

**CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, SEPTEMBER 26, 2018**

A. CALL TO ORDER

The meeting was called to order by Mayor Steve Green at 9:00 a.m., who presided and Angela Torres, Acting City Clerk, 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: Renee Cantin, Interim City Manager/City Clerk-Treasurer
Angela Torres, Acting City Clerk

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 asked us to keep our veterans in our thoughts and prayers.

3. PLEDGE OF ALLEGIANCE

Mayor Green lead the Pledge of Allegiance.

4. APPROVAL OF AGENDA

A request was made to move the G.2 Budget Adjustment Resolution to after I.2 to discuss the other items before they are approved. Commissioner Hechler moved to approve the agenda with the mentioned changes. Mayor Pro-tem Whitehead 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.

Diana Tittle addressed the Commission related to:

- 1) She is one of the individuals who submitted the petition on the OHV Ordinance. More than 280 T or C residents signed the petition. In other words, a significant percentage of the total number of voters in the last municipal election have now formally expressed their opposition to this ordinance. It didn't usually take my persuasion to get people to sign. When they heard that the ordinance opened up all our residential streets to ATVs they immediately recognized the threat to the relative peace and quiet of their neighborhood and the fragile integrity of our now easily accessible desert lands. It bears repeating. 95% of the 68 emails of support for ordinance 697 you received came from off-road enthusiasts who live out of town, out of state, or who failed to indicate where they lived, all responding with the same exact text provided by an OHV association. Social media polls asking people to say whether or not they support the ordinance are similarly flawed indicators of how your constituents feel about this issue. Anyone anywhere can weigh in on these polls. In summary, 280 of your constituents have spoken by signing the petition referendum. We are sure we have gathered enough valid signatures to initiate a referendum and we are sure that the average folks who live work and play in T or C will vote to repeal ordinance 697 because of the adverse impact of the difficult to supervise ATV access will have on our town's traffic flow, road safety, noise and air pollution and precious Chihuahuan Desert habitat. Your constituents are asking you to reflect on the real costs to all of us versus the promised benefits to some of enabling the transformation of T or C into the ATV capital of the world as Randy Ashbaugh envisions. We are asking you to act decisively to preserve the essential by voting to appeal ordinance 697 yourselves. Thank you.

Ron Fenn addressed the Commission related to:

- 1) Thank you, Ms. Tittle. That was well said. I'm here to address a couple of things. One is the new rules of procedure for the city commission. Decorum is mandatory. I don't see any, uh, protection for the citizens who are outraged by some of the antics that go on in the city commission. And Mr. Green your last meeting's comments about myself and Mr. Ashbaugh show not only your your outsized ego, but also a degree of arrogance that really has no place in the seat in which you sit. So therefore I'm going to ask the city commissioners (at least three of you that have an understanding of what's been going on) to decide that you need a new leader in the center seat. That's all it takes. A motion, a second, and three votes and replacement Mr. Green with somebody more reasonable for this community. You have cost this community more than any single individual that I know of, and of course you did it with your little friend Mr. Fuentes who you then threw under the bus. You have no business leading this

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community. You are supposed to serve the people. You are the servants of the people. You are not the rulers of the people. You are not above the law and yet you condone and continue to condone violations of our own code by your actions. And that's the problem with this community. I wish I had time, but three minutes is not time enough to illuminate all of the problems that you, Mr. Green, have caused this community for the last ten years or more. Thank you.

Randy Ashbaugh addressed the Commission related to:

- 1) He agreed with Ron Fenn. He thinks there should be a board established to choose a City Manager. I think that there ought to be a commission or a board established to help select the city manager and name some business people in this community to sit on the board. We've gone 12 to 14 years with a very mediocre or lousy city manager. We need a dynamic City Manager. I think the city commission needs to bring in two or three local business people to help hire a new city manager because if we get another lousy city manager, we are sunk and we are sitting here with all this potential.
- 2) This little town has more potential than any other little town I've seen anywhere in this country. I've been here, there and yonder, and we sit here and do nothing. We have not one single house under construction in the city limits. That's absolutely crazy. I'm going to say just one thing about the impact fees. We can't raise them to \$500. That's crazy. That'd be 12 or 14 thousand dollars for a house in the city limits to hook up the water and sewer. The impact fees need to be cancelled completely. I was going to present to the utility board this past week a three to five percent surcharge on any of the city utilities to go into a special fund to be spent for new infrastructure and for repairs, but the meeting was cancelled. There are so many restrictions on the impact fees and they're only supposed to be for new and no repair and the city has not complied one iota. I don't care if I am suing you. But this fee would go into a special account and would be used to start working on our infrastructure and repairing all of our major water lines that need repair like on Austin Street, and just about everywhere. A lot of that is going to continue to be a problem for years and have crews just do nothing. Use that money to hire a special crew to do nothing but work and replace those black lines. I've been in the utility business myself for over 35 years. I understand it, and there's a lot of things and efficiencies the city could be doing to get this stuff done. Thank you very much. Have a great day.

Millie McLeod addressed the Commission related to:

- 1) She is opposed of the OVH Ordinance. I don't want ATVs running up and down Magnolia. I don't want their noise. I don't want the pollution. The proponents mainly of this ordinance don't live in town. They live outside of town. They are dangerous on paved streets. One third of the deaths relating to ATVs is caused by being on paved roads or parking lots. Why do we want to have that kind of tragedies happening in our town? Thanks.

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Audon Trujillo addressed the Commission related to:

- 1) I tended a global Burque, which is an event in Albuquerque and they had about 30 groups, world class, just amazing. It cost about \$12,000 to get one of those groups to New Mexico. I'm wondering what happened with the recreational direction position because that person could be working to get those groups here. They're in Albuquerque already and you don't have to pay for their transportation from Ecuador or China or wherever. We can get them here. What happened to the recreation direction position. I'll read through the personal rules and regulations, page 50 to 58 and also through the city ordinances 235 to 355, which deals with an appeals board. The other one deals with a personnel board. The language in there is established by the ordinance as a personnel board. The language in the city's rules and regulations is for an appeals board. One of them is very limiting on what they do. The other one is personnel board. It does not have duties and responsibilities of the board spelling out in the ordinance. I think this body needs to go back and put duties in for that board and I really highly suggest that you do it quickly in line with what's on the agenda today. The personnel procedures do not specify scoring and how many points you get for each criteria that you're selecting. That needs to be done before you send out the announcement. That is standard procedure. Whenever you develop a position, one of the things you do is you write up your criteria and you put how many points you're going to give for that criteria before you send out the announcement. That's not specified within the personnel procedures. I too, like Randy, think we need to have subject matter experts. I would say not just businessmen from the community, but also other city managers sit on the board to help you do the selection that's going to be coming up. I think that's really important and I wrote about that to the commission about four years ago. We need subject matter experts to be selecting. Now, I respect you all being able to ask good questions, but, you're not a plumber, so you shouldn't be hiring plumbers, and you're not a city manager, so you shouldn't be hiring city managers by yourself without some assistance. My opinion. Thank you very much for the time to talk to you all.

Sara Frothingham addressed the Commission related to:

- 1) I want to say how Kyle, the new lifeguard at the city pool understands swimmers. He understands what needs to be done at the pool to keep it open and keep it viable. What I would like to see done is the pool opened an hour earlier and have from 3:00 to 4:30 therapeutic and adult exercise. Then for the lap swimmers, 4:30 to 6:00 because they like the water cooler. They don't like the temperature of the water. Whereas us older folks doing aerobics need the water warmer. There's anywhere from 15 to 30 aerobic swimmers every day, and that's even in the cold, though some people have had to leave because it's just too cold and the sun goes down too soon. I would like to see Saturday hours change to 11 to 1, instead of the 8 to 10 opening, because it's really cold in the mornings now. This pool is an asset to all of us and we all love the pool. The water is wonderful, and to maintain what we have, we need to look at the patrons that are also using the pool. We have wonderful lifeguards. Alexis is wonderful.

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- 2) Now, to go off topic a little bit, I agree, I do not want ATVs going from the skate park to where riverbend is, and cutting across the non-river, and going to the other side and tearing up all of the land. ATVs are dangerous. They're noisy and they're not safe. And people are going to buy them instead of having a car with a regular license on them. We need to cancel the ATVs. Golf carts are fine. Thank you very much.

Stanly Rickert addressed the Commission related to:

- 2) I appreciate your influence on the neighbor over there to get that fence done and done in a miraculous manner of one day. It was tremendous. The sad part is that there's still a junkyard over there where he's got junk people stored and, you know, it's just not right. It's a commercial business. He's running a commercial business on a residential property. He's doing that and has always done that. It has never been grandfathered in. There's been too much time in between original owner and the other owner before him. I'm telling you now this has got to go. You need to check it out. Don't listen to what a simple letter says that City Attorney Rubin had wrote up because that's not working. It's just not right because there's such a thing as, you know, friendship or old buddies syndrome that had taken place that you guys just overlooked and allowed to happen. Chief, you did a good job over there. I appreciate that.
- 3) The ATV situation that everybody seems to be talking about is a hardline to follow. There's a chance that it could be good, and there's a chance that somebody is going to get hurt. I think the sooner we figure out how to take care of it, and get these ATVs in the use of the public, it would be nice. It just seems like it's going to take someone getting hurt to make sense out of this and change the polices and safeties, because it says in the rules that they can drive an ATV under 18 years of age as long as there's an adult supervising. Is that adult on foot or is he on another ATV along with him? How is this going to work out? I'd like to know. And if you can tell me then I'd appreciate it. It just doesn't seem like the thought has been given to take care of this to keep people from really getting hurt. It's just like motorcycles. You have to drive with your lights on. You have to have a loud exhaust. You have to be able to be seen and be heard, but the people don't want that. So if you think about it, give this some consideration. I'd like to see the ATVs come to town, spend a little money, and have a good time. But I don't want to see the land all tore up like this lady is talking about. It creates a problem with the underbrush and then it starts to evaporate. Thank you.

C. RESPONSE TO PUBLIC COMMENTS:

City Attorney Rubin addressed Mr. Fenn's comments noting at the last meeting Mr. Fenn correctly pointed out that the OHV/ATV ordinance that contained a couple of irregularities. The good news is that I have checked with Mr. Appel and just my own checking, and he agreed that the mistakes that were indicated do not affect the body or content of the ordinance itself. Specifically, the ordinance refers to the governing body as the board of city commissioners when it should have said city commission and I also

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had true effective dates. Let me apologize for overlooking these points. The irony is what happened was that I was spending more time on this ordinance than I normally would, and I was trying to go through all these drafts to make sure the body and the content of the ordinance was done in the right manner, and I overlooked the format. So fortunately this never happened before and I'll be careful in the future. But the good news is under section 3-14-17, if the public does vote in favor of the ordinance, the ordinance becomes effective immediately. So it really would not matter as to what data I had in there. I do thank Mr. Fenn for bringing that to my attention, but as indicated I have discussed this matter with Mr. Appel and we both agree that the ordinance is still sufficient if we can go forward. So thank you for your time.

Interim City Manager Cantin addressed Mr. Trujillo's comment. In response to Mr. Trujillo on the personnel board regulations, there are additional personnel regulations for that board in the personnel manual. So if you'd like a copy of that send me an email. I'd be happy to send that to you.

E. PRESENTATIONS:

1. Presentation and request to declare October 20, 2018 as Tiger Day in conjunction with the Tiger Day 2018 event. Jim Shiley, Requestor:

Jim Shiley explained where the Tiger Day 2018 event came from. About a year, a year ago last summer, he was trying to find a way to say thank you to the students of Sierra County and of T or C. You might or might not know he covers the school and sports for the Sierra County Sentinel. He came up with the idea of giving t-shirts to each team member at the school. Then it occurred to him that really everybody that goes to that school, and all of the staff at that school are all one team, and really there's more schools too. He gave a t-shirt to every student and every staff member at the middle school and the high school. And a couple very key individuals stepped up and helped to complete that task so we could give t-shirts to every student and staff member in all five schools of our district and that's where the idea of Tiger Day 2018 came from. We invited all the students of all the schools, all their teams, all their organizations to have a booth at Tiger stadium, on Saturday, October 20th of this year. We wanted the students to be able to showcase their talents, their skills and their heart. I think the T or C Police Department is going to have a booth there along with shop with a cop. There's other organizations that will be there too. We did ask that in the spirit of we are Tigers, that nothing be sold there. This should be a free event. They can pass out promotional material, pass out information, and they can even have games. So we're hoping that you'll declare Tiger Day and more than that, we hope you all will come and just share in that event. We're going to pass out tote bags with our logo and Tiger Day 2018 on them to every person that enters that stadium. We're going to give them a meal ticket to go down to our food tent where we will be cooking up burgers and hot dogs and they can get a meal, all free of charge. Of course it isn't really free. So I've been doing some rather extensive fundraising because I can't really afford to pay for all this out of my own pocket. Anyway, I thank you very much for letting me present and we hope that you'll feel it in your hearts to declare October 20th to be Tiger Day. The event will be held from 11 a.m. - 5 p.m.

Mayor Green presented the October 20, 2018 Tiger Day proclamation.

2. Presentation: Selection of Landscaping Alternative for I-25 Business Loop (Date Street) Reconstruction Project. Andrew Gallegos, WHPacific Inc. and Robert Oberdorfer, Sites Southwest:

Grants Projects Coordinator Burnette stated on April 11th NMDOT and WH Pacific brought the Commission a presentation regarding the landscape design of the roundabouts. The commission voted unanimously to partner with NMDOT for the landscaping of those roundabout. So WH Pacific has been working with staff and they're here today to present some landscaping alternatives and receive some direction on proceeding forward with the design concept.

Andrew Gallegos, NMDOT, introduced Robert Oberdorfer from Sites Southwest, and NMDOT representatives from the district and from south regional design. I want to begin with a quick introduction of the project. This project has been ongoing for about four years now. We began the project in 2014 with a request for proposals and we began to process and go through the study phase with the NMDOT. And so we began the phase 1A study in 2016, and that's with really looking at all the alternatives and coming up with the most viable solution for the issues that we saw at the time. In 2017, we developed those into more detailed evaluations for the phase 1B study. Then we actually are in the phase 1C and 1D part of the process right now. We've been to three formal presentations and public outreach meetings since this has begun in 2014 and we will continue to go to the public with more presentations. The overall project is about .614 miles in length. So it starts just south of Smith and it ends right around HR Ashbaugh, and it includes three intersections that we're improving. We looked at the overall corridor and we evaluated the needs and efficiencies, and we established the best viable solutions for the issues that we saw. So these overall proposed solutions will identify and deal with sight distance issues, speeding, drainage, and lighting. So it covers a lot of different types of issues that we're taking care of with this proposed solution. Drainage is another big one, and I'm sure you'll have questions about some utilities and things later on in the presentation, but this main presentation will cover primarily the landscaping. There's a lot of opportunity for landscaping, for seating for trees and shrubs, water-harvesting options. So we're looking at a lot of different types of options but really today what we're looking at is three main options.

Mayor Green stated the only thing he would ask on this community workshop that you're talking about is that you give the community a couple weeks lead time rather than advertising on a Monday and say the meeting is on a Friday because what I did hear at the last meeting is that people are not buying the papers or listening to the radio, but they didn't hear about it and I know sometimes you guys post notices along Date Street if there's going to be a meeting or something like that. Let's just make sure that we've done everything that you guys can do and we'll do our part as well to let the public know that this an opportunity for them to chime in and be heard to support or not to support or maybe just to ask questions.

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Commissioner Clark mentioned that we had a presentation at one of our last meetings, and we had some engineers take a look at a road downtown to replace the water lines. And for us, pulling up the road, putting down the new water line and then putting the road back down for just eight blocks, plus a quarter, was \$759,000. So, this is more than eight blocks that you'll be tearing up. I suspect that we won't have so much of the road base issues because that's your responsibility. But I'm kind of throwing it out to my commissioners that it might be a really nice idea before we absolutely accept this as ours, that we pull in Grants Projects Coordinator Burnette to try to get kind of an understanding of the length of this project and what we are going to be looking at, because it could be in the couple million dollars for us to replace water and sewer down that street.

Mayor Green stated, just to follow-up on Commissioner Clark's point. Do we not have the cart before the horse? I mean, in relationship to what I'm hearing and please correct me if I'm wrong, by us committing to the landscaping project either option one, two or three, does that then commit the Commission to the roundabout projects. I mean, I understand they are tied in together, but I think for myself and following up on Commissioner Clark, I would like to know what we're getting ourselves into here. And I know it's two different issues, one is the safety issue about why we even started this project. It was brought to our attention by Mr. Ashbaugh in a meeting many, many years ago. It's now morphed into something more than, I think, financially we had visualized it being put on the backs of our citizens. Because if we take debt, that's the citizens' debt as well because that's the way it works.

Mr. Gallegos responded even if you agree to this project, we still have to go through the workshop. We are at the milestone in this process. What we're asking today is a decision on landscape.

Mayor Green stated, he has one last question. On the setup, we asked if the commissioners had some idea before we walked into this, I'm just going to read under background. I'm going to read the last sentence. Based on available federal funding, the project will construct a level of landscaping including irrigation infrastructure with the intent of the city constructing the landscape areas in the future. So the way I read this, is if there is federal funding available, would that federal funding help us if we wanted to go with option two?

Mr. Gallegos responded, as the project manager for the overall design we are still looking at vertical elevations for each utility, which we don't have that information yet. We do have a new storm drain pipe going into the project whether it's a roundabout or otherwise. There's a storm drain system that's going to be installed to help with drainage. So anywhere that pipe crosses a utility, we have a potential conflict. So until we get vertical elevations to each of these lines, we won't know for sure if we have a conflict or not or if it has to be relocated. Once we get through some more of the process and utility coordination, we'll have a better sense of whether or not we can adjust our line to avoid it or if it's just going to be a hard conflict and we have to relocate

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the line. But we'll do whatever we can to help in that situation. Just so you know just because we have a pipe going through there doesn't mean that it has to be relocated. And your question back to the federal funding available, the rule we're following in the NMDOT is up to 1% of the overall construction costs can be utilized for landscape. So that 1% cost is what we are proposing if you would go with the more elaborate landscape design for the irrigation system, for the features, the concrete structures for the actual landscape features in the roundabout.

Commissioner Hechler asked if we decide to support this project and move on and we wanted to say go to landscape option one, but our funding came through and we figured out that we can actually find this money, can we upgrade then to option two or are we stuck?

Mr. Gallegos stated that option one would be no irrigation, no lighting. It would be just simple seeding. Water harvesting would be your only source of irrigation water, and then you would have to come back and do all this work later on your own.

Commissioner Clark asked if they were to choose option one, would there be a possibility to do a tie out for water that we might be able to add in later? Not install a full irrigation but at least have a cut out for the area so that we might be able to tie in later.

Mr. Orbendorfer stated I think the answer to that is probably no, or under option one. You guys have basically covered the cost already to go through this process, which is to come up with the concepts. And then in the future, if you want to do any of that stuff, from this point on NMDOT is going to be footing the bill for the final design, to the 60% and 90% and 100%. We can go ahead and design it, and then just have the construction cost include the sleeving and the tie-ins as you say for the future irrigation. And then we'll give you plans to actually be able to add that down the road as the money becomes available. So you're not committing to spending that money now. It's just for us to go ahead and say, yeah, you want us to design this level or, you know, a medium level of a fancier level. Otherwise, if you guys go with option one we essentially go away from the project. Basically it would just proceed with seeding and gravel on there. So regardless of whether you go with option two or three, that would give the leverage to have at least the basic infrastructure put in place to go add in landscaping in the future.

F. CONSENT CALENDAR

- 1. City Commission Regular Minutes, August 8, 2018.**
- 2. Appointment of Harv Klienstiver to the Golf Course Advisory Board.**

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

PUBLIC HEARINGS:

1. Public Hearing: Special Use Permit for live/work retail at 520 N. Broadway, applicant is Lillis Urban. Susanna Diller, P & Z Coordinator:

Acting City Clerk Torres swore in Lillis Urban and Susanna Diller.

Planner/GIS Tech Diller stated that Lillis Urban has recently purchased the old Turtle Back Oasis there and she's hoping to open an art gallery retail space along Broadway and have a residential area in the back. As you know, we've done this pretty recently. Living units along Broadway, Main and Date Street do require a special use permit for approval. So you should have her application packet along with sort of the proposed shop outline there, and a letter of intent from Ms. Urban. I'll stand for any questions. Staff recommendation was to approve this special use permit.

Commissioner Clark asked how many days does Ms. Urban plan on staying open to the public?

Ms. Urban stated, I think definitely initially it'll be Thursday, Friday, Saturday, Sunday. And if there seems to be more sort of economic benefit to having hours other than those then changing accordingly.

Public:

Bonnie Riley wanted to know what this public hearing is regarding. When she got this letter she went to the City and asked them what exactly are they planning on putting in there as a work situation. And she said I don't know. I said you mean they're filing for a special use permit and you don't know what they want to put in the building. She said no, I don't, you'll just have to come to the meeting. Well obviously you knew that they were going to put in an art gallery or whatever. Why couldn't she have just told me that up front and said, yeah, they want to put in an art gallery and then been done with it. Why did they tell me, well, we don't know what they want to put in there? Wasn't there anything on these user permits that said what they were going to put in it?

Mayor Green stated because of some changes that have been made at the top level, our City Manager's contract was terminated. We have had a lot of people doing a lot of different jobs that they normally do not do to help some of the shortages that we have in departments, and very possibly, I'm not making excuses, but very possibly someone answered your question who wasn't a regular person in the City Clerk's Office.

Bonnie Riley replied, okay, but my building is only about that far from her building. And I intend to sell that building some day and I don't want what she's got in there to interfere with what I want to do with my building. That's the only reason I was here to ask.

Proponents:

Lillis Urban stated, I'm the property owner at 520 North Broadway, and I recently purchased the building. I've been in New Mexico for quite some time and I love Truth or

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Consequences, and have since I first came. So I'm really excited to have bought the building and be making these movements to being here fulltime and starting a business. Today you know we're hearing I guess this is about this special use permit for the back portion of the building where I hope to make a little studio apartment so I can live in the building downtown, and operate the business in the front portion of the property.

Commissioner Clark asked if she is intending to have a certificate of occupancy. The second question is I know pretty much that building and it's already plumbed for a kitchen, Suzanne I think you probably know that too, but are you still going to have to have a certificate of occupancy before you can open?

Lillis Urban responded, I don't intend to have any commercial kitchen in the building at the moment.

Commissioner Clark stated, that's not the question. Are you going to have to any remodeling in the back so that you're going to have to get a permit to do the remodel?

Lillis Urban responded I think that that's a really good question and something I'll need to find the answer out to. It is plumbed as you've mentioned so there's water to the back portion and we'll be putting in like a full bathroom and then a small kitchen so I don't know what the City codes or policy are with respect to the kind of permits I'd have to get but I absolutely will follow whatever permitting process is necessary.

Staff:

Planner/GIS Tech Diller stated part of the reason that was stressed so much with the previous live/work unit was that he had already begun some of the renovation process and we just wanted to be clear that just because we were granting it at that time whereas Lillis hasn't made those same moves towards doing that renovation that she will need to have permits for the remodeling and get that certificate of occupancy which will come from the State.

Mayor Green closed the Public Hearing.

G. ORDINANCES, RESOLUTION, & ZONING:

- 1. Discussion/Action: Resolution No. 13 2018/2019 Approving support from City of Truth or Consequences for New Mexico Department of Transportation (NMDOT) I-25 Business Loop 11 (Date Street) Preferred alternative project, CN 1101230 and selection of Landscaping Alternative. Traci Burnette, Grants Coordinator:**

Traci Burnette, Grants Coordinator you've seen the presentation from W. H. Pacific and asked and received some answers from Both W. H. Pacific, Site Southwest as well as NMDOT. So we're respectfully now requesting the Commission approve the resolution showing support of the project as well as approve a landscaping design.

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Commissioner Hechler moved to approve Resolution number 13 2018/2019 Approving support from City of Truth or Consequences for New Mexico Department of Transportation, 1-25 Business Loop 11, preferred alternative project, CN 1101230 and selection of Landscaping Alternative. And number two, the reason I choose number two is that I don't think we should go with the basic concept and I'm hoping that we have some time to try to figure out alternatives to determine funding for the rest of that project. Mayor Pro-Tem Whitehead seconded the motion.

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

2. Discussion/Action: Resolution No. 14 2018/2019 Budget Adjustment. Melissa Torres, Finance Director:

Item moved to New Business.

3. Discussion/Action: Resolution No. 15 2018/2019 approving the Pool Fees for the J.A. Hodges Municipal Pool. Tammy Gardner, Interim Pool Manager:

Interim Pool Manager Tammy Gardner stated they received their recommendation from the Recreation Board and their recommendation is to do a group discount. As you can see in the action form we have all the price increased. We have the old pricing structure as well as the new pricing. The main recommendation the Recreation Board had is highlighted in red. They want to do a group discount if a group of a family or a group of six friends or something, a group of six or more that come in at the same time then they want to discount \$1 per person for a group discount. That was the other recommendation that they had other than the recommendations that we had discussed about increasing the pool fees. What we're looking for is just an approval of the resolution to increase these fees.

Commissioner Hechler asked if the City of T or C has a swim team, or does the high school have a swim team?

Interim Pool Manager Tammy Gardner stated we have a swim team but they're more of an independent nonprofit.

Commissioner Hechler asked how the fees for that would be handled.

Interim Pool Manager Tammy Gardner responded, their fees are included. That's not included in these fees. This is just the everyday use fees. That's like the private rental agreement. Their fees are under the private contract or the private rental agreement. Their fees aren't the ones that we're increasing here in this.

Mayor Green asked, today if I were 15 years old and went to the swimming pool, would I be paying \$2 or would I be paying \$3?

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Interim Pool Manager Tammy Gardner responded \$2.

Mayor Green, Okay, and you're proposing to raise that to \$3, am I correct in reading this?

Interim Pool Manager Tammy Gardner responded yes, Sir.

Mayor Green stated that he has a problem with that. I know that we budgeted \$195,000 for the swimming pool, and I know we only take in \$16,000, and I don't know, let's even say half of them are the youth that use that pool so now you're talking \$8,000 to try balance a discrepancy that is this large on the backs of our youth I don't think it's fair, and I don't think it's reasonable. I would like to see if we could, try to find other ways to make up that shortness now that we would create in Ms. Gardner's budget by taking away that \$1 increases, but I just don't think it's fair. I don't think it's reasonable. You know if the kids are having an afterschool job it help with household expenses or because mom and dad don't have the money to give them something if they want to buy and they're working to buy that this keeps them productive citizens. It gives them things to do that are helpful and healthy. I just have a hard time nailing the youth on a shortfall of this magnitude that it really doesn't make that much difference one way or another. That's my main point. And you know that's just my position. I'm not trying to change your minds or anything. I just think we should look for other areas to raise revenue.

Commissioner Clark stated I have a swimmer on the swim team, too, and I think \$50 for a 30-punch pass is a lot for a youth. And because we take such a hit on that swimming pool anyway, it's still something that our kids are entitled to be able to go swimming and to be able to do it for as least expensive as they possibly can.

Mayor Green made a motion that we approve the 2018 Pool Fees as presented with the exclusion of the youth and the youth monthly pass that should remain as it presently is right now.

Motion dies for lack of a second.

Commissioner Hechler moved that we approve Resolution number 15 2018/2019 approving pool fees for the J.A. Hodges Municipal Pool as presented. As suggested by Tammy Gardner. Mayor Pro-Tem Whitehead seconded the motion. Roll call vote was taken by the Clerk-Treasurer.

Hon. Steve Green voted nay.

Hon. Sandra Whitehead voted aye.

Hon. Kathy Clark, Commissioner voted nay.

Hon. Rolf Hechler, Commissioner voted aye.

Hon. Paul Baca, Commissioner voted aye.

Motion carried 3 to 2.

- 4. Discussion/Action: Ordinance No. 698 for publication amending the Uniform Traffic Ordinance. Jay Rubin, City Attorney**

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City Attorney Rubin stated as you already know, we already have an ordinance where we adopt the State Uniform Traffic Ordinance and all amendments. But the legislature makes amendments we always and we actually go through the process of specifically adopting them here at our level and that's what this is designed to do. The legislature has made numerous changes to various portions of the Uniform Traffic Ordinance. So what I'm presenting to you are those changes for your consideration. The affected ordinances would be as follows:

- 12-1-5.1 auto cycle: 12-1-67, the school bus.
- 12-6-7.4, operation of vehicle on approach of moving authorized emergency vehicle of oncoming vehicle yield of right of way.
- 12-7-9.2 which deals with off-highway motor vehicles and I redlined that and I'll explain that in just a moment. I'll come back to that.
- Similarly the next section is 12-7-9.9, operation of equipment and that deals mostly with off-highway vehicles so again I'll come back to that in just a moment.
- 12-10-1.44, special restrictions on lamps.
- 12-5-7, pedestrian control signals.
- 12-5-8, flashing signals.
- 12-5-10, display of unauthorized signs, signals or marking.
- 12-6-12.11, restriction on use of video in motor vehicles.
- 12-6-12.12, coasting prohibited.
- 12-6-13.10, animals on street.
- 12-6-13.11, driving on mountain streets.
- 12-6-13.15, littering.
- 12-6-14.2, pedestrian's right of way in crosswalks.
- 12-6-14.3, pedestrians to use right half of crosswalk.
- 12-6-14.4, crossing at other than crosswalk.
- 12-6-14.5, pedestrian streets.
- 12-8.1, effect on the regulations.
- 12-10-1.1, prohibited acts.
- 12-10-1.3, when lighted lamps are required.
- 12-10-1.5, head lamps on motor vehicles.
- 12-10.1-7, tail lamps.
- 12-10.1.8, vehicles to be equipped with reflectors.
- 12-10.1.12, windshield must be unobstructed and equipped with wipers, windows must be transparent, exceptions.
- 12-10.1.12(a), sunscreen material on windshields and windows, requirements, violation, penalty.
- And then finally the penalty assessment section.

City Attorney Rubin went on to report, as indicated most of these are very minor changes. And some instances it basically refers you to what the penalty assessment section for the penalty imposed for a violation of any of these ordinances. I'll now go into the two ordinances which I withheld for a moment so we could have more of a discussion about that.

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- 12-7-9.2. That is the ordinance regarding operation of off-highway motor vehicles on highways, prohibited areas and what it says is that if you're intending to adopt an off-highway motor vehicle ordinance, this is what you have to include in there. And of course we've already gone through that process so I didn't need to have this in there, it would be superfluous. And of course that's something else, the subject of the petition that's already been circulated so we'll see where that winds up. But again we didn't really need to have this adopted since we already have one for the process of going through the ordinance and including the things that are included in this particular ordinance.
- 12-7-9.9 is kind of an interesting concept. What this is designed to do if you pass an off-highway ordinance which the Commission has done and if it passes and we do go through the election process, and the voters vote in favor of the ordinance, this actually imposes more restrictions on the use of highway motor vehicles. That goes from A, B, C, D, and E, and all of those actually give prohibitions for the use of off-highway vehicles.
- A: A person shall not operate an off-highway motor vehicle and that gives you 12 instances that goes onto the next page.
- B: A person under the age of 18 shall not operate an off-highway motor vehicle and gives your 3 instances.
- Then you go into the next page. A person under the age of 18 but at least 10 years of age shall not operate, etc.
- D: for a person under the age of 10.
- Paragraph E is a prohibition regarding the sale of a vehicle producing noise in excess of 96 decibels.

So this is really in contemplation that you have an off-highway vehicle ordinance. And as you know of course there's a contest going on about that right now. Now as I've indicated this is not actually a new concept because we already have adopted the ordinances that are set forth in this whole packet from previous amendments but there are additions here throughout this packet. So ordinarily what I always advise the Commission is that since these are amendments that are already cast by the legislature it makes sense for us to adopt them down at this level and I would stick with that recommendation. However, you may have some concerns about this off-high way vehicle ordinance if you wish to maybe defer and see what happens with the petition, and a possible election you could do that and bring this back, or you could approve it now with the expectation that the ordinance passes, and you'll already have this in place.

Commissioner Clark had some concerns on this on because it does allow for 7 or 10-year olds to cruise down the street. I've got a real problem with that. I never would have allowed my 10-year olds to be going 35 or 45 miles an hour in a vehicle down here. I agree with Attorney Rubin that maybe one of the good possibilities is to pull the OHV part of this, because we don't know what the end result of this petition is going to be, and this vote, or if we're going to consider maybe re-discussing that OHV ordinance that we passed. So I'm wondering if that little section which is 12-1-5.1 ought to be pulled also.

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Mayor Green stated he'd like to go on the record as totally agreeing with Commissioner Clark. I mean when you read this 12-7-9.9 and moving forward now some of this with all due respect to my fellow Commissioner does deal with hunting and using these vehicles to herd cattle, livestock, but you know then you turn the page and someone who's like 11 years old is allowed, they can't go in excess of 10 miles an hour within 200 feet of a business, animal shelter, horseback rider, bicyclist, pedestrian or occupied dwelling unless the person operates the vehicle on a closed course or track or a public roadway. Commissioner Clark's point that that ordinance that is under dispute right now has opened up our entire city as a public roadway and we could have people who are under the guidance of an adult, a person under the age of 18 but at least 10 years of age shall not operate an off-highway vehicle unless the person is visually supervised at all times by a parent, legal guardian or a person over the age of 18 who has a valid driver's license. I don't quite understand what visually supervised means, does that mean there's no supervision whatsoever because the accidents could have happened before the adult can response to the situation of an 11-year old coming into an intersection Silver and Ninth or whatever or wherever the interaction might be. So I think there's some issues. A person under the age of 10, shall not operate an off-road motor vehicle unless the person is visually supervised at all times by a parent, guardian or instructor of a safety training course certified by the Department which means if we adopted this in total, we could have 6-year olds driving ATVs on our streets as long as they're supervised. What does that mean? I mean that's just a world of legal trouble. And it becomes more than a right to do something, it becomes a legal issue of safety and I think it's the responsibility of the government of any municipality to provide for the safety of its citizens. So I agree with Commissioner Clark that that whole area should be pulled because it would just kill us, and it would kill the Police Department to see a 3-year old or a 4-year old driving on our highway, on our roads. I mean it would just be absolutely just an accident, unfortunately, waiting to happen.

Interim City Manager Cantin asked City Attorney Rubin, it's my understanding that the Uniform Traffic Ordinances is what's passed by the legislative session in a previous session. Am I correct in thinking that the previous one says a municipality has the right to pass an OHV ordinance if they proceed it. So any additions into this Uniform Traffic Ordinance would be only if we had passed it and included it in our ordinance to allow them.

City Attorney Rubin stated that's the assumption he's making. He believes this is a supplement. I would look at this as a supplement to the actions we've already taken. You know we've already taken the action to adopt the OHV ordinance. If it passes through the process you know that we're involved right now, the petition process if there is an election, if the voters vote in favor of this, of keeping the OHV ordinance then this would be regarded as a supplement to additional prohibitions. I would really like to have the standpoint where maybe the Commission might just feel more comfortable with that. I'm giving another option in case you didn't want to adopt the whole thing together. I was just thinking that the Commission just wanted to say let's see what happens with the election first, if there is an election.

Commissioner Clark made a motion that we accept this UTO with the exception of removing 12-7-9.2 and 12-7-9.9. Mayor Green seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

- 5. Discussion/Action: Special Use Permit for live/work retail at 520 N. Broadway, applicant is Lillis Urban. 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 for approval of the special use permit for the live/work retail space at 520 North Broadway as presented by Ms. Diller and we have heard from the applicant Ms. Urban. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.

H. UNFINISHED BUSINESS

- 1. Discussion/Action: Approval for the Mud Mountain Tower Replacement. Melissa Torres, Finance Director and Bo Easley, Electric Department Director:**

Electric Department Director Easley stated that we have a tower and a building that's owned by the City that is on BLM land. In May of 2018 the New Mexico State University notified us that the tower was unsafe and condemned from anybody climbing it. We started working with Advanced Tower Services of Albuquerque to repair the tower. Advanced Tower notified us that the tower was beyond its useful service life and it should be condemned. We received a quote from Advanced Tower, East Tech Tower and HEI. Out of the three companies only one was able to give us a quote on the replacement of the tower. The company is Advance Tower Services. We also have been working with BLM on the communication site and management plan for the new tower. I also have some good news. KRWG, and New Mexico State University, applied for a grant to see if they could help us with this new tower. I received an email from Adrienne this morning. I'll go ahead and read it to you: "I just received word from PBS that KRWG has been approved to fund up to half of the cost of the new tower". We'll need to work up the details later, but Adrienne's proposing that KRWG pay 49% of the tower construction costs. The City of T or C would be the majority owner and responsible for any tower ownership costs such as insurance, any lease revenue would go directly to the City. KRWG would remain on the tower and we can go over this whenever we look at their contract, rent-free for the life of the tower. They would continue to be responsible for day to day site maintenance. They're proposing down the road any tower maintenance that needs to be performed by an outside tower crew be split 49% with the City and the City would pay 51% with everything.

Mayor Green asked Mr. Easley if the \$36,000 would come out of his operating budget?

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Finance Director Torres replied, to answer that question, Mayor, what we're proposing on this budget transfer is to hit his ending cash balance. He definitely has the money in his ending cash balance. As Mr. Easley stated we're very fortunate that this is a grant and that the State is going to pay for half of it but we do have to remember that we'll have to pay up front to get this done and then wait to get the reimbursement from New Mexico State. So that will not interfere with Mr. Easley's operation budget because he's already got it slated for several project that he has designed it for which this was an unforeseen project that came up.

Mayor Green moved to approve for the Mud Mountain Tower Replacement for Advanced Tower Services to and the company is Advanced Tower Services that would be the provider of the services to take the existing tower down and to put the new one up. Commissioner Hechler seconded the motion.
Motion carried unanimously.

2. Discussion/Action: Approval the amendment to the Tower and Equipment Lease Agreement with KOB, KASA, and KRQE. Melissa Torres, Finance Director and Bo Easley, Electric Department Director:

Electric Department Director Easley reported, when they started seeing that we needed to build a new tower they thought, well, let's look at the contracts that we have in place now. The contracts were very old. I think the last one we did was 2012, and City Attorney Rubin did rewrite the contracts. He reached out to KOB, KASA, and KRQE and notified them what we are doing and everything. The only remark that I have gotten back is they asked us if we separate KOB, KASA and KRQE, not be on the same contract. One of the things that we wanted to bring to your attention is how much we want to charge these companies to be on our tower now. We don't want to charge too much because we don't want them to leave and not be on our tower anymore and then our citizens would be without that channel being broadcast. They looked at Socorro, Cimarron, Tucumcari, Alamogordo, Silver City, and Carlsbad to see what their rates were and everyone of them responded that they really didn't have any kind of contract. The only contract that we received was from Gallup, where they charge \$1,200 per station occupying the tower and that was for a year.

City Attorney Rubin stated, what he did is he looked at the most recent contract which expired in 2012, I just thought it'd be easier for the Commission if I kind of did this as a redline form for you so you could see really what we had in the old contract and the changes which I've suggested. Now I guess maybe the first comment is that Mr. Easley has advised that the entities want a separate contract which I understand. So I guess what would have to be changed here is we maybe have to have one contract for each. But I think what we can do is if you do approve the form of the contact you can just instruct me to prepare two additional contracts with the same language and you would advise me of what the consideration would be in paragraph 3. Just looking at paragraph 2 is one change I made. The old contract did not really even specify a length. So I just arbitrarily chose that the original term was already over so that's say 5 years. That's just an idea that I had. Paragraph 3, again you'll advise me as to which amounts each

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entity will be paying. Paragraph 5, I changed the title as anti-nuisance because I think that made more sense than installation and maintenance 'cause I think that's what paragraph is talking about. Paragraph 7, I didn't put a title on there. I would suggest I would insert the title licensing and notifications. And basically the rest is pretty standard stuff so i'm prepared to proceed based upon the direction of the Commission.

Mayor Pro-Tem Whitehead moved to to approve the approval of the amendment to the tower and equipment lease agreement with KOB, KASA and KRQE as presented by Melissa Torres our Finance Director and Bo Easley our Electric Department Director. Commissioner Baca seconded the motion.

Commissioner Clark asked Finance Director Torres if she talked to those three entities already and given them that \$1,066 figure?

Electric Department Director Easley stated, no, we have not.

Commissioner Clark asked to put a contingency on that.

Mayor Pro-Tem Whitehead stated, I'll take back my motion. Commissioner Baca took back his second.

Interim City Manager Cantin asked if they are postponing this item.

Mayor Green stated that the marching orders are for you guys to work with Manager Cantin, and negotiate the best deal you possibly can for us and bring it back as soon as possible.

3. Discussion/Action: Approval the amendment to the Tower and Equipment Lease Agreement with KRWG PBS TV Regents of Las Cruces, New Mexico. Melissa Torres, Finance Director and Bo Easley, Electric Department Director:

Electric Department Director Easley reported that there was a verbal contract in place years before he became the Manager for the Electric Department. Whenever he took over that department, Ed Williams retired and Ed was taking care of Mud Mountain. There was a verbal agreement with KRWG that they would not be charged anything to be on the tower if they did the maintenance for the building and the tower. We got with Adrienne and asked if she could put together a rough estimate of what they spend annually a year up there to do maintenance and work. They gave us a price and they roughly spend \$2,450 a year up there, replacing the air conditioners inside the building and everything, but KRWG is now also going to pay for 49% of the new tower. So they are asking and we go ahead do a new contract with KRWG, then they can remain rent free for the life of the tower and they would keep up the maintenance of the tower and the building up there. New Mexico State has really worked with us really well and we never had any problems with this. Anytime that we go up there to do something, they're always up there with us and helping us out. BLM has been cracking down this last year.

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We had to go up there and remove a couple of towers that were abandoned by PBS and they've been up there helping us clean up the site. BLM is getting really particular about their land and they want everything not to be touched and for everyone to stay on the road when you drive up there.

Commissioner Hechler moved for the approval of the amendment to the Tower and Equipment Lease Agreement with KRWG PBS TV Regents of Los Cruces, New Mexico as presented by Bo Easley, our Electric Department Director. Mayor Pro-Tem Whitehead seconded the motion.

Motion carried unanimously.

4. Discussion/Action: Amendments to the City Commission Rules of Procedure. Renee Cantin, Interim City Manager:

Interim City Manager Cantin stated that she was asked in a previous meeting to include some more information on decorum to our Rules and Procedure. What she did is used the current New Mexico Municipal League sample: *Rules of Procedures for governing bodies*.

- Rule number 5 under the presiding officer section. We're proposing the presiding officer shall preserve order and decorum and have general direction of the meetings, announce the business before the body in the order in which it's to be acted up, and recognizes speakers entitled to the floor, and guide and direct the proceedings of the body. Just basically nothing different, it just has it in writing in there.
- Rule number 17 under actions for comments from the public for public hearings. Where it states the following rules of conduct shall apply to all public comment. That decorum is mandatory, no derogatory or degrading comments directed at staff or the City Commission will be tolerated during public comment.
- Rule number 18 under voting, we would add section a and change those letters underneath to where it says each commissioner in attendance must vote for or against all measures before the governing body unless there's a conflict of interest for which an abstention is recognized. Under rule 18(f) where it talks about abstention which is already currently in place the one we're using.
- Rule 19 would be an addition and renumbering the rest which states a member of the City Commission shall confine their remarks to the question under the discussion or debate, avoiding personal references or attacks on fellow members, staff members, or members of the public. No member of the City Commission shall engage in private discourse or commit any other act tending to distract the attention of the governing body from the business before it.
- (b) is a member who resorts to persist and interrupt in irrelevance with consistent repetition may be directed to discontinue his speech by the presiding officer.
- (c) is point of order. A commissioner may call attention to a violation of rules or a mistake in procedure by raising a point of order. The presiding officer may permit full explanation before ruling on the claim and resubmit the question to the governing body for decision by a majority vote.

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- Then the numbers of the additional rules have been changed and you have a sample of those where I highlighted the sections that we added in.

Commissioner Clark noted that she is guilty from abstaining and this says that you have to vote yes or no, and I abstained the last time because I didn't have enough information, and I had missed several meetings. If there's one person that is going to abstain and then you got a 2-2 vote then it's like breaking the tie. And enforcing that maybe without good information, you'd have to make up a story to say it's a conflict of interest to walk out of the room unless it's just an internal conflict. I'm just kind of disappointed that one's in there. The other thing that I read in there that's kind of interesting is that there have been several times where I know a lot of us, including myself, have a question and we see somebody in the audience that I've actually asked a question of, and I know we've done it with Traci quite a few times and Susanna, and this is basically saying that we can't pull somebody out of the audience to help us with a question.

Mayor Green stated actually Commissioner Clark I think if you look on the page under article 1, general provisions, page 2 of 9, at 1.3, duties of the presiding officer, the Mayor whoever's presiding shall possess the powers and perform the following duties: preserve order and decorum and have general direction of the meeting. I take that to mean that whoever sits in this chair if there is information that is not on the agenda, but the person sitting in the audience has that answer to the question that that would be certainly permitted.

Interim City Manager Cantin noted there's definitely a flexibility.

Mayor Green asked if Commissioner Clark, unless it was of a time scheduled nature, could move to postpone to get the information that she feels she need to be comfortable in making a decision and then bring the item back at the next City Commission meeting?

City Attorney Rubin responded I would even do this. You know where it says unless there's a conflict of interest, I would consider adding language that says unless there is a conflict of interest or other unusual reason, something that kind of leaves it open that if you have something like this that comes up, you know you're absent or something else happened I think there should be a little bit more flexibility in that quite honestly.

Mayor Green noted, then we might end up with a 2-2 tie, but where someone might have a conflict of interest up here and step out of the building there's also that possibility of a 2-2 tie and it just does for lack of a majority.

Commissioner Clark made a motion to approve the amendments to the City Commission Rules of Procedure as presented by Renee Cantin with the exception and adding a couple of words in 18(a) after conflict of interest or any other unusual circumstance. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.

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Commission took a 5 minute break at 11:55 am.

Meeting proceeded at 12:00 p.m.

I. NEW BUSINESS:

1. Discussion/Action: Approve Truth or Consequences Fuel Farm Schedule 3 Tender and Substitution Agreement. Tim Archibeque, Armstrong Consultants:

Tim Archibeque stated I'm here to answer any questions you might have on this. This project was brought to Council last year and awarded I believe to a contract that defaulted on their contract so it went into the Share D Bonding Company to get finished. We took this project over when we became the city aviation engineers out at the airport a couple of months ago. I have been in contact with the surety company and we worked through this tender agreement. Basically a surety company or a bonding company has taken over, and found a qualified contractor to complete the work that the contractor that the contract was awarded to before. I've looked at what they have so far and they have a tank ordered and it meets all your specifications that you had under your last engineering consultant.

Commissioner Hechler moved that we approve Truth or Consequences Fuel Farm Schedule 3 Tender and Substitution Agreement as presented by Tim Archibeque, Armstrong Consultants. Commissioner Baca seconded the motion. Motion carried unanimously.

2. Discussion/Action: Swimming Pool Heater Cost. Tammy Gardner, Interim Pool Manager

Interim Pool Manager Tammy Gardner noted I've brought to your attention that the heater is needing to be replaced. When we had our inspection, there was a lot of extensive talk about our heater, and how it's not been properly maintained and it's in need of getting replaced. It stated in our report that the summer season should be the last season for it, and as you know that's drawing to an end. So we're looking at need to replace it fairly quickly. It should help. I know we've had a lot of dispute that our water temperature doesn't stay steady and it always fluctuates. As far as in the actual pump house there's things that need to be in place with a new heater as well and a new heater would be more efficient. My understanding is that it could possibly help save as far as running the equipment as well. So what I'm coming to discuss to you all is I've looked through the budget and I'm trying to get a recommendation of where to get the funds to replace the heater and how to move forward with this as far as the winter season because we didn't budget for it this particular item.

Commissioner Hechler asked about the life expectancy of the heater. Maybe we can close down during the installation.

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Finance Director Torres reviewed the financials of the heater. One of the things that was tasked by City Manager Cantin was to look at our overall budget. As Ms. Gardner stated, we didn't budget for this, as we all know, the general fund funds this department, but that being said, the one positive thing is, the swimming pool is not at the 25% threshold under expense, they're at the 16.7. So where we're doing cost savings right now is on the utilities and also on the vacancies. I think that's where Ms. Gardner is just hesitant as to how many people we're going to be bringing on board, it's going to be based on what we're going to do with this cost, this additional cost that we didn't budget for. At this time I would not recommend us to get additional funds from our general fund by increasing our revenues, because we've already increased our revenues to the max of what we can see right now for the fuel farm schedule 3 that I would be coming before you. So that would be my recommendation right now, is that we utilized some of that cost savings from the vacancy and then also the utilities.

Commissioner Clark stated it might be something worth looking at, and maybe if it's just saying we can stand the open air time, if we've got a good heater in there, we may want to be thinking the better of the two heaters actually, instead of the other, if there are such good heaters. Those of us that have gone to Colorado Springs and Ouray, and some of those places that have outdoor pools year-round, and they don't have covers on any of them, so they can get the pool temperature up to 98, or something like that.

Commissioner Baca said I see this wave packed high delta sealed combustion 84% efficiency approximately \$34,000. Is there any possibility of getting the efficiency rating for the \$18,000 heater?

Interim Pool Manager Tammy Gardner stated I can definitely look into that. If we could go ahead and postpone this item so we could put together more detailed quotes with efficiency ratings, life expectancies as requested, and maybe we'll bring back another budget adjustment resolution for the possibility of where we're going to actually take that.

Commissioner Clark moved to postpone the decision on the swimming pool heater and to get back to the commission as soon as possible.

Commissioner Baca seconded the motion.

Motion carried unanimously.

G2. Resolution number 14 2018/2019 budget adjustment.

Finance Director Torres requested the following budget adjustments:

- The electric fund 503 for 75,000, that will be the funding for the tower at that time; fund 312 for the R&R airport, an increase of 5,000. So we already had in the final budget 60,000, the total cost of that will be 65,000, so we're increasing the expenditures to equal the 65,000. R&R airport transfer in, fund 312, 25,000, so we're taking cash from the general fund and putting it into fund 312.

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General fund revenue, the last numbers 34355, increased 1,300, increased revenue fund 101, 7,500, increased PD resource officer, general fund revenue increased, the last numbers 37380, 16,200. General fund transfer out, 25,000, and we're adding the largest tax expense for 2,300, that was approved back in August 22nd, so we're in compliance with EFA, and again just let me try to give you a short summary. These revenues that we stated are everything that was over the 25% threshold that we are increasing. The one for miscellaneous is where we put any funds that are not identified in our revenue source in the general fund that we put into that funding source which we've gotten refunds to TBS, we've gotten refunds from Windstream that has done an increase. The increase for the PD resource officer, as you guys know, this fiscal year we did not get awarded the contract, however the 7,500 that we have in that particular line is due from a carryover of their last fiscal year. So I stand for any questions at this time.

Commissioner Clark asked about the resource officer budget adjustment. Can you explain the Police Department, because it seems to me that when we had the discussion on building that new building, that they had that extra ¼% tax coming into that department, and that was going to be used for payment on the loan. So why does the PD need \$7,500 more dollars?

Finance Director Torres explained this is funds for the general fund. And so their GRT is a whole different funding source, which is in the 200's, so this particular item is increase for the general fund for the PD Resource Officer, so the city of Tiersey had the contract with the municipal schools of \$25,000 to pay yearly to have a resource officer in the schools, which it was Ted Onteveros. Unfortunately, the school's last fiscal year, they did an RFP, and we did not get the RFP, Sierra County Sheriff's Department got the RFP, so this \$7,500 is the remaining that the T or C Municipal Schools owed us from last fiscal year, when we did have the contract. So as you know, what we're required is once June 30th comes, any money outside that we have to put it into the new fiscal year, even though it may be reimbursement from the following fiscal year.

Commissioner Hechler moved to move that we approve resolution number 14, the 2018/2019 budget adjustment, as presented by Ms. Torres.

Mayor Pro-Tem Whitehead seconded the motion.

Motion carried unanimously.

G.3 Discussion/Action: Final Budget pay increases clarification. Renee Cantin, Interim City Manager:

Interim City Manager Cantin reported, on September 12th Finance Director Torres brought to her attention a possible violation regarding the FY 19 COLA Merit Increases that might result in an audit finding. The possible violation is when the Commission pulled the final budget on July 25th but they were instructed to imply the wage increases effective the beginning of that pay period which is 4 days prior to the budget. Per the City's Personnel Policy under **5.3 - pay changes effective date** : It states that the pay

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changes should normally become effective on the 1st day of the pay period following approval of the change. Finance Director Torres contacted our lead auditors, our city's external auditors, the State Auditors Office, and our city's internal controls officer, Mr. Gary Gaylord, and each of them concurred that the only way it would be acceptable to back date the increase is if the Commission specifically included the effective date in their motion or approval. The Commission can make such a change as long as the effective date is specified during the Commission Meeting, and recorded in our official minutes. Since there is no such specification, recommendation is to proceed with the increase on the first pay period after the Commission passed the action, and in this case that would be effective Saturday, September 15, 2018. In order to rectify the pay period in question, you as a Commission can also take the action to approve the COLA Merit's to be effective as of July 21, 2018, that way there wouldn't be any need for any amendments to the payroll that was paid out, and we could proceed with the correction if we do get a possible audit finding.

Commissioner Clark asked if everyone has been receiving their wage increase.

Finance Director Torres noted that the Commission approved the increase on July 25th but there was no date specified for the COLA increase, and based on our policy, since the Commission was not specific on the effective date, our policy states that we go to the next week of the pay period that starts. The Commission are the only ones who have the flexibility make the determination if the effective date goes forward or back.

Commissioner Hechler moved to back pay the increase for the employees to July 21, 2018, in order to avoid an audit finding, and to correct our records. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.

G.4 Discussion/Action: Interim City Manager and Acting City Clerk compensation clarification. Renee Cantin, Interim City Manager:

Mayor Green noted when they came out of executive session, what he remembers is Commission Hechler made a motion, and it was seconded by Mayor Pro-tem Whitehead. Basically, what it was concerning itself with was the additional responsibility that we had asked the City Clerk to take on, and now wear the hat on an interim basis as we move through this process, and to act as our City Manager. And with her then vacating her normal seat as City Clerk, we needed someone to move in that seat, and Ms. Cantin suggested that Deputy Clerk Torres be moved up to be Acting City Clerk. He and Commissioner Hechler pointed out that people who do this should be rewarded during the period of time that this process takes, and that they are acting in a dual role, or in a higher level role, and therefore he made his motion. The motion in the minutes read "Commissioner Hechler moved to approve that anyone placed in an interim/acting role of this vacancy be given a 15% increase."

Mayor Green stated he thinks where we maybe fell short is not explaining what the word "this" means. He took it to mean "this vacancy of the City Manager" and he thinks the confusion may be because some are reading this as "anyone who acts in an interim

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capacity would be entitled to that 15% increase". He did not think that was the discussion that the Commission was having. He thought that it was all about the City Manager, and that process, and not if we had someone in a department and they were acting in an interim position... that would be the City Manager's decision. He doesn't think the City Commission has the authority to mandate something, because the City Manager is the Commission's employee. So what they are going to need here is for someone to clarify that the motion was only meant to pertain to the City Manager's position.

Commissioner Hechler stated that he would like to clarify that in two parts. The first part would definitely be the Acting City Manager, and the Acting City Clerk should be compensated for the extra duties that they now do, and that should be a 15% increase. But to take it one step further, it is his belief that in the past, people have been asked to assume an acting role in various positions, and they were not compensated fairly across the board. It was a pick and choose type of situation where some people were given the opportunity to receive an increase, and some people were not. His other attempt was to try and level the playing field so when the City Manager asks someone to jump to the next level and assume a managerial role, they would also be compensated during that time frame and that person could then compete for the position like anyone else, and if that person were selected, then the salary adjustment would stay in place or be adjusted accordingly. And if that person were not selected, then they would revert back to their previous salary and the new person would have that position. He does not feel it was applied fairly across the board, and his attempt was to make sure if our city employees are asked to assume the role of a supervisor position where they manage people, they would be given an increase in order to do so.

Mayor Green stated that they heard an explanation of the motion, but evidently the motion is more than it appears to be.

Commissioner Hechler stated yes, that is correct.

Commissioner Clark stated that she did respond to that one, and her understanding was that the employees who were put in positions because we let the City Manager go received the 15% increase, which is the City Clerk and the Deputy Clerk. She doesn't remember any talk about retroactive or other positions. So hearing what Commissioner Hechler is saying, she still does believe that he has a really good point, and that point is that it really should be fair all the way across the board when the City Manager asks somebody to step into a vacated position. Some instruction to the City Manager on an entirely different level, would help the City Manager know that you don't give a 20% raise to this department and only give a 10% raise to that department. It really ought to be a little more fairly distributed, and maybe it's a % of the salary of that elevated position or not, but she thinks it's worth other discussion.

Interim City Manager Cantin stated, so what she's hearing is, if the Commission does want to include the others who are in an acting/current interim position, if that is the intention of the Commission, what we need in order to comply with the audits is for

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those who were in an interim position before, if you want to include them as well, please include from the start date that they were appointed, and what we need for clarification of my interim position and the acting City Clerk would be effective as of August 28th when we started that position.

Commissioner Hechler asked, out of the 3 interim positions, were any of them compensated for being in the position that they are in?

Finance Director Torres replied that out of the three current interim positions, you have somebody getting a 4% increase all the way up to a 13% increase. All three were different departments.

Interim City Manager Cantin stated if you wanted to rectify those as of right now so that we could proceed, we would need that in the motion from their start date.

Commissioner Hechler noted if you give a 4% raise to someone who is making \$12 an hour that's not very much. If you give a 4% or a 6% or a 5% raise to someone who is making \$26 an hour, that's a substantial increase, and that's why he would say let's just make it a flat rate where it's pertaining to the salary that they are already making, so that would be more fair across the board in that matter.

Interim City Manager Cantin noted that she and the Finance Director already talked about revising the Personnel Policies so it's in there, at a %, and they'll present it to the Commission at a later date.

Mayor Green asked City Attorney Rubin, Commissioner Hechler made a motion, but it was not flushed out, so would your suggestion be that we break this up into two motions, one as it pertains to the City Clerk moving up to City Manager, and the Deputy Clerk moving up to Acting City Clerk with Manager Cantin still overseeing the City Clerk's Office, or should we still make just one motion...and how do we get rid of the motion that we have?

City Attorney Rubin asked if there is any difference in opinion as to what was intended. What he is hearing is what you thought the motion said, and he also heard what Commissioner Hechler said. Does anybody disagree with what was said?

Commissioner Clark stated that she just thought it was City Manager only.

Mayor Green thought it was for the City Manager only. However, now that Commissioner Hechler has brought this up, in all fairness, to have a level playing field and for the moral of our staff he thinks it is a rightful request that they level this playing field for everybody, and that our staff knows in advance, if they are being asked to do something above and beyond what they were hired to do within that department and take on more responsibilities, that it should be right there in black and white that you will be entitled during that period of time for a flat 15% increase.

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Commissioner Hechler stated that's what he's used to, and he has seen that in other organizations.

Interim City Manager Cantin wanted to clarify... for the Commissioners who are saying only the City Manager and City Clerk... as the City Manager, she could go back and ask the Finance Director, lets go ahead and move the others at 15% as well? We would still require the action from the Commission to make it from when they started their interim position so we can avoid that audit finding.

Mayor Green said that makes sense, but unless Manager Fuentes just decided to do things and not keep the Commission informed, normally isnt that an administrative decision of the City Manager that you don't have to ask our approval to get someone a \$2 bump?

Interim City Manager Cantin responded no. That's not how its been done in the past. What we really need approval for to avoid an audit finding, and to include the others as well is to make it effective their start date from their interim position.

Commissioner Hechler asked how long have these people been in their interim position?

Finance Director Torres responded the longest one we have right now has been in that position for about 8-9 months.

Commissioner Hechler suggested that they start from the new fiscal year which would be a clean line, and a lot easier for payroll, and that way it doesn't necessarily hurt the city's funds, but it also draws a nice clean line.

Interim City Manager Cantin stated, so for others who are in an interim position to be paid 15% effective July 1st and for the Interim City Manager and Acting City Clerk to be affective August 28th, the day after the termination.

Mayor Green asked City Attorney Rubin, so basically this is going to be a new motion? The motion that Commissioner Hechler made, and was approved, that stands. Being placed in an interim/acting role for this vacancy be given a 15% increase.

City Attorney stated that they will just have to clarify, when he made that motion here's what was intended and then everybody could vote on that, and then he can go into the new motion.

Commissioner Hechler moved to approve that the Interim/Acting role for the Interim City Manager and the Acting City Clerk be compensated at a rate of 15% effective on August 28, 2018 with just those two positions. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.

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Commissioner Hechler moved to approve that any city employee that's been asked to move into a supervisory role either as a director, or a manager, be compensated during the time that they're in that position at a rate of 15% until changes are made, and made effective July 1, 2018.

Commissioner Baca seconded the motion. Motion carried unanimously.

G.5 Discussion/Action: Approve the recommendations from the Public Arts Advisory Board for the City to take possession of the Reed Rocket Sculpture and issue final payment. Traci Burnette, Grant/Projects Coordinator:

Grant/Projects Coordinator Burnette stated as you know we've been working to have the Reed Rocket installed in the Art Park. We got to the place where we're ready to look at installation. Now of course any type of installation requires some type of permitting. So on August 3rd, staff met with Jeff Barber at the CID, Construction Industries Division office in Las Cruces. Mr. Barber took his sculpture with him and put it up there for the inspector there at CID so he could see it. The CID structure, per the CID inspector, is going to have to be engineered and stamped for approval prior to them allowing any type of permitting. We took this information to the Public Arts Advisory Board meeting on the 19th, and at that time our Public Arts Advisory Board wanted to recommend that we pay Mr. Barber for his sculpture, in order to pay him for the sculpture we have to have it within our possession. So their overall recommendation at that time was for city staff to obtain the sculpture in our possession and then pay Mr. Barber an amount of \$2,000. So I'm bringing the recommendation, as somebody that's worked on the project, my request would be to pay Mr. Barber the remaining balance, which is \$2,206.08, if that's the Commission's direction. I might also like to continue to look into options of engineering the one that Mr. Barber went to, the quote that he brought back was right around the \$5,000 for engineering stamp and approval, but it left a little bit more that needed to be completed, which would be like a geotech in order to install the sculpture in the ground and some possible other unforeseen expenses. So I would like the opportunity to maybe reach out to some of the engineers that we worked with in the past and see if they could offer anything different, and continue to proceed forward with the possibility of installing the Reed Rocket, if that's the direction of the Commission.

Commissioner Clark moved that we go ahead and take possession of the Reed Rocket sculpture and pay Mr. Barber the full amount due to him.

Commissioner Hechler seconded the motion.

Motion carried unanimously.

G.6 Discussion/Action: Personnel Board vacancies and duties. Steve Green, Mayor:

Mayor Green stated that he met with Audon Trujillo on the Personnel Board vacancies and duties. What I sense what we're doing right now is we're beginning to fill in the

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gaps that need to be filled in to kind of clean up the way the city does business as we move forward. We had a wonderful breakfast at the Old Brick Café a little bit more than an hour, he got in his ideas on this, because he's been hammering us on this to either fill it or get rid of it, one or the other. I thought that this is really a protection for staff, that really gives staff another level of a recourse that if they have a problem, whatever that might be, that there is an order of which they can try to follow to get an ultimate decision one way or another for their grievance, for their complaint, whatever it might be. So I would like to see if there is the will of the Commission to even tackle this, and if so, I would like to ask maybe one other commissioner to work with me and with Manager Cantin and legal to come back to you with a document that will work. Every time it says appointed by the Mayor, with the consent of, I want that to read, three members to be appointed by the City Commission. And it says, the Mayor, this is not that form of government, and I think if it makes the public feel that the Mayor has powers that they really do not have and should not have, that I wanted to clean that up, I wanted to make it a quasi-judicial. There were some other things that Audon pointed out, for example, that in our recreation advisory board, it says "board created members", and then it says, "powers and duties", and we don't have that for the personnel board. So when people ask us questions and we try and get three of the public to sit on this and serve on this board, we have the answers, rather than, "Oh, I'll get back to you". That's not the way to approach it as far as I'm concerned. So I really would just like to know, number one, if there is the will to move forward with this, clean it up, make it tighter, and if there is, then so we can just move forward. And the way I suggest it, or the way you might like to suggest it, how you think it best to move forward. I'm open to that, but that's where I am, and this is, you know, this is important stuff. We're dealing with staff here, and no matter how much kumbaya you do, you're always going to have situations that arise and staff should know what their rights are and what they have in place to protect themselves as they move through the process. So that's where I am.

Commissioner Clark stated she thinks it's an excellent idea, I think that employees should have another avenue other than just having the City Manager. So that being said, Commissioner Hechler, you were on that, you knew I was going to do that to you. It would be my special request if you could help the Mayor with this one, simply because you had that experience and that practice and might be able to shed some light on some things that none of the rest of us may not pick up.

Mayor Green responded thank you for making that totally beautiful offer. So from that, may I ask, Commissioner Hechler, why did the personnel board disband?

Commissioner Hechler said he thinks it was from lack of people just weren't using it. In the time that I served on the board, it was almost four or five years, we had been called three or four times. And so to get up on it, to be ready for personnel appearing, you had to research it and get yourself up on it, and then all of a sudden you got six or eight months and you forget everything they teach us. And so you start over again, so ultimately it was not used very much, but again it's a necessity to be there. I'd be more than happy to rewrite the policy and present it to you for your information as something you can look at and see what you want to do.

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Commissioner Clark made a motion that the Mayor, Commissioner Hechler, Manager and Attorney Rubin take a look at the personnel board and the appeals board and draw up criteria, be looking for personnel appeals board. Commissioner Hechler seconded the motion. Motion carried unanimously.

J. REPORTS

City Manager:

- First of all, Susanna Diller, as the Mayor mentioned earlier, has given her two weeks notice. She's been a great asset to the city, and she's got an excellent job that she just can't pass up and although we're sad to see her go, we wish her all the best, and she has agreed to stick around to help us out and for the executive session and how to proceed about that.
- Department meetings are ongoing, I had great tours of the facilities and I think with the city employees, I have plenty to go still, instead of canceling them and not keep moving. But I have toured the Wastewater Treatment Plant, thank goodness, after this week, the vacuum problems we had, I actually knew what they were talking about.
- The Art Park for the Reed Rocket piece and also the space port for the rocket launch, thank you, Commissioner Hechler for the invite for that. I really enjoyed it and appreciated it.
- I met with Executive Director and Governing Board for the hospital, and I had a tour of the facility this Friday. I missed out on the initial one. And they're also going to be doing a board member orientation for me. and I also met with the Executive Director and Chairman and, we had our first meeting yesterday, which went very well, and I think that will be a great working relationship. And Traci will continue to be my proxy for that one as well.
- There's been some other department issues that were discussed, including code enforcement, and we did discuss it with the Chief Enforcement Officer about attempting to send out a warning letter that was being served by return receipt for that first one, and we'll give it a shot to see how it works and see how the response is. But we do believe that it might cut down on the mailing expenses. And we opened up the website for the Animal Control and Animal Shelter, nothing was really on there for the shelter yet.
- Water and sewer taps, we met on the water taps, water taps are when the streets are cut up so they can go in and do their water and sewer taps or line replacement and such.
- I'm still working on a plan for the Golf Course. We met with Commissioner Hechler and as soon as I get a chance to put the proposal together so we can look at it before we bring it to the Commission.
- We also have a letter from NMED about the water system at the Airport, so Traci and I are looking into that, and auditing the system as well. We have to do a test to check on whether the water is potable or not. We understand it might not be, so I have a plan to put a tank in and fill it with water if necessary, we'll keep you updated on that.

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- October 1st the facilities will be removing the old panels at the Veterans' Wall, and we will keep you updated on the unveiling of the Veterans' Wall, which should be on Veterans' Day, that's the date we're shooting for.
- I do have a current list of the water leaks we have Pershing, Poplar and one is on 2nd and Magnolia, there's two on Pershing Street and one on Poplar, so they'll keep us updated on that, and we'll forward it.
- As you can see downtown, if you've gone by downtown, the roads are closed. I heard yesterday most of the hotels are booked up from the films, crews are shooting here, and it's a Disney movie and it's already been on Channel 4 so I guess you could say it's a Disney movie with Grace VanderWall in it. And so we're glad to have them here, and staying in our hotels and getting to know the town. If you have any questions about it, let me know.
- The petition of course is as I mentioned, was due last Friday, we have 289 signatures and 154 was required. But Angela and I will be working on that certification, we'll have it done by October 5th, and we have a general timeline but we'll narrow it down and bring that to the Commission by probably October 7th or 8th.

Mayor Green suggested that Manager Cantin reach out to Jagger to get the name of the executive director of the movie and who is reporting to Disney, and I would like to send them a thank you from the Commission and citizens and staff of Truth or Consequences for coming to our community for one week, over a 100 people here for a week, and downtown, it looks like New York City. We need more of that type of economic development, so I'd love to make sure that we send out in appropriate time, to get a thank you letter four months after the fact doesn't mean anything, but within the next, if we could do that the next two weeks or something like that, I'd like a letter signed by all the Commissioners, by yourself, all the appropriate people that you feel should sign that, and let them know that we appreciate them coming into our community and spending a lot and lot of money.

City Attorney:

- No reports.

City Commission Reports: Mayor Pro-Tem Whitehead:

- No reports.

Commissioner Clark:

- Just one thing, it's about this letter that you and the chief are planning together. I've got several complaints myself, and I've complained myself, because I had one or two or a few over the years. The certification really does get your attention when it comes in, because there's a lot of utility bills, and things that say the City of Truth or Consequences on it, so you might have to think that one through, how you're going to get someone's attention. I think if you put "important" or something on it that would help. One of the comments that I

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would like to make, and I've heard other people make, is that the first could be a request instead of a demand, because if you requested me to cut the weeds in one of my places and I missed it somehow, it doesn't sound as offensive as the demanding verbiage that's on those letters, and that's about the same letter that you sent out for years, so I think it's not going to hurt to rewrite it. But just think about that while you're composing this letter, because it might make a difference to people's attitude about the city.

Commissioner Hechler:

- Just a quick shout out and thank you to Chief Aragon for the meeting that we had yesterday regarding the transient panhandling issue in the north end of town. We had Sheriff Hamilton here as well as the Chief of the South Ministerial Alliance, and we made some pretty good progress in discussion anyway about how we wanted to handle the panhandling issue, and I'm looking forward to some more discussion down the road, and hopefully we'll have a viable solution that will be humane and doesn't infringe on anybody's rights but solves the problem. So the Commission thanks you for that.

Commissioner Baca:

- No reports.

Chief Aragon Aragon:

- Commissioner Hechler mentioned it, I was going to bring that up about the begging, panhandling, call it a blue ribbon panel, everybody attending was an exceptionally qualified person in their field, we had the sheriff, myself, the commissioner, that had a little enforcement experience, and human services people were there. What we're trying to do is we're trying to come up with a solution other than another law, which I totally don't want. We don't want that. It's a humane solution to kind of help those in need, and got some really creative ideas out of the meeting. The next meeting I think is the 16th, we're going to come up with a solution, and they're really good ideas, and I think, yeah, we don't have an issue like some cities. I've been in some cities, I had five exits, interstate exits, and on every exit there was a cadre of panhandlers. We have one or two places, they're really not that serious, but they need help, they don't need to be arrested and pushed out in a way that isn't humane, but I think we're going to come up with something that's supported by the pastors, the faith-based community, the humane services, police, I think we're going to have a really renaissance as far as I'm concerned, would not make history, what we're coming up with, because it's going to be unique and I'm really excited about it and I think we're going in the right direction with this kind of a solution

Mayor Green:

- I just have three items, but they're just requests, of the City Clerk. I would like to put on the agenda special use permits for lived work, because we do not have any guidelines that says if your business fails, can you still live in the building? Do you have to vacate the building? We have two prime pieces of

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property downtown that there are people living in those commercial buildings, I don't think they're generating three cents worth of GRT, and we only have so many commercial buildings. I support the special use of people living in commercial buildings and having a business that's open that generates GRT. What I don't support is our limited housing stock becoming housing stock and that's all it is. So I would like to have a discussion on that. I know the discussion that started with Mayor Montgomery, and we have come up with it, I think Attorney Rubin might remember this, if the business closes within 90 days you either have to open up another business or vacate premises. You know, and we have to be careful because there's leases involved that people who own buildings, but I just don't want that to happen.

- I believe that I heard from Ray Chavez or someone, that I asked through the Police Department to look at the boarded up window building right on Date Street as you come around that turn, right opposite the mart, that's been boarded up for over six months, and according to someone who sent me an email. We have no ordinance to stop people from boarding up windows, and I know our last Police Chief talked about the broken window syndrome and boarding up and all that, so I want to visit that, I want to talk about that.
- I want to talk about a marketing program about T or C that actually Commissioner Hechler touched on.

K. EXECUTIVE SESSION:

1. **Limited Personnel Matters (Community Development), Pursuant to 10-15-1(H.2)**
2. **Threatened or Pending Litigation (City vs. McGeachy), Pursuant to 10-15-1(H.7):**

Mayor Pro-Tem Whitehead moved to approve going into executive session at 1:17 a.m. to discuss Limited Personnel Matters (Community Development) Pursuant to 10-15-1(H.2) and Threatened or Pending Litigation (City vs. McGeachy), Pursuant to 10-15-1(H.7).

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

Mayor Green reconvened the meeting in open session at 12:22 p.m.

Mayor Pro-Tem Whitehead certified that only matters pertaining to Whitehead moved to approve going into executive session at 1:53 a.m. to discuss Limited Personnel Matters (Community Development) Pursuant to 10-15-1(H.2) and Threatened or Pending Litigation (City vs. McGeachy), 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 certified that no action was taken during executive session. Mayor Green seconded the motion.
Motion carried unanimously.

M. ADJOURNMENT:

Mayor Green moved to adjourn at 1:55 p.m.
Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.

Passed and Approved this 14th day of November, 2018.



Steven Green, Mayor



ATTEST:



Angela A. Torres, CMC, Acting City Clerk

Angela A. Torres, CMC, Acting City Clerk