CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Thursday, December 28, 2006

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 Thursday, December 28 2006 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. Jimmy Rainey, 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 Renfro moved approval of the Agenda as submitted."

Seconded by Commissioner Torres.

Motion carried unanimously.

RESPONSE TO PUBLIC COMMENT: None.

COMMENTS FROM THE PUBLIC: Mr. Gerald Boland came before the Commission to express his concerns about a recent issue discussed at the last Commission meeting about the revision of the electric rates.

Ms. Margo Donaldson came before the Commission and stated in reviewing the new S.O.B. Ordinance it talks about City Fathers,
and she wanted to recognize the contribution of women in the City
and asked if they would consider using the word City Leaders, and
adopting a gender neutral approach and that they recognize it now,
and indicated that women are civic leaders.

There were 3 different individuals who came before the
Commission to voice their concerns on the most recent version of
the Proposed Ordinance — Amending the Comprehensive P&Z
Code related to Adult Businesses.

Chief Peterson came before the Commission requesting that the
Commission consider hosting an official ribbon cutting for the new
police department.

CONSENT
CALENDAR:

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

PUBLIC
HEARINGS:

City Manager Aguilera stated this item was continued from their
last meeting, and that it was Captain Mullins idea to bring this issue
to his attention, and after reading her letter and the memo from the
Chief he decided it was a good idea and wanted to present it to the
Commission.

He stated that Captain Mullins has taken it upon herself to
volunteer all of the work required and most of the expense required
in maintaining a canine police dog, and she asking that the City
fund the purchase of the dog even though she is willing to pay for it
herself if need be, but he does not think that is fair.

City Manager Aguilera stated her proposal indicates that a narcotic
canine handling course and the dog is $4,995.00 in which she
would be trained to handle the dog.

Captain Priscilla Mullins came before the Commission, and
reported they tried this program in the past and had some problems
with it that they did not get to see the outcome of the program
because the officer left and took the dog, and expressed that she
would not do that. She stated she thinks this is the first step in their
direction in fighting and combating drugs in this town, and feels if
they could try it again it might be something that they make work
this time especially if she is willing to do a lot of the maintenance
and work on her own without charging the City for overtime, and
mentioned in the past they had overtime charges for working the
dog, and explained that they have to be worked constantly
everyday, and indicated there was overtime for that and she would
be willing to do that on her own.

She stated they need a certain shelter and that she would be willing
to do that herself, and expressed she would be willing to purchase
the dog herself if she had to, and thinks if they are looking at
expanding and growing in the department, and they are looking at
getting a narcotic officer in the future and that it would be good to
have the dog in place.

Captain Mullins stated she does not anticipate that they will see a
big difference in a year, but thinks if the officers realize they have another tool they can use it might be something that would be beneficial to the citizens. She indicated that Chief Peterson contacted DASO which is the canine unit from Las Cruces, and they would be willing to come down if needed.

Commissioner Renfro stated she thinks it is a good idea, and indicated she was always behind a program such as this and is fully in support of it.

Commissioner Torres asked if she had time to do this.

Captain Mullins replied that she did, and explained that she has the Cisco Program, and indicated since they have a resource officer in place he could take that duty. She stated the majority of the time would be her own time.

Commissioner Torres stated his concern is taking a Captain to do a Sergeants job, and that her being a Captain she has a lot of responsibility.

Captain Mullins stated she has a lot of administrative duties, and thinks the majority of the time working the dog would be off duty hours.

Commissioner Torres stated he does not have a problem with it if she has the time to do it.

Chief Peterson came before the Commission and stated she is probably one of the busiest people in the police department. He stated she is also a foster parent, and indicated that she is dropping that program, and wants to utilize that time for this.

Commissioner Rainey stated that Captain Mullins letter was very well written, and he could feel the pride she has now and the dedication to her job as a police officer for the City of T or C.

He stated the Commissions job is to ensure that each one of their employees regardless of what department they work for is given the best tools that they can possibly provide, and he thinks it is an outstanding idea, and stated he is proud of our police department and proud of Captain Mullins for taking it upon herself to do these things that she has outlined.

Mayor Montgomery stated that they talked about funding for this program.

City Manager Aguilera stated there is not a formal recommendation on the table, and what he would suggest if the Commission agrees with spending approximately $5,000 for this canine unit is instruct him to make that a part of the mid-year budget adjustment that will be on their agenda next month, and at that point they can approve the funding of the program and then that will start the ball rolling to get it started.

“Commissioner Stagner moved that they instruct the City Manager to make this part of the mid-year budget.”

Seconded by Commissioner Rainey.
Motion carried unanimously.
from Chris Nobes, Building Inspector indicating fees for signs, and explained that the resolution would require a permit fee for signs depending on the square footage, and indicated that the City does not have a sign permit fee.

He stated most every other City in the state does and explained that they did a survey of what other cities are charging and that this is a little below of what most cities charge, but most of the cities they contacted is larger than T or C, and explained the charges in the resolution. (Complete copy attached hereto and make a part hereof.)

City Manager Aguilera stated this is not really a revenue source and that it simply pays for staff time that is required to process these permits, and the recommendation is for approval of Resolution #17-06/07.

Mayor Montgomery asked if this was a one time fee and City Manager Aguilera replied, "yes, a one time fee of the issuance of a permit."

Commissioner Torres asked if it changed would it require another permit, and City Manager Aguilera stated if it is just a change of the sign face, and indicated that is just a change of copy and not a new sign.

Commissioner Rainey pointed out in the resolution after the City of Truth... the wording or Consequences was left out.

"Commissioner Stagner moved approval Resolution #17-06/07 – Establishing appropriate fees for Sign Permits."

Seconded by Commissioner Rainey.

Motion carried unanimously.

City Manager Aguilera stated there was a question that came up at the last meeting, and as he thought about it he felt it would be better is they establish the policy of the use of Lodgers Tax by resolution so all the points are clear to everybody as opposed to what apparently happened, as there was some miss-interpretation, or questioning about how it would be interpreted.

He stated he wrote out these points 1-7 about what the decision that the Commission meant, and it does not mean that’s exactly what they said it is his interpretation of what they said, so if they have changes this would be the time to do that.

City Manager Aguilera stated he gave a copy of this to Steve Green since he is the one who was representing the Lodgers Tax Board, and he made a couple of comments that he incorporated. He stated he is in the audience and asked if he had comments about the resolution.

Mr. Green came before the Commission and thanked them for their efforts for the resolution, and stated he thinks he can speak comfortably for the Lodgers Tax Board in saying that any change is sometimes very dramatic and sometimes the first step is the hardest, and indicated this is the first step.

He stated he does not have any business interest in the community, county or state, but he would like to think working as a volunteer on the tourism board and the lodgers tax board he can comfortably
speak for the 63 businesses and owners and hundreds and hundreds of employees that are affected by tourism, and indicated that this resolution is the beginning of getting additional monies out of Santa Fe to show them that they understand appropriate use of lodgers tax and how this city uses lodgers tax to help fund that additional tourism grant, and thanked them for their due diligence and believes it is a step in the right direction.

"Commission Rainey moved approval of Resolution #18-06/07."

Seconded by Commissioner Stagner.
Motion carried unanimously.

ADULT BUSINESSES:

City Manager Aguilera stated this has a long history, and indicated it is 90-95% the same as the ordinance already adopted. He referred to page 2 under recommendation the date should be 1/23/07. He stated the ordinance itself now contains in the preamble having to do with the secondary effects of sexually oriented businesses, and that the preamble talks about the secondary effects that were studied in other cities that it is allowed for other municipalities to quote studies from other cities.

He indicated these studies were reviewed by this Commission at a prior meeting, and that they talked about and had testimony from the audience during other meetings that they held, and also had testimony from our police department about the secondary effects.

City Manager Aguilera stated all that information is in there and that is a recommendation from their NMML Attorney having to do with controlling the secondary effects of sexually oriented businesses and not the content, and now they get into the actual verbiage of the ordinance, and that the purpose has changed although it is very similar to what it use to say except that it is very on point as to what it is that the ordinance is affecting, and that is it is controlling these businesses because of their secondary effects.

On page 10 there was wording changes to the sexually oriented cabaret, and indicated that is taken from another ordinance and that it is very similar to what it says now as to what a club is, but that this is more on point with the definitions in this ordinance.

Page 11 sexually oriented material there was some words added, any artificial or simulated specified anatomical area or other device, and that was missing from the prior ordinance as far as the devices and paraphernalia. He indicated the word obscene is removed throughout the ordinance because obscene is trying to control the content of sexually oriented businesses, and that is one of the issues that were recommended that they remove. Under sexually oriented motion picture theatre there is a minor change, and a novelty store was added because that was missing from the original ordinance.

Page 12 Nude Model Studio was originally in the ordinance that came from Gallup and was taken out after discussions with the public, however it was the definition that was taken out because in the original ordinance nude model studios were not discussed, and explained that ordinance is pretty much the ordinance that every other City has with some modifications, but the basic structure of that Gallup ordinance that they recommended in the beginning is still the basic model that they are using. In this ordinance and they will get to that point, and there is a point of discussion as to nude model studios but it makes very specific exemptions that should still be okay with the people in the art community that were
protesting that portion, and indicated the section on obscenity was removed.

Page 13 the Significant or Substantial Portion was added, and indicated that was in the prior ordinance but it was put in the definition section.

Page 14 explained this was a double duty issue on the Purpose and since they already stated what the purpose was he removed this section. He stated from page 15 forward there is a large amount of new material added, and explained that it simply has to do with identifying who the owners are of the sexually oriented businesses, and making sure that they don’t hide behind corporations or other legal maneuvers, so that the City cannot go after them in case there is a lawsuit or a violation that has been found, and all of the wording on these pages has to do with identification of the owners and who gets the permit and under what circumstances and so forth.

On page 20 there was another section added, prohibiting contact between nude and seminude employees and patrons, and indicated this was an important portion so that if there is a sexually oriented business that is allowed under all circumstances under this ordinance, such as a theatre or a gentlemen’s club or whatever they are called this prohibits actual contact between the patrons and the performers, and on the bottom of page 20 there is also some wording about security lighting and recorded surveillance, and that they have to install cameras in the parking lots and lights in the parking lots so if there is any criminal activity it will be recorded and that the police department has the availability to get the copies of those video surveillance tapes, and that it is a way of reducing those secondary effects of these sexually oriented businesses so that people are not shooting up in the parking lot, or drinking or doing whatever else.

Bottom of page 21 prohibition of minors related to sexually oriented businesses.

Top of page 22, and indicated this is the area under exemptions where it protects nude model studios the legitimate nude model studios and their ability to perform without infringing or without this ordinance infringing upon their ability to conduct legally and non suspicious activity, and on the bottom of the page there is a process for how a permit is suspended or revoked and then the process goes into an appeals process, and a section on immunity from prosecution for the Chief of Police and staff that enforces and the City Commission.

City Manager Aguilera stated most of the changes are administrative and have to do with the physical characteristics such as lighting, and booths.

City Attorney Rubin stated he would like to elaborate briefly on one point made regarding secondary affects, what are secondary affects and why are they emphasizing this and the answer was taken from a seminar conducted by the NMML which discussed these type of issues, and handed out a copy of some material.

He stated there was a particular paragraph that hits this right on the head as to what they are doing, and read the paragraph. (Complete copy attached and made a part hereof.)

City Manager Aguilera stated one last item on a couple of
REPORTS:

PRESENTATION:

OLD BUSINESS:

CITY MANAGER –

City Manager Aguilera reported that the City applied for a Community Development Block Grant for improvements to their electrical system about 3 years ago, and that they received a $500,000 grant from that and obtained a loan which they used to update the Ash Street and related circuits.

He explained there are two rules that were affecting their ability to re-apply, one is that they cannot re-apply the following year after
they have applied once or given a grant and have to wait another year, and the other rule is they can't re-apply for money if they have not finished spending all the money that they were given to begin with.

City Manager Aguilera indicated he did not think they were going to be able to finish spending the money they had been given by the deadline, and the deadline was December 12th. He stated as it turned out he met with their engineer and staff the end of November, and it actually looked they were going to be able to finish spending the CDBG portion on the Ash Street circuit, and to have a final by their engineer certifying that all the work is done.

He stated now they would be eligible to re-apply for more money which is very competitive and does not mean they will get it, but at least they are in the running, and they did get a final from their engineer before December 12th.

City Manager Aguilera stated January 4th is the deadline to apply for the next year's grant, and that SCCOG has been very helpful in helping the City put an application together. He indicated they have identified another project which is another circuit which is the Williamsburg circuit.

He explained that CDBG is only for low and moderate income neighborhoods if they do a survey, and that they are in the process of doing a survey, and have identified about 800 homes that are going to be positively affected if they are able to upgrade this circuit.

City Manager Aguilera stated of the 800 homes they have to survey about 350 to found out what income levels are. He indicated the survey is completely anonymous and explained they do not take names, addresses and so forth, and only ask a range of income, and this is to alert people in the downtown and Williamsburg that the City will be making some phone calls, and knocking on doors and asking some very innocuous questions.

He stated they have to hold a public hearing which they will advertise for January 3rd at 6:00 P.M, in the Commission Chambers, and they are going to need a resolution approved by this Commission, and they will need to hold a special meeting on January 4th.

The Commission decided on January 4th at 11:30 A.M.

City Manager Aguilera also mentioned the ribbon cutting for the police department, and the Commission decided they could do it right after the special meeting on Thursday, January 4th at 11:45 A.M.

CITY ATTORNEY – No report.

COMMISSIONERS –

Commissioner Stagner reported they had a good SCEDO Meeting today. He indicated they are proceeding forward with the combination of offices with the Chamber of Commerce. He stated they are going to their board for approval and it seems to be moving well.

Commissioner Rainey – No report.
Commissioner Torres - No report.

Commissioner Renfro - No report.

Mayor Montgomery - No report other than wishing everybody a Happy New Year.

EXECUTIVE SESSION:
"Commissioner Rainey moved that the meeting be closed for Executive Session – Pending or Threatened Litigation 10-15-1H(7), Alice McCans/Chief Peterson.

Seconded by Commissioners Renfro.
All 5 responded to a Roll Call Vote.
Motion carried unanimously.

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

CERTIFICATION “Commissioner Rainey certified that only matters pertaining to Pending or Threatened Litigation 10-15-1H(7), were discussed in Executive Session, and no action was taken.”

Seconded by Commissioner Renfro.
Motion carried unanimously.

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

APPROVAL: PASSED AND APPROVED this 23rd day of January, 2007, on motion duly made by Commissioner Renfro, and carried.

LORI S. MONTGOMERY
MAYOR

ATTEST:
MARY B. PENNER
CITY CLERK