

CITY COMMISSION
JULY 28, 2015
REGULAR MEETING

TIME & PLACE: The Mayor and the City Commission of the City of Truth or Consequences in the County of Sierra, and State of New Mexico met in Regular Session in full conformity with the law and ordinances of said Commission in the Commission Chambers of said City, July 28, 2015, with the meeting starting at 6:00 P.M.

PRESIDING OFFICER: The meeting was called to order by Mayor Sandra Whitehead, who presided and Judy M. Harris, City Clerk acted as Secretary of the meeting.

ROLL CALL: Upon calling the roll the following Commissioners were reported present.

Hon. Sandra Whitehead, Mayor
Hon. Steve Green, Mayor Pro-Tem
Hon. Jeff Richter, Commissioner
Hon. Kathy Clark, Commissioner
Hon. Russ Peterson, Commissioner

Also Present:

Juan Fuentes, City Manager
Jay Rubin, City Attorney
Judy Harris, City Clerk

QUORM: There being a quorum present, the Commission proceeded with the business at hand.

CEREMONY: Mayor Sandra Whitehead called for fifteen seconds of Silent Meditation.

Mayor Sandra Whitehead called for Commissioner Kathy Clark to lead the Pledge of Allegiance.

APPROVAL OF AGENDA: Mayor Sandra Whitehead suggested the agenda be amended to postpone item D1 City Commission Public Hearing and regular meeting minutes for July 14, 2015 to the next City Commission meeting, and item H Response to Public Comment from the bottom of the agenda to just below item C after comments from the public.

Mayor Sandra Whitehead called for a motion to approve the agenda as amended.

“Mayor pro-Tem Steve Green moved for approval of the Agenda as outlined by

the Mayor.”

Seconded by Commissioner Kathy Clark.

Mayor Sandra Whitehead called for further comments or questions, with none, the Mayor called for a Vote.

Motion Carried Unanimously.

**COMMENTS FROM
THE PUBLIC:**

Mayor Sandra Whitehead called for Public Comment, noting those wishing to comment would get three minutes, may only approach the podium once, and any material for the Commission was to be left in the black box by the podium.

Audon Trujillo approached the podium and talked about the article he saw in the Sentinel about the Police Department and their investigation going on with the signatures for the People’s Ordinance. Audon stated that he talked with the Police Chief about this article and stated that the Chief said there was no investigation going on about the signatures on the petition of the People’s Ordinance. Audon Trujillo stated that all the events going on were scary stuff and that having three officers show up at Ron Fenn’s house to serve him a citation is severe. Audon stated that he is happy that the truth is coming out and that any issue with the petition should be taken to the City Clerk not the police.

Ben Kalminson approached the podium and stated his name and address as 1007 Kopra, representing the Sierra County Youth Soccer Association. He stated that a while ago the association had come before the board to ask for use of a field at Louis Armijo Sports Complex and he wanted to give an update on the status. He stated that they received some grant money from the Rotary Association to allow them to put up a fence. He thanked the Commission for all their help and the City’s cooperation. He hopes to have the project finished within nine months to a year. In addition he thanked Juan Fuentes and Don Armijo personally for their help.

Michael Hogg approached the podium and stated his address as 516 Austin. He spoke about a financial handout he provided explaining the financial losses for the senior meal site.

Ariel Daughtery approached the podium. She asked the Commissioners why the public should obey where they put the papers for tonight as they propose changes in rule 17, when they don’t follow their own rules. She pointed out item H in Public hearing that states the presiding officer calls for proponents to speak in rebuttal. She stated that the commission failed to allow the proponents this opportunity at the June 23 public hearing. She stated that she asked attorney Ruben on this matter, to which He said there’d be no cross-examination or rebuttal. On her second item she talked about the missing eight minute conversation from the June 23 City Commission meeting. She stated that she transcribed this conversation and attached it to her handout and asked that it be included in the public record. She stated that on a more cheerful note, she received an IPRA of the city’s booking calendars of the Lee Bell Johnson Senior

Center for all of 2014. She stated that the Civic Center is not like Lee Belle because the bathrooms are locked at the Civic Center and they were not at Lee Belle.

George Szigeti approached the podium and stated his address as 913 Spruce St. He stated he would like to bring up a few things he learned at the open meetings act training last year. He further stated that opportunity for public comment is not required under the open meetings act, it is a privilege granted by the governing body. He stated that if the governing body feels public comment is interfering with the conduct of business it can be canceled at any time. He also stated that since it is not part of the official meeting, there is no requirement for public comments or any documents presented during public comment to be entered into the minutes of that meeting. He stated that approaching the podium and presenting documents to the city clerk under the pretense of preserving the chain of custody is nothing more than cheap theatrical posturing.

Ron Fenn approach the podium and stated his address as 316 N Foch. He then stood at the podium with a paper in front of his mouth with a circle and a slash through it for the entire three minute allotted time.

Mayor pro tem Steve Green stated that he thinks Mr. Fenn is making a mockery of the city commission and this business meeting.

Attorney Jay Rubin suggested they let the three minutes lapse.

Mayor Sandra Whitehead thanked Mr. Fenn and asked him to please place his items in the box next to the podium.

Randall Lawson approached the podium and stated his address as 701 Poplar. He stated that he was not offended by what Mr. Fenn did and that he should have to take responsibility for the things he has done. He stated that he and other citizens are tired of Mr. Fenn's shenanigans. He stated that Mr. Fenn never has anything positive to say or do. He also said that Mr. Fenn is worried about the city wasting money but now they have to spend money on this election.

Lorri Doley approached the podium stated that she lives in Elephant Butte and is currently in the process of purchasing the property at the 900 block of Spruce Street. She stated that she does not usually voice her opinion on such public events, however certain events have taken place this year that she wants to speak about. She stated that her concerns can be summarized in one question which is, what else needs to occur to inspire the commission to revisit and revise city ordinance that involves vicious canines? She stated that this year alone there have been two incidences involving vicious canines that have made headlines. She talked about the details of the two incidents that happened this year. She thanked the Commission for their time.

**RESPONSE TO
PUBLIC COMMENT:**

Mayor Sandra Whitehead asked if there were any responses to public comment.

Commissioner Kathy Clark stated she had two comments. She stated that before

she was a commissioner she would come to the city commission meetings and speak during public comment. She stated she would have her speech typed up and taken to the city clerk and they would not have to retype them in the minutes. She then stated that the people's public comments began to change and became more vicious. She questioned how it has changed from a courtesy to the city clerk to something that we have to put a black box right by our chief of police. She stated that her second comment was about Lori's comments with the vicious dogs. She stated that she has had a conversation with the chief of police about the issues she has brought up and the city's trying to find out what they can do about this.

Mayor Pro-Tem Steve Green stated that he wants to respond to Mr. Hogg. He suggested that they take that information and give it to the representatives of the SJOA and stated that this should be an item of discussion on their next meeting.

Commissioner Peterson stated that we have a very good city police chief and police staff and he hopes that the majority of the town gets to know them and that they are here to help us not to scare them.

Mayor Sandra Whitehead thanked everybody for their public comments and stated that their comments are valuable information to us and they always try to find answers for them.

CONSENT CALENDAR:

Mayor Sandra Whitehead called for the Consent Calendar, consisting of item City Commission Meeting Minutes of July 14, 2015. Mayor Sandra Whitehead stated that this item has been postponed until the next meeting.

The next item is the golf course advisory board meeting minutes of June 10, 2015 and the sub recipient quarterly reports.

"Mayor Pro-Tem Steve Green moved for approval as presented by the Mayor."

Seconded by Commissioner Kathy Clark.

Motion Carried Unanimously.

UNFINISHED BUSINESS:

Mayor Sandra Whitehead called for Discussion: Resolution #01 15/16 open meetings act; Judy Harris, City Clerk.

Judy Harris, City Clerk, approached and explained that she brought resolution #01 15/16 to the commission previously and had some corrections made and the resolution follows the state requirements now. She stated she would stand for any questions the commission had.

Commissioner Steve Green commented on a correction that could be made in

section C with the wording.

No further comments from the commission.

Mayor Sandra Whitehead suggested changing the city commission meeting times and moving them during the day. She also suggested having one meeting a month instead of two meetings. She stated that there has been a lot of issues with having time to review all the items and for staff to get all of the minutes done. He stated that she thinks more people would be able to show up for the meeting and that the staff would benefit by not having to work all day and show up at a meeting all night. Mayor Sandy Whitehead then asked the commissioners for any questions or comments.

Commissioner Russ Peterson stated that he is open to any time they have a meeting and he sees pluses for the senior population having them during the day. He stated he also sees some minuses for some of the commissioners that might have to miss work.

Commissioner Jeff Richter said once a month is fine with him as long as it starts at eight in the morning.

Mayor Pro-Tem Steve Green stated he would like to think about it a little more. He stated that with all the deadlines the city has we would have to have more special meetings. He stated that he is concerned about the amount of time staff would have to put forth to only having one meeting a month.

Commissioner Kathy Clark stated that her workday is 8 to 5 so meeting at four would be ideal but she said the question really needs to be given to the city clerk and city manager because they are the ones that do the prep work for the meetings. She stated that she is with Mayor Pro-tem Steve Green and would need to think about it more.

City Manager Juan Fuentes stated that he will be sitting down with the city clerk and preparing a memo to discuss this further at the next city commission meeting.

Mayor Sandra Whitehead called for Discussion: Resolution #03 15/16 Amended Rule 17 7- 17 - 15 actions for "Comments From the Public" or public hearing; Jay Rubin, city attorney.

Attorney Jay Rubin stated that we have an unwritten rule about the public leaving their written documents and handouts in the box next to the podium during city commission meetings. He stated the problem with having an unwritten rule is that if someone were to violate that rule, there is nothing to enforce your will. He stated he had looked into the general procedure and decided to add it to rule 17. Read the rule as follows: any person making a public comment may also supplement their comment by submitting documents. Such documents however, must be deposited into a receptacle that is located next to the podium. The speaker [may not approach the commissioners without the expressed consent of a majority vote of the commission. At the close of the open

portion of the city commission meeting, the city clerk shall collect the deposited documents from the receptacle. He also stated that he added a sentence to VI that says: anyone who violates the rules of conduct may be subject to having their speaking privileges removed at future city commission meetings and may be subject to removal from that particular meeting.

Mayor Sandra Whitehead asked for any comments from the commission.

Commissioner Kathy Clark asked at what point does the commission vote to have a person removed from the meeting.

Attorney Jay Rubin stated that is something that he and the police chief have talked about and it's something they would have to get more information on. He stated that if they notice someone not following the rules of conduct there would be a warning, and if they still continue to violate the rule, then the commission could make a vote and then that would be up to the police chief to enforce.

Commissioner Kathy Clark asked if someone wanted to approach the commission, if they would have to make a vote right at that particular moment.

Attorney Jay Rubin stated that he knows it's cumbersome but he doesn't know of any other way to do it. He stated this is a draft and he is open to suggestions of changes.

Commissioner Russ Peterson stated he is a believer and if something can be written to alleviate problems than it needs to be done. He stated that if the commission doesn't make rules to enforce things and doesn't care the same effect comes from the people. He stated that having something in writing makes it so that is what everyone should be doing and sees it as necessary.

Mayor Pro-Tem Steve Green stated he was sick and tired of people not following the rules that the mayor sets forth and he agrees with Commissioner Peterson. He would also like to point out the wording on number six and should be changed to say and instead of or. He thinks that we need to treat everyone fairly and equally.

Commissioner Kathy Clark agreed with Mayor Pro-Tem Steve Green and Commissioner Peterson that there needs to be something written down but she would like to propose an addition to saying that whoever is in charge of the meeting can modify the procedure if need be for that particular meeting.

City Manager Juan Fuentes suggested that the part that talks about the black box by the podium should be re-worded to say a receptacle that is designated by the chair.

NEW BUSINESS:

Mayor Sandra Whitehead called for the next item, discussion/action: Resolution #04 15/6 New Mexico Gas Franchise Agreement; Juan Fuentes, City Manager

City Manager Juan Fuentes stated that on January 13, 2015 the

commissioners passed and adopted ordinance #658 granting a franchise agreement with New Mexico Gas same terms conditions of the previous ordinance. The New Mexico Gas Co. has been following this ordinance and it has been forwarded to a representative of the New Mexico Gas Co. who is no longer with the company so they are asking the city for additional time, up to August 1st so that they can in turn execute that agreement. This resolution will authorize that extended amount of time. He stated that it has been reviewed by legal representation and suggests it be approved.

“Mayor Pro-Tem Steve made the motion to approve caps resolution #04 15/16 New Mexico Gas Co. Franchise agreement.”

Seconded by Commissioner Kathy Clark.

Mayor Sandra Whitehead called for further comments or questions, with no further coming forward, Mayor Whitehead called for a Roll Call Vote.

Hon. Sandra Whitehead responded AYE to 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. Kathy Clark responded AYE to a Roll Call Vote.

Hon. Russ Peterson responded AYE to a Roll Call Vote.

Motion Carried Unanimously

Mayor Sandra Whitehead called for the next item Discussion/Action: Resolution #05 15/16 Financial Fiscal Year Revenue and Expenditure Budget; Juan Fuentes, City Manager.

City Manager Juan Fuentes stated that he passed out the actual recap and that is what he would like to adopt. He went over his presentation discussing the budget and some of the changes that were made. He stated one of the biggest changes was \$150,000 set aside for the Healing Waters Plaza. He stated that he wants to start setting aside money to start refurbishing some of the city buildings that need work. Juan asked building inspector Robbie Travis to give an update on the FEMA flood plan.

Robbie Travis said they did finish the survey on that and we do have it and they are going to give a presentation next month. He said they just need to submit the application and everything looks good.

City manager Juan Fuentes continued with his presentation on the budget.

Mayor Sandra Whitehead asked if the commission had any questions or comments.

Commissioner Kathy Clark asked about the amount that was set aside for the healing Waters Plaza and if the entire \$230,000 was just for that project.

City Manager Juan Fuentes stated that in the preliminary budget they had set aside \$150,000 from the general fund for the Healing Waters Plaza and they also transferred \$100,000 from lodgers tax that was dedicated to the Healing Waters Plaza and the Lee Belle improvements.

Commissioner Kathy Clark commented that she is very happy that the recreation fund and the capital improvement fund are going up because she thinks it's very important that we are investing in the golf course and swimming pool and recreational activities, and she's excited to see the kids using these. She stated that she is also happy to see the debt retirement and she thinks it's an excellent policy recommendation. She stated she does have a couple of concerns, one about the swimming pool because it is costing more to repair it than build a new one. Another concern she has is that the small cities distribution is random and she's afraid that it can't go down again next year and they will be short money in the general fund. She also commented that she was the one person to not vote for the preliminary budget and the reason was because we have an extra expense for the election and legal fees and they're not listed in the budget.

Commissioner Jeff Richter commented that he agrees with Commissioner Kathy Clark about building a new pool rather than putting more money into the old one.

Commissioner Russ Peterson stated that he notices no obvious shenanigans going on in the budget. He stated he has no questions.

Mayor Pro-Tem Steve Green questions the small cities distribution and asked if the change in the law is what Juan is figuring into the budget because the amount is random and hasn't always been the same. He asked where in the change of law gives Juan that sense of security to put that money in the budget.

City manager Juan Fuentes stated that he used to be \$175,000-\$195,000. In the last couple years the amount has jumped up to \$600,000. He stated that even last year they only projected \$300,000 in the budget. He stated that he talked to other fellow city managers that receive this distribution and they experienced the same thing. He stated that it's a formula that the state comes up with and we don't know the amounts we're going to receive. He stated they did change the law to increase the amount of money for the small cities distribution.

Mayor Pro-Tem Steve Green asked if SCRDA is going to receive \$200,000 a year plus the quarter of one percent or are we going to wean them off our financial contribution.

City manager Juan Fuentes stated that they are in a discussion of the new agreement with SCRDA and they are talking about somehow reducing the City's contribution.

Mayor Pro-Tem Steve Green asked if he is correct in that SCOOG is not going to charge the city administration fee for the CDBG grant.

City Manager Juan Fuentes stated that right now they don't have anything with caps SCOOG because they have just been notified that they received it.

Mayor pro tem Steve Green asked if the \$.50 per person per population for the bus rides added into the budget.

City Manager Juan Fuentes stated that it is included in the governing body budget under agreements and contracts.

“Mayor Pro-Tem Steve Green moved to approve Resolution #05 15/16 Final Fiscal Year Revenue and Expenditure Budget.”

Seconded by Commissioner Russ Peterson.

Mayor Sandra Whitehead called for further comments or questions.

Commissioner Kathy Clark commented that the city clerk’s budget is lacking the \$6,500 for the election and the swimming pool issue, she asked if the budget is approved, if these things can be looked at in the future since it’s a working project all the time.

City manager Juan Fuentes stated that in regards to the city clerk’s budget, throughout the year there will be budget adjustments because the election is being done through a new company so the clerks will get a better idea of the actual costs. He also stated that as for the pool project, city staff just needs to come forward and prioritize projects.

Commissioner Russ Peterson commented that this budget is not set in stone and there can be changes made as needed.

Mayor Sandra Whitehead called for further comments or questions, with no further coming forward, mayor Whitehead called for a Roll Call Vote.

Hon. Sandra Whitehead responded AYE to 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. Kathy Clark responded AYE to a Roll Call Vote.

Hon. Russ Peterson responded AYE to a Roll Call Vote.

Motion Carried Unanimously

Mayor Sandra Whitehead called for the next item Discussion/Action: Joint Powers Agreement between the County of Sierra New Mexico, this Sierra County New Mexico Detention Center Administrator and the City of Truth or Consequences, for the purpose of housing and care of adult city prisoners, Lee Alirez, Police Chief.

Police Chief Lee Alirez stated that there are some changes since the last agreement that he wants them to be aware of. He stated that the previous agreement had a lot of loopholes and a lot of room for misinterpretation which has been cleared up in the new one. He stated he has come up with a probable cause statement and met with the district attorney’s office about it, and it will be

filled out by the arresting officer and taken to magistrate court within 24 hours of the signing of the statement. He stated they also follow a policy to cut down on costs that doesn't require them to arrest every person they cite for a crime. He stated they are still well below the industry standard costs per prisoner.

Commissioner Kathy Clark asked when someone needs to go to the hospital as opposed to jail, is it then up to the officer to make that decision.

Police Chief Lee Alirez stated that there are sometimes where public safety demands they get taken into custody but there is also a lot of times where they can issue a citation and a court date rather than take them into custody. He stated that the only time they themselves will sign for hospital bill is when the police are responsible for the injury.

Mayor Pro-Tem Steve Green asked if this agreement includes the transportation to Deming as well.

Police Chief Lee Alirez stated that this amount includes that cost as well.

City manager Juan Fuentes recommended to approve this JPA.

"Commissioner Russ Peterson moved to approve the JPA for housing and care of adult city prisoners."

Mayor Pro-Tem Steve Green seconded.

Motion Carried Unanimously.

Mayor Sandra Whitehead called for the next item, Discussion/Action: Building Inspector items related to: Alternate Summary Procedure, Faykus Family Trust and Alternate Summary Procedure, Stout Family.

Building Inspector Robbie Travis explained that this is their process to split a lot with no more than two lots created. The family is wanting to split their property at 1202 Turtle Back Ave.

City manager Juan Fuentes recommended that the commission approve the Alternate Summary Procedure, Faykus Family Trust

"Mayor Pro-Tem Steve Green moved to approve the Alternate Summary Procedure."

Commissioner Kathy Clark seconded.

Motion Carried Unanimously.

Mayor Sandra Whitehead called for the Alternate Summary Procedure for the Stout Family.

Building Inspector Robbie Travis stated that this is the same process to split a tract of land.

City manager Juan Fuentes recommended that the commission approve the Alternate Summary Procedure, Stout Family.

“Mayor Pro-Tem Steve Green moved to approve the Alternate Summary Procedure.”

Commissioner Kathy Clark seconded.

Motion carried unanimously.

REPORTS:

Mayor Sandra Whitehead called for reports, starting with City Manager Juan Fuentes.

Juan Fuentes, City Manager, no report.

Mayor Sandra Whitehead called for City Attorney Rubin.

Jay Rubin, City Attorney, no report.

Mayor Sandra Whitehead called for Commissioner Russ Peterson.

Russ Peterson, Commissioner, stated that he is very glad they approved the final going into DFA. He commented that anything he's had a question on, the city manager has answered them to his satisfaction.

Mayor Sandra Whitehead called for Commissioner Jeff Richter.

Jeff Richter, Commissioner, no report

Mayor Sandra Whitehead called for Commissioner Kathy Clark.

Kathy Clark, Commissioner, commented that she made a special effort in every little town they drove through to go to every visitor center. She stated that every town she stopped in was very proud of their visitor center.

Mayor Sandra Whitehead called for Mayor Pro-Tem Steve Green.

Mayor Pro-Tem Steve Green asked to Commissioner Kathy Clark about the signage for visitor centers.

Commissioner Kathy Clark stated that there was always a sign between one and 3 miles of the exit which gave you enough time to find the visitor center off the highway. She stated then after you are off the highway within a quarter-mile there was another sign.

Mayor Pro-Tem Steve Green thanked all the seniors who participated in the Senior Olympics. He stated that the mayor brought home the gold in bowling and congratulated her. He commented on the fact that we are recycling more than the state average and thinks it would be great if the commission or public utility advisory board could get people more involved in recycling.

City manager Juan Fuentes asked if Police Chief Lee Alirez could come up and give a few announcements.

Police Chief Lee Alirez stated that he was part of a resolution board for NMML for public safety. He stated that he has been part of some of the resolutions that are on their way to become a house bill and Truth or Consequences name is attached to that and he's very proud of it. He also stated he has been chosen to fly to Indianapolis to attend a four day conference about drug prevention and represent the city of Truth or Consequences. He stated this will open up some doors for grants and networking.

Mayor Sandra Whitehead, no reports.

Mayor Sandra Whitehead called for any further comments or questions. With none coming forward, she called for a motion to adjourn.

“Mayor Pro-Tem Steve Green made the motion to adjourn. “

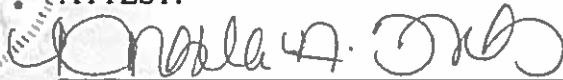
Seconded by Commissioner Kathy Clark.

Mayor Sandra Whitehead asked for any further questions or comments, with none coming forward, the Commission adjourned.


PASSED AND APPROVED this 29th day of September, 2015, on a motion duly made by commissioner Steve Green and seconded by Commissioner Kathy Clark and carried.



ATTEST:



Angela A Torres, Interim City Clerk



Sandra Whitehead, Mayor