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, November 27, 2007 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  
Hon. Jerry Stagner, Mayor Pro-tem  
Hon. Jimmy Rainey, Commissioner  
Hon. Evelyn B. Renfro, Commissioner  
Hon. Freddie J. 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 Stagner moved approval of the Agenda with the one change under the Consent Calendar which should be the minutes of October 23, 2007."

Seconded Commissioner Rainey.  
Motion carried.

RESPONSE TO PUBLIC COMMENT: Mayor Montgomery stated there were several comments from the last meeting regarding the hospital issues, and indicated there is going to be a Public Hearing set for Tuesday, December 11, 2007 as well as a Public Meeting on the same date at 5:00 P.M., to listen to anyone in the audience that would like to talk about the hospital, and following that they will conduct the Regular Meeting which will entail a Public Hearing set for the re-zoning issues.

COMMENTS Mr. Terry Allen came before the Commission and indicated he is
FROM THE PUBLIC: here to represent Mr. Sid Bryan, and stated they had no idea when they were going to ask the City to vacate the lot between the Ken James building and the Main Street Gallery there was a fire main running all the way through it. He stated they realize the liability shot a hot a big hole in their boat, and that he learned a lot in the last few days about set-backs and things like that, and they feel if at all possible they would make any...they would try to take the liability away from the City by first not improving the alley, and if the water main were to explode then the City would be liable for the improvements, and they would be more than willing to do whatever they need to do to take that liability away.

He stated the gates they would put in...the keys they would give to the City so if they needed to get on the property it wouldn't be a matter of calling them they could just come there, also the gates they would put in on either side would have the proper set-backs, so when the fire department would come to use their key on the hydrant itself they would have enough room to turn it on and not hindered by the gates...so they are hoping there is some way to work with the City and find a way to do this because it will make their property look nicer, but will keep the children who loiter out of that area and that all of them will prosper from it.

CONSENT CALENDAR: Mayor Montgomery stated they have one item under the Consent Calendar – Regular City Commission Meetings – October 23, 2007.

“Commissioner Stagner moved approval of the Consent Calendar.”

Seconded by Commissioner Rainey.
Commissioner Renfro & Mayor Montgomery Abstained.
Motion carried.

DRAFT MINUTES: None.


Recommendation to deny from PUAB, and recommendation to approve from the P & Z Commission -

City Manager Aguilera stated he would like to apologize, and that there might have been some confusion in how the paperwork was structured when they received their packets, and the paperwork has been re-done, and indicated they have two recommendations. He stated the Planning & Zoning Commission did not see any problem with vacating the alley, however once it went to the Utility Board the Electric Department has a problem in being able to serve some of the other lots along the alley, and staff recommendation is in agreement with the Utility Board to deny the application from Mr. Robert Allen.

Commissioner Torres stated he thinks they need to listen to the Utility Board, and Commissioner Stagner agreed.

“Commissioner Stagner moved to deny the application as submitted by Mr. Robert Allen.”

Seconded by Commissioner Torres.
Motion carried unanimously.
City Attorney Rubin stated one observation he believes they have a denial on this, and requires that they will have to prepare a summary about their decision, and indicated he can prepare that for their next meeting.

Consider vacation of alley between lots 15 & 16, Blk. 102, Original Townsite, 100 Blk. of Main Street – Sidney S. Bryan – Recommendation is to deny from the PUAB Board, and recommend approval from the P & Z Commission.

City Manager Aguilera stated the Planning Commission did not have a problem because this alley is unique, and indicated it serves no other purpose other than to be the home site for a large pipeline that goes through it. And explained it comes off a Main Street there is no depressed curb to get into it...it’s regular curbing, so it’s not being used, and so the Planning Commission saw that and figured there is not a problem in vacating it...and again when it went to the PUAB Board and they obtained a report from the water superintendent they recommended denial.

He indicated that he and City Attorney Rubin discussed this, and they have a different recommendation, and that it is interesting that the representative for the applicant...actually said what the recommendation from the City Attorney and myself as that they go ahead and vacate the alley, but that they would require that the property owner to hold the City harmless on any issues that may occur with that water line that is in there, and that they retain an easement on what was the alley so they can still have access to make repairs or do whatever they need to do.

City Manager Aguilera stated they can fence it or close off the ends as long at the City has access. He indicated all that would be spelled out in the agreement with the owner...that our City Attorney would prepare, and from the City’s point of view he does not think it is a problem vacating it, and it gets them out of the picture in terms of any future liability.

Commissioner Rainey stated he likes the recommendation from staff is that it gives the responsibility to the property owner to keep that clean, and the liability is completely gone for the City. He stated that property is looking better than it has for the last 50 years.

City Manager Aguilera stated he would like to give a lot of that credit to Code Enforcement, as they are the ones that started that clean-up process.

Commissioner Stagner stated the only problem he has if Sid or somebody sells this to somebody else...indicated it’s up to the City or whoever is going to do the transfer to make sure they understand there is a water line down through there, and he thinks they are letting themselves open for the City’s line being under something. He stated he has a problem with giving up a piece of land where there is a large water line underneath it, and he doesn’t have a problem doing an agreement as long as they hold them harmless, and he is not sure he agrees giving the land up...I don’t know.

Mayor Montgomery – when they re-did the streets...that’s when that curbed was changed...because it use to be an access way, and obviously something had to transpire with someone to say...this is not an accessible alleyway anymore for that to...
City Manager Aguilera stated it is in a bad location to have access...because that is where the return is coming in, and the traffic from Date is coming in, and traffic from Broadway is coming back in, so I'm sure that is the reason they didn't want it to be used as a road.

Commissioner Stagner asked if they could go back through the Utility Board, as they recommended that they not do this. He stated maybe they can help put an agreement together with the City Attorney...as they denied one...the same recommendation, and he would like to see some input from the Utility Board about what they recommend to do.

City Manager indicted they will need to take it back to them and they need to make a recommendation on the agreement, and that they did not have the ability to have this discussion...about is there another way to do it, and the City Attorney agrees that it could be done and so forth so now the board will have different information.

"Commissioner Rainey moved that staff work with the Attorney and the Utility Board on all the points that City Manager Aguilera pointed out and working with the owners.

City Attorney Rubin indicated as a matter of procedure and draws up the agreement, and take it back to the Utility Board...and approve it would you want it to come back to the Commission for final approval...or...

Commissioner Stagner – I would think so...I think they would like to see what's in the agreement.

Mayor Montgomery – I don't think it's necessarily needs to...to be honest with you...I think once...if it meets the legal requirements and meets their needs, and they are saying that's what they are setting forth to staff...I think if there was something drastic...a major difference...once they draw something up and take it back to the Utility Board, and they said oh no we absolutely have to have x, y and z in this agreement, and that changes the agreement substantially...then I would say it needs to come back to the Commission.

City Attorney Rubin – So we're approving the vacation subject to preparing the necessary agreements, and approval from the Utility Board.

Mayor Montgomery – that's correct.

Mr. Allen stated he would like to add one other thing that they would possibly build something on top of that alley...it would make it more difficult for them to get in...in the event of an emergency, and they would also keep it clean, and have access to it, and the gates they put in would have the exact width of the alley, so when they're open nothing would impede from getting in.

Mayor Montgomery thanked him for that comment.

Motion carried unanimously.

FINAL ADOPTION
- ORDINANCE
#578: City Manager Aguilera stated the Public Hearing was set by the City Commission for the Ordinance creating the SHECC, and was reviewed by the Commission, and indicated there were some
City Manager Aguilera stated this is the Election Resolution #13-07/08 prepared by the City Clerk in English and Spanish for the Municipal Election to be held in March 2008.

City Clerk Penner stated this is the Election Resolution in Spanish & English for the Municipal Election for the upcoming Municipal Election to be held March 4, 2008 for the following positions: Position 2 – One City Commissioner for a 4-year term, Position 4 – One City Commissioner for a 4-year term, Position 5 – One City Commissioner for a 4-year term, and One Municipal Judge for a 4-year term, and recommendation is for approval.

City Manager Aguilera indicated that the Commission heard recommendation by staff to make some changes to the dress code policy. He explained most of the policy remained intact, and what they are changing is the amount of money that was being allocated for the uniforms as there are double -x size employees or triple-x size employees who do not conform to the limits of money for expenses.

He explained what they did instead of putting a dollar limit... the City would purchase uniforms such as Wranglers or equal, so if they want Levis which are more expense then they would pay the difference, and for work shirts, and again they would indicate what type of work shirts they would pay for, and if the employee desired wanted something different then they would pay the difference.

Ms. Linda Bauer, Asst. City Manager provided the Commission with the old policy and an explanation of the changes, and came before the Commission to explain the changes on the sizes, and stressed that the uniforms would be the property of the City, and when they leave or terminated they would have the opportunity to return the uniforms instead of being charged the pro-rated amount, and they changed that to 6-months for the clothing to 1-year.

City Manager Aguilera stated if the employee chooses to return the uniforms then they are out no money...if they choose to keep them...then it is taken out of their last paycheck.
Commissioner Renfro...well they wouldn't keep the shirts anyway as they are identified as city property...right because of the patches.

City Manager Aguilera stated the pants also have patches, so they would have to remove those and return the pants.

Mayor Montgomery...so what happens to the employee that pays the difference in their item...how you would do that.

City Manager Aguilera...if they want to keep them...

Mayor Montgomery...what if they wanted to turn them back in...for some reason.

City Manager Aguilera – if they want to turn them back in then they don't pay anything, and the City keeps them...we destroy them if essentially they're...

Mayor Montgomery...I guess I didn't say that right...if the employee buys Levis instead of Wranglers and the additional amount, and they quit or get terminated...are they going to reimburse them...no...that's just money they...okay.

"Commissioner Stagger moved approval of Resolution #14-07/08 – Amending the Dress Code Policy."

Seconded by Commissioners Rainey/Renfro.
Motion carried unanimously.

JPA – ACO-ELEPHANT BUTTE:

City Manager Aguilera stated this is a silly amendment, and explained that DFA has reviewed the contract between the City and the County and the City and Elephant Butte for ACO services, and their comment was "Well what happens to surplus funds...there has to be a paragraph included in the agreement that says that how do you return excess money that you collected from the cities.

He explained this with the City Attorney and he indicated to him that they are sending them a bill after the service has been provided...so there will be no excess funds.

Mayor Montgomery stated...you're right that is silly, but it is illegal to do that anyway.

City Manager Aguilera stated...never the less they said well in that case you have to say...that they're will be no excess funds...or surplus fund, so this is a silly amendment to comply with DFA and the City of Elephant Butte, and the County of Sierra will find this funny also, but that is the recommendation is to approve the amendment indicating that this agreement does not contemplate the advancement of funds from the City of Elephant Butte to the City of T or C, therefore the document does not contain a clause specifying that excess funds will be returned to the City of Elephant Butte.

"Commissioner Renfro moved that they accept Amendment #1 to the JPA Agreement to provide ACO service between the City of T or C & the City of Elephant Butte."

Seconded by Commissioner Torres.
Motion carried unanimously.
JPA — ACO —

City Manager Aguilera stated this is the same issue with the City of T or C and the County of Sierra to provide services for ACO.

“Commissioner Renfro moved approval Amendment #1 with the JPA Agreement to provide ACO Services between the County of Sierra and the City of T or C.”

Seconded by Commissioner Torres.
Motion carried unanimously.

OLD BUSINESS: None.

REPORTS:

CITY MANAGER —

City Manager Aguilera stated that SCEDO put together a nice meeting with our legislators, and that most of the Commissioners were there. He stated that the other entities also attended.

He stated that the audience was full, and that the legislators heard from the Roof-Us Group, and that they plan to make a trip to Santa Fe during the legislation in hopes that they may get funding.

CITY ATTORNEY - No report.

COMMISSIONERS —

Commissioner Stagner — Reported he was at the same meeting and the representatives that were in attendance wanted to make a point to the entire audience is that there is going to be half as much Capital Outlay monies as last year, and that they are going to be scraping for funds.

Commissioner Renfro stated it is not that they don’t want to give them anything...it’s not going to be there.

Commissioner Rainey – No report.

Commissioner Torres – No report.

Commissioner Renfro – No report.

Mayor Montgomery reported that the Annual Christmas Tree Lighting is Friday, December 7th right out front at 5:30 p.m., and there will be goodies available, and that Santa will be here and invited everyone to attend.

EXECUTIVE SESSION: None.

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

APPROVAL: PASSED AND APPROVED this 8th day of January, 2007, on motion duly made by Commissioner Rainey, seconded by Commissioner Stagner, and carried.
LORI S. MONTGOMERY
MAYOR

ATTEST:

MARY B. RENNER, CITY CLERK