CITY COMMISSION  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
Tuesday, October 27, 2009

REGULAR MEETING

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, October 27, 2009 at 5:30 P.M.

PRESIDING OFFICER: The meeting was called to order by Mayor Montgomery who presided and Hazel F. Peterson, Deputy 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

Absent was:

Also present:

Mary B. Penner, Acting City Manager  
Jay Rubin, City Attorney  
Hazel F. Peterson, Deputy 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 Renfro called for the Pledge of Allegiance.

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

Mayor Montgomery stated she thinks they should add the discussion of how the Commission is going to discuss the Public Comment portion and she would like to add that to Response to Public Comments and before Comments from the Public.

“Commissioner Stagner moved approval of the Agenda as amended.”

Seconded by Commissioner Green  
Motion carried unanimously.

RESPONSE TO PUBLIC COMMENT: Mary Penner, Acting City Manager stated that at the last meeting Mr. Ronald Fenn reported a dangerous condition existing at east Riverside Drive, the Beale’s Mobile Home Park and she spoke with Don Armijo from the Street Department and he stated that after reviewing the crossing at Pine Street and Riverside they proposed to add delineators on the east and west side approach. She stated they are waiting on locates and they should be installed within five working days.
Submitted request for Public Comment—

Mayor Montgomery opened the meeting up to the Commission on how the Commission was going to discuss the items submitted for Public Comment. She stated there were six requests for Public Comment.

Jay Rubin, City Attorney stated he would like to make one general comment where one of the requests comments indicates that the participant wishes to be heard over the fact that they feel that there should be a resolution passed in relation to the change in Commission Rules and Procedures. He stated he just saw this for the first time because he was in court all day, but his preliminary opinion is he doesn’t think a resolution is required because a resolution was done before so that doesn’t mean it has to be done this time. He stated he also called the Municipal League and they agreed with his preliminary opinion. He stated to be fair he would research this more and see if there is anything else that needs to be done, but his preliminary opinion is he thinks the Commission is fine the way it was done last meeting.

Mayor Montgomery stated she would refer these comments to Mr. Rubin for response and it could be put it on a future agenda under Response to Public Comment.

Commissioner Renfro stated there is a request on the speed limits and she thinks it’s been stated that this Commission doesn’t have any jurisdiction on that and she thinks it was also stressed that a slower speed limit could maybe even be more hazardous or dangerous so she does not want to listen to that again.

Commissioner Stagner asked if they were talking about how this was going to be handled in the future or what they were doing tonight.

Mayor Montgomery stated they need to get through this one tonight and then the process needs to be whatever they need to decide for the future, so there are two pieces.

Commissioner Stagner stated he agrees with Commissioner Renfro he doesn’t think they need to be talking about the speed limits downtown, they have no jurisdiction, they have no authority to do anything, but the issue on the resolution that they passed or the rules that were passed last week he doesn’t have any problem talking about that or anything that’s on the agenda for that meeting, he doesn’t have any problem with that, but things that are not pertinent to the agenda and something the Commission has no control over he doesn’t think they should be talking about them.

Mayor Montgomery stated she understands they are saying that the four remaining public comments would be okay and then the two others, one be referred to Jay for additional information on the resolution and the other one no jurisdiction.

Commissioner Stagner stated maybe they could come up with a procedure that they stamp them either approved or not approved or they can do it by ballot or they can do it by open vote.

Commissioner Stagner stated he certainly didn’t want to do anything by ballot and not have their name, if they feel strongly enough then they should have their name affixed to that.
Mr. Rubin stated he feels it should be done openly.

Commissioner Green stated that for this evening he feels that everyone should be heard from, possibly people who have requested to speak about a topic that they have spoken about before might have additional information that they might find useful. He stated he agrees with Commissioner Stagner as long as it’s about an agenda item and/or the governance of the city and city business, the citizens should be heard. If it gets extraneous, has nothing to do about anything then he doesn’t think this the right forum, it’s a business meeting, but he would like to hear from everyone, give them that right.

Commissioner Stagner stated they should also talk about what are the consequences for not staying on the agenda item, does the person lose their three minutes that night, what kind of procedures do we have.

Commissioner Renfro stated if they’re not addressing what they said they are going to address then she thinks they need to be gavelled down and that’s it, and they lose their three minutes.

Commissioner Torres stated he agrees, he thinks they should be with questions and answers, opinions no we’re not looking for opinions, like I said let’s just talk about what’s on the agenda and anything that’s constructive, city business.

Mayor Montgomery stated so far she has one Commissioner that has two items that shouldn’t be on the public comment and one Commissioner that says all the items need to be in public comment.

Jay Rubin stated they need a motion he guesses.

Mayor Montgomery stated she thinks that Commissioner Renfro stated as did Commissioner Stagner on the issue with the speed, that they have no jurisdiction so they didn’t feel that should be heard, and then the other one would be referred to the Attorney and addressed at a later meeting when he has more information.

“Commissioner Torres moved to not hear the public comments request regarding the reduced speed or the public comments request regarding Commission Rules of Procedure, but listen to the remaining public comments request.”

Seconded by Commissioner Stagner
Motion carried Commissioners Montgomery, Stagner, Torres & Renfro responded aye.
Commissioner Green responded nay

Jean Grose Bullard came before the Commission with comments.

Ronald Fenn came before the Commission with comments.

Kathleen Smith came before the Commission with comments.

Mayor Montgomery stated there were two letters that were submitted, one was on the liquor license at the Golf Course and the other one was about the public comment rule.

She asked Jay Rubin, City attorney if these should be read into the record or just pass them to the rest of the commission.
Jay Rubin stated he doesn’t see a reason to read them into the record.

CONSENT CALENDAR:

Mayor Montgomery stated there were two items under the Consent Calendar – Minutes of the Regular City Commission Meeting – October 13, 2009, DAIC Monthly Report – September 2009

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

Seconded by Commissioners 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:

& Public Utility Advisory Board – Proposal for recycling fees – Mary Penner, Acting City Manager stated there was a letter from the Public Utility Advisory Board stating that at their September 21, 2009 meeting recommends enacting of the proposal for recycling fees as presented by Leonard Carrillo, Director of the Sanitation Department and she would ask Mr. Carrillo to address the Commission.

Mr. Carrillo stated his recommendation to the Public Utility Board was that a gate fee be set at the chipping yard, not the recycling of computers, TV’s, tires and appliances. He stated right now his department is doing tree chipping around the city at no charge but he found out that the county charges for these loads going into their facility. He stated that if we open this facility to the public we will be getting the overloads of all these things coming in and most of the people taking this stuff out are from companies that do wood trimming and he doesn’t what the city facility to become a drop off place.

Commissioner Stagner asked if these fees were in line with what the county was charging.

Mr. Carrillo stated yes, and right now the city does not have a set fee for any of them.

Commissioner Green asked if the fees they are talking about, such as the gate fee be plus GRT because he noticed that Tax and Revenue is requiring now that GRT be collected.

Mr. Carrillo stated no this is just a fee he is asking to be set.

Further discussion ensued.

Commissioner Green asked if this Commission was also being asked to approve not only the gate fees but also that the city would also offer as a service to the residence that the city would deliver the chips to their home.

Mr. Carrillo stated right now the city already delivers chips to residents but at no charge.

Commissioner Renfro asked that she understands that what was being asked for was just gate fees and the delivery fee.

Mr. Carrillo stated yes.
“Commissioner Renfro moved to institute the gate fee of $5.00 to $15.00/cubic yard or per load and a $10.00 delivery charge for wood chips and to include Gross Receipts Tax (GRT).”

Seconded by Commissioner Green
Motion carried unanimously.

Airport Board – Pippen Hangar Proposal – Dan Dickson, Airport Manager stated this is the 70’ x 90’ structure located at the airport which the city took over in 2005 and the punch list has not been finished. He stated Mr. Irish has proposed that he would finish the punch list and get the electrical inspection for electrical connection and obtain the certificate of occupancy in exchange for renting the building for three to six months.

Commissioner Stagner state he thought there should be some time limitation on getting the work done.

Mayor Montgomery asked Mr. Dickson if he thought Mr. Irish could get this work done in three month.

Mr. Dickson stated Mr. Irish believes he can get it done within the next month.

Commissioner Stagner stated he thinks they should give him sixty days to get everything done and then the rent starts from there, that way there is a time frame.

Commissioner Renfro asked Jay Rubin if they should ask for an estimate of what it’s going to cost so that they didn’t go against the anti-donation act.

Mr. Rubin stated yes and asked Mr. Dickson if he agreed with that.

Mr. Dickson stated yes and Mr. Irish also agrees, he would like to see the punch list as well, but he would like commission approval to proceed and then get the estimate.

Commissioner Renfro stated that depending on the estimate they would have to make a decision on the rent, whether it’s $300 or what.

“Commissioner Renfro moved to allow Mr. Irish to go ahead and proceed with getting the estimate on the electrical inspection to get the certificate of occupancy and then depending on the estimate this commission could make a decision to insure that the $300 a month is reasonable so there is no violation of the anti-donation act.”

Seconded by Commissioner Stagner
Motion carried unanimously.

New Radar Site & Antenna – Mr. Dickson stated ITT Corporation was contracted by the FAA to put up a new generation of radar towers and they would like to lease an area of 625 square feet, 25’ x 25’ to put up a generation radar tower and in exchange for the lease the city would get the use of the radar tower and lifetime maintenance which he believes would be in the best interest of the city.

Commissioner Green asked Mr. Dickson if the city would have to buy the software for the computers or are they compatible with ITT’s program.
Mr. Dickson stated he spoke to John Cowden from ITT and ITT will supply the software and the training for the airport personnel.

Commissioner Renfro asked if the renewal was on a yearly basis.

Jay Rubin, City Attorney stated he was looking at page 2, paragraph 5 and he didn’t see a length there, it says “Term” but it normally gives a time period.

Mayor Montgomery stated that on page 3, paragraph 7 “Renewal” it states “lease renewed each year for one (1) year unless ITT gives the Lessor thirty (30) days written notice that it will not exercise its option, before this lease or any renewal thereof expires; PROVIDED, that no renewal thereof shall extend the period of occupancy of the premises beyond September 30, 2025.”

Ms. Montgomery stated she thinks the agreement should say specifically what the city would get so there is no question on any anti-donation act.

"Commissioner Stagner moved approval of the Land Lease Agreement between the City of Truth or Consequences and ITT Corporation subject to the definition of what the city is getting and clarification on the actual size of the site."

Seconded by Commissioner Green
Motion carried unanimously.

PUBLIC
HEARINGS:

None.

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MUNICIPAL
SCHOOL
DISTRICT:

Paul Tooley stated the school district applied for a grant to resurface, install sidewalks and put lights in on New School Road. He stated they applied for $300,000 from the Department of Transportation with an in-kind match of 25% of that $300,000. He stated as the funding turned out they only got $200,908 with the Department of Transportation their match of the 75% of $15,608 which would leave the in-kind to $5,227. He stated they haven’t gotten the entire amount yet but they have gotten the ball rolling.

Mr. Tooley stated Mr. Burris spoke to the prior city manager about the grant and how they can work with the city to get this started so they can start putting in some sidewalks on the first phase as far as they can go with money they have received from the Department of Transportation where they would basically use the city since it is a city street and just go ahead and turn that money over to the city saying they can use it for whatever materials needed for that and the rest of the money will come, of course the in-kind part of the $20,908.

He stated right now where they sit with the Department of Transportation is that they believe this process is the last part of the paperwork they have to have in order to receive the money is a Joint Powers Agreement between the School District and the City of Truth or Consequences so that they can release those funds and go ahead and start this project. He stated they are still working with Council of Governments out at Elephant Butte if they can help them out, because they haven’t given up on the total $300,000 to go ahead and get that street redone.

Discussion ensued.
"Commissioner Green moved to accept the Joint Powers Agreement between Truth or Consequences Municipal School District and the City of Truth or Consequences regarding New School Road as presented."

Seconded by Commissioner Renfro
Motion carried unanimously.

Acting City Manager Mary Penner stated that when Commissioner Rainey left who was the elected official to this organization that position was never replaced so Mr. MacRobert is asking the city to appoint another elected official to be a part of this process.

"Commissioner Stagner moved to appoint Commissioner Torres to represent the City of Truth or Consequences on the Regional Planning Organization with Commissioner Green as the alternate."

Seconded by Commissioner Renfro
Motion carried unanimously.

Helen Belis, Finance Officer went over Resolution #12-09/10 Budget Adjustment #3.

"Commissioner Stagner moved approval of Resolution #12-09/10 Budget Adjustment #3."

Seconded by Commissioner Green
Motion carried unanimously.

Acting City Manager Mary Penner stated this item was postponed from the September 22rd meeting for staff to research questions asked by this commission.

City Attorney Jay Rubin stated one legal question he was asked to look at was whether the 300’ requirement which is generally found in the requirements of a liquor license which is 300’ from a school or church, would this apply to a governmental license and the answer is no under Section 60-6A-10 F “the provisions of 60-6B-10 as regards to Golf Course owned by governmental entity and civic centers owned and operated by a governmental entity shall not apply to governmental license.”

Discussion ensued.

"Commissioner Green moved to have the City apply for a Governmental License for the Municipal Golf Course with details to be worked out and brought back for approval."

Seconded by Commissioner Stagner
Motion carried unanimously.

Leonard Carrillo, Sanitation Director stated EID requested that the city work together with the county so the two entities talked and put this Joint Powers Agreement together. The county has already met and approved the JPA. He stated he has reviewed it and has made some changes on the cities part.

Mayor Montgomery stated the changes are located on page 3 and asked Mr. Carrillo to explain the changes.

Mr. Carrillo explained the changes and discussion ensued.
Commissioner Green asked if they would approve the JPA and then come back and set the fees at a different time, because he sees there are a lot of things about set fees for disposal of waste and they need to set weight per 40 yard roll-off, extra charge for opening up after hours on another day, would that have to be an amendment to this.

City Attorney Rubin asked if the commission was going to approve this JPA with the changes.

Mayor Montgomery stated what she thought Commissioner Green was talking about is if they make these changes then they would have to do something to set the fees. She stated they could set the fees by resolution. She stated they could approve the Joint Powers Agreement with nothing in it and then set the fees by resolution.

Ms. Montgomery asked County Manager Jan Porter-Carrejo if the county would have a problem with the changes that had just been discussed.

Ms. Porter-Carrejo stated no she did not think there would be an issue with any of the changes because they all have to do with the cities operation and not the counties operation.

She stated the reason this was being developed is they have been encouraged from the New Mexico Environment Department in working to close both of the landfills and that this is the mechanism they’ve agreed to if we take these measures then we will be able to keep our landfills open for an additional year or two and if we don’t we will be closed down very quickly, so this will benefit both of them.

"Commissioner Renfro moved approval of the Joint Powers Agreement between the City of Truth or Consequences and County of Sierra regarding Solid Waste with the changes specified by Mr. Carrillo."

Seconded by Commissioner Torres
Motion carried unanimously.

Nola Kent, DWI Coordinator stated this contract for Treatment of Youth was put into the budget this year when they applied for grant funding to hopefully find someone to do a treatment program for our youth that’s referred from the schools and the courts and they now have found Dr. Carl Williams and he has given them his proposal and this is the only proposal that was received so the DWI Task Force agreed to this proposal so now she is bring it to this commission for their review and approval.

"Commissioner Renfro moved approval of the contract for Treatment of Youth with Dr. Carl Williams as presented."

Seconded by Commissioner Stagner
Motion carried unanimously.

Commissioner Green stated Jaime Aguilera had written a letter to NMDOT about the situation of the banners on the business loop and was informed that you could put up banners for six months but that was all. He stated they had the idea of putting them up and then taking them down for a day and then putting them up for another six months. He stated he was lead to believe by talking to someone in Deming that there might be a higher authority going north to Santa Fe, going to the Secretary.
He stated what he would like to ask his fellow commissioners is to maybe put on the next agenda a letter of request from Cabinet Secretary Jiron that we be allowed to use banners for signage and for beautification all year long on our business loop. He stated this is one way that we can get the message out to our visitors and people who are coming into our community.

He stated then what he would like to do is to ask for letters of support from some of the appropriate organizations, (naming a few organizations) asking that they support this letter of resolution or letter of request and some of the organizations can have banners up when advertising when their events are and it would be just a great way to get the message out to the public and beautify our business loop.

Discussion ensued.

Commissioner Stagner asked if the City Attorney could research this issue and talk to the Municipal League about it.

City Attorney Jay Rubin stated he would do that.

Further discussion ensued.

It was the consensus of the Commission that Commissioner Green work with City Attorney Rubin and research what possibility are open if any for being able to hang banners year-round.

Acting City Manager Mary Penner stated she spoke to Helen Belis about this and she indicated that there is savings in the City Managers budget and that she would be able to move money from the full-time wages to a temporary position not to exceed two months. She stated Ms. Belis would be able to move the full time wages and there would be no increase in expenses and it would not require a budget adjustment.

Discussion only no action taken.

OLD BUSINESS: None.

REPORTS:

ACTING CITY MANAGER – Ms. Penner stated the Clerk’s office has received twenty-two resumes so far for the position of City Manager.

She stated Ed Ragsdale from the Parks and Recreation Department brought to her attention today that there are some issues with the floor at the Civic Center.

Ms. Penner passed out photos of the floor and pieces of wood that had been removed.

CITY ATTORNEY – Mr. Rubin stated they completed their oral arguments today in District Court on the Hot Springs Land Development case and the Court has determined that he wants the parties to submit what is called “Written Finds of Fact” within 15 days in which they submit to the court what they feel they have proved or established or determined during the oral arguments and then the Judge anticipates a quick decision after those are finished.

COMMISSIONERS –

Commissioner Stagner – No Report.
Commissioner Green stated he would like to thank New Mexico Old Time Fiddlers Association for planning and hosting their state championship here in T or C.

He stated he would also like to thank Vince Martinez from Montoya Construction who wrote a letter back responding to the cities request, he thought it was a very upbeat letter and he wants to thank the City Clerk's office for putting that out for public view in the bulletin board out side at 505 Sims for all to see, it seems that Mr. Martinez heard them and is going to do everything in his power to have a great uneventful event.

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 10th day of December, 2009, on motion duly made by Commissioner Torres, seconded by Commissioner Renfro, and carried.

LORI S. MONT. MAYOR

ATTEST:

HAZEL F. PETERSON, DEPUTY CITY CLERK