CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
JULY 14, 2015

PUBLIC HEARING

The Truth or Consequences City Commission met for a Public Hearing, in full conformity with the law and Ordinances of said Commission in the Commission Chambers of said City, July 14, 2015; at 5:01 P.M., in the Commission Chambers, 405 W. 3rd Street, Truth or Consequences, New Mexico.

(Note: Mayor Pro-Tem Steve Green called for those wishing to sign up to speak in the Public Hearings, as a proponent, opponent, staff or other members of the public who wished to speak they needed to sign up for the Public Hearings to be held tonight)

Mayor Pro-Tem Steve Green welcomed everyone, and stated it was now 5:01 P.M.; he explained he would read the Notice for the Public Hearing which was posted in the papers and around appropriate places. The Truth or Consequences Commission will hold a Public Hearing, Tuesday, July 14, 2015, in the Commission Chambers, 405 W. 3rd Truth or Consequences at 5:00 P.M., for the purpose of:

1. Public Hearing; Mr. Kenneth Riedemann, Objection of the following Resolutions: Resolution 37 14/15, Resolution 38 14/15, Resolution 39 14/15, Resolution 40 14/15, Resolution 41 14/15, and Resolution 42 14/15.

We have two people who have signed in, Mr. Robbie Travis representing Staff, and Mr. Kenneth Riedemann, representing the Opponent. So, I'd like to now ask, number one, can we swear in and save some time, Clerk Could you please swear in Mr. Riedemann and Mr. Travis at the same time. So when you're called, we've done that already.

Clerk Harris: Please stand and raise your right hand, do you swear to tell the truth, the whole truth, and nothing but the truth?

Mr. Kenneth Riedemann: I do.

Mr. Robbie Travis: Yes.

Mayor Pro-Tem Steve Green: So, I understand that City Attorney Rubin will do the Staff presentation on an overview.

Jay Rubin, City Attorney: Ah, yes, I'd like to, Mayor Pro-Tem Green, I'd like to discuss the procedure first, and then I'll go to the podium. Also before we start, I want to welcome Mr. David Dotson, who is here representing Mr. Riedemann, and Mr. Dotson as introduction purposes:
Mr. Dotson, this is Commissioner Peterson, Commissioner Richter, City Manager Fuentes, Mayor Pro-Tem Green and Ms. Harris, our City Clerk. You're here for the objection so you are welcome to sit up here, or there, you're welcome wherever you feel comfortable.
We're here to follow the Battershell process. The Battershell process evolved from a appellant case whereby governmental bodies are expected to follow due process when it

comes to land use issues such as zoning or special use permits, or variances and in those situations if there's a matter that comes before the Commission, the property owner is entitled to ask for what's called a Battershell hearing, where there's a process where witnesses are sworn in, there's cross examination permitted, and basically due process is followed. This case is interesting because it evolves from Section 3-18-5, and that Section states that when the property owner files an objection, we need to provide a hearing. It doesn't actually say that a Battershell process is required to be followed, but to be on the safe side, that's what we've always done. Just to be on the side of caution, I always recommend we follow the Battershell process, indeed, that's what we're going to do tonight. So that's what we're talking about. To insure the proper procedure is followed, I did meet yesterday with Mayor Pro-Tem Green and we specifically did not talk about the evidence. It was basically just to make sure that we all understand the proper procedure was followed. I had written to Mr. Dotson on July 6th and July 9th and gave him notice of our proposed meeting. I also welcomed and encouraged him to attend and or participate. But, keeping in mind that we're not a court of law, the formal rules of evidence do not apply, so we're kind of semi-informal. So keeping these entire thoughts mind, here is what we propose to proceed. On behalf of Staff, I'm going to give a brief summary of the case, and I'll also introduce the documents, the exhibits that we have, and I'll provide copies to the Commission, as well as a copy to Mr. Dotson. If Mr. Dotson wishes, he can give a summary at that point, after I'm finished, or he can wait until the Opponent. In this case, Mr. Riedemann, can put on his case, or he can wait until that time. I will then ask Mr. Travis, who's already been sworn in, whether he agrees with my summary, and if so, that's fine, if he has anything else to add, of course he's free to do that, he'll be under oath, and of course the Battershell process will continue as outlined. I did give Mr. Dotson a copy of the Battershell procedure last week, so I would expect we'll be using that as a guide tonight, so that's how we'll proceed.

Mayor Pro-Tem Steve Green: City Attorney Rubin, what I'd like to do (for the record) is point out that actually, this is only the second time I've had the gavel on the Battershell in seven years. It was I, who reached out to City Attorney Rubin to make sure that I understood the process, so that I did not embarrass the Commission, and/or myself. I just went over the procedures, since I'm not familiar with this, and it doesn't happen that often in the Commission level, so I was the one who initiated, and asked for a copy of the Battershell, which I was given, and I asked for the meeting so that I could understand the process.

City Attorney Jay Rubin: Do we agree, that's what we stuck to, we just spoke about the process.

Steve Green, Mayor Pro-Tem: Yes, we did.

City Attorney Jay Rubin: Okay. Unless there's questions/comments, I'll go ahead and proceed with my overview. So, I'll go ahead and proceed. Okay, I have made six copies of …… … City Attorney Rubin stepped away from the mic and passed out paperwork to the Commission and to Mr. Riedemann and Mr. Dotson. City Attorney Rubin goes to the table and looks at the documents.

City Manager Juan Fuentes calls out: here you go Jay.

City Attorney Rubin: Hands out paperwork to the Commission and states: "Just, all I really want to do is walk you through what I've given to you. The first document is a letter that Mr. Travis, is in conjunction with.

Mr. Tooley, the Fire Chief and Mr. Chavez, sent a certified letter to Mr. Riedemann, which outlines the fact that there are five different properties we're talking about, a list of the five locations, it list the three violations and, in any case the requested action we are taking. Very important is the last sentence, which says if you have any questions please do not hesitate to call me, contact me at 894-6673. The hallmark of this whole proceedings, is that we've been trying to work with Mr. Riedemann to try and bring these properties into compliance. I believe Mr. Travis will indicate that he's always been receptive to try and work out these issues, so we wouldn't have this problem. But, anyway that's the letter. The next thing I handed to you are pictures that were taken of the three properties we're talking about tonight. One is on 610 N. Riverside, and its dated 11/5/13. Then there's a second picture of 700 N. Riverside dated 11/5/13 and the third one was is dated 3/4/14. So you have those three photographs. What we're trying to show here, is the condition of the properties and what they were like just in just a few months of when Mr. Travis sent those letters. And again, Mr. Travis will, I anticipate, testify that the pictures will show at that point, the condition of the property, and the violations that we are concerned about. The next set of documents are, three criminal complaints, actually 15 criminal complaints were filed all together in Municipal Court. Three violations for the five properties, which comes out to fifteen. I didn't give you all fifteen, because I didn't want to over burden you with what we have. The criminal complaints for the 700 N. Riverside Drive property, and we've filed some similar complaints for the other four properties. The next document is the Municipal Court Judgement, and sentence, which indicated that on October 2, 2013, Mr. Riedemann entered a plea of no contest to all fifteen charges, which essentially means that he was acknowledging that he, was in violation of those particular Ordinances. The next document is a judgement sentence from October 5, 2014. What happened here was when the violations had not been addressed, the City filed a motion for order to show cause, and then the Court after a hearing, entered this judgement sentence on March 5 2014. The next thing that happened is that Mr. Riedemann by and through his Attorney filed an appeal with District Court, and after lengthy negotiations and discussions, regarding the properties, we entered into a stipulated order dated August 18, 2014. You'll see in there that the order indicated that each of the five properties must be cleaned and maintained in good condition, and otherwise comply with the City of Truth or Consequence's Code of Ordinances. Then there's various other provisions in the order which are self-explanatory, which we attached as exhibits to that stipulated order for work that was to be completed on each of the properties. I don't want to get into the legalities with you, there were some legal issues that were raised in the objection, and that's something that I don't know if want to go into. I do want to make a comment, regarding paragraph 10, the stipulated order; with one of the objections indicates that, it was felt that we are barred from even bringing this sort of administrative action. Somehow we were required to maintain this in District Court, again. Later Mr. Travis will indicate that he kept trying to work with Mr. Riedemann, so nothing was filed there until we have this administrative action five months later. But most importantly paragraph 10 indicates, in the event the Defendant fails to comply with the deadline, and the City may file a motion, and bring this action to the attention of the Court. The word may is in there, it's a permissive language, meaning we had the option of filing there, but we didn't have to, and there's nothing in the order that prohibits us from administrative action. Finally, what we have left are the photographs that were just taken in the last day or so by Mr. Travis, of the three properties. You'll see that with respect to 610 N. Riverside property and the 700 N.

Riverside property, you'll see that unfortunately the violations are still there, that's why we need to proceed. I am pleased to note that the photograph at 206 N. Riverside property, does show a lot of improvement. And again, I think Mr. Travis can indicate when this clean up occurred. That is an overview of the City's Staff perspective, I now I am inclined to have Mr. Travis testify, without any further I'm going to just proceed in that direction.

Robbie Travis: Robbie Travis, Building Inspector for T or C; Jay that was good, I think it pretty well went over the overview of what we've done and gone through, we still want to work with Mr. Riedemann. We want to work with him, and see this property cleaned up and be able to move on. Do you have any questions for me that I could answer about anything Mr. Rubin said?

Mayor Pro-Tem Steve Green: Commissioner Peterson do you have any questions.

Jay Rubin, City Attorney: Let me interject one point, Mr. Travis if you look at the photograph I just submitted why you don't just point out 610 N. Riverside property and 700 N. Riverside property violations.

Robbie Travis, Building Inspector: As you can see there's still the junk vehicles there, junk vehicle parts, you can see some improvement there, but it's still pretty messy still he has made some improvements there but it's pretty much the same. On 700 the North end there's a trailer there to the right that looks pretty good. We can't really release that the whole property on 700 is cleaned up. It's hard to keep up, 206 does look a lot better than it had, it's kind of gone through, all the properties we've been doing this for over two years, he'll fix the fences, and he works on it a while, but it does look better than it did. We'd like to see the property cleaned up and move on, you know.

Mayor Pro-Tem Steve Green: Commissioner Peterson, next process in this Battershell Commission questions staff, to assist in the understanding to consist of the matter being considered. Commissioner Peterson, do you have any questions.

Russ Peterson, Commissioner: Have you met with any hostility on this, or is there a mutual.....

Robbie Travis, Building Inspector: No he doesn't', let me see how to put this. I don't think Mr. Riedemann cares for me, so I don't understand his situation. I'm just trying to do my job. And I'm not picking on him. I wish we could get volunteers together to help him get this done. Originally I came into this situation, Ray Chavez had started it; and I tried to help, see if I could work things out.

Russ Peterson, Commissioner: I see the picture, what is your current thoughts about it.

Robbie Travis, Building Inspector: He won't allow us to go on the property, so I'm taking pictures from the Street it's a bit hard to tell. We have some older ones of 206, he had a lot of junk underneath the canopy, and he's cleaned that up. His porch had a ton of stuff on it, he kinda cleaned it up. So he's done some progress there, and move the cars out, before he would just leave them on the street, so he's got those back in the property. So it is looking a lot better.

Russ Peterson, Commissioner: Looking at 700, has there been progress there?

Robbie Travis, Building Inspector: I think so, he's made progress on it, there are still items inside there. As you can tell on this picture I took yesterday, you can't really tell how much debris is cleaned up in there. But it does look like there's no doubt he's done quite a bit. I really agree with that, but getting him to accomplish it is tuff. I mean it's a lot of work and he's not in the best physical health.

Russ Peterson, Commissioner: So the City got involved in April of 2013.

Mayor Pro-Tem Steve Green: Commissioner Richter any questions.

Jeff Richter, Commissioner: No.

Mayor Pro-Tem Steve Green: I just have a couple of questions for Mr. Travis. I'm gonna take off from Mr. Kenneth Riedemann through his Attorney, to Judy Harris City Clerk, and two things on property 206. You can't get access to the properties?

Robbie Travis, Building Inspector: He told us not to go on them.

Mayor Pro-Tem Steve Green: Number seven, we object to the aforementioned resolutions on the grounds they are vague and ambiguous. So could you walk us through the process? When someone complains or someone is driving around and sees a piece of property that kinda looks like this (held up a picture), we notify a property owner. So we notify them and say this is why we called you.

Robbie Travis, Building Inspector: Normally we do, and we did do that with him in the beginning, we went on the property with him and one of the Courts had asked us to go take pictures because he was saying he didn't understand what was needing to be cleaned up. So we went and took pictures and tried to make lists of some stuff, you know, he didn't understand why he had to fix some stuff.

Mayor Pro-Tem Steve Green: So he kinda had some marching orders, I mean things that needed to be addressed, it wasn't just clean up the property, I mean where I begin and what I do. So there was direction given on what needed to be done.

Robbie Travis, Building Inspector: Yes, we pretty much showed this stuff needs to be cleaned up. You know, this area needs to be, this is a fire hazard, you know you got junk here, and here, and here, and here. You know those kinds of things.

Mayor Pro-Tem Steve Green: My last question, Mr. Kenneth Riedemann objects to the grounds they are arbitrary and capricious. Has the City ever cited any other property owner in the City limits for some of the things Mr. Riedemann has been cited for?

Robbie Travis, Building Inspector: Yes, many.

Mayor Pro-Tem Steve Green: So I just didn't understand selective enforcement sounds like we just picked Mr. Riedemann out of the pot, and say we're gonna make you the example for T or C.

Robbie Travis, Building Inspector: No, we have several we are working on, several we've brought up to the Commission, we brought one in particular, Mr. Henson, on Wyona.

So yea, we've brought several others there's several others we're working on, I probably have 15 on my desk right now.

Mayor Pro-Tem Steve Green: Okay, thank you, if there any no other questions... Yes Sir, Commissioner Peterson.

Russ Peterson, Commissioner: All these have been to Municipal Court?

Robbie Travis, Building Inspector: Yes.

Russ Peterson, Commissioner: And the Judge did what to him, all of them, two, just one or what? What was the determination of it?

Robbie Travis, Building Inspector: Let me refer that to Mr. Rubin.

Jay Rubin, City Attorney: What happened in Municipal Court, you're asking?

Russ Peterson, Commissioner: I mean I can read all of them, right here.

Jay Rubin, City Attorney: Well, we're talking about five cases, and five different properties. Mr. Riedemann plead no contest to violations in Municipal Court, all fifteen charges, five properties, three, there was the contempt hearing, which I made reference to the demand. Now the District Court appeal did not appeal the original no contest fee that was a consent matter.

Deal with the original no contest, let's put it that way, and make it a consent matter. There was not an appeal on the original judgement and sentence.

Russ Peterson, Commissioner: I have no further questions.

Mayor Pro-Tem Steve Green: Any further questions? No, okay. Next would be Opponents may cross examine Staff. That would be Mr. Riedemann or Mr. Dotson or both. I guess Robbie maybe you wanna come back.

Robbie Travis, Building Inspector, came back and sat at the table.

David Dotson, Attorney on behalf of Mr. Riedemann: Thank you Mayor, I have a question for Mr. Travis, couple of questions actually. In this picture here, 700 North Riverside, Kenneth 11-5-of 15, where were you standing when you took that picture? Are you standing inside the property or outside?

Robbie Travis, Building Inspector: I believe Ray Chavez actually took this picture. And so I can't tell you where he was standing.

David Dotson, Attorney on behalf of Mr. Riedemann: Is there a fence between the road and the property there? See that fence? Is that taken inside that fence or outside?

Robbie Travis, Building Inspector: I could not tell you that.

Steve Green, Mayor Pro-Tem: Mr. Dotson, may I interrupt for one second here, Manager Fuentes pointed out a valid point. For the record, could you just mention what pictures you are showing to Mr. Travis, so the Commissioners can follow that, and we could record it here.

David Dotson, Attorney on behalf of Mr. Riedemann: 700 North Riverside, it was 5 of 13. Can you see that fence? So judging by what you can see, how about that pile there? Here's two pictures of 700 North Riverside. Picture taken from the street, now this picture, can you tell if that picture was taken from inside the fence (Mr. Dotson held up a picture) Here's a picture taken from the street, my question was this picture taken inside the fence or outside the fence? So, judging from these two pictures 700 North Riverside, was that picture taken outside the fence, or inside the fence?

Robbie Travis, Building Inspector: There again, I couldn't tell you, because I didn't take that picture, so I don't know.

David Dotson, Attorney on behalf of Mr. Riedemann: Do you see this picture, see the trailer right here? Can you see this pile from this picture?

Robbie Travis, Building Inspector: No, I can't see this pile from this picture.

David Dotson, Attorney on behalf of Mr. Riedemann: So is it true that this picture was taken inside the property?

Robbie Travis, Building Inspector: What if he was over the fence, taking it from outside? (Making the motion of taking a picture over a fence)

David Dotson, Attorney on behalf of Mr. Riedemann: Inside the property, correct?

Robbie Travis, Building Inspector: No outside, and over the fence.

David Dotson, Attorney on behalf of Mr. Riedemann: So the camera was inside the property or outside of the property.

Robbie Travis, Building Inspector: I honestly could not tell you.

David Dotson, Attorney on behalf of Mr. Riedemann: So, let's see, the picture here dated 3-4 at 206 North Riverside, and this one here on 206 North Riverside, dated 7/1, do those vehicles meet the definition of junk vehicles?

Robbie Travis, Building Inspector: Well, I can't see the plate on that van, so I don't know if it's a licensed vehicle or not. So I don't know that, and there are other vehicles in the back there.

David Dotson, Attorney on behalf of Mr. Riedemann: So what is the definition of a junk vehicle?

Robbie Travis, Building Inspector: A junk vehicle, is not licensed, could be torn apart, not running.

David Dotson, Attorney on behalf of Mr. Riedemann: So do you know if any of those vehicles are junk vehicles?

Robbie Travis, Building Inspector: No I do not.

David Dotson, Attorney on behalf of Mr. Riedemann: Let's see. Do you know if this vehicle at 700 North Riverside, do you think that vehicle is a junk vehicle?

Robbie Travis, Building Inspector: I don't think it is, but I can't tell.

David Dotson, Attorney on behalf of Mr. Riedemann: So, let's see. The picture here dated 31418 (unintelligible.) 206 North Riverside. And here's another picture dated 7/15 can you tell me which of those vehicles are junk vehicles.

Robbie Travis, Building Inspector: I don't know. I can't see the plate there. I don't know if it's a licensed vehicle or not. And I can't tell what's back there.

David Dotson, Attorney on behalf of Mr. Riedemann: Do you know if this vehicle at 700 Riverside is a junk vehicle?

Robbie Travis, Building Inspector: I don't think it is, but I can't tell.

David Dotson, Attorney on behalf of Mr. Riedemann: Let me take a look at this right here; a copy of that. I'm going to turn your attention to the stipulated order that was entered in, paragraph six. Will you read that for me? Paragraph seven says if he brings the Property into compliance with the Code says that if he brings the property into compliance he would receive a certificate for compliance for that property. Has he received a certificate for compliance on that property?

Robbie Travis, Building Inspector: He didn't through me, but maybe through the Attorney.

David Dotson, Attorney on behalf of Mr. Riedemann: Did he get one?

Robbie Travis, Building Inspector: It's been over two years so I don't remember. I know we had looked at them.

David Dotson, Attorney on behalf of Mr. Riedemann: Paragraph seven says that if the defendant brings the property into compliance with the Code, the defendant would receive a certificate of compliance. Did Mr. Riedemann ask for a certificate on 206 North Riverside?

Robbie Travis, Building Inspector: He didn't ask me, but maybe he got one from the Attorney.

David Dotson, Attorney on behalf of Mr. Riedemann: So actually, let me get to this right here. How about this picture of 610, do these look like a collectable car? So what is the definition of a collectable car? Under State Motor Vehicle Code.

Robbie Travis, Building Inspector: You know we looked for that, I asked Attorney Rubin. You know, I'm not a vehicle expert, this looks like an eighty's truck, but I don't know.

David Dotson, Attorney on behalf of Mr. Riedemann: So you have no evidence there are junk vehicles at any of these residences. This one, that would make this a nineteen eighty.

Robbie Travis, Building Inspector: I think there is.

David Dotson, Attorney on behalf of Mr. Riedemann: So you think there is or you know there is?

Robbie Travis, Building Inspector: I know there was.

David Dotson, Attorney on behalf of Mr. Riedemann: But we're talking about today as of 7:30. So is this a 1990 or newer vehicle?

Robbie Travis, Building Inspector: I couldn't tell you. I couldn't tell you that.

David Dotson, Attorney on behalf of Mr. Riedemann: So you can't say if that's a junk vehicle at 206 North Riverside? Is that a 1990 or newer vehicle? How about that van is that a 1990 or newer?

Robbie Travis, Building Inspector: I don't know, I couldn't say.

David Dotson, Attorney on behalf of Mr. Riedemann: Is that a 1990 or newer?

Robbie Travis, Building Inspector: You asked me that, it's the same vehicle. I don't know.

David Dotson, Attorney on behalf of Mr. Riedemann: This is the same model here? Is that a junk vehicle? How about this picture of 610 is that a 1990 or newer vehicle?

Robbie Travis, Building Inspector: I don't know, I'm not a vehicle expert.

David Dotson, Attorney on behalf of Mr. Riedemann: So you don't have any evidence there are junk vehicles on any of these properties do you? Hmmm?

Robbie Travis, Building Inspector: I think there is.

David Dotson, Attorney on behalf of Mr. Riedemann: You think there is or you know there is?

Robbie Travis, Building Inspector: I know there was. I know that.

David Dotson, Attorney on behalf of Mr. Riedemann: But we're talking about today. How about this picture of 1970. So is this a 1990 or newer vehicle?

Robbie Travis, Building Inspector: I'm not a vehicle expert, so I couldn't tell you. I mean, well, it looks like an 80's truck, but I don't know.

David Dotson, Attorney on behalf of Mr. Riedemann: So you have no evidence there's any junk vehicles on any of the properties, do you? Do you see any collector cars in that picture?

Robbie Travis, Building Inspector: I think there is. I know originally there was. I believe that. Well number one it's on a partial lot so I can't tell.

David Dotson, Attorney on behalf of Mr. Riedemann: So is he here under 689 or today under 650.

David Dotson, Attorney on behalf of Mr. Riedemann: I'm talking about today. As of 7/14/2015. Can you tell me if there is any junk vehicles on those properties?

Robbie Travis, Building Inspector: When we're taking pictures from the street. I can't tell.

David Dotson, Attorney on behalf of Mr. Riedemann: So on 206 North Riverside, paragraph seven says if he complies he will receive a certificate of compliance. Did you give him one for 206 North Riverside?

Robbie Travis Building Inspector: Not from me, maybe from the Attorney, not to my knowledge, I wouldn't know.

David Dotson, Attorney on behalf of Mr. Riedemann: So how about this picture here, Mr. Rubin said it had been cleaned. Did you give him a certificate of compliance for that lot?

Robbie Travis, Building Inspector: Well, number one, it's a partial lot, we can't give it to a partial lot, so no, it has to be in order, there's still junk, and vehicle parts. We wouldn't give one on just a partial, it would be the whole lot.

David Dotson, Attorney on behalf of Mr. Riedemann: So is your belief Mr. Travis, that you can violate this stipulated order in District Court at your will? By not allowing Mr. Riedemann to have cars, with the collectable car definition? And come here in front of this Commission and ask that they be crushed?

Robbie Travis, Building Inspector: I never asked for them to be crushed.

David Dotson, Attorney on behalf of Mr. Riedemann: That's what were here for today is it not?

Robbie Travis, Building Inspector: No.

David Dotson, Attorney on behalf of Mr. Riedemann: We're here for the Resolution to clean them off the properties.

Robbie Travis, Building Inspector: Yes.

David Dotson, Attorney on behalf of Mr. Riedemann: So why does he have to clean up something that's allowed.

Robbie Travis, Building Inspector: Well it would be different if it was... Our Code says it has to be orderly, and it can be there. But when its disorder and a junk, and the neighbors complain.

David Dotson, Attorney on behalf of Mr. Riedemann: So can you show me in your Code where it says it has to be orderly?

Robbie Travis, Building Inspector: Yes I can.

David Dotson, Attorney on behalf of Mr. Riedemann: You have it?

Robbie Travis Building Inspector: (Left the table and retrieved a book) Yes. Okay, its section 689, 3; says that unlicensed/operable, or inoperable antique vehicles or special interest vehicles, are stored by a collector; on the collectors property. If the vehicle in storage are maintained, and outdoor areas are maintained in a manner which they do not cause a health hazard and are screened from ordinary public view by means of a fence, as approved by the Building Inspector.

David Dotson, Attorney on behalf of Mr. Riedemann: So is he here today under 689, or is he here today under 1150, 686 and 572?

Jay Rubin, City Attorney: You know, let me mention this actually, we're here actually, you know, again, I know the rules of evidence are relaxed; and, um, I can't really object to your proceeding, but actually we're here the administrative, the administrative procedure set forth 3-18-5. This is not a criminal proceeding, but again, go ahead with the question. That's the purpose of the Battershell, I'm just concerned about the form of the question.

David Dotson, Attorney on behalf of Mr. Riedemann: The purpose of the Battershell is Mr. Riedemann's violations of sections. I just read down, um, (shuffling through paperwork) 686, 572, and 1150. Did you ever site him for a violation of that Code right there?

Robbie Travis, Building Inspector: No, because it's under collectable and antique car.

David Dotson, Attorney on behalf of Mr. Riedemann: So he was never cited for that, but you want to hold him to that today, right?

Robbie Travis, Building Inspector: I'm just telling you that's our Code. You asked me what the Code was. You're trying to tell me about collectable vehicles. Well you can have collectable vehicles, as long as they are maintained.

David Dotson, Attorney on behalf of Mr. Riedemann: The question I asked you is, do you want him to be held accountable for that Code when he hasn't even been cited for it, is that correct?

Robbie Travis Building Inspector: Well, it's our Code, and you're trying to talk about collectible vehicles, well, you can have collectible vehicles but they have to be maintained and in a neat and orderly way.

David Dotson, Attorney on behalf of Mr. Riedemann: So that Code, Code 686, is that it?

Robbie Travis, Building Inspector: Yes.

David Dotson, Attorney on behalf of Mr. Riedemann: Is that mention in a stipulated order? So he was required to under this agreement to abide by that?

Robbie Travis, Building Inspector: According to our Code he has to abide by it.

David Dotson, Attorney on behalf of Mr. Riedemann: You didn't put that in here did you?

The City Attorney didn't put that in here did he?

City Attorney, Jay Rubin: Wait, it's not in there? Paragraph four says that each of the five properties must be cleaned and maintained in good condition and otherwise comply with the City of Truth or Consequences Code of Ordinances.

David Dotson, Attorney on behalf of Mr. Riedemann: Right in paragraph six says collectible cars as used in the settlement is defined in the state's motor vehicle, only collectible cars may be placed on the properties described in four and five.

City Attorney, Jay Rubin: Well Mr. Dotson, I think you and I have talked, but I think we have a disagreement about the interpretation of this. But I don't think paragraph, again, just for the record since you're asking, paragraph six I don't think gives you clearance to have junk vehicles. So that's the problem I have here. But go ahead and proceed.

David Dotson, Attorney on behalf of Mr. Riedemann: You haven't proved your case that there's any junk vehicles. Bottom line is, if you move the cars and put them in the right place he would be in compliance.

Robbie Travis, Building Inspector: If he cleaned up.

David Dotson, Attorney on behalf of Mr. Riedemann: The cars or around them.

Robbie Travis, Building Inspector: Around them and just collectible cars then he would be.

David Dotson, Attorney on behalf of Mr. Riedemann: For the record, I think you stated that Mr. Riedemann was, that this is an ongoing process that he's continually working on this, am I correct? Has he ever stopped working on it?

Robbie Travis, Building Inspector: I don't know that.

David Dotson, Attorney on behalf of Mr. Riedemann: So because someone continually working on something because he's 73 years old and he can maybe work one hour a day, does it ever come across your mind that he may need additional time?

Robbie Travis, Building Inspector: I think we've given them plenty of time. We've given them over two years just on this.

David Dotson, Attorney on behalf of Mr. Riedemann: But you didn't ask if he needed more time did you.

Robbie Travis, Building Inspector: No I didn't, but I gave him more time, because we didn't file on him. He had plenty of time to clean it up. And we'll still give him more time, I mean were trying to work with the guy. But, how long should we work with him?

David Dotson, Attorney on behalf of Mr. Riedemann: Well why didn't you file in District Court, why did you file here?

Robbie Travis, Building Inspector: Because we want him to get it cleaned up.

David Dotson, Attorney on behalf of Mr. Riedemann: So who do we think has more authority, the District Court or this Commission?

Robbie Travis, Building Inspector: I couldn't answer that.

David Dotson, Attorney on behalf of Mr. Riedemann: I think it's pretty safe to say that the District Court has more authority. You think the District Court retains jurisdiction for the purpose of the violation of this agreement.

Robbie Travis, Building Inspector: I'm not an Attorney so I couldn't tell you.

David Dotson, Attorney on behalf of Mr. Riedemann: Could you read the last sentence of paragraph 10?

Robbie Travis, Building Inspector: The Court therefore shall, retain jurisdiction of this matter to entertain any such motions.

David Dotson, Attorney on behalf of Mr. Riedemann: Some of the District Court retains jurisdiction to entertain motion of noncompliance, do they not? So why didn't you file with the District Court, why did you file here?

Robbie Travis, Building Inspector: Why don't you ask our Attorney?

Jay Rubin, City Attorney: I think he's already answered that question. Mayor Pro-Tem Green we're hearing the same question.

Mayor Pro-Tem Steve Green: I was gonna say. Mr. Dotson, I think that's been answered.

Robbie Travis, Building Inspector: I answered that before, did you not understand that?

David Dotson, Attorney on behalf of Mr. Riedemann: So who runs the show here, you run the show, does the City run the show, or does the Attorney run the show? Who's the boss for the City? Who makes the decision?

Robbie Travis, Building Inspector: Our City Manager.

David Dotson, Attorney on behalf of Mr. Riedemann: So then why did you say Mr. Rubin made the decision?

Robbie Travis, Building Inspector: Well he makes court decisions, but you know, you're asking who runs the show, you didn't ask who runs this.

David Dotson, Attorney on behalf of Mr. Riedemann: So did you make a request to the City Manager to file a motion in District Court to enforce his compliance with the city Code?

Robbie Travis, Building Inspector: No.

David Dotson, Attorney on behalf of Mr. Riedemann: So who filed this proceeding here?

Robbie Travis, Building Inspector: Our Attorney did. To try and get the properties cleaned up.

David Dotson, Attorney on behalf of Mr. Riedemann: So the Attorney filed this. Well I'm not sure the Attorney has standing to file anything. As the Attorney, I think that's a conflict of interest. That's all I have, for cross examination of this witness.

Mayor Pro-Tem Steve Green: Thank you. I don't think you can ask a question right now on this procedure. Now, that ends Staff presentation. Next will be the Opponents. Mr. Riedemann or Mr. Dotson will make a presentation, the same procedure we did with Staff.

David Dotson, Attorney on behalf of Mr. Riedemann: Thank you. First of all, Mr. Rubin gave us a very nice recitation of the history of this case leading up to today. However, what he forgot to mention was that I objected to Mr. Rubin meeting with Mr. Green because it created an appearance of impropriety. However Mr. Rubin failed to mention the fact that I conveyed that to him in writing. Second of all, I don't think that this Commission has jurisdiction to hold anything on this case because the 7th Judicial District Court retained jurisdiction to hear motions. As to why Mr. Riedemann failed to comply with the settlement agreement, the settlement agreement, the settlement agreement was a contract. Statute of limitations on a contract is six years, isn't it? Instead of filing a motion for contempt of court for failing to abide by the agreement, instead of asking Mr. Riedemann if he needed more time. Instead of writing Mr. Riedemann a letter telling him that they proceeding against him, they just sandbagged it and just filed it. No notice. No warning. No nothing. They didn't call me, they didn't call him, and they didn't call anybody. So I'd like to call Mr. Riedemann at this time to testify in front of this Commission if I may.

Mayor Pro-Tem Steve Green: Absolutely.

(Mr. Kenneth Riedemann approached and sat at the table.)

David Dotson, Attorney on Behalf of Mr. Kenneth Riedemann: Will you state your name please.

Mr. Kenneth Riedemann: My name is Mr. Kenneth Riedemann.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Where do you live Mr. Riedemann?

Mr. Kenneth Riedemann: I live at 610 North Riverside Drive in T or C.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Do you own some property here in T or C?

Mr. Kenneth Riedemann: Yes.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Which properties do you own?

Mr. Kenneth Riedemann: I own 605, 700, 610, and 206, Charlies Lane and Wade and Gibson.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Now you were cited for noncompliance with a City Code, back in 2013, were you not?

Mr. Kenneth Riedemann: Yes.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: What I'm showing here is copies of the criminal complaint in your packet. Now this criminal complaint charges you with violations of several sections of the Code, does it not? The first one's right there.

Mr. Kenneth Riedemann: 1150.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann:

Mr. Kenneth Riedemann: 686.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: What's this one?

Mr. Kenneth Riedemann: 700.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Now, you plead no contest to those charges, correct?

Mayor Pro-Tem Steve Green: Mr. Dotson, so we could get you recorded, could you speak into the microphone, when you move away we lose you.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: So you plead guilty to those charges?

Mr. Kenneth Riedemann: Well, I plead no contest. They wanted to work with me.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Did you pay a fine?

Mr. Kenneth Riedemann: I pay a fine, then it got drug back down again to court. And they don't tell me what it's on, and they got two courts they got and ah, they file on me for these statues and they don't tell me which ones are correct. Robbie Travis wouldn't even talk to me, he was gonna make a list for it to be easier to do.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: These were all misdemeanor offenses correct? So then what did you do?

Mr. Kenneth Riedemann: I don't know. I think so. I told the judge I didn't know what she said, and they won't tell me which one, told me to call Ray Chavez or Robbie Travis, come on my property and point out what's bad, make a list. And then I wrote a letter referring to their behavior. The first guy that came in there, I had to help him and gave him ¾ of wood, but he never came back. So we had this other guy come in there that hauls away junk. He came back and that's when we had all that rain, and all the water, he wasn't making enough money so he left. And had another one come by. And they Robbie come by and said they wanted to make another pass. They come back again to help me. Then Robbie Travis talked a little bit and he was gonna help him make a list, and get going; but then we had the rain. So they were taking a picture of 610 they asked me when I was gonna move

that trailer to see behind the gate if there was trash and scrap iron, there's a trailer behind it and some scrap iron. Then they went through again and were throwing stuff in the back telling me they didn't like where my motorcycles are. They went around the back and we walked through and ah, what a good job that we've done. Then they come back again. That's when they went in there and said all that, and said everything looked good, and ah, then they came back another time, they wanted to come in, I told them I'd let them in but I wasn't going to invite them in. Every time Robbie comes by and asked when I was gonna move that. And that's when they took a picture through the fence. Then they came with the picture of 620 and wondered when I'm gonna move that trailer cause you can see it from the gate. So I told him it's behind the gate, and there's scrap iron and that trailer there behind it with trash. And they went through again and they were telling me again they didn't like the junk in the back and where my motorcycles in the back. Then we walked through they were telling me what a good job I've done cleaning up and they did all that. And they came back another time, where Bill and Robbie came down and again they wanted to make another pass closer to it. Every time Robbie comes down he's like he wants to put the whole world in his name.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: It's not in these pictures here?

Mr. Kenneth Riedemann: No, it doesn't show in the pictures.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: You can't see it from those pictures?

Mr. Kenneth Riedemann: No, it's behind the gate and there's a trailer behind it it's filled with trash. And they went through again, and they were telling me looking at the back, telling me that they didn't like the motorcycles in the back, and told me on 700 I'd have to move that stack of lumber by the fence. Then we walk through and they tell me what a good job that we'd done in there. In the meantime they come and file an order to show cause in Municipal Court because I wouldn't cooperate with City Officials came and said you're going to have to move that lumber by the fence. Then it was getting close to the holidays or something and Robbie said he would send some pictures; well he didn't. So I wrote back and asked for the particulars

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Can you tell me what this is. (Showing photo to Mr. Riedemann)

Mr. Kenneth Riedemann: That's 700.

Mayor Pro-Tem Steve Green what year is the picture you are referring to?

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Let me show him the picture of it and then I'll introduce it.

Mayor Pro-Tem Steve Green: Okay

Mr. Kenneth Riedemann: I can't see the date on this.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: That's a picture of 700 North Riverside, taken from the street. This picture here is taken from that gate at Mr.

Riedemann's Fence. (Mr. Dotson walked to the desk in front of the Commission and showed a photo) This is a picture from the street at 700 North Riverside. That's the street view of Mr. Riedemann's property. This picture here is not a street view.

Russ Peterson, Commissioner: How can you tell? You can't enlarge it. So you crop it to where you get that from the street.

Mayor Pro-Tem Steve Green: Actually Commissioner Peterson I think we'll have a chance to ask Mr. Dotson questions.

Mr. Kenneth Riedemann: So where was that picture taken? They come over and asked about the El Camino, and I asked them what the difference. It's like that El Camino we went to court and they had a picture and I asked him which one of those vehicles is a junk vehicle. He said well you haven't moved it in 45 days. And I had to look causes they were moving on me and to try to sell some of them.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: So what happened then?

Mr. Kenneth Riedemann: So I said you have enough pictures. They'd already taken so many, and ah. Well I thought we had it pretty well done.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Did you ask for more time?

Mr. Kenneth Riedemann: No.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: And you've made some considerable progress out there.

Mr. Kenneth Riedemann: I think so.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: And you're still working on it correct?

Mr. Kenneth Riedemann: Correct.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann:

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Have you moved anything new into the properties; any more vehicles?

Mr. Kenneth Riedemann: Yeah I got two.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Is this one of them right here?

Mr. Kenneth Riedemann: No. (Inaudible.) That looks like the old one. That's the old one. The newer one's a 75.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: You have a newer one than this one here?

Mr. Kenneth Riedemann: yeah, a 70's model, the blue one (Inaudible).

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Is that a solar car, a collectable car?

Mr. Kenneth Riedemann: Yeah and I bought a (inaudible) and a one ton crew cab.

No. They wanted me to move a stack of lumber. They said I had to move it off the property. I thought we had it pretty well done. Then he asked about the El Camino, I asked him what was wrong with the El Camino? And he said it was junk cause I hadn't moved it in over 45 days. I hadn't moved it before, so.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Is its lumber or firewood? Have you sold any vehicles?

Mr. Kenneth Riedemann: Lumber for (inaudible). Yes I have. I sold one that day.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: So are there any vehicles on your property that should not be there?

Mr. Kenneth Riedemann: No.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Do you have a nineteen thirty's car?

Mr. Kenneth Riedemann: I have a 1930's Chevrolet.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Is that a collector car?

Mr. Kenneth Riedemann: Yes.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: But they've included it in there?

Mr. Kenneth Riedemann: Yeah, they were looking back by the garage. It's there by the garage.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Is it in the garage?

Mr. Kenneth Riedemann: No it's by the garage in a lot. (Inaudible) They didn't like my tires, or the (inaudible)

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: You hired several people at the beginning of summer to help you clean this up, didn't you?

Mr. Kenneth Riedemann: Yes. They were telling me what a good job I'd done. Then they come back. Bill and Robbie came back around, I didn't stop them, and I didn't invite them in. They were peeking through the gate. And they told me to move that lumber. It was a stack of lumber.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Now when say a stack of lumber, what kind of lumber, was it building lumber? Construction materials?

Mr. Kenneth Riedemann: Two by twos stuff like that.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Building Material. And he told you to move it?

Mr. Kenneth Riedemann: They told me to move it.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: So its construction, it's not junk.

Mr. Kenneth Riedemann: Yes.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: So are any of these junk vehicles (Showing some photos) 1/5/2013 does that vehicle still run? How many vehicles run? And this one is it licensed and registered and does it run?

Mr. Kenneth Riedemann: Yes sir.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Just for the record this is the El Camino, does is start and run, is it registered?

Mr. Kenneth Riedemann: Yes sir.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Is it a licensed vehicle?

Mr. Kenneth Riedemann: (Inaudible) the parts, and then yes.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: How many vehicles have you sold since 2013?

Mr. Kenneth Riedemann: Maybe about seventy.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Have you sold any more of them?

Mr. Kenneth Riedemann: Yeah, Steve Bell bought fifteen of them. Yeah, we were out at (inaudible) Charlie and Wade.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: So did anybody from the City ever ask you if you needed more time to comply with the stipulated order from District Court?

Mr. Kenneth Riedemann: No.

David Dotson Attorney on behalf of Mr. Kenneth Riedemann: Did you ask for more time?

Mr. Kenneth Riedemann: I thought we had it all pretty well done.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Did you ask for more time?

Mr. Kenneth Riedemann: No.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: and you're still working on it correct?

Mr. Kenneth Riedemann: Yes sir.

David Dotson, Attorney on behalf of Mr. Kenneth Riedemann: Have you moved anything new into the property?

Mr. Kenneth Riedemann:

(Showing the Commission photos) this is the El Camino we've been talking about. This is the one he bought

With there being no further business for the Public Hearing Mayor Pro-Tem Steve Green closed the Public Hearing portion of the meeting and moved on to the Regular scheduled meeting.

CITY COMMISSION
REGULAR MEETING
JULY 14, 2015

THE REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO IS TO BE HELD IN THE COMMISSION CHAMBERS, 405 W. 3RD, ON TUESDAY, JULY 14, 2015, WHICH STARTED IMMEDIATELY FOLLOWING THE PUBLIC HEARING.

ROLL CALL
Hon. Steve Green, Mayor Pro-Tem
Hon. Jeff Richter, Commissioner
Hon. Russ Peterson, Commissioner

ABSENT:
Hon. Kathy Clark, Commissioner
Hon. Sandra Whitehead, Mayor (Via telephone later in Meeting)

ALSO PRESENT:
Juan A. Fuentes, City Manager
Jay Rubin, City Attorney
Judy Harris, City Clerk

SILENT MEDITATION:

Mayor Pro-Tem Steve Green called for 15 seconds of Silent Meditation, asking everyone to keep the Shannon Crowder family in their hearts and thoughts, who suffered a tragedy over the weekend.

PLEDGE:
Mayor Pro-Tem Steve Green called for the Pledge of Allegiance, asking Police Chief Lee Alirez to lead the Pledge.

APPROVAL OF AGENDA
Mayor Pro-Tem Steve Green stated next is Approval of the Agenda, and I would like to suggest, number one, that someone make a motion but include in that motion there is a typo in H.6.E; where it says 610 Riverside, it should say 700 N. Riverside Drive, I also would like suggest that we postpone item H.4.which is Resolution #01 15/16, Open Meetings Act and H.6., Agreement

Russ Peterson: So moved.

Seconded by Commissioner Jeff Richter.

Mayor Pro-Tem Steve Green asked for further comments or questions, with none, he called for the vote.

Motion Carried Unanimously

PUBLIC COMMENTS:
Mayor Pro-Tem Steve Green called for Public Comments, stating to approach the podium, give your name, and address, any item for the Commission were to go into the black box, each would have three minutes to comment.

Ron Fenn, 316 Foch, approached and made comments regarding obscure Ordinances he was being arraigned under and the Citizen's right to protest, he also mentioned the city should be prosecuted for a number of parking, zoning and sign Ordinances. Mr. Fenn approached and handed the Clerk paperwork.

Mayor Pro-Tem Steve Green: Mr. Fenn could you put it in the box please.

Mr. Ron Fenn: When there's a lock on the box, I'll put it in the box.

Mayor Pro-Tem Steve Green explained he wished to make a point of order right now, but unfortunately legal was not here and the City Manager was called out. So I will reserve that right, before the end of comments, if legal or the City Manager return. Anyone else, yes Audon.

Audon Trujillo, 506 W. 3rd Mr. Trujillo made comments regarding the term of the City Attorney contract coming up, noting there was no ceiling in the contract, the lack of control on the contract, and noted someone needed to be held responsible for technical oversight.

Mayor Pro-Tem Steve Green stated "I'd like to bring up, before I call the next person, I wish to speak, my point of order, Jay, you were not here, when I announced what we're going to do, that after Public Comment, I was going to ask Clerk Harris to pick up any information that was put in the box that is next to the microphone. And, people have been complying with that request; that is the way we do business, Mr. Fenn has issues with the way we do business on that particular issue, I would like to request you speak to Santa Fe, I'm all for citizen's rights, but the Mayor and this Commission have rights as well. And I think if we set reasonable ground rules, and having Clerk Harris pick up whatever information that is in that box, in plain view of everybody, certainly that follows and establishes a line of custody. I don't think that one person should be given any special privilege that we don't afford anyone else. So if you'd check with Santa Fe, I'd appreciate it.

Jay Rubin, City Attorney, agreed.

Mayor Pro-Tem Steve Green called for anyone wishing to comment.

Brad Grower, 720 Eager Arizona, approached and told the Commission to remember the chain of Custody and hold the person in charge of those records responsible.

Ariel Dougherty, Caballo Road, approached and read the Mission Statement for the AD HOC Citizens, she noted she was not pleased her entire public comments were not in the minutes, and that Commissioner Clark's discussion with the Attorney was also not on the minutes. Ms. Dougherty demanded her comments with their meaning and intent be restored. Ms. Dougherty left a paperwork for the Commission.

Mayor Pro-Tem Steve Green called for anyone else who wished to comment.

Lee Alirez, Police Chief, approached and stated he wished to address the Commission and all those in attendance today, being very happy to announce that the their mobile app is up and running, it allows the community to not only get important updates, it allows them to interact with the police department, it not only gives important updates, it also gives a brief history of our 435 year history of our community. It talks about what the men and women of the Police Department are doing, it allows for so many things, illegal dumping they can take a picture and attach their GPS geo tag and send it to us, and we can work with other agencies in the City and get those things addressed. He noted he was real happy that we've had 100% download, he wants everyone in the county to download this app because there's a lot that can be done with it. Chief Alirez left the cart for the Mobile App in the black box for custody, he announced to the audience he would leave cards on the desk for them to take as they are walking out, he asked them to tell friends and neighbors about it.

Mayor Pro-Tem Steve Green asked for Response to Public Comment, with none he noted next was the Consent Calendar. Mayor Pro-Tem Steve Green noted two items in the Consent Calendar; City Commission Meeting Minutes 6/9/2015 & 6/23/2015, and Accounts Payable June 2015, noting that there was a mistake he wished to make public, on the City Commission Meeting Minutes for July 23, 2015, on page 17 there was a correction due to a missed type on Resolution #52-14/15 the original minutes show it as a split vote, actually

the vote was unanimous, and we have new paperwork to reflect that. And on the Consent Calendar which consists of City Commission Meeting Minutes for 6/9/205 and the corrected minutes for 6/23/2015, and Accounts Payable June 2015, I will need a motion to that effect.

"Russ Peterson, Commissioner, moved for approval of the Consent Calendar."

Seconded by Commissioner Jeff Richter.

With no further comments or questions, Mayor Pro-Tem Steve Green called for the vote.

Motion Carried Unanimously.

Mayor Pro-Tem Steve Green announced Presentations; Police Department Badge pinning ceremony for all sworn personnel and Compliance Officers of the Truth or Consequences Police Department. To include the promotion of Michael Apodaca to the rank of Captain; Chief Alirez, the floor is yours.

Lee Alirez, Chief of Police, approached, he noted it was an honor and privilege of promoting somebody tonight, he explained of doing a 360 review and got to know everyone, he noted how honored he was to work with this group. Michael Apodaca was pinned and promoted to Captain. Chief Alirez stated when he started he asked Officer Apodaca with his experience why was he on patrol. Chief Alirez explained the answer he got was that's where they needed him. Chief Alirez assisted by Malissa Cordell, passed out badges and flat badges to all Officers were given a new badge and pinned, he spoke of being honored to work with this dedicated team.

Lee Alirez, Chief of Police, stated he worked with an incredible team, he thanked everyone.

Mayor Pro-Tem Steve Green requested everyone to stand and give a round of Applause for the best Police Department in the State of New Mexico.

Upon the completion of the Presentation, Mayor Pro-Tem Steve Green explained the Commission would take a three to four minute break and we will come back and return to the meeting.

Mayor Pro-Tem Steve Green stated the Commission was now back in session, noting he would wait because someone was handing out something.

PUBLIC HEARING:
Mayor Pro-Tem Steve Green called for the Public Hearing an Ordinance #666 Authorizing the issuance of the City of Truth or Consequences, New Mexico, Joint Utility System Improvement revenue Bonds, Series 2015, in the principal amount of nine hundred ten thousand dollars ($910,000.00); Manager Fuentes.

Juan Fuentes: Thank you Mayor Pro-Tem and Commissioners. Before I get started I just want to make a quick announcement. Unfortunately Mayor Whitehead couldn't be with us today, but she is listening on the radio, and she will be listening to all the Public Hearing

Comments. On this Ordinance when it is on the regular Agenda for new business, we will be calling Mayor Whitehead on the phone, so she can participate on this Ordinance. And with that, Mayor Pro-Tem, Commissioners, I'm going to turn it over to Chris Moorhead, US Department of Agriculture, legal department.

Chris Morehead stated he was a lawyer with Sperling module firm in Albuquerque and was here to make sure the city was in compliance with their loans. He stated this loan does require a majority vote in favor from the commission. He stated that this Ordinance relates to an ongoing project in financing for the joint utility system. He stated it started in September 2014 and it's for a $910,000 loan, which this bond ordinance relates to, as well as a $3,582,000 grant. He stated that this ordinance authorizes issuance of the bonds in a part amount of $910,000 and is payable over 40 years. He continued to talk about the details of the loan and how would benefit the city. He passed out a paper to the commissioners explaining the interest for the loan.

Mayor Pro-Tem Steve Green asked the commissioners if there were any questions.

Commissioner Russ Peterson asked what would happen if the loan was approved tonight.

Chris Morehead stated that if it was approved, it would be published in the paper for 30 days to allow community comments. After that 30 day period they would move towards closing, and then would be put back on the agenda for Commission action.

Mayor Pro-Tem Steve Green asked if it is approved tonight then they are just approving for publication and then will again come back to us for final approval.

Chris Morehead stated that it's in accordance with any ordinance that they approve, the state statute requires they notify the public that they have adopted this ordinance and that it does not come back to the commission.

Mayor Pro-Tem Steve Green noted that on the first whereas on the ordinance it states Union County and it should be Sierra County.

Commissioner Jeff Richter asked of this is specifically for the wastewater treatment plant and asked what the difference between joint utility and wastewater treatment plant.

Chris Morehead stated it's worded that way because of the previous loans and because of improvements that have already been done. He stated they can orally amend it to be more specific.

Klaus Wittern stated that his concerns with this was the interest rate payment would be $729,000 on the debt of $910,000. He stated that is extraordinarily high.

NEW BUSINESS:
Mayor Pro-Tem Steve Green noted next was H.1.Discussion/Action: Correction on Investment with New Mexico State Treasurer's Office Local Government Investment Fund; Juan A. Fuentes, City Manager.

Juan Fuentes, City Manager, explained this is just an internal correction we have to make, back in April 14, 2015 Commission was presented with a request for authorization

to invest the ending cash balance of Electric Division, General Fund and Solid Waste, however, prior to the motion by the Commission, I incorrectly used water, I made the recommendation and I should have said Solid Waste, nevertheless, the motion was made. Staff did make the investment as authorized, when we were doing the financials for June 30th we noticed that it actually should have been for Solid Waste. They are with the State Treasurer's Office, It's just a matter of on internal correction, but I want to put it on the record, for auditing purposes as well. If authorized we will rename that investment with the State, and then the internal auditing, a journal fund entry on the account. City Manager Fuentes stood for questions.

Mayor Pro-Tem Steve Green asked each Commissioner for comments or questions, with none coming forward, he called for a motion to make the correction on the investment.

"Commissioner Jeff Richter moved to make the correction on the investment with the New Mexico State Treasurer's Office Local Government Investment Fund."

Seconded by Commissioner Russ Peterson.

Mayor Pro-Tem Steve Green called for comments or questions, with none coming forward, he called for the vote.

Motion Carried Unanimously.

Mayor Pro-Tem Steve Green noted next was number two, Discussion/Action: Mr. Kenneth Riedemann objection of Resolutions, I assume that's Attorney Rubin.

Jay Rubin, City Attorney: Ah, well, we had a Public Hearing and I gave a presentation, also we had testimony from Mr. Travis, and of course, we went forth with the Battershell proceeding. Mr. Riedemann, who filed the objections, was permitted to present his case and which he did. Mr. Dotson, Attorney, also made some comments and gave, set forth his position. So now it's before you to decide if you wish to Affirm the Resolutions or Object to the Resolution, based on what you heard. And I would recommend we take them one at a time. On 2.A. that's supposed to be 700 n. Riverside?

Mayor Pro-Tem Steve Green: No Sir, two B. is 700 N. Riverside.

Commissioner Richter: 2 B. is 700 N. Riverside. Okay. And 2.A. is 610 Riverside, should that be north. He noted that on one of the letters, it just shows 610 too. I want to make sure we have the correct address on here.

Mayor Pro-Tem Steve Green: Yes, that was the only typo. It's 700 North. Yes North.

Jay Rubin, City Attorney: Yes, its north. They are basically contiguous. And Mr. Travis, are you in agreement that all them are all North Riverside? Is that correct?

Mayor Pro-Tem Steve Green: and the picture says 610 North Riverside. That's a good catch Commissioner. The Mayor Pro-Tem asked if there were any other concerns.

Jeff Richter: No.

Mayor Pro-Tem Steve Green: Okay then lets' take them one at a time. So I do have a question about this, would it be appropriate if any Commissioner has a question from Staff for clarification, can they address Robbie Travis?

Jay Rubin, City Attorney: Yes, I believe so.

Mayor Pro-Tem Steve Green: Okay. So let's take 2.A. First, with the understanding that if there is a motion and a second and we get to discussion, there could be the possibility for a question for clarification asked of Staff.

Jay Rubin, City Attorney: Yes. It's on the Agenda as discussion/action, umm, YES.

Mayor Pro-Tem Steve Green: Okay. So let's do 2.A. first, I need a motion, or not.

Jeff Richter, Commissioner: "Mayor Pro-Tem I move to approve Resolution #37 14/15 a Resolution requiring the prompt removal of accumulated rubbish, wreckage and debris from the Property at 610 N. Riverside."

Mayor Pro-Tem Steve Green: I have a motion, do I have a second?

Jay Rubin, City Attorney: One slight thing I would suggest, you said approve the Resolution, we've already approved the Resolution, and you're affirming it.

Jeff Richter, Commissioner: I'll change my motion, Mayor Pro-Tem I move to Affirm Resolution #37 14/15 a Resolution requiring the prompt removal of accumulated rubbish, wreckage and debris from the Property at 610 N. Riverside."

Seconded by Russ Peterson, Commissioner.

Mayor Pro-Tem Steve Green asked for any further discussion, hearing none coming forward he called for the vote.

Mayor Pro-Tem Steve Green asked for a Roll Call Vote.

Hon. Steve Green responded AYE to a Roll Call Vote.
Hon. Jeff Richter responded AYE to a Roll Call Vote.
Hon. Russ Peterson responded AYE to a Roll Call Vote.

Motion Carried Unanimously.

Mayor Steve Green: next item is 2.B.Discussion/Action: Resolution #38 14/15 a Resolution requiring the prompt removal of accumulated rubbish, wreckage and debris from the Property at 700 N. Riverside.

Jeff Richter, Commissioner: Mayor Pro-Tem I move to affirm Resolution 38 14/15 a Resolution requiring the prompt removal of accumulated rubbish, wreckage and debris from the Property at 700 N. Riverside."

Seconded by Russ Peterson, Commissioner.

Mayor Pro-Tem Steve Green asked for any further discussion, hearing none coming forward he called for the vote.

Mayor Pro-Tem Steve Green asked for a Roll Call Vote.

Hon. Steve Green responded AYE to a Roll Call Vote.
Hon. Jeff Richter responded AYE to a Roll Call Vote.

Motion Carried Unanimously.

Mayor Pro-Tem Steve Green: next is Resolution #39 14/15, a Resolution 39 14/15 a Resolution requiring the prompt removal of accumulated rubbish, wreckage and debris from the Property at 206 N. Riverside.

Jeff Richter, Commissioner: Mayor Pro-Tem I move to affirm Resolution 39 14/15 a Resolution requiring the prompt removal of accumulated rubbish, wreckage and debris from the Property at 206 N. Riverside."

Seconded by Russ Peterson, Commissioner.

Mayor Pro-Tem Steve Green asked for any further discussion, hearing none coming forward he called for the vote.

Mayor Pro-Tem Steve Green asked for a Roll Call Vote.

Hon. Steve Green responded AYE to a Roll Call Vote.
Hon. Jeff Richter responded AYE to a Roll Call Vote.
Hon. Russ Peterson responded AYE to a Roll Call Vote.

Motion Carried Unanimously.

Mayor Pro-Tem Steve Green: Next is Resolution #40 14/15 a Resolution requiring the prompt removal of accumulated rubbish, wreckage and debris from the Property at 610 N. Riverside, do I have a Motion?

Jeff Richter, Commissioner: Mayor Pro-Tem I move to Affirm Resolution #40 14/15 a Resolution requiring the prompt removal Automobiles from the Property at 610 N. Riverside.

Seconded by Russ Peterson, Commissioner.

Mayor Pro-Tem Steve Green asked for any further discussion, hearing none coming forward he called for the vote.

Mayor Pro-Tem Steve Green asked for a Roll Call Vote.

Hon. Steve Green responded AYE to a Roll Call Vote.
Hon. Jeff Richter responded AYE to a Roll Call Vote.
Hon. Russ Peterson responded AYE to a Roll Call Vote.

Motion Carried Unanimously.

Mayor Pro-Tem Steve Green: Next is e. Discussion/Action: Resolution #41 15/16 a Resolution requiring the prompt removal of automobiles from the Property at 700 N. Riverside; do I have a motion?

Jeff Richter, Commissioner: Mayor Pro-Tem I move to affirm Resolution #41 14/15 a Resolution requiring the prompt removal of automobiles from the Property at 700 N. Riverside.

Seconded by Russ Peterson, Commissioner.

Mayor Pro-Tem Steve Green asked for any further discussion, hearing none coming forward he called for the vote.

Mayor Pro-Tem Steve Green asked for a Roll Call Vote.

Hon. Steve Green responded AYE to a Roll Call Vote.
Hon. Jeff Richter responded AYE to a Roll Call Vote.
Hon. Russ Peterson responded AYE to a Roll Call Vote.

Motion Carried Unanimously.

Mayor Pro-Tem Steve Green: Next is e. Discussion/Action: Resolution #42 15/16 a Resolution requiring the prompt removal of junked automobiles from the Property at 206 N. Riverside; do I have a motion?

Jeff Richter, Commissioner: Mayor Pro-Tem I move to Affirm Resolution #42 14/15 a Resolution requiring the prompt removal of junked automobiles from the Property at 700 N. Riverside.

Seconded by Russ Peterson, Commissioner.

Mayor Pro-Tem Steve Green asked for any further discussion, hearing none coming forward he called for the vote.

Mayor Pro-Tem Steve Green asked for a Roll Call Vote.

Hon. Steve Green responded AYE to a Roll Call Vote.
Hon. Jeff Richter responded AYE to a Roll Call Vote.
Hon. Russ Peterson responded AYE to a Roll Call Vote.

Motion Carried Unanimously.

(Note: The Phone Rang)

Mayor Pro-Tem Steve Green: The next item, well we'll wait till we get the Mayor on the phone.

City Manager Juan Fuentes dialed Mayor Whitehead's number.

Sandra Whitehead: Hello.

Mayor Pro-Tem Steve Green: Madam Mayor, this is Steve, and we are in the Commission Chambers and we are at the point where we're going to have discussion/action on Ordinance #666, which you heard the Public Hearing over the airways, I understand.

Mayor Sandra Whitehead: Yes I did.

Mayor Pro-Tem Steve Green: Authorizing the issuance of the City of Truth or Consequences, New Mexico Joint Utility System Improvement Revenue Bonds, Series 2015, in the Principal amount of nine hundred ten thousand dollars ($910,000.00) for the purpose of acquiring, extending, enlarging, bettering, repairing or otherwise improving the City's Joint Utility System.

Sandra Whitehead, Mayor: Okay.

Mayor Pro-Tem Steve Green: So I will need a motion to that effect.

Jeff Richter, Commissioner: Mayor Pro-Tem I move to approve Ordinance #666 Authorizing the issuance of the City of Truth or Consequences, New Mexico Joint Utility System Improvement Revenue Bonds, Series 2015, in the Principal amount of nine hundred ten thousand dollars ($910,000.00) for the purpose of acquiring, extending, enlarging, bettering, repairing or otherwise improving the City's Joint Utility System.

Mayor Pro-Tem Steve Green: I have a motion, do I have a second?

Sandra Whitehead (via telephone): I'll second that motion.

Mayor Pro-Tem Steve Green: I have a second by Mayor Whitehead; is there any further discussion? With no further discussion, Mayor Pro-Tem Steve Green called for a Roll Call Vote.

Hon. Sandra Whitehead responded AYE to a Roll Call Vote. (Via telephone)
Hon. Steve Green responded AYE to a Roll Call Vote.
Hon. Jeff Richter responded AYE to a Roll Call Vote.
Hon. Russ Peterson responded AYE to a Roll Call Vote.

Mayor Pro-Tem Steve Green: It's Unanimous, thank you, thank you very much.

Mayor Pro-Tem Steve Green: The next item; Mayor are you going to stay with us, you're more than happy to, welcome to.

Sandra Whitehead, Mayor: That's fine, I'll just listen you on the radio, and thank you, you're doing a great job.

Mayor Pro-Tem Steve Green: Thanks for the vote of confidence. Come back real quick.

Mayor Sandra Whitehead: I will, I promise. (The line was disconnected)

Mayor pro-Tem Steve Green noted that the next item number four, discussion/action: resolution #01 15/16 open meetings act will be postponed until next meeting.

Mayor Pro-Tem Steve Green: The next item is discussion/action Resolution #02 15/16, sale of nonessential surplus property; City Clerk, Judy Harris.

Judy Harris, City Clerk: Thank you Mayor Pro-Tem. Resolution #02 15/16 A Resolution declaring Surplus Property to be nonessential. Clerk Harris described two pieces of equipment noting they had been used at the landfill, and is too large to use anywhere. The D6H Caterpillar Track Type Tractor and a Caterpillar 615 C Scraper, were used at the landfill, they are quite large, now that the landfill is closed, and they have become nonessential in other words. We also have 296 Transformers. So those are the three items we have. Clerk Harris explained calling and receiving information for auction sites and explained that Sierra County, Socorro and Hatch had all used Gov.deals.com and have been very pleased. Explaining that Sierra County had put reserve prices on both pieces of equipment and received more that they had thought they would receive. Clerk Harris explained that Gov.deals take five years of information on similar equipment and come up with an average price, how they guestamate a reserve price, they sent a man out who got with Andy Alvarez, Sanitation Director and he was pleased with the visit. Staff is requesting we be allowed to dispose or sell the nonessential property. Clerk Harris explained that Bo was here for the Transformers and Andy for the Equipment.

Jeff Richter, Commissioner: I have a couple of questions. On the Transformers how are they to be disposed of.

Bo Easley, Electric Department Head, explained he had contacted several companies and one out of Colorado would pick them up, try to recycle the oil, check the oil for PCGs, they can always scrap them. He explained one company offered credit on account for any transformers they take and we can use the credit for purchasing new transformers.

Commissioner Jeff Richter, moved to approve resolution #02 15/16 sale of nonessential surplus property being described as follows; 296 Transformers, and the second item is a 615C scraper with reserve to be set at $90,000, the third item D6 Cat, which is a dozer with reserve to be set at $40,000.

Mayor Pro-Tem Steve Green: I have a motion do I have a second?

Commission arrest Peterson seconded.

Mayor Pro-Tem Steve Green; is there any further discussion? With no further discussion, Mayor Pro-Tem Steve Green called for a Roll Call Vote.

Hon. Steve Green responded AYE to a Roll Call Vote.
Hon. Jeff Richter responded AYE to a Roll Call Vote.
Hon. Russ Peterson responded AYE to a Roll Call Vote.

Motion carried unanimously.

Mayor Pro-Tem Steve Green: Discussion/Action appointment to Sierra Vista Hospital Governing Board; Judy Harris, City Clerk

Judy Harris, City Clerk, explained that the term for the Sierra Vista Hospital Representative Warren Cross expired in June. The Clerk posted the position in the papers and in posting locations and have not received any names of interest for the position. Staff spoke to Mr. Cross who is willing to stay on the Board. Ms. Harris explained Mr. Cross was here in the audience.

Mr. Warren Cross approached the podium and introduced himself and spoke briefly about the transitions that Sierra Vista Hospital is going through.

Mayor Pro-Tem Steve Green motioned for the appointment of Warren Cross to the Sierra Vista Hospital governing board for a three-year term.

Commissioner Russ Peterson moved.

Commissioner Jeff Richter seconded.

Motion carried unanimously.

Mayor pro tem Steve Green stated the next item is Discussion/Action: MainStreet letter of support.

Assistant city manager Bill Slettom have been approached by the MainStreet organization to provide a letter of support for a grant application and he has Linda DeMarino with him to explain some of the details of the grant they are going after.

Linda DeMarino stated that this grant would give them some money to have a business resource Center so that businesses are perspective business owners can utilize the use of computers, printers, and Internet access. They can also offer trainings and workshops for business owners. She also stated that they are not asking for any money from the city.

Mayor pro tem Steve Green stand for a motion.

Commissioner Jeff Richter moved to approve the letter of support for MainStreet.

Commissioner Russ Peterson seconded.

Motion carried unanimously.

Mayor Pro-Tem Steve Green moved to the next item, Discussion: Veteran's Memorial Park advisory board.

City Manager Juan Fuentes called the two members from the board down to the podium. He stated that they have submitted a letter to the city requesting the deletion of the Veterans Memorial Park advisory board. He then turned the mic over to Mary Jo Fahl and Craig.

Mary Jo Fahl stated that previous boards that were managing the veterans Memorial Park had fallen apart and then the city created the Veterans Memorial Park Advisory Board. She stated that she has been the chairman of this group since it has formed. She stated that the authority has been assigned to the trust board and now the advisory board has no purpose.

Mayor Pro-Tem Steve Green motioned to authorize staff to research this to create an ordinance and bring it back to the commission for further consideration.

Commission arrest Peterson motioned.

Commissioner Jeff Richter seconded.

Motion carried unanimously.

Mayor Pro-Tem Steve Green moved to item number 10, Discussion: update of the golf course.

City manager Juan Fuentes stated that in the audience they have Terry Taylor, Les Defour, and Jesus and Traci will be updating the commission on the golf course project.

Jesus Salayandia went through his presentation about the golf course and talked about the water tank and the improvements that will be done.

Terry Taylor stated that it's real important they get the new pump online and that Jesus has been working with him and letting him know everything that's going on.

Mayor Pro-Tem Steve Green commented that it's a pleasure to hear such a positive outlook for the present and the future of the golf course.

REPORTS

City Manager, No report
City Attorney, No report
Commissioner Jeff Richter, No report.
Commissioner Russ Peterson, No report.
Mayor Pro-Tem Steve Green, No report.

Mayor Pro-Tem Steve Green asked for a motion to adjourn.

Jeff Richter, Commissioner, Moved to adjourn.

Seconded by Commissioner Russ Peterson.

Motion Carried Unanimously

Passed and approved this 29th day of September, 2015 on a motion duly made by Commissioner Russ Peterson and seconded by Commissioner Steve Green, and carried.

Steve Green, Mayor Pro-tem

CITY OF TRUTH OR CONSEQUENCES CORPORATE SEAL

ATTEST:

Angela Torres, Interim City Clerk