

CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, SEPTEMBER 13, 2017

A. CALL TO ORDER

The meeting was called to order by Mayor Steve Green at 9:00 a.m., who presided and Renee Cantin, City Clerk-Treasurer, acted as Secretary of the meeting.

B. INTRODUCTION

1. ROLL CALL

Upon calling the roll, the following Commissioners were reported present.

Hon. Steve Green, Mayor
Hon. Sandra Whitehead, Mayor Pro-Tem
Hon. Kathy Clark, Commissioner
Hon. Rolf Hechler, Commissioner
Hon. Joshua Frankel, Commissioner

Also Present: Juan Fuentes, City Manager
Renee Cantin, City Clerk-Treasurer

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

2. SILENT MEDITATION

Mayor Green called for fifteen seconds of Silent Meditation and read some thoughts about these last few weeks which has not been a good time for planet earth. Hurricane's, floods, wildfires, earthquakes, and mudslides, resulting in the unfortunate loss of life and property. He asked to keep in our thoughts the family of those lost, we are two days past 9-11 which should be in our hearts and minds. And also the first responders who put their lives at risk to save others. They are to be memorialized.

3. PLEDGE OF ALLEGIANCE

Mayor Green called for Commissioner Hechler to lead the Pledge of Allegiance.

4. APPROVAL OF AGENDA

Mayor Pro-Tem Whitehead moved to approve the agenda as submitted. Commissioner Frankel seconded the motion. Motion carried unanimously.

C. COMMENTS FROM THE PUBLIC (3 Minute Rule Applies)

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Mayor Green 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.

Millie McCloud, lives on Magnolia addressed the Commission related to:

- 1) Came to give a suggestion from her ladies in the afternoon aerobics class at the pool, asking to not put the cover up in October and save that money to put towards resurfacing the pool. Because its been two years since the state threatened to close the pool down if those things weren't done. And one of those things was to resurface the pool. She would say it would be \$35,000 - \$45,000 you would save, or maybe more where you could resurface it. She saw a proposal for \$61,000 on spraying and painting the surface. She doesn't know if it's still on the table but it seems to her it would be the sensible thing to do and not put that cover on this year only.

Carolyn Carzares, T or C addressed the Commission related to:

- 1) She read in the paper about the meeting tonight at the Civic Center to discuss the flight pattern over the lake. She asked for clarification on the time.
- 2) She asked how far the sound of a sonic boom will travel.

Sophia Peron, Truth or Consequences addressed the Commission related to:

- 1) Sonic Booms and the last meeting discussion of explosions. She noticed ever since she has lived here for 14 years, that every Saturday and Sunday morning about 7:00 a.m. or so, you start hearing automatic gun fire shooting from the gun range. You can hear it all the way in town. She lives in town by the Hot Springs. She's sure other people hear it. She doesn't mind the church bells, but then after the shooting the guy in the plane fly's over in what she calls the flying lawn mower. These people are out there in the mornings driving these planes. These things are quality of life things.
- 2) The night sky ordinance, we have never adopted. It's important, we have stars, we have planets, and stuff we want to look at. Then just taking care of things, the pool and parks is part of it, so let's do it.
- 3) Last week she wasn't here and was so impressed hearing so many of her fellow citizens she had never heard before get up and talk about things they care about.
- 4) She has a document she is going to give to the City Clerk. It's about the way we run business here in the meetings. It's a 2009 decision about meetings that we are in many violations.
- 5) When she went to the website, it says T or C GoDaddy did not pay it's bill. You can remedy them very easily without her to complain about it.

Sharon Eastvolde, 1301 E. Silver addressed the Commission related to:

- 1) Thanked people who are asking us to maintain our dark skies and our natural environment in our area. They are researching how to put in a Chihuahuan desert and those areas can draw in lots of tourists. They heard about how the Village of Corales is having bird tours at \$25 a pop, so keep those things in mind.
- 2) Also commented on Item number 2 about recusing a Public Utility Advisory Member when it's an influence on their income. It's a no brainer, she hopes they pass it.

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3) the Public Hearing on Mobile Homes, if you want that closer please keep emergency operations in mind. She just added last night when they arrived, this is more like going home than Albuquerque. It's a beautiful place and they love it for the peace and the dark skies, so please keep that in mind.

Diane Lombardo, Silver St. addressed the Commission related to:

1) Here to talk about the Goldfish issue. She's not really up on what all of this is about. She knows this is about laws in selling animals. If this is for somebody important, would they do it for the average Joe? This is totally mind boggling why it's even an issue. If they are going to sell goldfish, tell them to get a business license. If they are giving them away, she remembers the carnival games where you give the goldfish away. Fish even though they are not cuddly and warm they are a life. Parents have to learn how to keep them alive. They need water temperature, chlorine out of the water, not over feeding, surface to water air. She would bet the fish that are given away, if they don't die in the first week, they will die in the first month. Most people are not going to take time to care for them properly. What if they get ick, most people don't know what to do. She is against this, we have laws, let's stick with them.

Ike Eastvolde, 1301 N. Silver addressed the Commission related to:

1) They are extremely impressed with the wildlife in that area of the city. Just around their property they have listed 41 different species of birds which indicates a healthy ecosystem. It's a great opportunity to take the lands and create a conservancy. Some of the fine lands are by the school. There are many Eco Scientists who could be contacted and brought to bear. Or open space lands can be used to shape the urban form. And once you have research you can provide for outdoor recreation. When he was a young man, he went to a National Monument and was fortunate enough to take a hike with a Ranger and learn of the native people use of desert plants. He was absolutely amazed there was a single plant in the desert the native people didn't use for fiber, food, or medicine. That started him on a lifelong interest to learn about the deserts. He showed there are life-giving species which tell an interesting history. He asked the Commission to keep those in mind.

Elena DeLaTorre, Riverside Dr. addressed the Commission related to:

1) Variance, she lived in #26 and they were asked to vacate because they complained about the mobile home being too close to their property. They moved her shed to the backyard and took away their carport. She added you can stand on the back porch of #26 and raise your hand and measure 5 feet to their porch. They are saying #28, but it's on the other side. She hopes it doesn't pass because it's illegal, there's a gas line between both trailers and people cannot get in. They told us to vacate because we complained to the Code Officer. He doesn't think anyone would live in that one because it's only 5 feet away from bedroom window.

Ron Fenn, N. Foch addressed the Commission related to:

1) Mr. Green, good article about the Space Tourism. Seems to him it's an appropriate time to distract people from the real issues of this meeting which is the \$3 million loan for the new Police Station. A few issues, he guesses no one did any checking of facts, but

as far of State of New Mexico is concerned, the Last Frontier does not exist. There is no apparent organization called the Last Frontier as a tour company at all. Later on you say our customer is not the tour operator, it's the MOU for Spaceport America. And you say to their credit since the MOU was in place, they have been paying rent every month. They do not pay rent, unless you call zero a rent, they pay \$300 towards utilities. Rent is the \$3,500 a month they pay for an office in Las Cruces to much wealthier people than we are. And not for a public building or private building.

2) He was reminded that tomorrow there is a free admission to the Spaceport for anybody interested. There is going to be a the Legislative Committee Meeting from 9-3 it will be open and anyone can visit. He called last night for the tours and it doesn't connect to anyone.

3) Follow the Sun Tours couldn't make it, and you think if another group comes in and takes six or seven people out there, they can make a living. Not on his dime, thank you. The Spaceport is a money making organization, but if they give it to them to use, that's anti-donation and it will have ramifications.

Cary Vanderverter, 1005 Kopra St. addressed the Commission related to:

1) He wants to comment on the street repairs. He is for it and thinks a lot of people are. But he feels their method of using property taxes is not the way to go for fixing the streets. He feels they should get it from people who actually use it. For example, he has a home that let's say is \$100,000, his neighbor has one worth \$100,000. She's a widow that doesn't drive a car, and they drive two cars. The cars are what bothers the streets. His neighbor down the street has two teenagers and four cars, but they all pay the same amount. We should try to implement a wheel tax so the cars that use the street would be the ones who pay for it. He would like to see them use something more than chip seal that would last longer.

Debra Peters, addressed the Commission related to:

1) Here to talk about Item 3 for Ordinance 688, the amendment to Section 3-6.A. Like Diane, she is wondering why this is going on. But if it's changed it will open up the possibility for people to sell fish. For the audience who is not familiar with the definition of animal as stated in Chapter 3, it defines animals as any vertebrate member of the animal kingdom, excluding man. So fish are included in this definition. The ordinance is currently written and have prevented animals from being sold at a lot of places like Walmart, Bullocks and flea markets. If this is changed it will open up the possibility of goldfish being sold anywhere. There are approximately 25 species of goldfish, to include some exotic ones that would bring a pretty penny to anybody at a flea market. In other words, by allowing this for one or two people, you are opening it up to every city resident and every non-resident who wants to make a quick buck off feeder fish or exotic goldfish. It's just too broad of a change. Currently, if someone is selling animals and not properly licensed, Animal Control can either site them into court or ask them to cease that activity. If this moves forward they would be subject to the Animal Cruelty ordinance. Putting them in tap water or water that's too acidic or alkaline or the pH is off, can be deadly. Does the average person know this, no. Goldfish for sale would need to be kept at an optimum temperature approximately 70 degrees. This temperature could be monitored by Animal Control who may have a thermometer in their truck. So she asks, rather than open up

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this entire can of worms, can't a person obtain the proper license and be done with it?
Thank you.

Paul Pearce, resident of T or C addressed the Commission related to:

1) Wanted to answer the question of the impact of sonic booms. He lived in southern Arizona for 44 years and he spends weeks in the outdoors doing hikes and was exposed to the sonic booms and you can hear them for 50 miles when planes were flying over Tucson. And the Air Force always denies when they reach those speeds. People get cracks in their walls, their animals get frightened and it's always denials. When they finally admit it might be their equipment, they claim the damage was done before they flew over. The consequences of being in a flight zone are tremendous, if we allow it to happen, we are stuck with it. It's not a pretty sight.

2) This is one of the poorest places and poorest states in the nation and we don't have a whole lot going for us, so we rely on tourism. The sonic booms can affect that. When you get buzzed by a sonic boom, you can literally be knocked over and scared by one. He moved here to escape this kind of high noise level to have peace and quiet, and he loves it that way. He hopes people will attend the meeting tonight and think long and hard. It's a fast process and the EIS is going to happen really quick. If you're going to make comments or take a stand, you need to do it soon.

Linda DeMarino, Mainstreet Truth or Consequences addressed the Commission related to:

1) They received a grant from AARP community challenge for \$15,921 for a walk program to fix sidewalks downtown. As you know, some of them are historic. They've already been in contact with the State Historic Preservation Office, and a WPA expert because MainStreet Truth or Consequences is a Historic Preservation ethic, so they want to do whatever they can to preserve the historic nature of our downtown. The second part of that is the Walk downtown, they would like to get more people walking through downtown. So the idea is to have community leaders like yourselves leading some of these walks. The downtown area is about a mile, and she will be contacting some of them to get involved and lead these walks.

2) Trick or Treat will be held downtown on October 31st.

3) Scoop the Loop in November 3rd, the day before the Car Show to come the night before. It's cool to see them at a car show and even cooler to hear them revving their engines.

4) Shop small, shop local this year after Thanksgiving.

5) Then Old Fashioned Christmas on the first Saturday which is December 8th. Be sure to get them all on your calendar.

Debbie Jo Pipkins, use to live on Winter Haven addressed the Commission related to:

1) That ordinance to park another Mobile Home 11 ft. From the other mobile home, is ridiculous. Because they had it measured and the utility bill went up twice or three times as high as the following month. They were paying \$150 for a month. They moved here to retire and it's been nothing but a nightmare. Those who bought the mobile home park, just raise the rent and don't clean the park or do anything. She talked to the CEO and he's asked them to move those mobile homes, and these people keep putting it off. And

now they want this other thing to happen, if it's going to happen, people will start moving away from this town. Thank you.

Ron Pacourek addressed the Commission related to:

1) He's retired and is drawing his Social Security. This year he got a \$5 raise but Medicare took that back. So the County can raise their property values 3% every year, and tax it appropriately. But they don't care that our sewer rate went up by 5%, and will go up 5% every year. And with all of these catastrophes it's probably going to go up again. And that doesn't count his sewer which is going up 5% every year and it's compounded. It doesn't care that his car insurance is going up. Now, his insurance is going up and the provider doesn't care, that's more money out of pocket. Haircuts went up 22%, hey that's funny, but it's another \$2 out of my pocket. So when you're thinking about automatic raises are you really thinking about your constituents or what's right for the public, and people who live here? He understands our community is shrinking, but the rest of the people have to pay for more to keep up with what the city is doing now. In the company he worked for it was do more with less. In government, he never heard that, it's like "we are going to do more, with more of your money." Thank you.

D. RESPONSE TO PUBLIC COMMENTS

Commissioner Clark responded to Ms. McCloud feels her comment is very generous about closing the pool and not putting the cover on for the winter. But if we did that, we would need to look at something like a heat exchanger or something else, because we have made a commitment to have a pool 12 months out of the year. But we do know we will find the money to resurface the pool. F-16's she hopes Mr. Pearce will be at the meeting tonight. She feels Ron Pacourek's point is well taken it would be nice if we could do it by cpi index. It's unfair to have 5% here and 1% there. It would be nice if we had the same purchasing power as we did in the 90's.

City Manager Fuentes said just to follow up on Commissioner Clark's comments about closing the pool. We do have some members of the Friends of the Pool, we have not heard from, and we want to make sure everybody's in agreement. It should be an agenda item to discuss and act upon. He wants to make sure the pool users are aware and there are notifications to discuss it in the coming months.

Mayor Green responded to Mr. Pearce. The Commission unanimously approved sending a letter to Mr. Andrew Gomolak from Holloman Air Force Base talking about some of the items that were brought forth this morning. He will be there this evening from 6-8 and encouraged any citizens to be there to make their concerns heard. He responded to Mr. Eastvolde and he has talked to Ms. Anderson, our new Tourism Director who is a birder from Wisconsin. They have talked about tourism etcetera and he appreciates his thoughts. He has two things that are held over from the last couple of weeks. The first is from a comment Mr. Lawson made pertaining to the swimming pool. He then read a letter to become a formal part of this meeting and will be sent to Mr. Lawson.

Randel,

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I have always admired a person who has passion, dedication and commitment for a cause; in this case, I am talking about your involvement at the Truth or Consequences pool. First, let me state that I don't remember any City Commissioner putting forth a motion to close the pool because of the financial drain to our limited budget. Yes, Commissioners Clark and Richter did explore other options with the High School that might have been available to us and yet the pool is still here and remains open.

That said, to threaten Manager Fuentes and the City Commission, and I quote "Either this thing gets done, and if Mr. Fuentes will remember, he could be his biggest supporter or he could be his worst nightmare. If this pool closes, believe him he promises he will be all of yours worst nightmare", does not accomplish anything and will not be tolerated.

Rule 17 – Comments from the Public states: Anyone making "out of order" comments as determined by the Presiding Officer may be subject to removal from the meeting. And, any person who violates the Rules of Conduct may be subject to having their speaking privileges removed at future City Commission meetings.

*Hopefully, we can get past this incident and move forward.
Best, Steve Green, Mayor*

Mayor Green said the other thing he wanted to comment on was an article in the Herald. And before anyone thinks he is going to do battle with the Editor and the Publisher, nothing can be farther from the truth. He had a meeting with them to let them know exactly what he was going to do and say because he doesn't like to be blind-sided. It's an article labeled "There is Asbestos Mr. Mayor." He gave a breakdown of the chain of events related to that Firehouse and the use of it. Some of the information that happened in the middle was left out of the article. We did not and do not take this lightly and these were the times the Commission moved on.

E. CONSENT CALENDAR

1. City Commission Regular Minutes, August 9, 2017
2. City Commission Regular Minutes, August 23, 2017
3. Public Arts Advisory Board Minutes, May 15, 2017
4. Accounts Payable, August 2017
5. Approve the waiver for a Special Dispenser's Permit for Bullocks for an event to be held at Our Lady of Perpetual Help Church on September 16, 2017.

Commissioner Clark said on August 23 minutes on page 5 there was a comment about the 1% for the Civic Center, the way it read to her was that it could be used for repairing Water lines and if that's what came across, it's not what she meant to say. It has to be used for the Civic Center and whatever the Tourism Director is doing with it.

Mayor Pro-Tem Whitehead moved to approve the Consent Calendar as noted and checking the minutes on August 23rd, 2017 and make changes if necessary as noted by Commissioner Clark. Commissioner Clark seconded the motion. Motion carried unanimously.

F. PUBLIC HEARINGS

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1. Public Hearing: Final Adoption of Ordinance No. 686 authorizing issuance and sale of \$2,188,146 City of Truth or Consequences Municipal Gross Receipts Tax Revenue Bonds for the purpose of constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to a Law Enforcement Facility. Juan Fuentes, City Manager; Linda Melendres, Melendres & Melendres; and Raheel Hirji, George K. Baum & Co.

Mayor Green wanted to add the Gross Receipts Tax is coming directly from the Police Departments budget of $\frac{1}{4}$ of 1% that was authorized, he believes back in 2011 if his memory serves him correctly. It is not coming out of the General Funds of the city.

City Manager Fuentes introduces Linda Melendres and Raheel from George K. Baum who will give a quick overview of the ordinance.

Ms. Melendres is acting as Bond Counsel for the city. She presented the ordinance before them which is authorizing the execution and delivery of a loan agreement and intercept agreement. The pledged revenue was adopted as Ordinance 606 as the Mayor said in 2011 which imposes a Municipal Local Option Gross Receipts Tax, and this $\frac{1}{4}$ of 1% is dedicated to Public Safety. As the Mayor stated it's within the Police Department budget. These revenues will be pledged for building a Law Enforcement Facility. And the payment of the loan agreement cannot reach into any other fund of the city including the General Fund. Based on the Intercept Agreement, the first principal payment will be on May 1, 2018. She turned it over to Raheel to go over the financing. And if there are any other questions on the ordinance, she will be here to answer them.

Mr. Hirji, is an associate with George K. Baum and Co.. He distributed and reviewed the final pricing summary of the Bond. The final amount that was sold to the NMFA was \$2,188,146. It is a 25 year final maturity, meaning the bond will mature on May 1st, 2042. As Linda mentioned the first principle payment will be May 1, 2018. The true interest cost on the bond that was finalized last week ended up at 1.91%. He thinks the figures that were shared with the Commission in July were about 1.93%, so it's a slight improvement based on interest rates as of last week. This is going to be a tax exempt bond for a Municipal Entity and it was issued with a 10 year call option for October 2027 to be refinanced with no additional fee or penalty. Their role was Municipal Advisor and the bond was sold to the New Mexico Finance Authority. Page 4 is the sources and uses of proceeds of the bond. So they are issuing \$2,188,146 in proceeds. \$2 million of that will be deposited to the project fund for the Law Enforcement Facility. The Debt Service Reserve Fund of \$111,734.10 is set aside with the NMFA and kept in the reserve in case there is any delinquencies in the P & I, and if it's not needed it will be released to pay the debt service on the bond. The cost of issuance is used to pay for their firm and Ms. Melendrez's is also covered by the \$60,000. NMFA charges their underwriting fee of \$16,411.10 and a rounding amount of \$.80 for that. Page 5 is the Debt Service Schedule and it's right around \$111,734 a year and that is included on the separate Debt Service Schedule that's a separate document.

Commissioner Clark said her only question is when Mr. Valenzuela presented it the loan amount was about \$2500 different. Mr. Hirji responded the debt service and rates are not set until one week before the Commission takes action. Mr. Valenzuela used the interest rates at the time and structured the bond with the rates that NMFA provides them. When the final numbers were set, there was a slight variance of \$3,000 which really pertains to the NMFA Debt Service Fund based on the par amount of bonds that are issued. .

Mayor Green then opened it up to the public,

Opponents:

Ron Fenn has a real problem with this and he hopes they can appreciate it. Nobody talks bottom line anymore. 1.19% what does that mean? Well, he told them it means the \$2 million will cost \$2,752,000 plus to the people of Truth or Consequences and \$2 million is less than the estimate for the construction and we all know construction never falls under cost, it's always over. Just like nobody told them they would have to pay over \$200,000 into building the Healing Waters Plaza. We have a grant for \$200,000, the contractor charged \$395,000, and that did not include any of the work that was done by the City, which was a considerable amount of work. It saves money because we don't record the cost. Give him a break, if any one did that in business, they would be jailed for it.

You just talked about a \$264,000 building you didn't want to put that amount into. If you would've put \$264,000 into the Fire House, it would have been a building worth over \$300,000 if it was brought up to code. Yet, you're talking about \$3,000,000 into a similar building with an asbestos problem that has not been addressed and no estimate. Give him a break, this building will cost over \$3.5 million by the time they are done. The GRT for the Police Department can be repealed and take that half away to put into something like streets or water or things that are necessary in this town. He is comparing this city to Aztec, NM. We have the same demographics and 67% white population but basically the same. They have half the crime rate and fewer Police and a Police Station about the same size as our current building. Mayor Green let him know we are talking about a bond now. Mr. Fenn continued saying we are talking about information that impacts this city and is not just a bond because it impacts this entire city. Part of the Police work is connected with our Judicial System, he gave some budget numbers for those. The Court pays for itself and all of its doing and the Police Department only pays for half. Step back and say what does a building do for the community, when they can't even pay for the one they are in now?

Sophia Peron thinks it would be great if we could do this for the Police if we could afford it, but she would rather just build a brand new one. She lived in Albuquerque through community policing and they went out into the neighborhoods and would work together. After they built a big building for a Substation, they never went out of there for any reason. The Police came to their neighborhoods, the neighborhood association meetings, talked to us. The Code Enforcement came and Fire Department. It didn't matter what kind of building it was. It took ten years but they got rid of the motels on Central. It was an incredible effort and it's nice to have new buildings. She's a professional remodeler, award winning, and she can tell you the National Guard Armory needs to be torn down,

period. Another good thing is to have the Cop Shop downtown, and have open houses down there, and invite people to come into the empty room up front. She hasn't toured in the back and has no idea what it looks like or the square footage. All she knows is we bought it to bail out Kirikos who was going under on the Mortgage. It's a cute place, you can be busy in there and can invite people in, and write down addresses. The other day there was a big bus by her house, she heard it was the Feds. She also had a problem with her neighbor the other night. They had a meeting in front of his house and they should've met at the Police Department in the Conference Room to talk about how they could proceed with the problem. Not worry about whether you have exercise equipment. You can use the House of Pain. Then we have the big Sheriff's Department we paid for to Mr. Whitehead. They have room for exercise equipment in there. Or building something on the hospital property we paid \$670,000 for a few years ago that's empty. We've got a lot of places, but let's pay for the hospital and emergency rooms projects we already have. Or we might want to all squeeze into the Vista Memory Gardens and we might want to raise the rates there, because people will be going there quickly.

Perry Wolfe lives here in Truth or Consequences and he bought a place. Unfortunately the place is shrinking and we are losing people. He was out of town all summer and he comes back and hears about spending this and spending that and the town is shrinking and losing people. Are we going to brace for the population coming in, or are we going to build a big building and get more Police when we don't need it? It sounds like we need so much more like our streets are terrible or the pool was a mistake and should've been a permanent building. When there's a little lightening, then we can't go in the pool. That's all of his thinking for now, and thank you for listening.

Ike Eastvolde is neither opposed or in favor but asked to speak. He talked to the Chief about the facility. He wanted to address construction costs. One of the construction costs could be dirt. There is a lot of dirt going down by his house on Silver now and that could be one of the purposes. The estimate from the project manager at the hospital is that 20,000-30,000 tons of dirt will be moved to a private property of Smith and some can be used for the new building. If you do go forward the loss of that community resource should be stopped and redirected to the project to save money.

Sharon Eastvolde added another expense for that construction company is using drinkable water to keep the dust down instead of the treated water they should pay for. There needs to be a process that analyzes all of those elements.

Mayor Green did speak to our building inspector and there is a meter on that hydrant and they are paying for water.

2. Public Hearing: Final Adoption of Ordinance No. 687 adding Section 2-276 providing a procedure for the recusal of Public Utility Advisory Board Members. Juan Fuentes, City Manager and Jaime Rubin, City Attorney

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City Attorney Rubin gave a brief overview of the ordinance and read the wording from Section 2-276 related to recusal.

Proponents:

Sharon Eastfolde wanted to say it's a no brainer, any appearance of financial gain should get out of the room period.

Opponents:

Ron Pacourek wondered who would make that determination. Second he is a member and there are two who know about solar, so do they have to recuse themselves if they talk about solar. And again, whoever put this up has gone around their board again. If you don't want them to be there, disband them. If they are going to talk about something and someone can't be there.

Mayor Green closed that portion of the public hearing.

3. Public Hearing: Request for a Variance on Space #11 and #28 to be closer than 15' apart at Winter Haven Mobile Home Park 2335 Broadway St., Truth or Consequences, NM. Applicants are Jake Skinner and Jeremy Peck. Traci Burnette, Grant/Projects Coordinator

City Manager Fuentes asked for clarification of whether this would be a Battershell process and should be sworn in. City Attorney Rubin confirmed each space should be handled separately. City Manager Fuentes asked if we want to have everybody who signed up to be sworn in at the same time.

Mayor Green gave an overview and asked the Clerk to swear in those who signed up to speak. Clerk-Treasurer Cantin did the swearing in for those who signed up to speak.

Grant/Projects Coordinator Burnette presented both items. Mr. Skinner and Mr. Peck recently purchased Winter Haven Mobile Home Park and came into the office to speak with Robbie about what they could do with the park, and to make sure they were grandfathered in on how many spaces they had. Robbie provided them with the Municipal Code pertaining to M/H's. They proceeded to move 2 M/H's into the park that did not meet the standards for distances parking and Emergency Vehicle Access. Because the MH had been moved in and partially set, Robbie agreed to work with Mr. Skinner and Mr. Peck and allow #28 to remain since it was within 2 feet of the allowable distance, (however, the neighbor next door to space #28 feels the mobile home is too close and requests the mobile home be moved over the required 2 feet to meet code. Mr. Skinner and Mr. Peck were informed they would have to remove #11 due to its size and code violations, and they agreed. Space #11 is in violation of the Code by 5 feet from the neighbors, as well as blocking emergency access to the rest of the park (50 foot Radius turn around).

Commissioner Clark said so the first space is two feet out of compliance. Grant/Projects Coordinator Burnette confirmed. Commissioner Clark asked how that would affect the

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emergency vehicles. Grants Projects Coordinator Burnette said it would be ok for space #28.

Commissioner Hechler wanted to clarify that prior to moving the mobile homes they were given the code for compliance and moved them anyway. Grants Projects Coordinator Burnette responded that was her understanding is they were given the code ahead of time.

Jeremy Peck, Co-Owner of Winter Haven Mobile Home Park visited with Mr. Travis before purchasing the Park.

Connie Langdon lives in a Mobile Home Park and she doesn't think it's right to have it set up.

Debbie Jo Pipkins asked if it's so illegal to have a mobile home that close, she would like to know why the Fire Department and Police Department let them move them in there. Grant/Projects Coordinator Burnette responded it's her understanding the mobile homes were brought into place and he was not notified until after. Mayor Pro-Tem Whitehead asked why he is not here to answer these questions. It seems like we should have the Building Inspector here.

Commissioner Clark asked for this whole thing to be postponed until the Building Inspector to be postponed. City Manager Fuentes said Robbie already had a prior commitment when the letters were sent out and due to a conflict, he wasn't able to be here. City Attorney Rubin asked Grant/Projects Coordinator Burnette if she is comfortable with answering these questions. Grant/Projects Coordinator Burnette said she has taken an interest and is comfortable with this issue and has been involved with it.

Mayor Pro-Tem Whitehead moved to postpone this until Mr. Travis can be here to answer questions. Commissioner Clark seconded the motion.

Discussion: Mayor Green asked if we can do this. City Attorney Rubin said he believes so, but the Commission might want to see if it inconveniences the applicants.

Commissioner Clark feels we need Mr. Travis here who is the end for questions they may ask.

Mayor Green asked City Attorney Rubin if the vote carries to postpone to put it on the meeting for the 27th will the notice need to be done. City Attorney Rubin directed them to recess the public hearing until the meeting of the 27th that way everyone will have notice.

Mayor Pro-Tem Whitehead revised her motion to recess this public hearing until the 27th at 1:00 p.m. to have the Building Inspector in house at that time to answer questions in all fairness to the Park's owner, as well as, the residents who live in that area. Commissioner Clark seconded the motion.

Commissioner Hechler would like the Fire Chief to attend so they can weigh his comments in the balance also.

Motion carried unanimously.

Mayor Green apologized for those who have spent the energy and time to make sure that you are here for this hearing. But this will make it a level playing field and fair and not put

any staff under undue hardship. Mr. Peck expressed interest to object to changing the date. Mayor Green let him know they have voted.

Mayor Green said that ends that portion of the public hearing.

G. ORDINANCES, RESOLUTION, & ZONING

1. Discussion Action: Final Adoption of Ordinance No. 686 authorizing issuance and sale of \$2,188,146 City of Truth or Consequences Municipal Gross Receipts Tax Revenue Bonds for the purpose of constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to a Law Enforcement Facility. Juan Fuentes, City Manager; Linda Melendres, Melendres & Melendres; and Raheel Hirji, George K. Baum & Co.

City Manager Fuentes reiterated the ordinance is to authorize the sale of the bonds. He wanted to clarify a comment by Mr. Fenn about the asbestos and the study has already been done and it's not an issue.

Commissioner Hechler moved to approve the Final Adoption of Ordinance No. 686 authorizing issuance and sale of \$2,188,146 City of Truth or Consequences Municipal Gross Receipts Tax Revenue Bonds for the purpose of constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to a Law Enforcement Facility. Mayor Green seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Discussion/Action: Final Adoption of Ordinance No. 687 adding Section 2-276 providing a procedure for the recusal of Public Utility Advisory Board Members. Juan Fuentes, City Manager and Jaime Rubin, City Attorney

City Manager Fuentes said we've heard the presentation. If approved the staff will amend the other boards with the similar language.

Commissioner Clark was a stand-alone no on the last vote and wanted to explain. One thing was it says the Public Utility Advisory Board and doesn't include the Impact Fee Board. She also has a problem with this not being a broad spectrum for all boards. Third, she likes Mr. Pacourek's comments on these boards don't make a decision, the Commission does. She feels that because it was a targeted board for an undisclosed reason, she feels it should be all boards and not just one.

Commissioner Frankel feels we staff these boards with the best people we can. He would like to think we could count on them and their own moral compass to recuse themselves. It boggles him that we would stifle these people from speaking their mind.

Mayor Pro-Tem Whitehead also feels that when we know there is a conflict, we should do that. We put these boards in place as an Advisory Board and she had concerns about that also.

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Mayor Green thinks they all know how he feels about volunteerism. He has seen issues discussed with a clear conflict and they did not recuse themselves. There's a difference about sharing that knowledge and pushing it on someone. When this was originally brought up, he doesn't want to see this defeated, he suggested that we postpone this vote and have an ordinance that would be all inclusive and all-encompassing of each board. He asked City Attorney Rubin if we can do that. City Attorney Rubin said if you're talking about revising the ordinance to come back, he feels they will have to start over.

City Manager Fuentes added it was done by the Rules of Procedure for the Commission and he feels when there is a clear conflict of interest, it would help. This does not mean the member cannot participate in the conversation.

City Attorney Rubin added you would want this to give guidance. Mayor Green asked if he was to make a motion and nobody seconded, this item would die for the lack of a section. City Attorney Rubin stated it would not keep him from drafting a new ordinance.

Commissioner Clark said these boards don't make decisions and at the end of the day the Commission makes the decision.

Mayor Green said point is well taken but he will disagree with her. If someone has a true conflict of interest and they participate, they can influence the outcome. What we are trying to do is create an environment where everyone understands the rules of engagement and when it is and is not appropriate to participate.

Further discussion was held about drafting a new ordinance to include all boards.

Commissioner Hechler read the governmental conduct act and it gives examples and we should ask them to recuse themselves and the Act gives that authority.

Mayor Green called for a motion. There being no motion, the ordinance died for lack of a motion.

3. Discussion/Action: Ordinance No. 688 for publication amending Section 3-6(a) pertaining to sale of animals on public property. Jaime Rubin, City Attorney

City Attorney Rubin presented and read the proposed ordinance.

Commissioner Frankel shared a little story of Lake Quemado of Anglers bringing in goldfish to the lake and it took over the lake and they had to bring in another fish the Tiger Muskee to eat them. But this could be a potential problem with the lake and the river.

Commissioner Hechler asked for the history of this. City Manager Fuentes responded for the last 18 years one of the events have given a goldfish as a prize and if it's going to be allowed it needs to be amended and if it's not, then it should not be allowed.

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Commissioner Clark raises fish and started years ago and knows there are two fish that are treated inhumanely, one is the beta fish and one is the goldfish. If she were to give away something to the kid the parents got to take care of, we can do it differently. There's a better gift that can be given and she wouldn't take one home if it doesn't have its own tank.

Mayor Green said he will never look at a goldfish the same again. He is glad and proud of his fellow Commissioner's.

Commissioner Hechler moved to disapprove Ordinance No. 688 for publication amending Section 3-6(a) pertaining to sale of animals on public property. Commissioner Clark seconded the motion. Motion carried unanimously.

4. Discussion/Action: Resolution No. 07 17/18 authorizing and approving submission of a completed application for financial assistance and project approval to the New Mexico Finance Authority Water Trust Board for Water Distribution Mainline Reconstruction. Traci Burnette, Grant/Projects Coordinator

Grant/Projects Coordinator Burnette presented this item. This is the area they feel is the most important to proceed with funding.

Commissioner Hechler asked what the match would be. Grant/Projects Coordinator Burnette responded it depends on the information that is presented. Once they award the grant we will find out.

Commissioner Clark moved to approve Resolution No. 07 17/18 authorizing and approving submission of a completed application for financial assistance and project approval to the New Mexico Finance Authority Water Trust Board for Water Distribution Mainline Reconstruction. Commissioner Frankel seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Action: Resolution No. 08 17/18 designating the Retention and Disposition Schedules and the method of destruction for the Records for the City of Truth or Consequences. Renee Cantin, Clerk-Treasurer

City Clerk Cantin presented the item. The current Resolution designating which retention schedules will be used needs to be updated. We are working diligently with all departments to do the proper destruction of records which has not been done since the 90's. The changes in the Resolution would allow the Clerk-Treasurer to select which retention schedules will be used in the process of destruction. Although Municipalities are not required to use them, Clerk Cantin currently has recommended the NMAC Retention Schedules prior to the amendment which was done in October of 2015 which repealed some of the schedules used by municipalities. The NM Clerk's & Finance Officers

Association is also working on an overall retention schedule for municipalities which could be done as early as November. Clerk Cantin will be serving on this committee to be sure the best retention is included and they will need to be adopted by each municipality once completed. Therefore, we are asking the Commission to approve allowing the Clerk-Treasurer to select the Retention Schedule that is used for the City of T or C.

In addition to the retention schedules that are used, we are requesting the Commission to allow the Clerk-Treasurer to proceed with using the destruction methods listed in the Resolution so it will give us flexibility to use the most cost effective method we can for destruction.

Commissioner Clark asked if someone has access to the records when you bury them. Clerk-Treasurer Cantin responded and explained the process for burying records. We would do that with a smaller batch, not 336 boxes. You would not bury boxes with any personally identifiable information. Commissioner Clark says it would seem like an awful lot of labor to go through each of the boxes. Clerk-Treasurer Cantin agreed.

Mayor Pro-Tem Whitehead moved to approve Resolution No. 08 17/18 designating the Retention and Disposition Schedules and the method of destruction for the Records for the City of Truth or Consequences. Commissioner Hechler seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

6. Discussion/Action: Request for a Variance on Space #28 to be closer than 15' apart at Winter Haven Mobile Home Park 2335 Broadway St., Truth or Consequences, NM. Applicants are Jake Skinner and Jeremy Peck. Traci Burnette, Grant/Projects Coordinator

Item will be brought back to the next meeting.

7. Discussion/Action: Request for a Variance on Space #11 to be closer than 15' apart at Winter Haven Mobile Home Park 2335 Broadway St., Truth or Consequences, NM. Applicants are Jake Skinner and Jeremy Peck. Traci Burnette, Grant/Projects Coordinator

Item will be brought back to the next meeting.

H. NEW BUSINESS

1. Discussion/Action: Public Arts Advisory Board Appointment. Renee Cantin, Clerk-Treasurer

Clerk-Treasurer Cantin reported the Public Arts Board had a vacancy and we published the vacancies and they are recommending approval of Mr. Underwood to their board.

Commissioner Clark moved to approve Andy Underwood to fill the vacancy in the Public Arts Board. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.

2. Discussion/Action: Joint Powers Agreement (JPA) with Sierra County and Elephant Butte for Minimum Pool Bid. Juan Fuentes, City Manager

City Manager Fuentes presented the item and previously we have discussed the joint effort on the part of the entities. There is no monetary funding needed for this JPA, any financial obligations would have to come back to the Commission for approval.

Mayor Green added at some point when this JPA is approved we will need someone from the Commission or a designee to serve on that board.

Mayor Green moved to approve Joint Powers Agreement (JPA) with Sierra County and Elephant Butte for Minimum Pool Bid. Mayor Green seconded the motion. Motion carried unanimously.

3. Discussion/Action: Approval of the Records Inventory List for destruction. Renee Cantin, Clerk-Treasurer

Clerk-Treasurer Cantin said as mentioned earlier we are well on our way for the proper destruction of records for the city. The attached list for 2016 which was logged in last year has 49 boxes, and the 2017 list which consists mostly of Finance, Payroll, & Utilities boxes has 287 boxes. We are requesting approval of the list to proceed with destruction. The list has also been sent to the City Attorney for review to make sure there are not any documents we may need to hold for legal purposes. As far as the procedure for destruction, the Finance Director has a contact with State Records Center and Archives who might be able to help us destroy too. We are looking at that and will need a budget adjustment for the cost to proceed with destruction. She failed to add she is not the only Custodian of Records in the city per our City Code. The Police Chief is for the Police Department and the Municipal Judge is for the Municipal Court. We have all been working very closely and she has been training each Department on how to do the records. She stands for any questions.

Mayor Green asked if she has spoken to the Police Chief or the Judge to see if they will have any money to help with the cost of the destruction. Clerk-Treasurer Cantin responded they have discussed it and they are willing, but this is strictly Finance Records. She foresees having another destruction within another month or two. Mayor Green asked if it would not serve us better financially if we would destroy all of them at one time. Clerk-Treasurer Cantin responded it absolutely does and we are definitely looking into that. City Manager Fuentes wanted to commend the Finance and Clerk's Office. Sometimes when you do a destruction other departments can bog down the process. If you go to Finance you can see where they have boxes and boxes stacked and ready to go.

Mayor Pro-Tem Whitehead mentioned there is a company called Shred-it and they previously shared the expense with the Clerk's Office and it was inexpensive for them. It's something we could look into once we get rid of the big volume of records, we could share the cost. Clerk-Treasurer Cantin responded it definitely is a great idea for cost sharing. We could put the item on the Consent Agenda. City Manager Fuentes added some of the records will have to be approved. Commissioner Clark asked if we still microfiche everything and can Clerk-Treasurer Cantin assure her we won't have bank statements put into the landfill. Clerk-Treasurer Cantin responded yes and yes to her questions.

Mayor Pro-Tem Whitehead moved to approve the Records Inventory List for destruction. Commissioner Hechler seconded the motion. Motion carried unanimously.

I. REPORTS

a. City Manager

- 1) At 1:00 p.m. there is a continuance of the Sierra Vista Hospital Governing Board meeting. They asked the Clerk to Post a PQN.
- 2) Tomorrow there will be the Spaceport Legislative Meeting from 9:00 a.m. – 3:00 p.m. Last week had a forum on the potential impact of the Spaceport. It was well attended by a diverse group and was very informative and will eventually be published on KRWG and the website.
- 3) Did get \$150,000 for Fuel Farm, phase 3, so that project should be finalized next year and has been in the works for a number of years.

b. City Attorney

- 1) He explained the process that has been followed for the foreclosures on some property he has been working on. Foreclosing the liens on Sept 28, at 10:00 for 808 Maple and the other property will be 309 Birch St. on October 19th at 10:00 a.m. He wanted everyone to be aware.

c. City Commission

Commissioner Hechler reminded everyone who has an iPhone or Android to download the free Sierra County App. It has wonderful information, including maps, restaurants, etc.

Commissioner Clark asked if a PQN was posted for the F-16 meeting today. City Clerk Cantin confirmed it has.

Mayor Green announced the public hearing for tonight. It's not going to be a presentation, this is a listening tour and if you have concerns this is your opportunity to express them.

2) September 27th meeting will be changed to 1:00 p.m. because he and City Manager Fuentes have their day in court at 9:00 a.m. He apologized to everyone for the short notice in scheduling.

3) In relationship to Mr. Fenn's comments, he did get information that a new tour provider has been selected. They are looking at starting the weekend of October 28th and in relationship to the name, this might be a dba for an existing corporation which he believes it is. He would like to have the authority since they voted on this from the Commission to thank the citizens for being patient and having some faith in the Commissioners while the Spaceport was finding a tour provider. The choices are limited and you have to find the right people. He is glad they did their due diligence to select the right company.

4) Thanked the group of people who took it upon themselves to gather goods and drove a truck down to Houston. We should be publishing our weather and keep it in our dialog. It's unfortunate that it takes a disaster to restore our faith in humanity, but we'll take it how we can get it. Our great weather should be part of our advertising.

J. EXECUTIVE SESSION

1. Threatened or Pending Litigation (Hot Springs Land Development) *Pursuant to 10-15-1(H.7)*
2. Threatened or Pending Litigation (Ron Fenn) *Pursuant to 10-15-1(H.7)*
3. Limited Personnel Matters (City Manager) *Pursuant to 10-15-1(H.2)*

Mayor Pro-Tem Whitehead moved to approve going into executive session at 11:32 a.m. to discuss Threatened or Pending Litigation (Hot Springs Land Development) Pursuant to 10-15-1(H.7); Threatened or Pending Litigation (Ron Fenn) Pursuant to 10-15-1(H.7); and Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2). Commissioner Hechler seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Green reconvened the meeting in open session at 1:25 p.m.

Mayor Pro-Tem Whitehead certified that only matters pertaining to Threatened or Pending Litigation (Hot Springs Land Development) Pursuant to 10-15-1(H.7); Threatened or Pending Litigation (Ron Fenn) Pursuant to 10-15-1(H.7); and Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2) was discussed in Executive Session and no action was taken.

K. ACTION ON ITEMS DISCUSSED DURING EXECUTIVE SESSION, if any.

Commissioner Hechler moved to approve to authorize staff and Legal to move ahead with letter to Mr. Fenn and to further amend MOU with Geronimo Trails Scenic Byways. Commissioner Clark seconded the motion. Motion carried unanimously.

L. ADJOURNMENT

Meeting was adjourned at 1:27 p.m.

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Passed and Approved this 27th day of September, 2017.


Steven Green, Mayor



ATTEST:


Renee L. Cantin, CMC, City Clerk