

CITY COMMISSION MEETING MINUTES  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
CITY COMMISSION CHAMBERS, 405 W. 3<sup>RD</sup> St.  
WEDNESDAY, FEBRUARY 26, 2020

**A. CALL TO ORDER:**

The meeting was called to order by Mayor Sandra Whitehead at 9:00 a.m., who presided and Angela A. Torres, City Clerk-Treasurer, acted as Secretary of the meeting.

**B. INTRODUCTION:**

**1. ROLL CALL:**

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

Hon. Sandra Whitehead, Mayor  
Hon. Kathy Clark, Mayor Pro-Tem  
Hon. Rolf Hechler, Commissioner  
Hon. Paul Baca, Commissioner  
Hon. George Szigeti, Commissioner

Also Present: Morris Madrid, City Manager  
Angela A Torres, City Clerk-Treasurer

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

**2. SILENT MEDITATION:**

Mayor Whitehead called for fifteen seconds of silent meditation.

**3. PLEDGE OF ALLEGIANCE:**

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

**4. APPROVAL OF AGENDA:**

City Manager Madrid announced the procedure of the Planning & Zoning interviews.

**Commissioner Hechler moved to approve the agenda as submitted.**  
**Commissioner Baca seconded the motion. Motion carried unanimously.**

**C. CONSENT CALENDAR:**

- 1. City Commission Regular Minutes, January 22, 2020.**
- 2. City Commission Special Minutes, January 29, 2020.**
- 3. Acknowledge Regular Recreation Advisory Board Minutes, December 2, 2020.**
- 4. Subrecipient Funding 2nd Quarter Reports.**
- 5. Lodger's Tax Funding 2nd Quarter Reports.**
- 6. Accounts Payable, January 2020.**

**Commissioner Hechler moved to approve Consent Calendar as noted.  
Commissioner Szigeti seconded the motion. Motion carried unanimously.**

**D. PUBLIC HEARINGS:**

- 1. Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 712 amending the City of Truth or Consequences Municipal Code of Ordinances, by amending Section 14-38 of the Code pertaining to water rates:**

RCAC Representative Karl Pennock gave his presentation of the proposed water rates which included:

- The responsibility to ensure rates that are adequate to provide for the sustainable managements of the water system.
- Our current water rates.
- T or C Water System Observations.
- The last water rate increase that was done by the city.
- The selected area rates in Deming, Elephant Butte, Garfield, Silver City and Truth or Consequences.
- The Water system net income.
- The system condition asset management plan.
- The water system opportunity to address some of T or C's most critical infrastructure needs and the current revenue vs. what's required.
- The primary consumption.
- The anticipated benefits.
- The critical infrastructure needs and the annual revenue requirement for USDA funding and enhanced rate stability.
- He also reviewed the comments made by the public at the Town Hall meetings, as well as the three options for the monthly rate structure.

*The chart below shows the three rate options that were presented to the Public Utility Advisory Board.*

<b>Scenario B: \$17 base charge (includes 2K gallons) + per thousand gallon usage charge as follows: \$2.71 (2.001K-7K) + \$2.99 (7.001K-29K) + \$3.29 (29.001K-50K) + \$3.61 (&gt;50K). Subsequent annual increases will apply to both base and usage charges beginning in FY22 per U.S. Bureau of Labor Statistics Consumer Price Index.</b>	<b>Scenario B (Alternative 1): \$15.50 base charge (includes 2K gallons) + per thousand gallon usage charge as follows: \$2.71 (2.001K-7K) + \$3.07 (7.001K-15K) + \$3.45 (15.001K-29K) + \$3.88 (29.001K-50K) + \$4.33 (&gt;50K). Subsequent annual increases will apply to both base and usage charges beginning in FY22 per U.S. Bureau of Labor Statistics Consumer Price Index.</b>	<b>Scenario B (Alternative 2): \$14.50 base charge + per thousand gallon usage charge as follows: \$1.5 (0-3K) + \$2.70 (3.001K-7K) + \$3.00 (7.001K-12K) + \$3.30 (12.001K-20K) + \$3.60 (20.001K-30K) + \$3.75 (&gt;30K). Subsequent annual increases will apply to both base and usage charges beginning in FY22 per U.S. Bureau of Labor Statistics Consumer Price Index.</b>
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City Attorney Rubin explained that we are looking at the rates that are consistent with the details of the rate schedule Scenario B (Alternative 1) which was recommended by the Public Utility Advisory Board.

Mayor Whitehead opened the Public Hearing.

### Opponents:

Jack Noel is opposed of this item because he feels that it is being rushed in order to get it approved before we have a new Commission. He feels that the citizens need to be included in the process, and need to be asked what they want. He also briefly commented on the smart meters.

Sophia Peron agreed with everything that was mentioned by Mr. Noel. She feels that nothing should be done until after the census comes in. She commented on money that is being spent by the city. She feels that these meetings are being thrown on people and we don't have any money.

Richard Dumiak asked how much of the \$9 million is going toward repairs. It was said that 6000 gallons was the average usage, but he only uses 700 gallons a month in his house. If we go with the proposed option, then what guarantees we will have that money in 10 years and it will not be spent somewhere else. He feels that we should hold off on this item until the new Commission comes in.

Ariel Dougherty thanked Mr. Pennock for all of his presentations. The 13 year gap from the last raise is negligence on you as Commissioners. That shows that you were not paying attention to what needs to go on in the community on a regular basis. There are four reasons why she opposes this Ordinance, one being that we are now considering a different rate than what was published in the Ordinance. As the discussion went today, it is very confusing about what the rates really are. In her opinion it was really after the recent Public Utility Advisory Board Meeting that the Ordinance then needed to be written, and then today we would be discussing its publication. She also opposes the 3% annual increase. She feels that there should be a 5 year clause on this so you can re-consider what the rates are in 5 years. She also dislikes that fact that there is no commercial rate on this Ordinance. She feels that the process is being done backward and she asked the Commission not to pass this Ordinance as it is currently written.

Audon Trujillo stated that he is not opposed of the rate increase, but he is concerned that the Comprehensive Plan did not address this, and he is upset that it was not updated. He thinks we need to educate the citizens to use less water.

Ron Fenn he is opposed of this item because of reasons that were stated by the others who spoke before him. He feels that this process has been done too quickly, and he asked that this not be approved.

### **Proponents:**

City Manager Madrid reviewed the background on how we got here today from where we were at our last meeting when we did the initial presentation of options. We originally presented three scenarios. The first option was to do nothing, the second option was close to the three options we are looking at today which was to do enough to make sure that we can secure our USDA Funding, and the third option was to do everything under the sun that was way too ambitious and not really affordable. We took that information, and after discussion and the decision for publication by the Commissioners, we moved from hypothetical to practical using a process that involved the public. After the publication was approved we held three different Public Hearings at different times of the day. They were held on February 12<sup>th</sup>, February 19<sup>th</sup>, and February 26<sup>th</sup> at various times of the day. Along with city staff, we had two expert rate analysts available, as well as engineers to answer any technical questions. They also held special meetings to become informed and to make a recommendation. These Public Hearings were advertised through the radio, the newspaper, the city Facebook page, and on the city website. We did everything possible to inform the public and get their participation. When we had these hearings, the idea was to present the information, answer any questions, and listen to what the public had to say. It wasn't our intent to convince anyone of anything, or to argue any points.

City Manager Madrid then thanked the Public Utility Advisory Board for attending the original Commission meeting, and the Public Hearings. They were informed, and they asked questions. He would bet if they had to take a quiz today on this entire process they would pass with flying colors. You can't say that about similar committees in other cities. A member of our Public Utility Advisory Board actually suggested one of our options.

City Manager Madrid then reviewed some of the concerns and solutions that were brought up at the various public meetings:

- ***There were concerns that the base rate is too high and it will impact our lower income, and lower consumption customers in the original option B:*** That was addressed and incorporated into every one of the options presented here today.
- ***There were comments regarding transfers to the General Fund from the Water Enterprise Fund:*** Those are incorporated to gradually be reduced to 0 transfers to the General Fund within a 5 year period.
- ***There were comments that the higher consumption users should pay a little bit more, and we should address conservation:*** The presented options



incorporate that, and it's a great selling point for the City of Truth or Consequences when applying for water conservation money.

- **The 3% annual increase was a concern:** That has been changed to be related to the consumer price index which is a reflection of operating costs of all types, and is not decided by the city, but the United States Bureau of Statistics. The conservation measure is very important, and the impact on our citizens is also very important. He thinks that every one of the options here today is better than the original because they all address the lower minimum charge, and they all meet the revenue requirements for USDA in order for us to get this funding and assist with future operations.
- **The community generally agrees that we need a rate increase and they are concerned about the meter replacement:** Yes, that is a need, and even if we don't get external funding, we are going to set aside money for meter replacements every year starting with the Fiscal Year 2021 budget.
- **There were concerns that this is being done way too quickly:** We can't wait any longer. We waited 13 years and this is a good start. It's not a solution to everything, and it doesn't take care of our system forever, but at least we are getting close to catching up to where we should be.
- **In regard to leaving this for a future elected body to take care of:** If they do that they would just be "kicking the can down the road."

City Manager Madrid then stated that he concurs with the Public Utility Advisory Board's recommendation of Scenario B (Alternative 1).

City Attorney Rubin explained that we are here to vote on Ordinance No. 712 and what we are specifically talking about is the Ordinance in your packet. The rates are not to be what's reflected in the packet, but actually the numbers that are reflected on the projector. He addressed Ms. Dougherty's comment regarding the question of the legalization of the publication notice by saying that the City Commission has the ability and authorization to come back to debate something in a legislative fashion as you are now when you are having your final hearing. Also, the rates that a vast majority of consumers will be charged is less in Scenario B as they would have been in what we had suggested over a month ago. In January we made the comment that this is the initial idea, but we are going to get public input on this, and we did establish several Public Hearings over the last month. He believes that the Commission is within their legal right to adopt the Ordinance with the numbers presented if they choose to do so.

Mayor Whitehead closed the Public Hearing.

**Commissioner Szigeti moved to approve Final Adoption of Ordinance No. 712 amending the City of Truth or Consequences Municipal Code of Ordinances, by amending Section 14-38 of the Code pertaining to water rates with the rate structure recommended by the Public Utility Advisory Board. Commissioner Hechler seconded the motion.**

Commissioner Szigeti thanked the Public Utility Advisory Board for all of the work and their recommendation. He stated that this addresses the issue of our lower income portion of our population by keeping a minimum cost increase while still maintaining a required level of income. He also recommended that the city include the establishment of the standby charge in the future. He pointed out that this is not a final action. This is a step we need to take toward the modernization of our system.

Mayor Pro-Tem Clark explained that when this went to publication in January she was not in favor of the original amount and we were told that we are publishing it and then it would be presented to the public as well as the Public Utility Advisory Board. She does believe that this has been done a little bit backward, but she also believes that the Public Utility Advisory Board has listened to public comment and has made an extraordinary brilliant recommendation. However, the resolution will have to be completely modified to represent Scenario B (Alternative 1).

Commissioner Hechler stated that this has been an issue for several years, so he is glad that this Commission is finally able to handle this problem.

Mayor Whitehead thanked everyone who worked on this, as well as the public who were in attendance of the meetings. She explained that this is a start. This is not something that is set in stone. However, she does hope that this is a continuing project that we work on with input from the public.

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

**2. Public Hearing/Discussion/Action: Request for a Plat Amendment and Variance at 112 W. 3rd Avenue pursuant to Chapter 15, Sec. 15-17. Amendment of plats:**

The Battershell process was used for this hearing.

Grant/Projects Coordinator & Designated Zoning Official Burnette explained that the applicants wish to split the lot at 112 W. 3<sup>rd</sup> Avenue. All applicable forms have been received including the alternate summary plat, a fully completed application, proof that taxes have been paid to date, all fees have been paid, and certified mailings have been sent out. Both lots comply with the standard for lots, and have access to city utilities. Under Article 5, Section 11-5-5 specifically A-1, resulting in unnecessary hardship, a variance will also be requested from chapter 15, Section 15-15 A. 2B which states both lots to be created have direct, legal, unobstructed access to an existing city maintained and paved street with curb gutter and sidewalk. That area doesn't have the curb, gutter or sidewalk so they are requesting a variance for that portion.

City Clerk Torres swore in the following people:

***Proponents: Tony Gonzales and Dan Steel.***

***Opponent: Jack Noel and Ron Fenn.***

Mayor Whitehead opened the Public Hearing.

**Proponents:**

Tony Gonzales and Dan Steel approached to podium and explained that they owned the property since July 1<sup>st</sup>, and it is a huge project that they are making great progress on. They've removed three old buildings that were dilapidated apartments. They want to subdivide the property with the hopes of selling the building on the west end of the property, and that is why they are asking for the subdivision. They are asking for the frontage to be 53 ft. on 3<sup>rd</sup> Street for the purpose of retaining three large trees on the east side of the property.

**Opponents:**

Jack Noel stated that he has no problem with this application. He thinks what they are doing is a great thing. His only comment is that we have a cart and a horse problem on the Commission. Legally, he feels that we should have put our focus on the Planning & Zoning Board to get that back in order before we continue on with Traci's analysis and recommendation, although he is sure she does a fine job.

Ron Fenn stated that he is not opposed of the project, but he is opposed to the process. These issues need to go before the Planning & Zoning Board, not to the Commission. If you read the process for a summary plat you will see that it is the Planning & Zoning Board that makes the recommendation, not the Zoning Administrator. She works for the Planning & Zoning Board. She has no authority to do so, and nor do you until you get the recommendation from the Planning & Zoning Board. He is recommending that the first thing that the Commission does is establish a Planning & Zoning Board, and give this issue to them as their first process so it will be done legally and properly for the first time in seven years.

Mayor Whitehead closed the Public Hearing.

**Commissioner Baca moved to approve Request for a Plat Amendment and Variance at 112 W. 3rd Avenue pursuant to Chapter 15, Sec. 15-17 Amendment of plats. Commissioner Szigeti seconded the motion.**

**E. NEW BUSINESS:**

- 1. Discussion/Action: Interview and appointment of members to serve on the Planning & Zoning Commission:**

## CITY COMMISSION FEBRUARY 26, 2020 REGULAR MEETING MINUTES

The Commission interviewed the following applicants for the Planning & Zoning Commission:

- Ron Fenn
- Stanley Rickert
- Merrill Dicks
- Lillis Urban
- Richard Dumiak
- Dennis Dunnum
- James Bush

**Commissioner Baca moved to appoint James Bush, Merrill Dicks, Lillis Urban, Dennis Dunnum, and Richard Dumiak to serve as members on the Planning & Zoning Commission. Commissioner Szigeti seconded the motion.**

City Manager Madrid announced that we will call for an organizational meeting where he will give the members a brief introduction as to their function and duties. We will review the Ordinance, and we will have an election of officers. He will expect them to have their own officers, appoint their own secretary, and keep records as a board should. He might have some other type of orientation from someone outside of the city who is experienced in Planning & Zoning to give a better background or information as to the function of a Planning & Zoning Commission.

### **2. Discussion/Action: Negotiation and Award of Contract for Landscape Services:**

City Manager Madrid announced that we have published a request for proposals for landscaping services to do work that our Park's Department is not equipped, or trained to do. We want to make sure that our employees are safe and that we properly take care of our trees, so there are things that we need help and advice with. We are also doing things to save the city money, and while this contract is not for a specified amount, this is to have two contractors available on an as needed basis. Right now we are in the process of remodeling the Ralph Edwards Park. The demolition of removing sidewalks, dead trees, and the removal of the old sprinkler system will be done by city staff, and that will save us thousands of dollars. That is not entirely related to this item, but it shows that we are not just trying to spend money. He is also asking that you allow him to negotiate with both companies and enter into a contract with one, both or with neither, depending on how negotiations go.

**Commissioner Szigeti moved to approve the Negotiation and Award of Contract for Landscape Services. Commissioner Baca seconded the motion. Motion carried unanimously.**



**3. Discussion/Action: Approval of the Law Enforcement Protection Fund Application:**

Chief Apodaca explained that they annually apply for and receive Law Enforcement Protection Funds. This year they are applying for \$26,000 with a zero match. The funds pay for law enforcement training and equipment. The approval of the Commission is required to complete this application.

**Commissioner Hechler moved approval of the Law Enforcement Protection Fund Application. Commissioner Szigeti seconded the motion. Motion carried unanimously.**

**F. ORDINANCES/RESOLUTIONS/ZONING:**

**1. Discussion/Action: Authorizing Approval of Resolution 29 19/20 Confirming the City of Truth or Consequences to Participate in the Department of Transportation Municipal Arterial Program Local Government Road Fund Program:**

Grant/Projects Coordinator & Designated Zoning Official Burnette stated that this is the time of year for us to apply for the Municipal Arterial Program Local Government Road Funding. We are selecting 3<sup>rd</sup> Street and Gold for our application, and both streets meet all of the requirements for the Municipal Arterial Program. The project is located on the City ICIP, and it qualifies under a major street and particular service to state highways in accordance with their NMDOT Local Government Handbook. It is the primary route to and from our Hospital off of Highway 51. We are only applying for design funds at this time. The funding rules require ADA Compliance which translates to new sidewalks, and ADA wheelchair ramps. The Resolution is required as part of the application process. This will be the first step, and we will have to re-apply for funding when we get it. This also requires planning and engineering due to the cost.

**Commissioner Hechler made a motion to approve authorization of Resolution 29 19/20 Confirming the City of Truth or Consequences to participate in the Department of Transportation Municipal Arterial Program Local Government Road Fund Program. Commissioner Baca seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**G.REPORTS:**

**City Manager Madrid reported the following:**

- The demolition at the Ralph Edwards will start on March 9, 2020. We will be announcing that aggressively as we get closer to that date. We will make sure that the park is secured and safe and we will make sure that we don't keep any equipment in there overnight or any open holes that can be a danger to the

public during that time. We will be in and out every day, and we are going to try and isolate parts of the park that we will not be touched during the demolition so they can have continued use of things such as the basketball courts.

- He had a preliminary meeting with a Task Force he put together to explore the issue regarding plastic bags and developing an Ordinance for that. There has been some research done, and the sample Ordinance's we are using are from Taos, Silver City, Santa Fe, and Albuquerque. Those samples will be given to our Task Force members for review. We have a Town Hall Meeting tomorrow night here at the Chambers at 6:00 pm for anyone that wants to provide some input regarding the plastic bags, or any other type of issues related to that. We will be asking the members to come up with options from every point of view to present to the Commission. We want to consider the business owners, the environment, the consumer, or any other viewpoints that he may fail to provide. Our City Attorney will lead the formulation of the Ordinance, and when we have viable options that are ready for presentation to the Commission we will present it even if it is not in final form.
- Due to concerns from our citizens, he was asked to re-visit with the Department of Transportation in regards to the parking issues and traffic flow downtown. He and Grant/Projects Coordinator & Designated Zoning Official Burnette met with NMDOT on Valentine's Day. They informed us that Main Street is a business loop by the state which is defined as an alternative route to an Interstate. If there was any reason they had to shut down I-25 between Williamsburg and Exit 79, those thoroughfares need to be able to handle all of the traffic that would normally be on the Interstate. Speedbumps, and additional traffic lights are not an alternative, and the speed limit has been reduced as far as it is going to be.
- He met with the leader in charge of trying to establish the Hemp Processing Company here in town. They would like for us to guide them through the process of the demolition of the interior of the building, any utility incentives that the city could provide, and other things like developing a labor force.
- The city has undertaken a lot more extensive internal training for different things. During the month of November, we sent several employees to OSHA Certification training in Albuquerque. We now have several staff members who are safety certified in various hazard, mitigation, hazard recognition, safety practices, use of personal protective equipment, and other things that make our employees safer. We will also undertake additional training so that some of our supervisors can become certified instructors to teach their employees to achieve CDL Certifications for driving. Our Safety Officer just became a certified Red Cross CPR Instructor so she will be able to train our employees on CPR lifesaving techniques.
- He also announced that our Finance Director will be using a new process when it comes to our upcoming budget.
- He thanked the Commissioners who will no longer be in office after our March 3, 2020 Election for their dedication, hard work, and support, and wished them well in their future endeavors.

**City Commission Reports:**

**Commissioner Szigeti reported the following:**

- The comments that were relayed to City Manager Madrid regarding the Main Street issues go against what NMDOT was saying when they presented their plan for the traffic circles on Date Street. It is the same thoroughfare, and they are saying that they can't slow down traffic, yet they are going to put three tiny one-lane traffic circles on Date Street, and slow down the speed limit to 15 mph. That is the same stretch of road and they are applying different standards to those two stretches.
- He attended a meeting sponsored by our local Substance Use Collation. They have a great group of people looking at the mental health issues that lead to substance abuse. He thought it was a great meeting and it was very informational. Anything that the city can do to help them out would be great.

**Mayor Pro-Tem Clark reported the following:**

- She thanked her fellow Commissioners and staff members for their dedication, hard work and support. She will truly miss everyone.

**Commissioner Hechler reported the following:**

- He thanked his fellow Commissioners and staff members for their dedication, hard work and support. He will truly miss everyone.
- He is currently serving on the Sierra County Spaceport America Economic Advisory Board. He wants to pass the torch to a new Commissioner to serve on the board. This group meets for informational purposes only, and they are not subject to the Open Meetings Act because there is no budget or quorums involved, and they don't really make any decisions. This is an opportunity for this group or somebody in this community to interact regularly with Spaceport America to find out what is going on out there.

**Commissioner Baca reported the following:**

- He thanked his fellow Commissioners for taking him under their wing and he wished them well in their future endeavors.
- He also congratulated the applicants that were chosen to serve on the Planning & Zoning Commission and he wished them luck.

**H. EXECUTIVE SESSION:**

1. Threatened and Pending Litigation, pursuant to 10-15-1(H.7).
2. Real Property (various properties) Pursuant to 10-15-1(H.8):

Commissioner Hechler moved to approve going into executive session at 1:12 p.m. to discuss Threatened and Pending Litigation, pursuant to 10-15-1(H.7) and Real Property (various properties) Pursuant to 10-15-1(H.8). Commissioner Szigeti seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Whitehead reconvened the meeting in open session at 1:55 p.m.

Mayor Whitehead certified that only matters pertaining to Real Property (various properties) *Pursuant to 10-15-1.H(8)* was discussed in Executive Session and no action was taken.

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

No action was taken.

**M. ADJOURNMENT:**

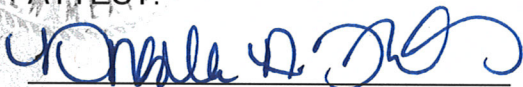
Commissioner Hechler moved to adjourn at 1:57 p.m.

Commissioner Baca seconded the motion. Motion carried unanimously.

Passed and Approved this 22nd day of April, 2020.

  
Sandra Whitehead, Mayor



  
Angela A. Torres, CMC, City Clerk