fact they rented this room...and paid $50.00 a day for the rental which normally is not rented, and that it is normally loaned out to people, but he insisted that they be charged a fee just to make sure they were not criticized, and Mr. Fenn decided to criticize them anyway. And stated the reason they were here and rented it was to propose a business to local residents, and a couple of residents did sign up, and whatever it is that Mr. Fenn comments or problem, and that everything was above board...they are just business people doing business in town...like anybody else can do.

He stated regarding Mr. Carl Jensen who indicated that Sgt. Morgan did not take a police report...and he has a copy of the police report, and Mr. Jensen indicated that somehow he had been attacked, but in the police report indicates that he was not...that he was verbally insulted...but that is not an issue...and also something about the dogs being loose, but yet he was not bitten or attacked by the dogs, and that the case was referred to animal control, and stated that Mr. Jensen does not have any right to criticize the police department for not writing a report.

COMMENTS FROM THE PUBLIC:
Mr. Randy Ashbaugh came before the Commission to voice his concern regarding the additional fees for new development, and also commented on the impact fees that the City imposed...and to look at reducing those fees.

He stated that the Commission needed to look at water and energy conservation, and with the stimulus money the City does not have a grant writer, and they are loosing money they could be using to fix streets that are in desperately need of repair, and also other infrastructure they need to look at, and hopes they look at these ideas he has proposed to them.

Mr. Chester Anderson with Anderson Homes came before the Commission and agreed with Mr. Ashbaugh, and would hope that the Commission not gets hasty in raising these fees, and to get public input on this. He also reported on the progress of the new building for the Municipal Court.

CONSENT CALENDAR:
Mayor Montgomery stated they have several items under the Consent Calendar – Minutes of the Regular City Commission Meeting – July 28, 2009, Actuals for the City Manager to attend the Water Trust Board Meeting, Accounts Payable – July 2009.

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

Seconded by Commissioner Green.
Commissioner Renfro referred to page 10 of the minutes...the change order on the Veterans Park that the City Manager recommended that the Commission not take action at the time, and that it be on the agenda for the next meeting, and she noticed that it is not on the agenda, and wants to know what’s happened with that change order.

City Manager Aguilera stated the change order is still pending, and indicated he would bring it back when he heard from Twister Smith, and he has not been able to meet with him yet.

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:

City Manager Aguilera stated this is a pole sign that is going to be installed next to the County building, and indicated they have pictures in their packet that gives a very good representation of what it is going to look like, and explained the reason for the variance is the height...and that there is a 12 ft. height limitation for pole signs, and in this case 12 feet would not be high enough to be visible from the street, and indicated there is a request to put the sign up at 24 ft. instead of the 12 ft.

He stated the Planning & Zoning Commission held a public hearing and recommended approval by resolution, and that the City Commission does not need to hold a public hearing by regulations of the city code, and stated all they need to do is take action to accept or reject the Planning & Zoning Commission resolution.

Commissioner Stagner asked if it was a lighted sign, and City Manager Aguilera replied it was not at this point.

“Commissioner Green moved approval of P & Z Resolution #02-09/10.”

Seconded by Commissioners Renfro/Stagner.
Motion carried unanimously.

PUBLIC HEARINGS:

Final Adoption – Ordinance #597 – Mandatory Judicial Fees for Municipal Court.

City Attorney Rubin stated these fees have been mandated by our legislature to increase the mandatory judicial fees from $2.00 to $3.00 for the Municipal Court.

Mayor Montgomery opened the public hearing and asked if there was anyone who would like to speak for or against the ordinance, and no comments were received and the public hearing was closed.

“Commissioner Renfro moved adoption of Ordinance #597.”

Seconded by Commissioner Torres.

Commissioner Green referred to page 2 and correct the date from 2008 to 2009.
CONSIDER APPROVAL — AUDIT CONTRACT:

City Manager Aguilera stated the recommendation is for approval of a continuing contract with Fierro & Fierro, and that they were hired last year on a four year contract subject to DFA approval, and City Commission approval.

He indicated even though they did not perform on time, but heard the explanation as to why, and stated they did a very thorough job.

City Manager Aguilera stated the contract they were provided in their packet is not the current contract, and explained that they have not received the new one from the State, and is asking that the Commission approve the contract with Fierro & Fierro subject to review by the City Attorney to make sure there are no substantial changes, so they can get they on board right away as they are running late in getting them started...actually the State is late in getting the contract out.

Commissioner Renfro asked if the fee was going to be the same, and City Manager Aguilera stated it would be the same.

“Commissioner Renfro moved approval of the audit contract with Fierro & Fierro subject to our Attorney reviewing the contract when received by the State.”

Seconded by Commissioner Stagner.

City Manager Aguilera stated the Mayor had indicated it might be a good idea to follow their recommendation about a penalty for being late, however since the contract is from the State...and that he has contacted the State to see if they can add that wording in the contract as a separate agreement, or have the State amend the contract, and possibly the State may say they cannot do it and follow their format, and stated that will be part of the process is finding out how that will happen.

Motion carried unanimously.

RESOLUTION #07-09/10 BUDGET ADJUSTMENT #1:

City Manager Aguilera stated this Resolution is the first budget adjustment for the new fiscal year, and explained the adjustments having to do with the State Fire Fund, and also SJOA has received two grants after the budget was approved. He indicated it also has to do with the DWI Grant, and PD Donations.

“Commissioner Renfro moved adoption of Resolution #07-09/10.”

Seconded by Commissioner Green.
Motion carried unanimously.

CONSIDER PURCHASE OF NAMETAGS & LOGO SHIRTS:

Commissioner Green stated he commented on this after attending a ground breaking for Spaceport America where other communities in the County as well as neighboring communities, and that their elected officials were wearing shirts with logos of their community and with name tags.

He stated he has always felt that they as elected officials are the face of the town when they go out and conduct City business...they represent the community, and he thinks they are billboards, and thinks that billboards are about advertising and thinks they are proud of who they are and what they represent, and he would love for them to have shirts that have the City logo...a summer shirt and
a winter shirt with name tags, and thinks it represents an image of what they feel about themselves, and thinks that is important.

Commissioner Green stated he does not think they are talking about a lot of money, and knows it was not budgeted in their budget, and maybe they can free up some money they can discuss it and vote on it and go ahead and do it.

Commissioner Renfro - why can’t they pay for it ourselves.

Commissioner Green - or we can pay for it ourselves...whatever I just want to get it done.

Commissioner Torres - I don’t need a shirt, but if you need a shirt you can get one for 20 bucks. I’ve got name tags...if you want them embroidered...I think Dukatt...

Commissioner Green - I understand what you are saying Commissioner Torres...and I think there should be uniformity of look if there are going to have shirts, and name tags rather than looking like rag tab garmy...they should be proud of who they are, and what they are, and who they represent.

Commissioner Torres - that is what I said they can get them on our own why an expense for the City...

Mayor Montgomery - right and I understand what you are saying...there is advertising money in the Commission budget for certain things like that consider advertising, and I don’t have a problem with buying the shirt...I bought the name tags the first go around for everybody that is on the Commission except Commissioner Green and Commissioner Torres. If the City were to look as the professionalism of the Commission as well as they do the employees...then those shirts are turned back in...so you need to think about that too, and I don’t have a problem with it one way or the other.

Commissioner Renfro - it doesn’t matter to me...and like I say I realize it would have to be uniform...everybody’s would have to look the same and everything else...but like I say...I don’t know I think you know they look at all the expenses that the City has...and I think why can’t they pay for them. Somebody could check and see where they could order them and what the cost would be, and what they are going to look like or whatever...they can decide on the color or whatever.

Mayor Montgomery - they can do that and that’s not a problem.

Commissioner Torres - I’d hate to get somebody else’s shirt...it’s yours and...

Mayor Montgomery - they can certainly do that it’s not a problem.

Commissioner Green - I would like to suggest...and ask staff to do a little investigation on what is out there, and what the cost would be, and bring it back at our next Commission meeting maybe for a vote, and then they can move forward on this.

Mayor Montgomery - the only thing I would recommend is that anything that they purchase they purchase from the vendors here in town, and that there are people that sell shirts, and a couple of people that do embroidery, and she thinks they need to get a couple
OLD BUSINESS: None.

REPORTS: CITY MANAGER –

City Manager Aguilera reported that the auction went very well, and that the Mayor was their as the City’s representative. He indicated he was very surprised with the vehicles, and reported they made $10,000 on the sale minus the commission.

He stated on the interviews for the police chief are set for this week, and indicated that the Mayor, himself, and the under sheriff will also be part of the interviews, and stated they will conduct interviews for two days, and that there are some from out of state.

Commissioner Torres – can the Mayor do that...that’s personnel.

Mayor Montgomery – why?

Commissioner Torres – well you’re gonna have to deal with it.

Mayor Montgomery – I don’t have a problem with it.

Commissioner Torres – if something comes up you’re gonna have to excuse yourself from making a decision when it comes to any problem they might have with the chief...wouldn’t you?

Mayor Montgomery – I don’t...

Commissioner Torres – I mean I don’t have any problem with it...but.

Mayor Montgomery – I don’t see why it would be any different that the City Manager...and they sit in on interviews on that...but I don’t understand...

Commissioner Torres – well you know you’re making a decision...we’re Commissioners too, and none of us were invited to sit on...not that I want to sit on it but I think...

Mayor Montgomery – I’ll happily excuse myself from the interviews.

Commissioner Torres – but I just don’t want it to be a problem down the road.

City Manager Aguilera – the reason...and I had mentioned this in memos before, and hadn’t received any comments, but the reason is that thinks the Commission should be represented...this is a very important position in the City...it is an at will position and he thinks the Commission should be represented at least by one member, and the obvious member is the Mayor because she represents the Commission. And indicated they normally do not have people from out of the agency interviewing, but he thought it was important to have a police representative...somebody that knows police work, and obviously it couldn’t be one of the people that would be working for the person, so he had to go outside the agency, and then myself as being the supervisor of this person.

He stated all three of them will make recommendations, and will
rate them, and will be his decision anyway, but he thought it would
be a good idea to involve the City Commission in the process.

Commissioner Torres – that is what I was going to say…it’s your
responsibility…we’re gonna hold you responsible for it.

Commissioner Stagner – I think it’s a good idea to have
outside...somebody from the Commission, and an outside
person...I think it’s a good idea.

Mayor Montgomery – to Commissioner Stagner – you want to do
it, Commissioner Stagner – no, Commissioner Green – I don’t have
enough knowledge about it really, Commissioner Renfro - I haven’t
the time, and Mayor Montgomery – and Freddie you said you
didn’t want to, Commissioner Torres – no, no...I don’t have a
problem...we were always told not to get involved with personnel
that’s the reason I was bringing it up.

Mayor Montgomery – Mr. Rubin…is there an issue?

City Attorney Rubin – I really don’t think there is an issue off the
top of my head, but if you want I’ll visit with you after tonight and
we’ll discuss it.

Mayor Montgomery – I will take your lead.

City Manager Aguilera stated he will hand out an agreement so
they will have two weeks to review it before the next meeting, and
indicated it is a JPA for SCRDA, and explained it is in redline form
so they can see the changes that they have made, and stated this
agreement is from SCRDA, and that there is a lot of minor changes,
but there are some substantial changes in the agreement especially
the monetary side of it, so this is for their review.

CITY ATTORNEY – No report.

COMMISSIONERS –

Commissioner Stagner – No report.

Commissioner Green – Stated what a difference two operations in
two weeks makes, and thanked the community for their out pour of
support and well wishes...it was overwhelming. And would like
to congratulate the Sierra County Tourism Board and that they
received notification last Thursday, and indicated they were rated
number 2 out of 116 applicant’s in the State which makes the
tourism board on their cooperative marketing grant in the top 3 in
the State for the last 5 years, and he would like to compliment the
people who are on the grant writing board, and would also like to
compliment Gina Kelly, and would like to thank the Mayor...as he
was suppose to be there last Saturday...but his doctor told him that
he was not going no where...

Commissioner Torres – No report.

Commissioner Renfro – No report.

Mayor Montgomery – No report.
EXECUTIVE SESSION: None.

OPEN MEETING:

CERTIFICATION

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

APPROVAL: PASSED AND APPROVED this 25th day of August, 2009, on motion duly made by Commissioner Stagner, seconded by Commissioner Penner, and carried.

LORI S. MONTGOMERY
MAYOR

MARY B. PENNER, CITY CLERK

ATTEST: