

CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, JUNE 13, 2018

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
Hon. Sandra Whitehead
Hon. Kathy Clark, Commissioner
Hon. Rolf Hechler, Commissioner
Hon. Paul Baca, 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 the asked us to keep the families of Former City Clerk Kathleen Terrazas and Former City Commissioner Mike Kertesz, who we lost this last week, in our thoughts and prayers. And we have a couple who are in the hospital including Jagger Gustin and Arnie Castaneda, please keep them in your thoughts and prayers to heal quickly.

3. PLEDGE OF ALLEGIANCE

Mayor Green called for City Manager Fuentes to lead the Pledge of Allegiance.

4. APPROVAL OF AGENDA

Commissioner Clark asked to pull Impact Fee Advisory Board meeting and Commission Meeting minutes of May 9th from the consent calendar to act separately.

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

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

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.

Randy Ashbaugh, 1023 Poplar St. addressed the Commission related to:

1) He is still assembling statutes and ordinances the City Manager has not followed. It was more legal work than he thought, but it would be forthcoming. He read an article he put in this week's newspaper, which stated: *"Who is responsible for hiring the employees? The City Manager. State Statute 3-14-14 NMSA 1978, Section A, Paragraph 2. The City Manager is to employ and discharge all persons engaged in the administrative service of the municipality. Why has the City Manager not hired workers for the Water Department, it is completely depleted. There are 10 to 20 running water leaks in the city wasting 10's of thousands of gallons of water a day! Why has Well #7 (one of the city's best water producing wells) not been repaired for over 6 weeks? To his knowledge, only 3 water wells out of 8 are operable – why? Why are most of the water tanks half full? He thought we kept more water than that. The gauge is on the side, you can go check them yourself. Why has the City Manager not hired workers for the Wastewater Department? Again, it's completely decimated of personnel. Why are there several pump stations with inoperable or missing pumps? Why? What are we waiting for a Giant Catastrophy? In our Water and Sewer Departments we've already had some big ones. North Date had sewage running down Date towards Cuchillo. We've lost a line at Clancy St. We've had so many water leaks, it's not even funny. It's really not funny for the City Water workers. In this hot 104-105 degrees it's absolutely preposterous!*

Diane Lombardo addressed the Commission related to:

1) She started by saying she has nothing against Lt. Baker, Chief Apodaca, or Sabrina Day. She thinks they are very good at being Cops and Sabrina is very good at cleaning cages, she has a good work ethic. However, that being said, not one of them is qualified to run a shelter. Have you been to the Shelter? Have you seen it? Are they getting veterinary care? Have they been given something to protect them from the weather because the rain is coming? Wind storms can be just as bad as the rain. They can get conjunctivitis. She has had dogs with conjunctivitis from the wind and dust. You say you love animals, and you have dogs and cats. If you don't go there and see the horrible conditions and want to fix them, then you don't love animals. You only love your animals. On Facebook someone said they saw an ad for kitty cuddlers, which is great, but she hasn't see it. And the sign is in the wrong place, you can't find the Shelter. And how do you adopt animals without being open in the evenings and weekends. And please ask for help, we have offered to help a million times.

Stanley Rickert, 1705 Carrie St. addressed the Commission related to:

1) Junk Yard next door to him and if the city is doing anything to checking to see if he's following the codes and what he is doing wrong by running a business in a residential area. He got the letter from the City Attorney, but he is still waiting to see

what the city is going to do. He did see Ms. Diller over there yesterday. He doesn't know whether she went to enforce anything or tell him what he needs to do. He's been here for every meeting for five months and it's not happening. It needs to be cleaned up. Have him shut down and move the business to a new locale. This is an ongoing problem that has not been relieved. There is no Planning & Zoning Commission to go to. It's not what he wants to live next to, and you wouldn't want to live there either. If you don't work on it now, it will be another year before it's cleaned up. It's not legal, it's been violating his rights. He has certain rights he has to follow and they should follow them also. He's sorry to hear of the passing of the people from the past. He appreciates their time.

Marilyn Pope, Geronimo Springs Museum addressed the Commission related to:

1) She is not here to ask for anything, or gripe about anything. She is here to explain something she's already talked to some of the city people about. She wanted to also thank the Commission for helping them through the funding and the Lodger's Tax. Sometimes at this time of year they are over there crying in their beer, because they don't have the number of people they usually do for the rest of the year. So they get kind of slow.

2) They are working on a new Arrowhead Pottery Display and another Camino Real coming up. They have the same ad coming out in the Northern group of newspapers that will cover Socorro, Belen, Los Lunas, and Rio Rancho that they are thrilled about. They used some of the money they were given for new card. One of the new cards is given to them when they leave and it says, "Y'all come back." If we can get them to come back for some of the regular events, they will stay in our hotels. She had a wonderful ad in the paper and they have not billed them for it yet. She told them they would not be advertising with them again. Her Lodger's Tax report shows they did not spend \$300 of the money. They paid it because they didn't get the bill. But you got a good ad and they got a good ad. And as she has said before, we are all in this together. Thank you.

D. RESPONSE TO PUBLIC COMMENTS

City Manager Fuentes said for the benefit of the public. He knows Mr. Ashbaugh has been here numerous meetings making similar statements, which is his right to do so and he respects his opinion. But he does want to point out he is a member of the Public Utility Advisory Board which is in part in charge of looking at water and Wastewater issues. It seems he's bringing more issues and more questions on the paper at the Commission Meetings instead of the Public Utility Advisory Board. Which is the proper forum to address these questions. They do have a meeting coming up this month, and if he doesn't bring some of these things at the next meeting, Mr. Fuentes said he will bring it up on his own time. He feels that is a good forum to have it out with the Directors of the Solid Waste and Electric to address some issues

Mayor Green thanked Mr. Rickert for his kind words for the loss of some employees and elected officials. He welcomed Carlos Padilla from the Herald, it's good to see him back.

E. CONSENT CALENDAR

1. City Commission Regular Minutes, May 9, 2018
2. Impact Fee Advisory Board Minutes, April 16, 2018
3. Public Utility Advisory Board Minutes, April 16, 2018
4. Airport Advisory Board Minutes, January 9, 2018
5. Golf Advisory Board Minutes for February 7th and March 7th, 2018
6. Accounts Payable, May 2018

Mayor Pro-Tem Whitehead moved to approve Items 3, 4, 5, and 6 as noted. Commissioner Baca seconded the motion.

ITEMS REMOVED FROM THE CONSENT CALENDAR

E.1 City Commission Regular Minutes, May 9, 2018

Commissioner Clark said she removed it because she is just not comfortable with voting on the minutes when she was not at that meeting. But she wasn't part of the discussion on one of the ordinances which she will bring up later in the meeting. She spoke to Attorney Rubin about. She has a question with something that was included in the particular minutes, so she will recuse herself.

Commissioner Hechler moved to approve the City Commission Regular Minutes for May 9, 2018. Mayor Pro-Tem Whitehead seconded the motion. Motion carried by a vote of 4-0-1. Commissioner Clark abstained.

2. Impact Fee Advisory Board Minutes, April 16, 2018

Commissioner Clark has a question with Mr. Ashbaugh being on that board and having a legal issue with the city, she questioned if he should be serving on that board for that reason. There is an executive session today that she will be recusing herself from because it is the background of her business. She asked if it's appropriate for Mr. Ashbaugh to be on that board. She asked City Attorney Rubin. City Attorney Rubin said first if you're satisfied the minutes reflect what happened at the meeting, you could still approve the minutes. And as far at the Conflict of Interest, he can certainly look into that . We did recently pass an ordinance that we can take a look at and see if that applies. He may also want to refer with Attorney Appel on that also.

Commissioner Clark moved to approve these minutes and get a legal opinion on him serving. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.

F. PUBLIC HEARINGS

1. Public Hearing: Final Adoption of Ordinance No. 693 amending Section 8-38 of the Municipal Code for unlawful carrying of a deadly weapon. Jay Rubin, City Attorney

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City Attorney Rubin announced we are trying to make our Code more in line with the State Statutes. He presented the sections of the ordinance. An ordinary pocket knife would not be included in the definitions. That was something that was discussed at a previous meeting. The other sections were in line with State Statutes. And with that we can go ahead and proceed.

Commissioner Clark said she wasn't here for that meeting, but she remembered in March the concern was they had a pocket knife and in her case she's looking at a Butcher Knife she took to the park to cut a watermelon. She has difficulty in that. She grew up with sling shots and 6-95 they talked about changing that. He asked City Attorney Rubin to explain to the Commission what he told her. That way we can determine if we want to leave it as is, or do we want to put this into place without modification.

City Attorney Rubin said the issue you have hear is you don't want to have too many conflicting laws. That could be a nightmare for the courts and our Police Department to try to enforce. There is actually some case law which incorporates this state statute as it being a petty misdemeanor whether you have the intent or not. So he's reluctant to put that in there. He likes what we have proposed because again it's an upgrade to what we have. But he will stick with his recommendation.

Commissioner Hechler added when you have a case in the field it's up to the Officer to determine what type of danger this weapon presents. If you have a case where the Officer has it out for this person, then you have a second check and balance which is the D.A.'s Office so they would still have that option to determine if it's serious or not.

Opponents:

Marjorie Rickert, 706 Palo Verde Dr. reviewed state statutes and is conscious of the need to follow them and proposes that we should adhere to what is required at this point. And yes, you would have to debate this in a court of law if it relates to another type of weapon, such as a knife. But she finds it's a good direction to take for Public Safety.

Mayor Green closed this portion of the public hearing.

2. Public Hearing: Final Adoption of Ordinance No. 695 adding Section 8-53 to the Municipal Code for prohibited use of weapons and firearms. Jay Rubin, City Attorney

City Attorney Rubin read the ordinance and the changes requested. He is glad we brought this one which is directed to the concerns for discharging firearms within the city.

Proponents:

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Marjorie Rickert feels this ordinance covers sufficiently the need to address those who do not adhere to the other ordinance and if they are found in a position where they are discharging it in the city. She thinks we need to educate the public as far as this ordinance so they know they cannot do that.

Mayor Green closed the public hearing.

3. Public Hearing: Application for a new Restaurant Beer and Wine liquor license, with on Premises Consumption Only with Patio Service for Liquor License #0000 – Application #1089436 – Old Brick Cafe, 303 Jones Street, Truth or Consequences. Renee Cantin, City Clerk-Treasurer

City Clerk Cantin presented the item. The application has been approved by the State Alcohol & Gaming Division and the next step is the public hearing and approval by the Commission.

Commissioner Clark said if she remembered right the previous owners Bella Luca had to get an exception for the church that was too close. Mayor Green said he sees the rule was 300 feet and the application says 580 feet. Clerk-Treasurer Cantin responded she is not sure whether it was more feet required when they had applied but the current requirement is less than 300 feet, so now waiver is required at this time.

No Opponents.

Proponents:

Mayor Green announced we have six and asked if they have similar comments to please let them know they agree and maybe we can get out of here by dinner tonight.

Dean Tulk said he hopes we go forward and approve it to support a local business.

Linda DeMarino

This business is downtown, they feel its good for the downtown district and for the city.

Sharon Arndt agrees with Dean and Linda.

Bryan Arndt also agrees.

Brenda Carr, Mayor Green announced he imagines she would be a proponent since she's the applicant. She agreed.

Marjorie Rickert definitely agrees.

Mayor Green closed the Public Hearing.

G. ORDINANCES, RESOLUTION, & ZONING

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1. Discussion/Action: Approve new liquor license for a Restaurant Beer and Wine liquor license, with on Premises Consumption Only with Patio Service for Liquor License #0000 – Application #1089436 – Old Brick Cafe, 303 Jones Street, Truth or Consequences. Renee Cantin, City Clerk-Treasurer

City Clerk Cantin had nothing further to add, staff requests approval.

Mayor Pro-Tem Whitehead moved to approve a new liquor license for a Restaurant Beer and Wine liquor license, with on Premises Consumption Only with Patio Service for Liquor License #0000 – Application #1089436 – Old Brick Cafe, 303 Jones Street, Truth or Consequences. Commissioner Baca seconded the motion. Motion carried unanimously.

Commissioner Clark asked Brenda if she's crazy, this is a lot of work. Ms. Carr said it's alright, she's up for it.

2. Discussion/Action: Final Adoption of Ordinance No. 693 amending Section 8-38 of the Municipal Code for unlawful carrying of a deadly weapon. Jay Rubin, City Attorney

City Attorney Rubin has nothing further and forgot to ask the Chief if he had anything to add. He did not and requests approval.

Commissioner Hechler moved to approve the Final Adoption of Ordinance No. 693 amending Section 8-38 of the Municipal Code for unlawful carrying of a deadly weapon. Mayor Green seconded the motion.

Commissioner Clark wanted it noted she will vote yes on this but only because City Attorney Rubin assured her that every single part of this ordinance has been an established precedent in a court of law in the State of New Mexico. She disagrees with some of the use of the words, but she trusts the Chief will not arrest her when she is cutting her watermelon in the park.

Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Final Adoption of Ordinance No. 695 adding Section 8-53 to the Municipal Code for prohibited use of weapons and firearms. Jay Rubin, City Attorney

City Attorney Rubin recommended approval.

Commissioner Hechler moved to approve the Final Adoption of Ordinance No. 695 adding Section 8-53 to the Municipal Code for prohibited use of weapons and firearms. Commissioner Clark seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Ordinance No. 696 for publication adding Section 4-226 to the Municipal Code related to the Property Maintenance Code. Jay Rubin, City Attorney

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City Attorney Rubin did a summary and the only thing he sees if the process for a dangerous building and allowing a hearing before the Commission for that. Mayor Green added that following the last meeting they were given a copy of the code and have all had a change to thumb through it.

Commissioner Clark has concerns. She can guarantee there is no way she has the background or ability to determine loads or wiring or foundations, etc. She thinks its unfair to put Susanna in the position where she would have to make the determination without a construction background.

Mayor Green thought it would be CID who would be signing off on a project. Not a local staff member. City Attorney Rubin said the code largely came from the state. Planner/GIS Tech Diller might be better to address that.

Planner/GIS Tech Diller said this would be for our local enforcement. CID doesn't have an enforcement division. They do inspections for a new build or construction permits for renovation. This is for our local maintenance and zoning enforcement. While CID requires involvement with standards,, they are involved in the front of the line.

Commissioner Clark said that was her understanding CID would be from the beginning and not the end. The other concern is she doesn't want it to open up for someone to say she's not qualified to make that determination, etc.. When you purchase a house, and a Realtor suggests you have an inspector come in and look at the house to determine whether electric or plumbing is up to code, or termites and maybe we want to take a look at a building, that we would contract hire someone to do the work before we issue a notice that we need to go out and bring it up to code. She wondered if we would need to hire a Building Inspector.

City Attorney Rubin asked Ms. Diller if she has any thoughts on this. Planner/GIS Tech Diller added there is a lot in here where you can look at it and see it fairly clearly and is easily interpretable. She does see what she's talking about some of the load concerns and nominal weigh.

City Manager Fuentes said he understands while we don't have the ability to hire a Building Inspector. Because of the way the State Statutes have changed. So obviously we are not the only community having to do this. So to the concerns on the technical background on a project, we do have an in-house GB 98 in Facilities. But you bring up good points as to how this is all going to work out. He doesn't think we are on a time frame on this, so we can do some research with other entities to see how they handle it and how we can apply it to our code.

Commissioner Clark moved to authorize staff to do more research from the legal and technical standpoint and contact other municipalities to see what they may be doing and if they have had loss of the Building Inspector position. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.

5. Discussion/Action: Resolution No. 35 17/18 approving the participation in the Local Government Road Fund (LGRF) for "Installation of sidewalk on north side, curb & gutter, base course and new 2" mat of 3/4 "asphalt for about 360 feet - East 8th from Coleman to Tingley AND 4" Base Course with Double Pen Chip seal - Veater Street from Hyde to the arroyo for around 954 feet X 30 feet." Benny Fuentes, Streets Dept. Manager and Tracy Johnson, PW Admin. Assistant

Mr. Fuentes, Streets Supervisor presented the streets that need to be repaired and the cost. Including East 8th from Coleman to Tingley and Veater Street from Hyde to arroyo which is to the old Sewer plant there. It's a 75% - 25% split, the total project cost will be \$64,715, the State will put up \$48,500 and the cities portion will be \$16,179.

City Manager Fuentes added this will be for the 18/19 and we do have one project that we will be working on at the end of this year. The projects are usually done in the winter time so this will be in the budget and we do have the match money. Sometimes we oversee that the streets department is doing this in house and it just shows the value of them doing that. And he appreciates them and the work they do.

Mayor Pro-Tem Whitehead moved to approve Resolution No. 35 17/18 approving the participation in the Local Government Road Fund (LGRF) for "Installation of sidewalk on north side, curb & gutter, base course and new 2" mat of 3/4 "asphalt for about 360 feet - East 8th from Coleman to Tingley AND 4" Base Course with Double Pen Chip seal - Veater Street from Hyde to the arroyo for around 954 feet X 30 feet. Commissioner Hechler seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

6. Discussion/Action: Resolution No. 36 17/18 Budget Adjustment. Melissa Torres, Finance Director

Finance Director Torres presented the items on the Commission Action Form. She added as you know we are getting closer to the end of the Fiscal Year. So a lot of it is to cover expense or payroll that we have, CDBG is to close out the project and others were to increase revenue.

Commissioner Clark asked about the overpayment to Debt Services Fund. Finance Director Torres responded our GRT goes into the General Fund and is distributed and they were overpaying Debt Services when it was divided. So they are putting it back into the General Fund. Commissioner Clark asked if we made an error in our budget. Finance Director Torres said it wasn't an error on their part, NMFA automatically takes that amount out and we transferred the wrong amount. City Manager Fuentes explained the distribution worksheet that they submit and they discovered they would be booking the expense twice.

Mayor Pro-Tem Whitehead moved to approve Resolution No. 36 17/18 Budget Adjustment. Commissioner Clark seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

7. Discussion/Action: Resolution No. 37 17/18 designating the bank signatories. Renee Cantin, Clerk-Treasurer and Melissa Torres, Finance Director

City Clerk Cantin and Finance Director Torres presented the need for the changes. Since the Accounts Receivable has been moved to Finance, they are requesting to add the Finance Director to the accounts so she can take care of the banking. They are proposing to remove the Deputy Clerk and have the Mayor, Mayor Pro-Tem, Finance Director, City Manager, and City Clerk on the accounts.

Finance Director Torres said as Clerk-Treasurer Cantin relayed because of the changes on Accounts Receivable to eliminate the middle man. Clerk-Treasurer Cantin said it would allow Finance Director Torres to make the changes.

City Manager Fuentes wanted to point out currently the Mayor and Clerk are the signators and that will remain the same.

Commissioner Clark said Mayor Pro-Tem Whitehead is not on there at this time and she thought she was.

Commissioner Hechler moved to approve Resolution No. 37 17/18 designating the bank signatories as recommended. Commissioner Clark seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

H. UNFINISHED BUSINESS

1. Discussion/Update: Outlaw Desert Racing event on May 26, 2018. Mark Bleth, Airport Manager

Airport Manager Bleth wanted to give an update. They awarded \$9,000 to get the track ready for this event. They spent about half in hard costs, Electric Department about \$3,000; about \$1,600 for an electrician to put in a new meter; and also for labor for road work. So they spent about \$7,000 which was under budget and ahead of schedule which is how they like to do things. The event itself went on without a hitch. They kept an eye on Kopra. He also talked to Judge Pestak who had a part during the event who had no complaints on the dust or noise. He has been in contact with a Ranch owner for future events who is willing to participate. He has been in contact with WERA a national organization who runs races over the country and they have submitted their insurance and it has been submitted to Mr. Rubin. As far as local economic impact they estimated about \$40,000 for hotels, food, beverage, and fuel purchases. Right now the track is open. He's waiting for some contact from the Municipal League for suggestions on signage on the track. He's gone through the track

several times and no dumping has occurred and citizens have been respectful of the asset.

Commissioner Hechler commented he visited the site on Saturday, it was very well organized and there were a few people there. It was very nice to watch and a great benefit to this community. He asked how they envision future events to be formatted. Will it be the same track and confined to the space or what do they envision for the future? Airport Manager Bleth responded it will be event specific, some WERA events do big boulders and obstacles, and other events may extend with Ashbaugh and Ingram and the use of their property. They will need to move forward with Special Use Permits and Zoning for future events.

Mayor Green asked from Outlaw Desert Racing's point of view, did they have anything they wish that would have taken place. Airport Manager Bleth said not on the city's part, they were appreciative of Bartoo's participation. They are planning another event in October and we are waiting for another letter of intent from them. Mayor Green thanked him and for taking the lead on this.

2. Discussion/Action: Consideration to propose an ordinance to authorize the operation of Recreational Off-Highway Vehicles on maintained streets owned by the City. Paul Baca, Commissioner and Jared Bartoo, Resident

Commissioner Baca began the presentation. He did contact a few communities. The City of Farmington's response was there were no cons and it was all pros. Any trepidations the residents had prior to the legalizing OHV's travel on public roads has been erased. Accidents, tickets, road safety concerns have not increased. Locals can now drive to local public places and not have to trailer them. The City's and County's should follow the states recommendation and go after this for tourism and outdoor recreation wholeheartedly. So there were not any cons. He brought Mr. Bartoo and Mr. Tulk to help present this request.

Jared Bartoo let them know they are working on a draft ordinance and have included the Sierra County ordinance in the packet..

Mr. Dean Tulk from UMOHVA gave a presentation. They went over a few points and dispel a few myths, and answer a few questions from locals. They wanted to talk about designated streets or just open riding for city streets. T or C stands to gain the Heads in Beds; and the local restaurants, gas stations, Brewery and businesses can gain revenue from any recreation and tourism that happens here. OHV's do bring in a lot of people. If you make a place they can play, they will come. Sometimes wives will go with them and sometimes they will go shopping. A lot of local voters will appreciate being able to ride them through the town to shop or play. Increased local revenue would include more money for roads, sewer, water lines, and parks. More events like the Rubber Chicken ride could be adapted to OHV's in the future. They tried it in Grants but had to cancel due to fire danger. The Outlaw Desert Racing brought people here.

They were jeeps, ATV, RTV's and as you saw was a success. And new events need to come.

Dispelling a few of the myths: All OHV riders do not tear up terrain. The majority of them follow the tread lightly initiative which means, respect private property, respect the land, respect natural resources. You do have a small amount of people who cause problems, but they will cause problems anyway. OHV riders do not speed everywhere they go. None of the riders he has seen wants to see a cop in their rear view mirror, they want to follow the law. All OHV Riders do not drink and drive, they do not trespass and destroy private property. They are doing the best they can to follow the rules and laws. This is a family friendly sport and a lot of families do this now. Once you get past the price of the bike it's a family friendly sport for the old and new alike. Noise is one of the big concerns they've heard. OHV's cannot exceed 96 decibels by law. 95 decibels is about the same as you get in a subway car, near a food processor, or by a belt sander. So it gives you a rough idea of what that limit is. This study at Rock Canyon showed normal traffic was 50-61 dbs and the peak was 73 dbs. So it's quite a bit quieter. He tested different vehicles on the OHV's and the Arctic Cat at full throttle was 76 dbs. Most owners want to enjoy wildlife and they've made them quieter over the years. One of the questions they had was tires. They've worried about using them on city streets. The biggest ones don't really have a DOT rating on them, but they are designed to be used in harsh environments for jumping and riding 80 mph. Most inside the city limits won't be able to go over 35 mph because of city limits. Most people are not going to want to ride them on city streets any more than they have to because they are anywhere from \$100-\$175 each and cost as much as hard tires. If you get into any rocks by the river you will just tear standard tires apart. Silverton Colorado, the Sheriff is constantly have to track people down to deal with their issues of them on streets and Lake City Colorado doesn't have those problems because they are allowed on the streets and they can focus on other things.

He continued with Laws & Enforcement saying OHV's still have to follow the same traffic laws as cars do. They still have to have a Driver's License and insurance and Police can still pull them over and issue tickets, and they rightfully should. They will have to comply with the 96 decibels or less requirement. They will not be allowed on Broadway, Main, Date, or Third Streets, or any State Highway as the law stands. They will be allowed to cross these streets going to different areas. He would like to see where people could ride out to Winston where some like to ride. The bottom line is they have to follow the law no matter what. A current copy of the law from Game & Fish is in your packets.

He continued with Economic Impact. In Colorado recreational enthusiasts spent \$602 million dollars during the 2012-2013 season. They were directly or indirectly responsible for over 9,000 jobs, and \$373 million in labor. These are dealers, tire installers, tubes, gas stations, and everything. An analysis done in Ohio OHV Recreation and Tourism generated \$1.3 million in direct spending and \$656,000 in labor income in 2008. So that gives you an idea of the difference from 2008-2013. And it shows potential growth. 2012 Western Governors Outdoor Recreation report shows

\$626 Billion in total spending supporting more than 6 billion jobs. This data is on the AMA for them to look up. The Rubber Chicken ride in 2017 injected about \$40,000 in the local economy. The Outlaw Desert Racing brought in that much also. That's nothing to complain about.

Commissioner Clark asked to go back to the decibels and ratings. Her understanding is the 94 or 96 dbs was the problem they were having. It looks like the idle full throttle doesn't even get up to that. Mr. Tulk said the only way that has the after market exhaust they can get close but are not allowed to exceed that. It's illegal to sell one that is more to someone or there will be a fine. Some Harleys go to 110 and there are a few of them around now.

Commissioner Clark as Jared if they had to put one against a Harley that gives them an idea of the noise. The Chief was talking about the tires. Chief Apodaca said it was an urban legend they would not work on the roads. And unless its posted otherwise, the speed limit is 25 mph. Commissioner Clark although she's not really in favor of this, she did see the requirement to wear a helmet. The Chief said if they are under 18, they are required to wear a helmet.

Mr. Bartoo reminded them the ordinance is not drafted yet. Some started in 2016 and made adjustments in 2017, so they are fine tuning it. So it's just another burden because you can get on a Harley and ride without one and their OHV's have roll cages and other protection. Chief Apodaca said the copy of the local ordinance does specify they have to wear one if they are under 18.

Mr. Tulk added one thing they will recognize is OHV riders are very self-policing. If anybody is acting like an idiot they usually have to deal with one of them first before any police are involved. And if they need to, they will call the cops to let them know.

Commissioner Hechler said there are a couple of different types and are they recommending that both be allowed under this ordinance? Mr. Bartoo responded the law is based of OHMV refers to a side by side with a roll cage and steering wheel, then the straddle type with a handle bar is an ATV, then there is non-street legal dirt bikes which are not in here, and then snowmobiles. To exclude one over the other should not be done. It's unfair to exclude those.

Commissioner Hechler is not an advocate for designated streets, but he's an advocate for recommended roads of travel. He asked how they felt about that or what they would recommend for signage to get from point A to point B?

Mr. Tulk said the goal would be to stay at Holiday Inn or Comfort Inn and how you would make your way to the Brewery. So you would have to pick a path that would be lease affective for the residents. They are going to have to jump the business loop or whatever and they could put some more effective routes they could use or signage. There is a fund that's building back up but he's not sure if that can be used for signage. Commissioner Hechler understands there were not enough requests for that funding,

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but if we make a request, we might be able to get. Mr. Tulk also added as far as suggested routes they would be ok, but keep in mind the more traffic you put on one street the more complaints you may have from locals. But you would want to keep to where people can use other routes and not wind up like Silverton where the Chief is chasing everyone if they wanted to leave from their house.

Commissioner Clark asked if we have an idea of how many OHV Owner we have in the area. Mr. Bartoo said they personally own three, he would say well under 1,000. But it's kind of like vehicles at home, you may have two or three, but you're only driving one at a time. If he guessed, he would say 100-200. Commissioner Clark asked if they thought 100-200 would be on the streets on any given day. There was a rally recently and there were 175 in Elephant Butte that started at the VFW. The newness is the key, the first 60 days it was new and exciting, then later you might see one or two. As they told the county, the goal is to get to the county where they can ride. You just passed an ordinance to not go on private property and they will need a way to get to the areas where they can ride.

Commissioner Hechler mentioned they might want to look into designating parking in the downtown area since they can't park on the highway. Mr. Bartoo said the regulations said in extreme conditions they can ride on the right hand shoulder to cross to the other side.

Mr. Tulk as long as people following laws and are going somewhere, if they stop at the end of the block, is that really a big deal? Commissioner Clark said you can park on a nearby street also. Mr. Tulk said they will normally try to do that. These things are quite expensive, he met one person visiting who had \$100,000 in his.

Mr. Charlie Warren said there is an increase in municipalities authorizing this, there is an increase on the state to look at allowing them on the Highways.

Mayor Green just has two quick questions. One is a follow up on the noise and a muffler and decibels. Is there anyway with a muffler that can hit the 96 decibels. The noise seems to be a very big issue. They had a meeting with the Chief and that law has been in place since the 70's and still will be. Mayor Green also asked how much will be used as domestic transport to the grocery store or have they done any research on how much is used as basic transportation. Mr. Bartoo said in Arizona you have a selection as to whether it will be 100% off road or what percentage might be residential. Mr. Tulk reiterated at first when it's new, you will see more of them using it. Mr. Warren added he rides his in Elephant Butte to the gas station, to breakfast at the Legion twice. He's not going to use it to ride to town, it's too expensive, and he'll take his car. You may have people here with motorhomes that may be able to come to town to shop.

Mayor Green said we have the Sierra County and Elephant Butte ordinances, and we also have the Golf Carts ordinance.

Mayor Pro-Tem Whitehead moved to approve authorizing staff to take the ordinances and see what we have on the books for Golf Carts with the other samples to craft an ordinance to protect our citizens, and the possibility for economic development and to bring it back in a timely fashion. Commissioner Baca seconded the motion. Motion carried unanimously.

City Attorney Rubin shared his observation the County Ordinance basically mirrors the state statute. So it really comes down to how much more strict we want to be for example you were talking about Golf Carts.

I. NEW BUSINESS

1. Discussion/Action: Request for approval to pay late invoice for Lodger's Tax. Carla Johnson, Friends of Elephant Butte Lake State Park

Charlie Warren, Vice President of Friends of Elephant Butte State Park presented their request. He read the official request included in the agenda packet.

Mayor Green asked Kristin to do some research and the award was \$700.

Commissioner Clark said this happens sometimes, but the other difficult thing is your event is after the June deadline. Mr. Warren said even worse than that is the fireworks. Commissioner Clark just thinks the timing of the event creates a difficulty. Mayor Green said even if the event is later the advertisement should be done in May and can be done in time to meet the deadline.

Commissioner Clark moved to approve to pay the invoice payment for \$700 of their award. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.

2. Discussion/Action: Agreement with Santa Fe for adoption. Mike Apodaca, Police Chief

Chief Apodaca presented they have a proposed agreement with Santa Fe Animal Shelter who take healthy animals from the shelter which they would adopt. The agreement was reviewed by City Attorney Appel and they are willing to come down and pick up the animals. It would be a rare occasion that we would have to take them ourselves. It's a free contract.

Lt. Baker reported she is really excited about this. There is some requirements for us to make sure the animal is healthy. They are not charging a fee and if anything happens and it doesn't work out, we can terminate it at any time. It's mainly to help with the population control as well. They won't take Pit Bulls and Chihuahua's, but they would like to give their animals the opportunity to be adopted out. She can assure them they do not have the animals outside 100% of the time. She invited any of them who would like to come to the Shelter to please come.

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Commissioner Clark thinks it adorable that Lt. Baker is trying to talk them into it.

Mayor Green asked if we have a page for the Animal Shelter and the adoptable animals. Lt. Baker said they have the Animal Shelter Facebook and will be working with Ms. Cantin to put together a slide show to distribute and post. They will also be putting articles in the newspaper.

Commissioner Hechler moved to authorize the city to enter into an Agreement with Santa Fe for adoption of animals as presented. Commissioner Baca seconded the motion. Motion carried unanimously.

3. Discussion/Action: Marketing T or C and surrounding area to Virgin Galactic. Steve Green, Mayor

Mayor Green presented the efforts that are being done by Las Cruces. He would like to get the support of the Commission for he and City Manager Fuentes to make the trip to Bakersfield to make a presentation in person to the 86 families that may be relocating to this area to compete with Las Cruces. If we do nothing, we will get nothing.

Commissioner Clark wanted to comment to him that before he leaves, the Valedictorian of her daughters class went into AeroSpace and has a really good job at Sandia Labs.

Mayor Green said they didn't want to have to call a Special Meeting and the 2nd in Command contacted him and they need to know the assets we have. We should be prepared to take advantage of the offer if the opportunity arises to pitch our community and our county.

Commissioner Clark moved to approve sending the Mayor and City Manager to Virgin Galactic Forum as presented. Commissioner Baca seconded the motion. Motion carried unanimously.

Recessed the meeting at 11:14 a.m. and reconvened at 11:20 a.m.

J. REPORTS

a. City Manager

- 1) In regards to the downtown project, you will see Wilson and Company who have been helping us assess the downtown roads. We are doing a GeoTest on the Soil. We will have SmithCo working on the Utility Lines in that area also.
- 2) The DOT will be having the Roundabout Meeting will be at the High School Gym on June 20th
- 3) SCCOG is working with NMDOT and Wilson and Company on a proposed interchange at exit 79 on June 25th at Elephant Butte State Park at 10:30 p.m. it will allow for more economic development.
- 4) Application through NMDOT for the MAP Grant did not make it. But they got familiar with the process and will try again next year.

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- 5) Mr. Dornbusch had concerns about the water tank, they will have more information on that. Well No. 7 is scheduled to be rehabilitated. But it may trigger some water conservation to keep an eye on it.

b. City Attorney

No Report.

c. City Commission

Mayor Pro-Tem Whitehead is concerned if we need to watch the water, that we watch the water leaks to avoid losing water whenever we possibly can.

Commissioner Clark will be leaving town next week and will be gone through July.

Mayor Green noticed there was a leak and when he returned it was all marked for gas lines. He thinks that might be a little bit of the delay. 2) Linda DeMarino had an idea for the problem at Foch and Broadway; he will be bringing up the problem to the South Central Regional Transit District meeting; and 3) He also drives around town looking at the money that's being thrown out in our poly carts. It makes you want to cry. San Jose has the highest per capita income in the country and the recycle rate is at the 70% rate. Again, cardboard, aluminum, and others can be saved and recycled. We've got to do better.

K. EXECUTIVE SESSION

1. Threatened or Pending Litigation (Cloverleaf Trust Organization Application to Appropriate Water from the Hot Springs Basin State Engineer File No. HS-01131) Pursuant to 10-15-1(H.7)

Mayor Pro-Tem Whitehead moved to approve going into executive session at 11:26 a.m. to discuss Threatened or Pending Litigation (Cloverleaf Trust Organization Application to Appropriate Water from the Hot Springs Basin State Engineer File No. HS-01131) Pursuant to 10-15-1(H.7). Commissioner Hechler seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously. Commissioner Clark recused herself and left the meeting.

Mayor Green reconvened the meeting in open session at 11:39 a.m.

Mayor Pro-Tem Whitehead certified that only matters pertaining to Threatened or Pending Litigation (Cloverleaf Trust Organization Application to Appropriate Water from the Hot Springs Basin State Engineer File No. HS-01131) Pursuant to 10-15-1(H.7) was discussed in Executive Session and no action was taken.

**L. ACTION ON ITEMS DISCUSSED DURING EXECUTIVE SESSION, if any.
ADJOURNMENT**


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Mayor Pro-Tem Whitehead moved to approve to authorize the attorney to proceed with the protest in accordance with the June 6, 2018 letter. Commissioner Hechler seconded the motion. Motion carried unanimously.

M. ADJOURNMENT

The meeting was adjourned at 11:40 a.m.

Passed and Approved this 11th day of July, 2018


Steven Green, Mayor



ATTEST:


Renee L. Cantin, CMC, City Clerk