

**CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS 405 W. 3RD St.
WEDNESDAY, AUGUST 22, 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 welcomed Mayor Pro-Tem Whitehead back and it was brought to his attention that when former Mayor Jimmy Rainey died a year ago we didn't call it to everyone's attention. He read a statement of his accomplishments. He then called for fifteen seconds of Silent Meditation and asked us to keep our veterans in our thoughts and prayers.

3. PLEDGE OF ALLEGIANCE

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

4. APPROVAL OF AGENDA

Commissioner Hechler moved to approve the agenda with removing item 1.2 at the request of the presenter. Commissioner Baca seconded the motion. Motion carried unanimously.

Mayor Green thanked Ann Wellborn who sent the information on Jimmy Rainey.

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.

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

- 1) First is totally in support of the ATV Ordinance and if Truth or Consequences, Elephant Butte, and Williamsburg got together it could be a tremendous tourist industry for us. We have the mountains, the trails; it would just be tremendous. And there's over 100,000 ATV's registered in New Mexico, it's a heck of an industry in itself for us.
- 2) He has never seen such a lack of the city doing what it needs to do. Like maintaining the roads, the sewer lines, the water lines, the golf course, the swimming pool, every single piece of infrastructure has deteriorated tremendously since Mr. Fuentes has been here.

There is no new building going on, there's no new houses, there's 500 new houses being built in Las Cruces right now for the year. My companies are very busy doing 2 big jobs in Las Cruces of which I'll speak of for the year. The Impact Fees we are wasting another \$40,000 on a steady. The engineering company came back and they want to raise the rates from \$150 per water unit to \$500; what would that mean? That means that for someone that wants to build a 3 bedroom 2 bath house with washer and dryer, sinks and laboratories and so on the impact fees now are at \$3450 which we have impacts for growth...we have no growth. It would be \$12,000; \$500 a water unit, \$500 impact fee per water unit for a 3 bedroom 2 bath house. We have no vision, we have no leadership, and it's been absolutely preposterous. Everybody around us is starting to grow. Cruces have just gone gang-busters. It's unbelievable. The employees come to me every day every other day and tell me things, it's unbelievable what's going on, there's no leadership with the employees. There's no support and I think the city if things are not changed here pretty soon, there's going to be quite a few city employees walking out, which there's already been some. There's been no plan for retirement in the water and sewer departments and the other departments it's just fly by night. No training, no vision, no follow up, any support. We need you to resign. We need you to resign Mr. Fuentes. Thank you.

Ron Fenn, 316 N. Foch addressed the Commission related to:
I'm talking about 2 things.

- 1) I'm putting you on notice that the variance hearings are illegal. You have no business doing these variance hearings for either Whitehead or Taylor today. You are not the Planning & Zoning Board. The Planning & Zoning administrator is not is not the Planning & Zoning board. The fact that we have no Planning & Zoning board is Mr. Fuentes. That's his job as the manager and the administrator of our code, to ensure that we have the boards that are set forth in our municipal code, that have to handle this situation. Not a little bureaucratic employee that has ex parte communication with the applicants.
- 2) I want to say Mr. Fuentes, you do need to resign, and you are a thief. You have stolen from the public; lands, you've taken money, you have shirked your duty

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financially to control the one thing that you do control and that is the expense of this city. You have done nothing. You cannot control the income of the city, but you certainly had control for 7 years of the expense of the city and you've done nothing, except to follow up Mr. Ashbaugh's statement deteriorated our city for seven years. How long will it take to recover from that? You need to go and if this Commission doesn't have the understanding of what Mr. Fuentes has done and backs him for another term, then you are just as guilty of the crimes that will be shortly sent to the agencies to the state of New Mexico for an investigation and follow up. They are prepared and they are ready to go. And Mr. Fuentes, you belong in an orange suit. Thank you.

Randy Spear, 105 S. Arrowhead Rd. addressed the Commission related to:

1) Agrees Mr. Fuentes needs to go. You are bad news here. You're the definition of insanity for this town. And if you don't know what that is, man, go look it up.

Harvey Klienstever, 818 N. Pershing addressed the Commission related to:

I have been a member of this community since 1979. I play golf at our city golf course and I've seen it go through many changes.

1) Golf Course – 6 months ago, we were going through extending the contract for Terry Taylor for another year or until we could get a pro or somebody to manage the course. Unfortunately, things have not improved. 6 months ago, the golf course advisory board gave \$20,000 to help improve the golf course, with the understanding that the city was going to match \$20,000 to improve the holding pond because every time it rains it floods out half of the golf course and to improve the cart pass. Nothing has been done. I did get 4 hours from the city to improve the drainage. But this next heavy rain, all of that work will be gone. We need new sprinklers; six months ago we got 100 @ \$250 each. They plug up very rapidly. I'm bringing them here and you can see they're plugged up primarily because of the filtration system. That system was supposed to be improved with a sulfur system. The city manager went to Silver City to see about it, 6 months ago it was supposedly ordered. I understand that when it finally got here, and hasn't been installed and can't be used because it takes sulfur to operate; kind of like buying a gun and having no bullets. This thing needs to be operational. I can give you many examples of what's happening to our golf course. The sprinklers plug up, they don't get the water. 3 weeks ago our city manager made the statement that the golf course was looking great. I'll agree. 3 weeks ago, it was looking pretty good, but as soon as they started plugging up, now 80% of our fairways are brown. No water. We need this system working as quickly as possible. We needed more help, so we sent a qualified person for an application to the city parks to work 2 days for the golf course and 3 days which was approved by the city manager. When he went down there, there was no application. No need for them, no job opening. So the man left without it. He's since taken a job in another location for \$10 an hour. We hope we can get him to come here for \$11. Thank you very much.

Isaac Eastvold 1301 N. Silver addressed the Commission related to:

We are very close to the land we bought, 209 acres, from the Falls family and are trying to protect it at this present time and turn it into an asset for the city as a Chihuahuan desert conservancy. I am pleased to have announced as we move along our

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milestones, we got the area surveyed and the corners marked back in December. We posted it shortly thereafter and I remember going out with Chief Apodaca to one of the signs in the base of what we call Falcon Canyon by the rodeo grounds and it was absolutely smashed by an ATV. The t-post was bent flat to the ground. We replaced that sign and it was smashed again. And so clearly, signs are not going to be enough. So we have taken our own funds to fence these areas that have been receiving most pressure from ATV's and off road vehicles. Here is the area on the East, next to the rodeo grounds. We have fenced that and we fenced the area along HWY 181 where they were coming in across the New Testament Baptist Church property and going along the rim above Cuchillo Negro Creek. Most of the trespass coming into what we call Falcon Canyon here on the east is coming across Cuchillo Negro from Elephant Butte. You can see the tracks very clearly. A lot of the trespass coming in from the east side is coming in from Smith Rd., by the Sun Valley Hardware Store. So I'm pleased to announce our next milestone and that is we have those 2 sides fenced.

1) Explained the cost of dealing with 4,884 feet four strand, barbless wire that is wildlife friendly. That will not impede the passage of wildlife. And we have that signed according to state statute and city ordinance #691 which Mr. Ruben wrote with help from Mr. Green is cited on the sign. So that is quite a milestone, it was almost \$8,700. The survey was \$600 and other signage and so forth has brought the total cost of trying to protect our property from ATV trespass to about \$10,000. So this is the cost of trying to deal with some of these people. I just wanted you to know that. Thank you.

Terry Vandevetter, 1000 block of Copper St. addressed the Commission related to:

- 1) Followed up on Mr. Klienstetter on the Golf Course. 2 weeks ago at the meeting, Mr. Fuentes in response to what I have said previously, stated that the golf course was in good condition and the manager was doing a good job. I can't say exactly how I feel about that because I would have to bring things in that I don't want to.
- 2) The problem with the watering system up there is, we've not had a Fresh Water Pond, for 3-4 years at the Golf Course. Every time anybody inquiries about it, it's told to us that it's going to be in the next fiscal budget. That's happened about 3 or 4 times now, and it never shows up. The Manager's contract has been violated in numerous ways. First, there was a Golf Tournament this last weekend and it states that it will provide a fleet of carts that are able to be used on the course. I looked yesterday, and there were 7 carts there completely shot; either flat tires, batteries missing, or something along that line. In my foursome, I had my own cart, so it ran ok. The other twosome and our foursome used 2 carts up there that day. One of them ran out of juice, the 2nd one they managed to get finished. While they were unloading their equipment in the parking lot, the tires went "BANG" they were down. And that happens all the time, he'll rent those carts and they'll have to come back and get more. The other thing was, tournament was organized by the manager originally, 2 days before the tournament, he came in and checked to see what the employee was gonna do for that day, he said 'sounds good, see ya'. Ok, he left; he didn't even stay to run the tournament. He turned it over to one of his employees, ONE of his employees. He had to take care of mowing the greens, resetting the cups, organizing the teams, and getting them off and started. So, we need somebody up there that has the knowledge of what the course needs and they have

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a solution about going about getting that done. And at the present time, we do not have it. Thank you.

John Hendry, 517 Austin addressed the Commission related to:

1) Has been coming here since 2004 when the State Engineer had decided to lower the water levels at Elephant Butte Lake. I was tasked by Governor Richardson to try to mitigate the tourism aspects of that particular event over there. I worked to put the veteran's wall in here, the water rates at the golf course interestingly enough. I fell in love with this property here. Spend a considerable amount of time. I also have traveled extensively around the state as a marketing director around the country. I just returned from Scotland from a festival. And can I say, everything is not wrong with this town. This is the 3rd time I've heard this that everything is bad, nothing is going on that is moving you forward. And it seems to me that that's just not the case. Your innovative use of Leader Funds for the Brewery downtown has now been looked at as a model for regeneration and other small towns around the state. I think what you did; you are just starting to see the consequences of that. I look at the agenda and this moving forward on the Healing Water Trail, moving forward on the ATV ordinance, I passed originally when I worked for Governor Richardson, with the consequence of trying to put the ATV's down at the lake. Our idea was to have ATV's from the high water line to the lake level there and I actually put through the law to put the registration funds in there. There is money when you have passed that ordinance or if you pass that ordinance to market what you're doing here in these funds. Apply that to the department of Game & Fish. Look for marketing dollars for that.

2) He really wants to say something about Cary "Jagger" Gustin as the Film Liaison has done a wonderful job. Every film liaison in the state would benefit from his knowledge.

Audon Trujillo, 506 W. Third St. addressed the Commission related to:

1) He just read in the paper about the Ashbaugh Lawsuit. He has been trying to get you to form the Boards & Commission's that are in place. It's an important thing you can be sued for.

2) He's been using the Golf Course and wondered why we don't do the same thing with the Golf Course as the Animal Shelter and use volunteers.

Mick Montgomery, 505 Ivy St. addressed the Commission related to:

1) Lived here since 1955. He loves this community and loves living here. He came last time to complain about the water leaks in town. In the last 5-7 years, we have a lot of infrastructure that needs to be replaced. The patchwork is good but the water lines need to be replaced. Streets need more oil, and blacktop, or chip & seal. We need to clean up the fish pond. The Dog Park next to it but what is next door needs to be cleaned up. Civic Center we need to pave the parking lot across the street. Put some lighting in there for our visitors. A lot of people use it. It needs to have a commercial stove and a bigger refrigerator in there and electrical system needs to be replaced in there. Water tanks on top of the hill need to be torn down; they don't use it for the Golf Course anymore.

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2) He also feels that Mr. Fuentes has not done his job in the last 7 years. I don't have anything against you personally, but I think we need to get new management. I think you need to resign sir and find somebody else. Thank you.

Jusphont Caulsa owns property on Main St. addressed the Commission related to:

1) One of the things they would like is to keep this as a peaceful quiet community. It seems like there are quite a few challenges here, some of which I'm just learning about. One thing that we can control is weather we keep it as a peaceful quiet community. There was, I think last year, a home at the Air Force base presented the issue of jet fighter pilots training and flights possibly going around here. And a lot of people express their concern about that because of the destruction of the peaceful quiet community and yet ATV ordinance of having ATV's on the streets also disrupts this. This seems like it's something within the community's control. I understand it could be supposedly a great business, but if people don't want to live here, we're also trying to attract people to live here for Space Port Center and other places. I've heard about concerns population dwindling. It seems to me that the things we can do that are really not too difficult, not too expensive is to keep it a pleasant community for people to live in. Peace and quiet is one of those and I don't think ATV's on the streets contribute to that. I do think that there are some possible compromise solutions because obviously there are some people who feel differently, such as giving out a trial period, designating certain streets.

2) And, I also have been in contact with a number of people who are not here in the summer time, they have left in May, and I think it would be good to table the final approval of this ordinance until more people can be here to speak their mind on it. Thank you.

Kathy Back, 313 2nd St. addressed the Commission related to:

1) He has to echo the comments about Mr. Fuentes. The sidewalk project which you got grants from the state to implement, yet you paid minimum wage to the city workers that work in the street department to do that which led to the other streets falling in disrepair because you did not have enough people to do the job in a timely manner. You can't hire anybody into that department, they won't go there because they know that they're the ones that are working in town and everyone else is standing around watching them. You don't pay enough money, you don't treat the people with respect, you question when they're praised, why do they not get a raise when it's been acknowledged that they're doing the work, yet other people who stand around and wait for the weekends to come around so that they can put in their stand by time do their jobs and get paid \$3-\$4 more and hour. You can't get people in here because they know that the city management stinks. And you are the head of that. You need to step down.

Hans Townsend, Chamber of Commerce and Desert View Inn addressed the Commission related to:

1) Some of the comments reflect the way we use the city. This is the only city that owns its own Utilities. If you take those funds and push into your general fund then you should be able to survive like everybody else does, in other words, you're better off. So you should be able to do more but it doesn't work out that way, we do less. So

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something is wrong and what is wrong, is priorities, I think and that we dive into these big projects that cost a lot of money and they're more for appearance then they are for practicality. I add up how much money was spent on that pool in the last 5-6 years and I shudder because it's as much as it would cost to build a brand new pool in a public place where even tourists would use it and spend money on it and provide upkeep for the staff. These sorts of things don't make logical sense. It's not a survival thing, that's more a grandiose thing and I think we lean more towards those things then we should. The basics are things that we really need to look at and somewhere there's disconnect in those things.

2) As far as ATV's are concerned, when I hear the trucks going up and down the streets with their exhaust roaring like crazy, I don't think ATV's are going to make a difference. They're quieter than a lot of the trucks and the guys that drive up and down the streets at 10pm-11pm at night with their music blaring out of a jeep, ATV's aren't gonna make that much of a difference, but they are gonna bring some economy and we need some economy. There are lots of things that we need to help boost the economy. People think it will stay the same, nothing stays the same. If you don't push it up, it goes down. It doesn't matter; it doesn't stay the same anywhere. You don't get your roads done if you don't pay taxes, and if you don't get more people into town. So, those thoughts are great if you want to hibernate and not further advance.

3) He still thinks we have a lot of thinking and doing to do.

Susan Montgomery addressed the Commission related to:

1) She just wanted to echo that she loves this town. It has so much room for improvement. There are little things that we can do. Just be aware, do stuff, and just do stuff. There are so many weeds just even around here. People come to the Civic Center and the yards look horrible. The one place over on the corner is just a junk yard. Who's doing something about that? And across the street, the weeds are up high in the little strip out in front of the sidewalk, I mean, come on; we can do something about it. And my special place to go with my little puppy dog we call it Skinny's Pond because Skinny Davis was a dear friend of ours. The pond is atrocious, that is where people go who are tourists. There's only one little place where my dog can go to get a drink of water, because there's trash, moss and cattails. We need to have it cleaned up and take pride in our town. So if you're not able to do that, then somebody needs to come in to do it. Thank you.

Ron Pacourek addressed the Commission related to:

- 1) At the last meeting he heard there is going to be a \$500,000 deficit of our Gross Receipts Tax, he finds it hard to believe Santa Fe would take that money and not gives it back. It was in reference to the city shrinking revenue tending to underscore by the states recent reduction in small city assistance fund from \$600,000 to \$100,000. The small city assistance fund is different than the gross receipts tax and that's what it says in the paper, so I need some clarification on that.
- 2) On the corner of 3rd on Date St. there is a bush there that is blocking traffic.
- 3) Golf Course there was a gentleman who seems to have interest in taking over the Golf Course. On Monday again, nobody was there to open it. On two separate occasions, when I've been to the Golf Course, there were people from out of state,

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couples that wanted to go play golf and they had their bags out, but there was nobody there to receive them. So I just told the two different people on two different times just put your bags on the cart and go play and if they come back and someone's there, pay them and if not don't worry about it. But what message is that taking back to their state about our golf course and our community?

- 4) What he thinks is a good job in management may be a whole different spectrum of other people thinking what a good job a manager does. Management is really important in everything. When I had the hardware store, we were half a million dollars in the red, when I left, we were doing \$1.2 - \$1.3 million dollars and I had turned that store around. It's all about management. Thank you for letting me share.

Klaus Wittem, 618 Charles addressed the Commission related to:

- 1) He is addressing the Sims McAdoo Water Replacement line. I find it difficult to believe that we would attempt to do a pilot project and do it in preparation of less than 3 months. I don't think that's reasonable; haste makes waste and we can't afford either. You need to review your project and give and let me give you an example. He believes we should put a 12" line on McAdoo and a 12" line on Austin in order to avoid the massive cost of replacing lines on Broadway and Main Street. So, I would urge you to look at this one and approach it with a value engineering point of view. This is a huge cost on behalf of the city \$25.7 million dollars. And this is just the beginning and we don't have it. We can't afford to waste money. He provided a copy to share with the consulting engineer.

Edward Williams, 707 Carmen, Williamsburg addressed the Commission related to:

- 1) He can speak as to the infrastructure as a former employee. The citizens of this public want, want, want. They don't want to pay for it, they want you guys to somehow come up with it, but every time the city cuts impact fees. When is the city going to grow up and start getting in the real world? You can't survive on \$150, that's money that we can earn for things. Public complains, it may get shut down, every time. Commissioners, City managers, I've been through; I can't even count how many city managers. And you know what? 32 years ago we had these problems, so everybody out here that thinks these problems are because of Manager Fuentes or this administrations fault, I don't know what their problem is, but they're wrong. I can honestly speak to that any city employee that's been her for years, know better; it's just that they can't speak up, but I can. I'm sorry, but I just get tired of hearing this crap. That's all it is. City employees, they get complained at; we have too many, you don't have enough, you don't pay enough. How are you going to come up with that? How are you going to hire new people? You got to think beyond, just personal grievances, from what I hear, that's all I hear 'personal grievances'. It costs money to run a city and until the public is convinced that we have to step up, I heard prioritization, and to prioritize infrastructure probably is your most important thing. You can't grow without infrastructure. And, be willing to step up. I get so sick and tired in my 32 years listening to crap, I'm sorry, I apologize for being rude, but that's all it is. It's talk – talk, talk, talk, talk, talk. It has improved; the infrastructure has improved. Like I said, I can't talk about much of the other stuff, but it's not to the point where it needs to be evidently. And it's not you all's fault, it's

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not Mr. Fuentes fault. It's the citizens of this city that keeps shutting everything down every time there are ideas that are brought up to improve, to maybe be able to make a little money; to do the things that they want. Until that happens, I'm sorry, but they're just shooting their mouths off for nothing, until they step up to the plate. And yah, I'll have to pay too, I understand it, I understand. I'm just frustrated over hearing this stuff over 32 years. So we need to think about that. It's not just his responsibility or you all's, its 32 years' worth, that's what you got in the ground out there and above. Thank you.

Nani Rivera, Austin St. addressed the Commission related to:

- 1) I agree with the Gentleman who spoke before me. New ideas and new industry is a really good thing that you should be going for.
- 2) One of the things on the agenda is the Film Fiesta and former Governor Gary Johnson. The entire state of New Mexico has been benefiting from the film industry and the new money that it's brought in to New Mexico. A lot of different Republican and Democrat both alike are all agreeing that the film industry is good for this state and good for the economy. And I believe that it's also good for T or C. Productions are looking to move outside of Santa Fe and the Albuquerque area, looking for more rural areas and Las Cruces is benefiting from it, there's a lot of towns benefiting from it. And your return in investment in the T or C film fiesta would be so much more than just \$2500. Not only would it be a tourist attraction for the weekend alone itself, but it would also be a platform for us to be able to have an opportunity to show film makers and we would target the film makers that would most likely choose to film their films here and bring in new money and that's what we would do with that. We would also be investing into a marketing package which in February during the legislative session where we would be able to showcase T or C to thousands of film makers and just film lovers in general, both for production and for finding a place to visit that they would like to spend some of their vacation time. I really urge for you to vote yes in supporting the T or C Film Fiesta and I think that's a great way to bring in new money for some of the maintenance issues that the community desires. Thank you.

D. RESPONSE TO PUBLIC COMMENTS

City Manager Fuentes did want to address some of the comments that were made directly towards me. I understand Mr. Ashbaugh, as you know, the city is in litigation with Mr. Ashbaugh, and so I can't address him specifically. We are in litigation by the advice of legal counsel; we'll just leave it at that. He posted and reviewed some of the projects they have completed and how long they have taken and what priorities have been set. He called their attention to projects staff has been tasked with. Some of these projects range from the animal shelter, the waste water treatment plant because hear, for example, the infrastructure. Ed Williams was very passionate about what he hears and what the reality is. And I want to share this with you all because these are projects that have been taking years and the amount of money that we are talking about is over millions of dollars. The waste water treatment plant, phase 1, we have been working on it for 5 years. It's over \$8 million dollar projects. Traci Burnett is working with USDA on

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another project on our water system. So you have waste water that was completed, phase 1, we have a CDBG sewer rehab for manholes that were deteriorating on our critical lines and obviously we want to make sure that people can flush their toilets. I mean, people take that for granted, but let me tell you, our crews in the water department, and in our sewer department, they take their jobs very seriously. And, it is something that they do worry about, so that's why we did that project that was \$500,000. The fuel farm, phase 2, people might not consider the airport being that important and critical, but we are in the process of replacing the entire fuel farm, and that's basically the fuel tanks. That's over \$500,000 to replace the fuel farm, but that separate funding that we were able to receive. You talk about the electric system that we're working on, rodeo arena improvements, soccer field improvements, SJOA for the seniors, and I'll get you one of your projects that you mentioned Mr. Montgomery. The Broadway sidewalk project that was federal funding, specifically for that project, in collaboration with the state agency that was completed by our streets crew. Who right now we have our supervisor right behind us Benny Fuentes, again, a lot of it was in house, we were able to stretch the dollar a lot further. Swimming pool rehab that was done in house. Foch water harvesting, IT citywide, and some of the other projects that we worked on last fiscal year. The leader grant, vacuum truck for the water department and the sewer department, vector fogging machine, the department vehicles, solid waste vehicles, USDA, the administration rehab, we working on the race track, and Elephant Butte minimum pool project. So, there are a lot of different projects that the commissioners give direction and say 'these are a priority, so let's go ahead and move forward'. So, going into this fiscal year, and we just started the fiscal year, and this is why I want to share with you as well as those of you on the radio, so you look at the list of projects that we have; so we have the Simms McAdoo road rehab project, and there will be a presentation made by one of our engineers. This is a unique project and we did use the word 'pilot project' because this is the first time we're trying to tackle the replacement of all our infrastructures in the road. A lot of times, you only have enough money to replace the water line or you only have enough money to replace the sewer line, so what do you do? You replace the water line and then you go back and then you have to tear it up again to replace the sewer line. So, this is a pilot project in a sense that we're going to try and rehab a section of the downtown road and I welcome all of you to be here to listen to our presentation from our engineer and try to see if we can accomplish and replace everything. And what is the cost? Because that's going to give weather it's this commission or the next manager and staff a good idea of what the challenges are and what price tag are we looking for if we try and do this city wide. So, that's going to be a really key pilot project. We have other projects like the waste water treatment plant, phase 2. That water system, we are applying for the clean water revolving loan fund. Originally, we were requesting over \$2 million dollars, but we scaled it down to over \$1 million dollars and we're getting some really good feedback that we're on the list to receive the majority of that money by grant. First we focused on the waste water treatment plant system, now we're focusing on the water site system. So, you've got the water system improvements, that's in USDA application, the fuel farm, phase 3, water – electric meter, I'm proud to announce to the commissioners and the public that the public utility advisory board did endorse an automated meter reading system. I have to give kudos to Bo Easley, our electric division supervisor, because he pushed it on a

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presentation, along with Traci Burnett, but that is going to help us to be more efficient and have the electric meters read more accurately, which in turn, down the road, the water system will be able to piggy back on that system. The sulfur system should be coming online pretty soon within the next week or two. Those are some of the projects and these are other projects that we have on the list for this fiscal year. As you look over the list of projects that we have down for this fiscal year, 12 months, these are all the different kinds of projects that our staff are being tasked to undertake and some of these projects don't necessarily have funding already to them so their job is to find us the money. The priority that we look at is to find us more grant money than loan money or local match money. As you can see on the list, it ranges, it can be anywhere from as simple as taking care of the pond that we hear about, to Ralph Edwards to as complicated to the infrastructure in the electric division, water system, sewer system. He wanted to dispel any notion from Mr. Ashbaugh or Mr. Fenn that we are not the only community who are competing for the same funds. He invited anyone who wanted to visit to please let him know.

Mayor Green responded at the last City Commission meeting, this commission was berated for moving public comment to after a Presentation about the citizen's swimming pool, given by Tommy Gardner. Our reasoning was very straight forward. There were lots of citizens, users of the pool, as well as swim team members present and to have public comment before a presentation that the citizens that we serve had an interest in but didn't know what they would hear, just didn't make any sense. And that's why we voted 4-0 with one absence to change the agenda and put public comment after the presentation. From the draft minutes of August 8th, 2018 Ron Fenn addressed the commission related to: resents that fact that they moved the presentations before public comments. He resents the facts that you moved public comment after presentations to pander to somebody else while making citizens for whom you work, sit there and have to listen to something that they might not want to listen to. You owe your allegiance to the people. And the people are item C and C should come before any other item on any agenda. Just so you know that C is public comment listed on our agenda. Mr. Fenn is exactly right. We work and our allegiance is to the people and that word is plural. We made the right decision then and my hope is that this commission and future ones will continue to do the same, where it just makes common sense to do so.

Mayor Green continued with an observation over the last couple of meetings that we have all been here for. It takes a unique type of individual, who knows that the person they are verbally attacking, is defenseless because the city is involved in a lawsuit with them and the person being attacked has publicly stated during a commission meeting with the attacker present, that on the advice of city attorney Ruben not to respond, and they do not. This unique type of individual must be very proud of themselves because they continue to attack meeting after meeting after meeting; a very unique type of individual indeed.

E. PRESENTATIONS:

- 1. Presentation related to the Healing Waters Trails in the Rio Grande Trail Master Plan. Christy Tafoya, State Parks Director and Rosemary Romero who owns Rosemary Romero Consulting.**

Ms. Tafoya began the presentation by stating how this might relate to some potential opportunities for your community and I heard that there's some interest in different opportunities for your community and I think that this might be something that would be of interest to you.

The Rio Grande Trail concept has been around since the early 2000's. The whole idea is to create an interconnected trail that would go from the Colorado border to the Texas border. What we're been doing, is we have a commission that is in place and I'm actually the Vice-Chair of that commission, to look at a plan for how we can make that happen and to actually designate trail segments. Ms. Romero is here with us today to talk about the planning process that has been undertaken with regard to this. What you see before you is the Mission Statement. The vision Statement that was created based on a lot of stake holder meetings and a lot of input from the public as to what the Rio Grande Trail should actually be. There's a lot of different things in that vision that is recreational trail providing a lot of different things for people, horseback riding, hiking, biking, and allowing people to explore the natural resources throughout the state. The history, the wonderful communities that, much like T or C, contributing to the cultural and environmental awareness of our state, healthy lifestyles as well as economic development piece which I think is something that I want to talk with you about. This is more of a condensed version of that vision from an evening walk to month long expedition; the Rio Grande Trail offers a window into the heart and soul of New Mexico and a journey through its exceptional natural and cultural heritage. We have the Rio Grande that is the life blood of our state and we have many trail segments that are already established along the river and have the opportunity for new trails to be established as well as potential off chute trails like your Healing Waters Trail that should be something that can be considered for the community and the opportunities there.

Just a real brief history of the Rio Grande Trail, the whole thought started in about 2004. From 2004 to 2008 there were a lot of different stake holder meetings, a lot of different outreach opportunities, and planning processes that happened. In the main planning process was actually from Belen down to Sunland Park, so that it was the southern piece of the trail that was discussed at that time, and we actually have a lot of input from all of the communities involved. Between 2008 and 2015, there was a change in administration, and the whole process, with regard to the Rio Grande Trail planning just stopped because the planning was undertaken through our department, the Energy, Mineral, Natural Resources Department, and so it was more of a state agency focus. It wasn't as much of a statewide focus in terms of the input. In 2015, Representative Jeff Steinborn of Las Cruces introduced this bill, which is the Rio Grande Trail Act, which is a really great act, because it establishes the commission that is bipartisan that is a commission that can last between different administrations throughout time. And to explore the more permanent of a Rio Grande Trail planning process and a designation process. So this act really lays out how the commission works together, how we work with stake holders, and how we designate, and what does the Rio Grande Trail actually

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look like. The main authority is through the Energy, Mineral, and Natural Resources Department. My boss, the secretary, is actually the Chair. The commission has consisted of 12 members. It's laid out in the act as to who those members should be and it includes the cabinet, the secretary, and it includes members of the public, members of non-profits, private individuals, and we have 4 legislative advisory members so that it's bipartisan. Representative Armstrong from this area is a representative from this general area. We've conducted 13 meetings since July 2015, and we've done them all across the state, more recently we had a more informal meeting at Elephant Butte Lake State Park and Mayor Green and Commissioner Hechler were able to be there which was really great, so thank you for inviting us today. We will be having another meeting next week in Santa Fe to talk about the Rio Grande Trail logo, which is a neat thing that we're working towards. And we also have meetings that are more specific towards designation of the actual trail. We have had work groups that have helped to inform the whole process of what does the Rio Grande Trail look like, as you can imagine, there are a lot of different pieces to that; from alignment to what the resources are along the trail, who the different users are so that we can make sure that we don't have conflict with users and their interests. Communication, inner agency and design, and management all of those work groups, if folks are interested in participating, we do have active work group that help to feed into the process and they actually report to our commission during each of our meetings. The commission actually came up with a process for designation that I want to share with you and I have more information if you'd like more of the detail. There is a process for designation and what entities need to provide to us are all of those things on that list: where are the trail segments located? What's the vision for that segment? Does it tie into the vision that I mentioned to you earlier? Is there public support? How accessible is it? How easily can it be incorporated into the whole Rio Grande Trail concept? Have there been any environmental and cultural resources? Have they been considered? Do the land owners have the ability to continue that trail and make sure that it's maintained and cared for? How do you manage for public safety and ensure that there is minimal impact to the resources? There's an application that needs to include all of that information. We have over 52 miles of trail that we've already designated, and I'll talk about the trail that's in your backyard at Elephant Butte Lake State Park. The city of Las Cruces passed a resolution because they have the La Llorona trail, and they want to be part of the Rio Grande Trail concepts for a lot of different reasons, such as education, economic development, so they passed a resolution and presented it to the commission and we were able to act on that. Up north, Del Norte National Monument, those are the segments that are already designated. If entities are interested in designation; the application would need to be completed and submitted to the commission. We have a process where we need to have that information presented, at one commission meeting or a public meeting 30 days prior to the actual meeting where we have the commission act to designate. The commission recommends designation based on evaluation of all the information in the process. The chair will make the ultimate recommendation with regards to designation and the governor signs off on it. We need to ensure that we have maps.

The existing trails in the Rio Grande del Norte National monument, the Bureau of Land Management owns these segments. They're in the process of undertaking NEBA, looking at all of the environmental and cultural issues with other trails that they have,

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and they are going to be coming to us next week to recommend designation potential of up to 20 more miles of trail. We will then in September look to potentially making that recommendation and our hope is by October 2nd, which is the anniversary of the National Trails Act, to do a ribbon cutting up at the Rio Grande Gorge Bridge, with regards to this as well as the other segments. Our governor will probably be there and we're hoping that the Secretary of the Department of Interior will be there as well. This is a big thing that's getting a lot of national recognition.

Rio Grande Nature Center State Park in Albuquerque, we have a tiny piece that's there, that's within our nature park. Some of the activities include bird watching and educational programming. Our trail segments have a lot of different things to offer; a variety of different users. Right here in your backyard, you have one of the largest segments of Rio Grande Trail and that is located within the park. Marketing this and working towards economic development, this will help out quite a bit. And people will want to get out there and have a whole different view of the lake. We have our traditional folks that come out to Elephant Butte Lake State Park for camping, for fishing, for swimming, for boating; we would like for them to come to hike and have a different experience at this park and be able to put this in their passport of all the Rio Grande Trail segments that they've been to and then come to T or C and stay to have a soak after they've hiked this big long trail segment. That's something that I'd love for you to keep in mind. From the park perspective, we would love to work with you for marketing and getting that information out.

Caballo Lake has an interesting set of segments there and Percha Dam. Caballo Lake has an equestrian trail and we have corals and sites that are specifically oriented to our equestrian visitors. Percha Dam has great opportunities there as well. Leesburg Dam Park is a beautiful hiking park. A lot of people go there to picnic and camp and fish, but they really do enjoy utilizing the trails as well. La Llorona Trail, with the city of Las Cruces and Mesilla Valley Bosque State Park, is more of an urban type trail. Mesilla Valley is more of wildlife viewing, bird watching type of trail.

Ms. Romero started by saying that this is an exciting economic development opportunity. She is part of the consultant team without the planning from Portland, Oregon. We started our listening sessions in June 2017. A lot of field work was done from Las Cruces all the way to Colorado. In November 2017, the draft alignments and outreach continued. In April 2018, the preferred alignments were brought to the commission and reviewed, so here we are 2018. We have a draft plan, but the team is reviewing the draft plan and the outreach. We also have a draft map book that we are reviewing. This is an evolving plan, and we want different entities to come forward with their ideas as well. We've got a product that we've got to produce, but for other entities that are coming forward, there will be a process in place for how to designate trails, so that you're not left out of that process.

Their second virtual Town Hall will be coming in September 12th for three weeks. It had combinations of agency meetings, the four public meetings, plus the meetings that Christy and I have done. The majority of the work input came from Virtual Town Hall. We had close to 1,000 people participated in this. The average age was 55+. Both men and women responded from all over the state, as well as from out of state. One of the

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things people are most excited about is the long distance trail, something similar to the Appalachian Trail or the Transcontinental Trail. More recently we received a letter from the South Trail Alliance; they are ready to hit the ground running and test out some of these trails. There's a lot of excitement even though it's not officially designated yet, folks are starting to take pieces of the trail. Some of the takeaways from this were access to nature, exercise, biking, and walking, environmental education, cultural awareness, tourism, economic development, and jobs. There are great opportunities for people with horses as well. Historic and cultural tours, we have so much to share. Some ideas are wine tours, beer tours, bike tours; where there's something else at the end, like a nice lunch or something else available. People are looking for camp sites with amenities, such as bathrooms, showers, playgrounds, cafes and restaurants, and outdoor gear stores.

Mayor Green asked if there are any questions from the Commission. You mentioned if there were citizens on that board and if anyone drops off I would like to have the opportunity for someone from Sierra County to serve on that board. Please send me some information on the slots that are open so maybe the commission can come up with some names that would be really appropriate to have expertise in that area that you're looking for that can serve on this board.

2. Presentation of the Film Report. Cary "Jagger" Gustin, Film Liaison to the New Mexico film office for the past 2 years.

Mr. Gustin offered his Film Report which included

The state continues to draw productions here, because of the varied locations, all easily accessible to Los Angeles. New Mexico has a large crew base that can serve any need that the film industry may want. Lighting techs, crewmen, and stage crew are all based here in New Mexico. TV productions are becoming a norm. The TV show Roswell is being shot in Santa Fe and Albuquerque; TV productions are money-makers for New Mexico. People move here for 6-8 months for production, they rent houses, they buy school clothes, they buy cars, and they grocery shop. Netflix is filming up north for a show. NBC is filming in Albuquerque and up north. We have a major studio planning on filming here in town during the middle of September.

Mayor Green thanked him and we wish you a continued speedy recovery.



3. Presentation related to the Sims/McAdoo Improvements presented by Mario Juarez-Infante, PE, Vice President Wilson & Company, Inc.

Grant/Projects Coordinator Burnette began the presentation, in the past you've tasked us with an all in one project. Funding is extremely difficult to find. Either we can't find a grant that is going to fund the all in one project because their specific may be water, sewer, or streets. If I'm lucky enough to find funding that might be available for one of those infrastructures, unfortunately, the timing doesn't line up to try to get all of the grant funding lined up to do an all in one project. However, it does look like we are on task to receive funding for number 3 that was listed on ICIP last year, which is funding for

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downtown street improvements in the amount of \$100,000. I'd really like to thank Manager Fuentes for that, because he really advocated for us when it came to that.

We met with Manager Fuentes, we met with our streets department, and our water department and we came up with an idea in a scope of work, that would enable us to look at the current funding we may be receiving in that specific project area.

Mr. Juarez-Infante, this morning we're going to discuss the overview, and that's really detailing what we're doing. We have a project location map that will locate us as far as where we're talking about and where the project exists.

2 months ago, we were first engaged by the city to look at McAdoo Sims as an all in one project. We would be looking to replace underground utilities, sewer water specifically. And reconstructing a roadway with curb, gutter, and sidewalk. That is the overall scope of the project. As we all began to dive in, we began to identify those items of capital improvements that could possibly be self-performed. The city has a past history in doing their own streets type of work, such as curb, gutter, sidewalk, ADA ramps, paving just to name a few.

We want to look into putting the project out there for bid and self-performing those items that the city is well equipped with. Once we started looking into things more in depth we came to realize that there were things that we hadn't taken into account. Ground water had not been taken into account; this is a specific area that has really shallow ground water. We also know, because of the asset management plan that was completed by the city a few years ago, many of the utilities in this particular area are very, very old, dating back to the 1970's. This is important because many of the utilities are untraceable, that becomes critical when you start to open up the ground because guessing as to where some of those utilities might be.

Two recommendations were conducting a Utility Survey. Typically we do an 8-1-1 call; all of the public and private utility owners will come out and designate all of the utilities. We pick up visible utilities as well, such as meters, valve cans, manhole lids, and we also pick up anything that's designated. We also recommended a geo-tech investigation. It would tell us the current state of the ground water elevation would be during the date and time of the investigation. Understanding that it fluctuates, because we understand that the ground water around the Rio Grande Valley fluctuates with respect to the irrigation season. Because of the condition of the asphalt, the cracking that's happening is very indicative of very poor foundation soils. We need to find out if we are able to use the soils there and this is important because it impacts cost. Geo-Tech will also provide us with a payment recommendation for a 20 year design life. We conducted the studies and the surveys and got the information back, and we discovered that yes the soils are bad. We discovered that the ground water was as shallow as 30 inches. We discovered we have some shallow utilities. If you look at the intersection of Daniels and Sims, the manhole there is less than 2 feet deep. So we learned a lot by conducting the survey and by conducting the geo-tech. We also identified the material of the pipes. We have asbestos concrete water lines and clay sewer lines, that's important information to know. For example, on the AC lines, that's a hazard because that's an element that the current staff is not equipped to manage, to handle, and to properly dispose of. Hence, one of the reasons we were saying if we're gonna self-

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perform, we definitely cannot do water, for example. That then becomes an increase cost. So we decided that rather than looking at the full scope, we realized that it was going to be problematic in terms of cost and schedule. We've already determined that we have shallow ground water, it would be best if we're talking from a cost perspective to work when the water table drops. Because we have some shallow utilities, if we can work when the water table is lower, then we will probably have less dewatering so then that reduces cost significantly. We are looking to break this up into 4 phases. We will start with phase one and open up a segment of road, do the work, and learn more from what's underground. Soils are not isotopic, they are not uniform, so some of the things that we found during our boring tests we had a location where we hit solid concrete. So somebody has poured concrete in sections of the road for some reason, probably to stabilize it, but we don't know the extent. So if you put a project out to bid and you don't know the extent of the concrete that becomes a change order. We also had a bore where we isolated and hit a pocket of asphalt millings, probably not that big of a concern because it excavatable. But we know that things are different underground and that's why we wanted to isolate the project into a much smaller piece. We wanted to make sure that if we're going to self-perform, some of these items that we had enough schedule time between November and March, this is normal window during the irrigation season is actually not in use, so we would expect the water table to drop the most. This is how we came up with the construction window and the phasing for the project. We put together a schedule; that would look at phase 1 from Daniels west to Main Street. The scope of work would upgrade a 4 inch AC line to an 8 inch line. We would need to stabilize this upgrade because of the poor soil foundation that we found. We will have to go in there and excavate, we will have to use some geo-fabric, more than likely have to plate the foundation, which means, at a minimum the geo-tech is recommending 12 inches of over excavation and bringing in 4-6 inch angular rock that interlocks. We will need to plate that and use a leveling course, lay down the painting fabric, and then lay down a geo-grade fabric to the interlocking fabric, that will interlock the base course. There are 10 inches of base course that needs to come in and 3 inches of asphalt to build the roadway section. That's a 20 year design life asphalt section. Construction in this particular area is not typical. It takes a lot more money. The schedule looks at starting construction in November. It would be a coordination effort with some self-performed work. They city would come in and do the demolition portion of the roadway.

Grant/Projects Coordinator Burnette said she believes even in the ICIP they were looking at \$200,000 just for the paving portion alone.

City Manager Fuentes added when the original project was done. When they worked on the Healing Waters Plaza they had problems with the soil which was slush and the equipment was even sinking.

City Manager Fuentes added and one last thing. The road parallel to the Visitor's Center is where the drain is for the Hot Ditch. Commissioner Clark interjected with the lines for the geothermal hot springs water.

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4. Presentation/Update: Police Chief Report:

Chief Aragon gave an update regarding the following:

- He has received a lot of positive reviews from the radio show he has been conducting. The links to the radio show is posted on the TorC Police Department Facebook Page.
- Tony MacRobert will be helping him with grants.
- They started a Civilian Volunteer Program. Volunteers will be screened and a periodic review will be done.
- Volunteer Program at the Shelter
- Thanks to Grant/Projects Coordinator Burnette four vehicles will be coming. The grant will pay about \$89,000 and they will pay \$80,000.

F. CONSENT CALENDAR:

1. City Commission Regular Minutes, July 24, 2018 (removed for separate motion)
2. Award of ITB 18-19-002 Sale of Real Property - 613 Gold St.
3. Animal Shelter & Animal Control Agreements with Elephant Butte (removed to discuss)
4. Animal Shelter & Animal Control Agreements with Sierra County. (removed to discuss)
5. Re-appointment of Cary "Jagger" Gustin as the Film Liaison.

Commissioner Clark moved to approve the Consent Calendar as noted.
Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.

ITEMS REMOVED FROM THE CONSENT CALENDAR.

F.1 City Commission Regular Minutes, July 24, 2018.

Mayor Pro-Tem Whitehead moved to approve the minutes. Commissioner Baca seconded the motion. Motion carried with a vote of 4-0-1. Commissioner Clark abstained.

F.3 Animal Shelter & Animal Control Agreements with Elephant Butte.

F.4 Animal Shelter & Animal Control Agreements with Sierra County.

Mayor Green checked with the City Attorney and was advised if there is no motion it can be brought back to the next meeting.

Recessed at 11:06 a.m. and reconvened at 11:12 a.m.

Lt. Baker asked for the Commission to give her an understanding of what their problem would be and she can hopefully explain them.

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Mayor Green explained there is differences in the Animal Control Services were \$50 for Elephant Butte and \$30 for Sierra County. Lt. Baker responded Sierra County is paying a significantly higher amount for the monthly payment.

Mayor Green moved to approve items F.3 and F.4 on the Consent Calendar. Commissioner Clark seconded the motion. Motion carried unanimously.

G. PUBLIC HEARINGS

- 2. Public Hearing: Final Adoption of Ordinance No. 697 amending the code to allow the operation of Recreational Off-Highway Vehicles and All-Terrain Vehicles on maintained streets or roads owned and controlled by the City of Truth or Consequences. Jay Rubin, City Attorney:**

Mayor Green asked for all of those in favor of the Commission passing this ordinance please raise your hand. About 15 people raised their hand in favor of the ordinance and about 3 raised their hand against the ordinance.

City Attorney Rubin gave an overview of the ordinance and stated that he used the County OVH ordinance as a template and changed it to adapt to what we would need due to the legislative changes. He brought this to the Commission two meeting ago to consider for publication and at that point the commission instructed him to make a few additional changes. Mr. Rubin reviewed the following items of the ordinance and stated that everything in the ordinance is from the State Statutes.

- **SECTION 1. PURPOSE.**
- **SECTION 2. DEFINITIONS.**
- **SECTION 3. OPERATION OF RECREATIONAL OFF-HIGHWAY VEHICLE OR ALL-TERRAIN VEHICLE ON MAINTAINED STREETS OR ROADS OWNED AND CONTROLLED BY THE CITY OF TRUTH OR CONSEQUENCES.**
- **SECTION 4. EXEMPTIONS.**
- **SECTION 5. SEVERABILITY.**
- **SECTION 6. REPEAL.**
- **SECTION 7. EFFECTIVE DATE.**

Proponents:

Jared Bartoo is here asking for the approval of the ordinance allowing OVH's on city owned streets. He has personally forwarded over 15 emails in support from other local and regional citizens. He needs to reiterate that these Off Highway Vehicles are already being used County wide and in the City of Elephant Butte. He believes it to be in the best interest of the city to be in the position to benefit from these visitors why there are in the area. This is and has always been a tourist destination. This will be just one more reason to visit the area. If you choose to deny these visitors and locals this privilege then they will just continue to stay outside of town, spending money in Elephant Butte and the remainder of the County. This ordinance will not place a huge burden or

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hardship upon any one local citizen. It is already against the law to destroy private property. Private property protections are in place via the ordinance that was recently passed at the request of the Eastvolds and there are already noise ordinances in place. We are not asking you to approve some wild idea. Many other Municipalities have embraced and welcomed these visitors and their vehicles to the areas they live in with great success. It takes money to make the city go round. We have been hearing it all morning long. This is a chance for a tourist dollar injection. Let's not let it get away from us.

Tom T. Smith agrees with everything Mr. Bartoo just said.

Sheriff Hamilton has received many calls from citizens and City Officials. Everything they have heard from the opposing side has not come to fruition. He thinks the city has done its due diligence in putting this ordinance in place and he stands in support of this.

Hans Townsend agreed and wanted to add he doesn't know where they got the idea of noise because trucks and motorcycles make a lot more noise than an ATV.

Opponents:

Sharon Eastvold the intent of the original state law was designed to be for farmers who might be on an ATV and need to travel on paved roads to get from their fields down the road without being sited. Governor Martinez is quoted in the New Mexico State Republicans Report of March 2016 saying use of these vehicles on paved roads should only be permitted in limited circumstances, in most cases and on most roads they should not be allowed. She presented a series of facts last January to the Commission on ATV injury and liability. ATV's were not designed to be used on paved streets, allowing them on our streets will increase accidents. Having a driver's license does not necessarily mean the driver knows how to run an ATV, they are very different from a car. It has been stated that Elephant Butte has had this kind of ordinance on their books for 2 years, and in the past year two Elephant Butte businesses (Cedar Cove and Monticello RV Parks) have sponsored ATV events which have trespassed on T or C private property, as well as they've used T or C streets. These business owners did not follow procedures to require an event permit, nor did they get permission from private land owners. To her knowledge nothing has been done to fine, or reprimand these violators. What tools do Tor C Police Officers have to protect private property and the use of city streets without first making consequences clear and enforceable for violations? If the Commissioners and City Manager wish to proceed with this ordinance they need to make a major information gathering and public outreach effort on the impacts ATV's will have on T or C's quality of life, health and wellness, healing waters community, identity property values, and general safety of our citizens. She would respectfully request for the Commissioners to do the following precautionary steps. #1 It has already been mentioned and suggested that you table this ordinance. Its consideration requires a great deal more work and public involvement. #2 The 1962 municipal code for noise is not an ordinance, and it's inadequate for law enforcement to control ATV on streets based on their noise. They are set between 90 and 100 decibels. Finally, the T or C planning regulations should be developed and adopted, which lists

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maximum decibels noise levels allowed in residential, commercial and open space, and other zoning categories. This is commonly done by Municipalities if a neighboring property proposes a land use that will raise that allowable maximum, that land use should be denied.

Ike Eastvold thanked the Commission having the hearing today. He has looked through the electronic record of this and he sees that on July 24th there were 5 pages of minutes and only one resident of T or C spoke on favor of this. He thinks that we need a lot more input from T or C since this is an issue that is directly affecting the quality of life here. Also, the noise ordinance is inadequate because you can't issue citations on it, and there isn't any specifics. It is way past time that the noise ordinance be updated. He thinks it would be good if the Commission could task Mr. Rubin to go through the code and update the ones that are an obstacle. Albuquerque is extremely noisy and has never got control of noise. T or C appealed to them because it is quiet here. If you want to bring something like this to the community then it is going to take a much longer process than you gave to it on July 24th with one speaker from T or C. There has not been enough community involvement and a lot is at stake here in T or C. Where they have their conservancy on North Silver Street and Smith, it would be an absolute disaster if ATV's were unleashed out there.

Jaswant Khalsa said she already made her comments, but she wanted to say that she agrees with everything the Eastvolds have already stated and there are quite a few residents she personally knows of who would be here if they were in T or C right now. She would like for you to wait to pass this when they are in town for the winter.

Mayor Green announced that the email count is 18 against the ordinance and 68 in favor of the ordinance.

3. Public Hearing: Special Use Permit – Junkyard in C1 Zone at 1807 S. Broadway (Applicant is Gary Whitehead). Susanna Diller, P & Z Coordinator

Mayor Green started by announcing this will be held as the Battershell Hearing.

Mayor Pro-Tem Whitehead said before they start this item she will recuse herself as it is a family owned business.

City Clerk Cantin did the swearing in for those listed in the public hearing.

P & Z Administrator Diller began her presentation stating that Mr. Whitehead is here to create a junkyard that will hold storage for Hot Springs Towing. The property does not face Broadway directly and will be fenced from public view. C1 in the zone descriptions says that it is to provide for commercial and retail uses as well as a wide range of automotive related service facilities. The only place in the city code where junk yards are mentioned is just listed as a special use in the M1 zone. As mentioned in Mr. Whitehead's letter, there are a number of business in the C1 Zone in that part of the

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area that have similar uses so staff recommends the approving the special use permit for this property.

Proponents:

Gary Whitehead began the presentation as the applicant stating, the site that is there under C1 has taken him a while to decide the proper course of action. They just could not clearly find anything that allowed it or dis-allowed it. If he had an automotive repair facility on the property is allowed, is part of the process and it could be there. There are several other automotive businesses in the area that allow it. Sierra Collision does a great job with their vehicle storage facility by fencing it and those sorts of things so they are here for that special use permit. He does understand the fencing requirement and is prepared to build the 6ft. fence and an 80x80 facility. There are 3 different kinds of customers in the towing business. There are those who need help to pick up there vehicle, we take it to a repair shop and its done and gone. There are those that break the law and their car has to be picked up. Those vehicles are licensed, ready to be picked up and usually picked up the next day. Those vehicles will be picked up at 510 Broadway. The two pieces that hurt them the most are a vehicle that has been in a wreck and they are waiting for the insurance to pick that up, that takes about 2 weeks. The last piece that is a real nightmare for us is when you have residents who have vehicles and abandon them and they have to go pick them up, and now they are stuck with that vehicle for a period of time which is usually 6 months to a year before they can get a title or find some way to get rid of those vehicles. They were lucky enough to find a company in Las Cruces who will take those cars and haul them to the crusher. They just need a facility where they can take wrecked cars that they are stuck with for a period until they can get a clear legal title to them and move them out.

Hans Townsend commented that referring to this as a junk yard is unfortunate because it really is a vehicle storage facility not a junk yard. He thinks looking at it from that perspective makes a difference to peoples thoughts. He is definitely in favor of anything that is in favor of or helps local businesses.

Opponents:

Ron Fenn's objection and opposition to this is that the Commission has no right to hear this item. This is in our municipal code, a function of our planning & zoning board. They are the ones that know the zoning laws and they are the ones who do the research. Ms. Diller here is a function of the planning & zoning board and who reports and her findings are subject to planning & zoning scrutiny. She does not replace the planning & zoning board. As a matter of fact, right now we do have a planning & zoning board which means that this should not be going on here, this is a violation of our code. I bring your attention to the fact that according the planning & zoning statute, there is a section that says that no member of the planning & zoning board is off the job until he is replaced. Not just quit, and walk away, they have to be replaced. There have been no replacements since 2013. We have a board consisting of January Roberts, James Jacobs, John Saridan, Timothy Brown and Denny Gose. Those people are still "technically" members of the planning & zoning board. The fact that you have not replaced them does not take them off of that responsibility nor does it give you the

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ability to give variances in opposition of our code. The application by Mr. Whitehead says that he contacted a few of the property owners in the area and they have no problem with it. I have a problem with it because the code specifically states that in a hearing the property owners must be notified by verify mail return receipt requested. He sees no evidence of any of that. There are 6 or 7 property owners around that piece of property and without them being notified. The Shepherds Group would probably oppose having a junk yard in their back yard. This should not move forward because you cannot speak to the direct owners because they have not been notified and so that makes this an illegal public hearing and it will be subject to a petition to the district court if you pursue this matter. Your only recourse is to drop it for now and bring it back and do it right through the P & Z which needs to be "re-peopled" if the old members do not want to serve any longer.

Planning & Zoning Administrator Diller responded, just as a matter of practice they have not included in the packet, but she does have the proof of the certified return receipt letters and there is no restriction that would keep a private property owner from discussing with his neighbors his plan and getting their feedback on it at a personal level, which was what Mr. Whitehead was referring to in his letter. However, they were notified as they needed to be with advance notice of this public hearing.

Mr. Randy Plane lives at 1805 Upton St. and he did receive and signed for a certified letter informing him of the public hearing. He asked about the fencing, restrictions and the effect on property values.

If there are no further comments.

Mayor Pro-Tem Whitehead joined the meeting again.

4. Public Hearing: Summary Plat Amendment for lot split and Variance for development standards at 800 Hillcrest. (Applicant is Terry Taylor) Susanna Diller, P & Z Coordinator:

City Clerk Cantin did the swearing in for Mr. Terry Taylor the applicant.

Planner/GIS Tech Diller began with the details of the request. They are requesting a Summary Plat Amendment for lot split and Variance for development standards at 800 Hillcrest and because of the requirements for the summary plat amendment which states all lots to be created have direct, legal, unobstructed access to an existing City maintained street; and all lots to be created have direct, unobstructed legal access to existing City water and wastewater lines. He is requesting a variance on that point of that development standard. The only place in the code that addresses splitting lots is in the chapter of subdivisions.

Proponents:

Mr. Taylor stated that he and his wife raised a family the last 27 years on that property. The easement was developed way before our code was put in place. There is a person

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who agreed to buy a small portion of the area, and he would still have a lot of acres left on the property. He is here to answer any questions the Commission may have.

Opponents:

Ron Fenn, as previously stated, this item needs to be approved by a Planning & Zoning Commission. The P & Z Commission has never been legally disbanded or removed from our municipal code, therefore this hearing is illegal. Mr. Fenn read a section where a planning and zoning can be taken to District Court.

Mayor Green then closed the Public Hearing.

He requested a 30 second recess to consult with the City Attorney

H. ORDINANCES, RESOLUTION, & ZONING

- 1. Discussion/Action: Final Adoption of Ordinance No. 697 amending the code to allow the operation of Recreational Off-Highway Vehicles and All-Terrain Vehicles on maintained streets or roads owned and controlled by the City of Truth or Consequences. Jay Rubin, City Attorney:**

City Attorney Rubin said he gave his overview and asked if Chief Aragon had anything further to add.

Commissioner Clark responded and thinks it's an excellent idea for us to give this a try and to take a look at this in six months to see if it's still beneficial to continue.

Commissioner Hechler wants to comment he thinks most of them have done their due diligence. They have heard this for the last three months and their surrounding areas of Elephant Butte and Sierra County have also already passed it. He thinks we will be surprised at the minimal impact this will have on our community. He thinks we should make extend the six month review to one year.

Commissioner Baca feels it's a great idea and we should give it a few months and see what will happen.

Commissioner Clark wanted to state again that it's really inappropriate to trash someone else's property.

Mayor Green wanted to voice some concerns. When it was first presented, it wasn't to replace cars to go to Walmart or Bullocks. It was more of there was a lot of land and phenomenal landscapes we have that can be used to find a way for our visitors to get to the places they want to go. We don't want to discourage tourism and economic development. But he wonders if

Commissioner Baca feels if you start designating roads you are going to have a harder time enforcing it.

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Mayor Pro-Tem Whitehead said she sees at this time we have a lot of excitement on this and she's heard we should give it some time. We can't just keep putting it off, we've got to give it a chance and give the people time to try it out.

Commissioner Hechler understands designated roads and it does become an enforcement nightmare.

Mayor Green never thought the intent was to go in other areas within our county. Again, he's for it because it is economic development. But we do have some citizens that would like for us to postpone this item and think about it a little bit more.

Commissioner Baca moved to approve the final adoption of Ordinance No. 697 amending the code to allow the operation of Recreational Off-Highway Vehicles and All-Terrain Vehicles on maintained streets or roads owned and controlled by the City of Truth or Consequences, with giving it six months to a year to see how it goes and asking the Chief Aragon to keep them informed. Mayor Pro-Tem Whitehead seconded the motion.

Commissioner Clark asked Chief Aragon if we see a problem to keep them informed.

Roll call vote was taken by the Clerk-Treasurer. Motion carried by a vote of 4-1-0. Mayor Green voted nay.

2. Discussion/Action: Special Use Permit – Junkyard in C1 Zone at 1807 S. Broadway (Applicant is Gary Whitehead). Susanna Diller, P & Z Coordinator:

Planner/GIS Tech Diller stated, you have heard the presentation, and you have heard the public hearing. Do you all have any further questions?

Mayor Green moved to approve the Special Use Permit – Junkyard in C1 Zone at 1807 S. Broadway. Commissioner Hechler seconded the motion. Motion carried unanimously.

3. Discussion/Action: Summary Plat Amendment for lot split and Variance for development standards at 800 Hillcrest. (Applicant is Terry Taylor) Susanna Diller, P & Z Coordinator:

Planner/GIS Tech Diller stated, you have heard the presentation, and you have heard the public hearing. Do you all have any further questions?

Commissioner Hechler moved to approve Summary Plat Amendment for lot split and Variance for development standards at 800 Hillcrest. Commissioner Baca seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion

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carried by a vote of 4-0-1. Commissioner Clark abstained because she is concerned about not getting enough information and she is concerned about

I. NEW BUSINESS

- 1. Discussion/Update: Municipal Pool update including Pool Cover. Tammy Gardner, Interim Pool Supervisor:**

Tammy Gardner, Interim Pool Supervisor stated that they did get a modified pool schedule going. They have had a few joining them for aerobics, lap swim and afternoon swim. They are hoping this will be a temporary process. Also, they are still hiring. They did interviews and they are moving forward with the hiring process. They have hired their head lifeguard. They will also be hiring one additional full time and two part time positions. We are currently open and accepting job applications. As far as the pool cover, it has been advised that it will go up. It's usually been from mid to late October so that will be the time frame of when it will go up. She has been in touch with the contractor for the pool cover to get training as well as an assessment to the structure.

- 2. Discussion: Sierra County Swim Team request for recent increase in fees. Jeni Neeley:**

Removed from requestor.

- 3. Discussion/Action: MOU Agreement between the TCPD, and Sierra County Sheriff's Office for the Immediate Response Team (IRT). Erica Baker, Lt.**

Chief Aragon met the Sheriff and they discussed an enhanced collaboration amplifying it somehow. This is a start of what they talked about.

Lt. Baker stated as with any project she takes on, she is excited for this one as well. The Sheriff's Department started their own emergency response team because some of the incidents we have in town we don't have our own SWAT Team here. So to get State Police SWAT to get here, they are either coming from Albuquerque or Las Cruces, and sometimes they don't respond to what we have or it takes them hours on end to get here. She reviewed some of the situations they have had in town. They got the idea to also include some officers from our department as well to be on this team. They don't have a large enough law enforcement presence here in the County to have their own SWAT team. Part of the idea is to be multi jurisdiction with the Sheriff's Department in responding to some of these calls.

Mayor Green moved to approve MOU Agreement between the TCPD, and Sierra County Sheriff's Office for the Immediate Response Team (IRT).

Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.

- 4. Discussion/Action: Approve the recommendation from the Lodger's Tax Board for a revision to the Guidelines. Renee Cantin, City Clerk:**

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Clerk-Treasurer Cantin reported that the Lodgers Tax Board met on August 2nd. On the agenda was a request from the Chamber to increase their fees in their budget in order to add the film festival. The item was previously denied from the agenda because the guidelines specifically state that they cannot request an increase in budget. Therefore, the Lodgers Tax Board is recommending you delete that portion of the guidelines to allow them to increase their budget for the following item on the agenda.

Mayor Pro-Tem Whitehead moved to approve the recommendation from the Lodger's Tax Board for a revision to the Guidelines as presented by Renee Cantin, City Clerk. Commissioner Hechler seconded the motion. Motion carried unanimously.

5. Discussion/Action: Chamber request for additional funding for the Film Festival event. Renee Cantin, City Clerk:

Commissioner Hechler moved to approve the Chambers request for additional funding for the Film Festival in the amount of \$843.00 that was surplus from this year and \$1,500 which was left over from last year for a total of \$2343.00. Commissioner Baca seconded the motion.

Mayor Green would really love if one of those who have been allocated could bring back some numbers as to how it values. He asked Mr. Townsend to work with our lodging establishments to find out what the hard numbers are.

Motion carried unanimously.

6. Discussion/Action: Ralph Edwards Park Plan. Orrin Hechler, Parks Supervisor:

City Manager Fuentes thanked OJ for his presentation and for the Commission to keep in mind on how to proceed forward; we have a park with lines that are aging. The lines need to be replaced. We just heard about the Walking Trails along the Rio Grande, there will be a benefit to look and see if we want to redevelop it into something that will be a real assets. You can do Charrettes to include the people who use it. The need is there but do we do something big with a company to come in and work on developing something nice. He knows it's a more complicated

Mayor Pro-Tem Whitehead thanked Mr. Hechler for his presentation.

Mayor Green would bet there is money out there for parks. We might have staff look at grants for improving a facility for seniors and also to sit down with the Farmers Market and see if we can come up with a time limit to get the park back to where it needs to be.

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Commissioner Hechler moved to approve recommending they take this to the Recreation Advisory Board. Commissioner Baca seconded the motion. Motion carried unanimously.

- 7. Discussion/Action: Memorandum of Understanding between City of T or C, City of Elephant Butte, Village of Williamsburg, and Sierra County in support of submitting a single Capital Outlay request in support of the Sierra Vista Hospital. Juan Fuentes, City Manager:**

City Manager Fuentes presented the item and thanked County Manager Swingle for getting this sent to the entities.

Mayor Pro-Tem Whitehead moved to approve Memorandum of Understanding between City of T or C, City of Elephant Butte, Village of Williamsburg, and Sierra County in support of submitting a single Capital Outlay request in support of the Sierra Vista Hospital. Commissioner Clark seconded the motion. Motion carried unanimously.

J. REPORTS

a. City Manager:

- He wanted to take the opportunity to thank staff for all that they do and sometimes they take hits just like he does.
- In looking at funds, they will be looking at \$18,000 for the heater at the pool.
- W/WW Supervisor Castaneda gave an update on the water leaks.
- City Manager Fuentes asked Mr. Castaneda to touch on the response he gave to the PUAB on pressure.

W/WW Supervisor Castaneda responded our pressure fluctuations are not that great to make a pipe burst. Our soil condition and infrastructure.

Commissioner Baca asked what he has done with moving people around. W/WW Supervisor Castaneda responded they have an employee, Tino Luna, who has a CDL and transferred from the Solid Waste Department.

Mayor Green mentioned on Magnolia St. between 7th & 8th. It seems to him that the same pipe has broken three times.

W/WW Supervisor Castaneda responded and the water table makes the soil spongy. That might also have an effect on the pipe.

Commissioner Clark asked if since we have our asbestos pipes and have we tested the water.

W/WW Supervisor Castaneda responded when hear asbestos, everybody thinks lung disease and things like that. As it pertains to water, there is no health risk. He thinks asbestos becomes a health issue when it's airborne.

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b. City Attorney – No Report

c. City Commission

Mayor Pro-Tem Whitehead:

- Thanked everyone for the nice get well card during her recent surgery.

Mayor Green asked his fellow Commissioners if they want to go into executive session and break at 2:30 and that's it or postpone this and do it at the next meeting.

Commissioner Hechler suggested they start now and proceed or go to lunch first and then proceed.

K. EXECUTIVE SESSION

1. Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2).

Commissioner Hechler moved to approve going into executive session at 11:53 a.m. to discuss Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2).

Commissioner Baca seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Green reconvened the meeting in open session at 2:38 p.m.

Mayor Green certified that only matters pertaining to Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2) were discussed in Executive Session and no action was taken.

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

Mayor Pro-Tem Whitehead moved to approve to recess the meeting and to reconvene the meeting on Monday, August 27th, 2018 at 3:00 p.m. with only the agenda item to continue discussion on Executive Session. Commissioner Baca seconded the motion. Motion carried unanimously.

K.1. Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2).

Mayor Green reconvened the meeting at 3:00 p.m. on August 27, 2018 which was recessed on August 22, 2018 and a roll call was taken by City Clerk Cantin and the following were present:

Mayor Steve Green
Mayor Pro-Tem Whitehead
Commissioner Clark
Commissioner Hechler

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Commissioner Baca

Also present: City Clerk Cantin, City Attorney Rubin, and City Manager Fuentes.

Commissioner Hechler moved to approve going into executive session at 3:00 p.m. to discuss Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2). Mayor Pro-Tem Whitehead seconded the motion.

City Attorney Rubin wanted the Commission to know he will be available if they need him.

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

Mayor Green reconvened the meeting in open session at 3:06 p.m.

Mayor Pro-Tem Whitehead certified that only matters pertaining to Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2) were discussed in Executive Session and no action was taken.

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

Mayor Green moved to approve for the City attorney to be present at all meetings of Executive Session unless it might be inappropriate for him to be here. Commissioner Hechler seconded the motion. Motion carried unanimously.

K.1

1. Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2).

Commissioner Hechler moved to approve going into executive session at 3:07 p.m. to discuss Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2).

Commissioner Baca seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Green reconvened the meeting in open session 7:18 p.m.

Mayor Pro-Tem Whitehead certified that only matters pertaining to Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2) were discussed in Executive Session and no action was taken.

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

Commissioner Hechler moved to dismiss City Manager Fuentes as City Manager of Truth or Consequences effective immediately and designate City Clerk Cantin

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as Interim City Manager. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.

Mayor Pro-Tem Whitehead moved to approve requesting this time to be place in Executive Session at the next meeting to start looking for a new City Manager. Commissioner Baca seconded the motion. Motion carried unanimously.

M. ADJOURNMENT

The meeting was adjourned at 7:22 p.m.

Passed and Approved this 14th day of November, 2018


Steven Green, Mayor

ATTEST:


Renee L. Cantin, CMC, City Clerk