CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, December 8, 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, December 8, 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.

Mayor Montgomery called for the Pledge of Allegiance.

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

Mayor Montgomery stated she needed to delete B 1 from the agenda.

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

Seconded by Commissioner Green
Motion carried unanimously.

RESPONSE TO PUBLIC COMMENT:  None.

COMMENTS FROM THE PUBLIC:  Eagle Ashcroft came before the Commission with comments.

Ronald Fenn came before the Commission with comments.

Chester Anderson came before the Commission with comments.

Deborah Tooney came before the Commission with comments.
Gretchen Campbell came before the Commission with comments.

Bradley Grower came before the Commission with comments and stated that he respectfully request that he have the six minutes that he felt he was entitled to.

Mayor Montgomery stated she respectfully declined his request.

Kim Audette came before the Commission with comments.

Sophia Peron came before the Commission with comments.

Jay Hopkins came before the Commission with comments.

Tom Burris came before the Commission with comments.

CONSENT CALENDAR:

Mayor Montgomery stated there were two items under the Consent Calendar – Minutes of the Regular City Commission Meeting – November 24, 2009, Accounts Payable – November 2009

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

Seconded by Commissioners Renfro

Discussion ensued.

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.

None.

BOARD & COMMITTEE REPORTS:

PUBLIC HEARINGS:
Transfer of Ownership & Location – Liquor License for Fast Stop #4:

Acting City Manager Penner stated this is an application for the transfer of ownership and location for Fast Stop #4, with the address of 507 Broadway. She stated in the Public Hearing notice there was a typo of 509 Broadway but all of the paperwork from Santa Fe does reflect 507 Broadway.

She stated it has been duly published and recommendation is to open this up for Public Hearing.

Mayor Montgomery opened the Public Hearing and asked if there was anyone who would like to speak for the transfer of ownership and location of a liquor license for Fast Stop #4.

There was no response.

Mayor Montgomery asked if there was anyone who would like to speak against the transfer of ownership and location of a liquor license for Fast Stop #4.

Sophia Peron approached the podium and spoke against the transfer of ownership and location of a liquor license for Fast Stop #4.

Kim Audette approached the podium and spoke against the transfer of ownership and location of a liquor license for Fast Stop #4.
Mayor Montgomery asked if anyone else would like to speak against the transfer of ownership and location of a liquor license for Fast Stop #4.

There was no response

Mayor Montgomery closed the Public Hearing.

**TRANSFER OF**
**OWNERSHIP & LOCATION OF**
**LIQUOR LICENSE FOR**
**FAST STOP #4:**

 Acting City Manager Penner stated this body had a Public Hearing and staff recommends approval.

"Commissioner Stagner moved approval of the transfer of ownership and location for Fast Stop #4."

Seconded by Commissioner Torres
Motion carried unanimously

**PROPOSAL FOR**
**AIRPORT TRADE & LEASE AGREEMENT**
**HSLD:**

Acting City Manager Penner stated that Greg Neal was present with a presentation and also present was Bobby Middleton, Chairman of the Airport Advisory Board.

Greg Neal came before the Commission and went over the proposal for the Airport trade and lease agreement submitted by the Hot Springs Land Development and what has been done in the last year and one half to come up with a plan that would be agreeable to the City, and the FAA.

Mr. Neal stated there are two primary issues with the first being that there is an impairment in section 32 where HSLD owns land but also includes some of the cities airport infrastructure. He stated what they would suggest is that HSLD would sell the 21.73 acres to the city for $100. and for that consideration HSLD would suggest entering into a 99 year lease on an equivalent 21.73 acres elsewhere on the airport property with road access. He stated that way would effectively be a trade or transaction, but the city would receive land fee simple which satisfies the FAA, the city never again has lease payments to the state or anyone else because the city owns the land and the runway is unencumbered.

Mr. Neal stated the second point in the proposal would be the approval of the land exchange for the airport expansion and improvement and the Airport Board has carefully and meticulously laid out areas that it wishes to retain for operation of the airport. He stated what HSLD would suggest is that they trade the necessary land which is 207.22 acres, again sell that to the city fee simple for consideration of 199.35 acres to be developed on a 99 year lease.

Discussion ensued.

Bobby Middleton came before the Commission and stated the Airport Advisory Board has been working with HSLD and Greg is absolutely correct because of this 21 acres that cuts into the runway the airport has lost around three hundred thousand in-kind monies that the city could have applied for. He stated they had thirty nine million dollars for airports this year and the city has not received any because of this.

Mr. Middleton stated the Airport Advisory Board all approve the approach on this, but there is some fine tuning that needs to be done on the whole thing, but on the 21.73 acres yes they would like to get something done on that. He stated the only thing the Board has
not decided on is what land to trade for and they would like as Greg originally said he would take a trade anywhere on the airport property for this.

Mr. Middleton stated the Airport Advisory Board approved the approach, there’s some fine tuning on the acreage, but they approve the approach on this so they can move on, especially get this 21.73 acres out of the way would be nice so they could get back on track for funding.

Discussion ensued.

Commissioner Green stated he has a problem with number 4 on the last page of the proposal, to him it seems open ended, there is no sunset clause, it just goes on forever. He stated that his question is looking at the proposal nothing becomes effective until the money is in hand so even if they agree upon something it has no legal validity because there’s no money that have been collected by Mr. Neal and his energies and efforts, and his partners so the city is giving him something that is just a piece of paper that has no legal bearing. He asked City Attorney Rubin if he was correct in reading that or is he wrong.

City Attorney Rubin stated he thought HSLD was looking for conditional approval, which means the city is approving something conditioned upon HSLD being able to fulfill the other allegations set forth in the agreement.

Mr. Neal stated yes, if HSLD is not able to identify the funding and say the funding comes in through its natural course, through the FAA and the city wants to simply buy the land that’s necessary for the crosswind runway and not exchange land, in other words HSLD is unable to make the funding event occur then that’s acceptable to HSLD as well. He stated in no way does HSLD want to encumber the city’s land if they are not able to perform.

Mayor Montgomery stated she understands that Mr. Neal is stating that the natural course of FAA would be possibly be seven years or so.

Mr. Neal stated yes and their desire is to try to get this done within the next two.

Mayor Montgomery stated that if there was verbiage in that agreement to that effect, it would give the ending date that Commissioner Green was looking for.

Ms. Montgomery stated the other question she has of Mr. Rubin is she knows they are anxious for a decision and she is anxious for a decision on the 21.73 acres just due to the fact that the FAA is extremely hot on this issue, is there a way to take this agreement into two parts and just do one and then look at the other.

City Attorney Rubin stated sure if the city feels that is the appropriate thing and if Mr. Neal is agreeable to it.

Ms. Montgomery stated she thinks they can solve the issue of the 21.73 acres this evening if the commission goes that way and then look at tweaking the other information that the Airport Board brings forward and putting in some more definitive guidelines and dates in the second agreement that would be for the crosswind runway.
She stated the other thing she would like to add to Mr. Middleton is possibly she would like to see is some type of agreement on where it says the sale of the 21.73 acres is that that 21.73 acres that they be allowed to look at and decide on which piece of property as long as it's contingent on the approval of the Airport Board. She stated she wants the Airport Advisory Board to say it's okay.

Mr. Middleton stated he would like to qualify that since he received the letter they have not had an Airport Advisory Board meeting, this is just his personal feeling on it.

Mayor Montgomery stated one of her recommendations would be to do the 21.73 acres in just a flat separate agreement and then look at part two which is the approval of the land exchange for the airport expansion and improvement in a separate agreement.

Further discussion ensued.

Mr. Neal stated they are fine to separate the two, they would just like to have some sense that the second part is urgent also because they are trying to create an economic benefit so if they could agree that the other issue is resolved within say 60 days, or 30 days.

Mayor Montgomery stated actually part two is also going to be contingent upon the BLM and then if BLM doesn't agree to that piece of it it's going to have to go back to square one so there are two contingencies, not only the funding piece and the time frames that this commission sets forward but the approval of the FAA and the approval of the BLM, there are three hurdles.

"Commissioner Green moved approval of Item I of the sale of 21.73 acres in Section 32 with runway impairment—Proposal and all of the verbiage that follows upon approval of the Airport Advisory Board."

Seconded by Commissioner Stagner
Motion carried unanimously.

Mayor Montgomery asked the Commission if they wanted to talk about Item II with different time lines or have them get back to this commission within sixty days.

Commissioner Green stated he has no problem with Item II at all, he just thought that number 4 on the last page "The Terms of the Proposed Sale & Lease" if Mr. Neal is willing to put the energy and effort and his business associates into trying to secure the money, lets start that process, he just thinks that shouldn't be open ended for a thousand years.

Mayor Montgomery asked Commissioner Green what years he would like.

Commissioner Green stated since they mentioned seven year and if his fellow commissioner's are comfortable then let's put seven years and there could be an extension at any time if they're nearing the money and they just need a little more time.

Mayor Montgomery stated also knowing that there has to be BLM approval and FAA approval and approval and recommendation by the Airport Advisory Board.
It was the consensus of the Commission to get that part of the agreement back to this commission as soon as they can get to it and the Commission will make an agreement at that time.

Acting City Manager Penner stated this came before this commission at an earlier meeting and Leonard Carrillo with the Sanitation Department had some changes and this went to the County with the changes that are now included and it is back to this commission for their consideration.

Discussion ensued.

"Commissioner Green moved approval of the Joint Powers Agreement between the City of Truth or Consequences and the County of Sierra regarding the Solid Waste Agreement."

Seconded by Commissioner Torres
Motion carried unanimously.

Commissioner Green stated this was on the front page of the Municipal Reporter that there is a Historical Preservation grant. He stated the city has gotten this grant before, it seems to be a pretty easy grant, not to complicated, there's a seventy-five, twenty-five match, the twenty-five can be in-kind of staff labor. He stated that when Jay gave the tour of the studio they saw boxes of blue prints and city documents that were just laying open in cardboard boxes underneath a sprinkler system certainly waiting for that thing to go off. He stated he thought this is a no brainier, they can go out and hire someone to document everything, to put it in a safe place because this is the history of our buildings. He stated that was one idea and he wanted to bring it to his fellow commissioner's because there may be other ideas on how to apply and what they should be applying for this grant. He stated the maximum grant is $8,000 and they use the award in blocks of $500. He stated this has to be in by February 12, 2010 so this is the reason he asked it to be put on the agenda now.

Discussion ensued.

Commissioner Green stated he would ask for the authority to move forward with this grant applying for funding to document city blue prints and city documents.

"Commissioner Stagner moved approval to apply for the Historical Preservation grant to be used for documenting city blue prints and city documents."

Seconded by Commissioner Renfro
Motion carried unanimously.

Acting City Manager Penner stated this commission held a workshop last week and went through the Commission Rules of Procedure and now they are back with the changes that were talked about.

Mayor Montgomery stated she contacted Belen, Socorro, Santa Fe, Albuquerque, Mesilla and Las Cruces who has different ways of doing their agenda, and they call public comment different things. She stated she has e-mails into each of these city managers, and the mayors' to have them provide their rules of procedures and their backup documents.
She stated Las Cruces has a document that you come in and get and it’s called “Public Participation” and she would like to get her hands on that document before this commission makes any final decisions on these rules.

Ms. Montgomery stated she would prefer putting this off until they can have a chance to look at all of those other different commissions’ to see how the different commissions’ are doing things differently.

Discussion ensued.

“Commissioner Stagner moved to table this item to the first meeting in January 2010.”

Seconded by Commissioner’s Green and Renfro
Motion carried unanimously.

OLD BUSINESS: None.

REPORTS: 

ACTING CITY MANAGER – No report.

CITY ATTORNEY – No report.

COMMISSIONERS –

Commissioner Stagner – No report.

Commissioner Green – No report.

Commissioner Torres – No report.

Commissioner Renfro – No report, but she would like to thank the city employees for putting up the Christmas decorations and she wants them to know they have done a good job.

Mayor Montgomery – No report.

EXECUTIVE SESSION: “City Commissioner Stagner moved that the meeting be closed for Executive Session pertaining to Pending or Threatened Litigation 10-15-1H(7):

1. State of NM ex rel. Deborah Toomey vs. City of T or C
2. State of NM ex rel. Kim Audette & Deborah Toomey vs. City of T or C & Sierra Community Council”

Seconded by Commissioner Green

Commissioner Montgomery responded Aye to a roll call vote.
Commissioner Stagner responded Aye to a roll call vote.
Commissioner Green responded Aye to a roll call vote.
Commissioner Renfro responded Aye to a roll call vote.
Commissioner Torres responded Aye to a roll call vote.

Motion carried unanimously.

OPEN MEETING: “Commissioner Montgomery stated that the Commission was now in Open Session.”

CERTIFICATION “Commissioner Stagner certified that only matters pertaining to Pending or Threatened Litigation 10-15-1H(7):
1. State of NM ex rel. Deborah Toomey vs. City of T or C
2. State of NM ex rel. Kim Audette & Deborah Toomey vs. City of T or C & Sierra Community Council

was discussed in Executive Session.”

Seconded by Commissioner Green
Motion carried unanimously.

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

APPROVAL: PASSED AND APPROVED this 22 day of December, 2009, on motion duly made by Commissioner __________, seconded by Commissioner __________, and carried.

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LORI S. MONTGOMERY, MAYOR

ATTEST:

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HAZEL F. PETERSON, DEPUTY CITY CLERK