

CITY COMMISSION MEETING MINUTES
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, JULY 27, 2022

A. CALL TO ORDER:

The meeting was called to order by Mayor Pro-Tem Rolf Hechler 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. Amanda Forrister, Mayor ABSENT
Hon. Rolf Hechler, Mayor Pro-Tem
Hon. Destiny Mitchell, Commissioner
Hon. Merry Jo Fahl, Commissioner
Hon. Shelly Harrelson, Commissioner

Also Present: Bruce Swingle, 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 Pro-Tem Hechler called for fifteen seconds of silent meditation. He asked that everyone keep Ray Hodges in their thoughts as he lost his home in a recent fire.

3. PLEDGE OF ALLEGIANCE:

Mayor Pro-Tem Hechler called for Commissioner Mitchell to lead the Pledge of Allegiance.

4. APPROVAL OF AGENDA:

Commissioner Mitchell moved to approve the agenda as submitted. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

D. PUBLIC COMMENT (3 Minute Rule Applies):

Ron Pacourek addressed the Commission with comments related to the Public Utility Advisory Board's vote regarding the renewable energy ordinance. He feels that the (Complete copy attached hereto and made a part hereof).

City Manager Swingle responded to Mr. Pacourek by saying that he can't do this. Mr. Pacourek, you sit on the Public Utility Advisory Board and you all deliberated and voted, and you didn't get what you wanted out of it, but the majority vote prevailed. You can't undermine that board's responsibility and authority, and if you do that you should really resign from that board and then come and speak to the Commission, but you can't participate in the deliberation with that board, and then come and undermine what they've done. You just can't do that. It is highly irregular to do something like that. If one of the Commissioners don't agree with the majority of the Commission, that verbiage prevails, and that decision prevails. You can't go and undermine the other Commissioners. That's what is going on here and it is very unfortunate, and you just can't do that. It's not appropriate.

John Dougherty addressed the Commission with comments related to:

- (1) He has some issues regarding the technical aspects of the proposed Dollar General store that is being built across the street from the New Mexico Veterans Home. He provided a drawing of the proposed store. (Complete copy attached hereto and made a part hereof). He does not see any evidence of the project being reviewed by a geotechnical professional with experience with local conditions here. There are no provisions in the plan for specific run off or erosion controls necessary for the soils and climate experienced in southern New Mexico.

E. REPORTS:

City Manager Swingle reported the following:

- Staff is doing a fantastic job. They are so short-handed. We have around 20 vacancies within the organization. Everyone is carrying their share of water and a lot more to make sure that the work that needs to be done is getting done so kudos to all of the staff. The Police Department is down 3 officers. The Chief has been in a highly motivated recruiting mode to try and recruit officers, but that is consistent with the rest of the city and other employers. There are not a whole lot of candidates that are applying.
- We are still trying to solicit board members for our Airport Advisory Board, Golf Course Advisory Board, Lodgers Tax Advisory Board, Impact Fee Advisory Board, and we filled the vacancies on the Planning & Zoning Board and we are getting those meetings set up very soon.
- National Night Out is on August 2nd from 5:00 p.m. to 8:00 p.m. at the Albert Lyon Event Center. The National Night Out is a night where millions of neighbors take part across the country and it is intended to build community and Law

Enforcement relations, but it is really an opportunity for governments, non-profits and neighborhoods to get together and develop relationships. He encourages everyone from the community to go out and participate in National Night Out.

- He reminded the community of the water leaks that we are having in the water infrastructure. We continue to have a lot of leaks a week. This problem developed over many decades. We are putting millions and millions of dollars in investment into our infrastructure, but the study that we had most recently is a little over \$102 million dollars, but with today's dollars we are probably looking at \$150 million dollars that we have to invest in that. We are not going to be able to do that in the short term. This is certainly going to be a long marathon that we will be investing in to improve it, but we need everyone's patience and understanding in the meantime.
- The Commission was informed that we had a property on Wyona Street that we were trying to get a lot of personal items off of the easement and city right of way. We hired Bar 2 to go out and clear that out. That was accomplished on the 20th. The individual is back to putting property out there again and we are reviewing options at this time to deal with that issue. There are a lot of issues involved here that we need to take into consideration.
- Two of the Commissioners attended the Virgin Galactic Tour. It was an excellent tour and interaction. It was a great opportunity for all of the local governments.

City Attorney Rubin had no reports

City Commission Reports:

Commissioner Harrelson had no reports.

Commissioner Mitchell reported the following:

- She attended the Virgin Galactic Tour and had a wonderful time. She was blown away and she felt like she was literally on a rocket ship during the simulation and she was holding on to the edge of it, and believing she was in space and it was awesome. She lived here her whole life and she was always skeptical of Spaceport because she just never saw it in action and she was thoroughly impressed with the Management and staff. As well as the development of the Spaceport Visitor Center. The tour itself was also really out of this world, and she is now a big supporter of their endeavors and hospitality.
- She had some parents approach her about soccer. We will discuss that later on.
- They did one week of free-swimming lessons at the swimming pool for the swim team lessons and they have gone pretty well and then they get rained out every other day, but that is just southern New Mexico. She was at the pool yesterday for another swim lesson graduation party and she got a lot of compliments from the public on the lifeguards and the city staff at the pool. There were a couple of complaints of not having a handicap rail, but overall, they were very impressed with Ashley and her staff. It's really comforting to hear that.

Commissioner Fahl reported the following:

- She had never attended the Virgin Galactic Tour before so being able to go there was very exciting.

Mayor Pro-Tem Hechler reported the following:

- He wasn't able to attend the Virgin Galactic Tour but he will make the tour in the near future. Virgin Galactic gave us a large monetary sum to help with the Fiesta Event so he appreciates them and he looks forward to that relationship in the future.
- He was injured a couple of weeks ago. He tore the anterior ligament off of his right knee and as he was falling he caught himself with his left elbow and he tore his biceps off of his left tendon. Not being able to function from both sides is sort of interesting so please bear with him today.

F. CONSENT CALENDAR:

1. **City Commission Regular Minutes, July 13, 2022**
2. **Acknowledge Regular Public Utility Advisory Board Minutes, June 21, 2022**
3. **Acknowledge Regular Airport Advisory Board Minutes, April 5, 2022**
4. **June 2022 Accounts Payable**

Commissioner Fahl moved to approve the Consent Calendar as submitted.

Commission Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

G. PUBLIC HEARINGS:

1. **Public Hearing/Discussion/Action: Request for a Variance at 507 Corona Street. Applicant is requesting a variance from required setback standards for the district:**

City Clerk Torres swore in Assistant City Manager Traci Alvarez.

Assistant City Manager Alvarez explained that this public hearing would normally be held at a Planning & Zoning Commission meeting with the recommendation being presented to our Commission. However, at the time the application was submitted our Planning & Zoning Board lacked enough members for a quorum. Therefore, the Commission will hear the public hearing and also make their decision. The applicant resides at 507 Corona Street and he is requesting a variance from the setback requirements of the standards for the district. The property is located in the R-3 District and requires a 20ft setback from the property line to dwelling unit. The applicant would like to build a bathroom extension and addition on the front of his house only leaving a 10ft setback from the property line. Per our Municipal Code 11-5-5 a variance may be authorized by the City Commission to provide relief from the strict application of the setback requirements. The setback was submitted. All fees were paid, and the property is up to date on taxes. All property owners within a 300 ft. radius received certified letters notifying them of the public hearing. Included in your packet is a property map. A

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scope of work drawing showing the work to be done if approved. The public hearing notice and some Municipal Code references that show the setbacks as well as the standards and description of that district. The Commission was also provided with a findings of facts checklist. Per section 11-2-2 of the code, the Commission should review the findings of facts and base their decision on each factor making its determination. The applicant is requesting to add on a bathroom to the front of their house. And instead of giving a 20 ft. setback it will only give a 10ft. setback to their property line. It will give 25 ft. from the addition to the street so there is still plenty of room.

Mayor Pro-Tem Hechler opened the public hearing.

City Clerk Torres swore in Assistant City Manager Traci Alvarez John Dougherty.

Proponents:

John Dougherty: As a neighbor it is critical that they as property owners be allowed to invest and improve in their properties for the benefit of all. He realizes these things such as setbacks and limits to our properties are 40 years old now. He thanked everyone for listening to him, and he encourages this work.

Opponents:

There were no opponents.

Mayor Pro-Tem Hechler closed the public hearing.

Mayor Pro-Tem Hechler asked if Ms. Alvarez received any feedback from any of the neighbors who received certified letters of the public hearing.

Assistant City Manager Alvarez stated that everyone signed off that they received their letters, and she did not receive any comments.

Commissioner Mitchell made a motion to approve Request for a Variance at 507 Corona Street. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

H. ORDINANCES/RESOLUTIONS/ZONING:

1. Discussion/Action: Resolution No. 05 22/23 to accept the final 2022-23 Budget:

Carol Kirkpatrick, Finance Director reviewed the final 2022-23 Budget provided in the packet.

Commissioner Fahl moved to approve Resolution No. 05 22/23 to accept the final 2022-23 Budget. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Discussion/Action: Resolution No. 06 22/23 approval of final 2021-22 Budget Adjustments:

Carol Kirkpatrick, Finance Director reviewed the final 2021-22 Budget Adjustments provided in the packet.

Commissioner Mitchell moved to approve Resolution No. 06 22/23 approval of final 2021-22 Budget Adjustments. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Resolution No. 07 22/23 approval of 4th Quarter Report:

Carol Kirkpatrick, Finance Director 4th Quarter Reports provided in the packet.

Commissioner Fahl moved to approve Resolution No. 07 22/23 approval of 4th Quarter Report. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

I. NEW BUSINESS:

1. Discussion/Action: Request to phase fees at the Louis Armijo Sports Complex for youth sports:

Scott Stratton and Christy LaFont, Sierra County Youth Soccer Association presented their request to reduce and delay the implementation of the park rental fee increase. (Complete copy attached hereto and made a part hereof).

Commissioner Mitchell proposed that the fees for the teams be based on a percentage of the enrolment.

Commissioner Fahl asked if the Recreation Advisory Board had any input on the implementation of the park fees. She thought that was the purpose of the board. She knows that we need to increase revenues, but she doesn't think that we should be making money off of this. We should just recoup our costs. She feels that we just sprung this on the Sierra County Youth Soccer Association so we should wave the fees for this year.

Mayor Pro-Tem Hechler agreed that we shouldn't be making money off of this, but there should be some type of fee. The youth activities are very important, but we should recoup some of the costs because we have to maintain the grass, we have to water, clean the bathrooms, and pick up the garbage so this may need to be revisited. He asked City Manager Swingle if this is something the Recreation Advisory Board needs to look at for us to give us a recommendation or would you recommend that we tackle this ourselves to come up with a different fee structure.

City Manager Swingle responded by saying that he thinks OJ and Angela did a lot of the leg work on this as far as finding out what other cities and facilities charge around the state and that is where the numbers came from. He doesn't know if the Recreation Advisory Board would be in a position to do all of that leg work on their own. He thinks what is probably most striking about the situation this year is the timing and the lack of preparation that the soccer league had. They were not aware of what the numbers were going to come out. It was a surprise to him that we had not charged them in the past. This is going back to the ant donation issue. Most importantly to him since he was here last year, this was a fee that was require last year and it was not imposed so if you have a fix, the fix should probable be for this season. He doesn't want anyone to think that this is an effort to generate revenue. This is was first and foremost was an effort to correct the anti-donation issue and the revenue is part of that.

Commissioner Mitchell table this item until city staff can report back to us with other information. Commission Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Discussion/Action: Request to appoint Jamie Sweeney as a Deputy of the Truth or Consequences Fire Department for fire inspections:

City Manager Swingle explained that Fire Chief Tooley would like to appoint Jamie Sweeney as a Deputy of the Truth or Consequences Fire Department for fire inspections. He has that authority under Section 5-73 "*Appointment of Deputy Inspectors that report to the Fire Chief*" to appoint employees of the Fire Department as required to make inspections provided.

Commissioner Mitchell moved to approve the Request to appoint Jamie Sweeney as a Deputy of the Truth or Consequences Fire Department for fire inspections. Commission Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Update: Discussion of amending Section 14-38 of the City of Truth or Consequences Municipal Code of Ordinances pertaining to water rates:

City Manager Swingle explained that the current ordinance states that there shall be an annual increase equivalent to the Consumer Price Index in all of the above rates which are all of the fees that are incorporated into the ordinance. It commenced on July 1, 2021 and then basically every year after. The Consumer Price Index last year was 5.4%. This year it is 9.1% and that is for the fiscal year. There are food, energy, housing, and a million different Consumer Price Indexes. This is the overall CPI rate. This is a really high number, and before we pull the trigger on this, and impose that increase on our rate payers, he thought that the Commission may want to discuss it first. We took this to the Public Utility Advisory Board at their last meeting and there was a lot of discussion, and untimely they decided that they didn't want to change it. We just did the RFP for the MSD project, and that project came out 67% higher than what the engineer estimated. We sent that out for a second bid and the numbers were a little better, but not significantly. Still at \$2.5 million over what we have to work with. Right now base service is \$16.34. That would go up \$1.49 which would be \$17.83, and as you increase the usage the normal use of 0 to 2,000 gallons would go up \$.70. 2,000 to 7,000 gallons would go up \$3.12. 7000 to 15,000 gallons would go up \$3.58. The biggest increase would be the base rate going up \$1.49.

Mayor Pro-Tem Hechler stated that the base rate includes 2000 gallons of water. When he was a Commissioner before, they did that so that the community would be very conservative with their water and not experience too much of an increase. He has seen the Consumer Price Index at different percentages. This year is an anomaly at 9.1% but that is still only \$18.00 a year which comes out to \$1.50 a month unless you use a large amount of water. If you compare that to what the city's experience is, and their increases are a lot more than 9.1%. He thinks that the city has to survive and we need to take care of the city too so we should let it ride a little bit longer and hopefully the Consumer Price Index will go down next year.

City Manager Swingle added that any change the city makes to our rates has to be ran through USDA because their loans are based on us having this ordinance in place for their loans that are out there.

Commissioner Fahl stated when you look at the numbers it doesn't seem so alarming so she is okay with it.

City Manager Swingle stated that he will direct the Utility Office to make the change with the August billing cycles.

4. Discussion/Action: Approval of the City of Truth or Consequences Classification and Pay Plan Policy:

City Manager Swingle reviewed the City of Truth or Consequences Classification and Pay Plan Policy. (Complete copy attached hereto and made a part hereof).

Commissioner Fahl moved to approve the City of Truth or Consequences Classification and Pay Plan Policy. Commission Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Action: Approval of Purchase Requisitions over \$20,000:

Carol Kirkpatrick, Finance Director reviewed the Purchase Requisitions over \$20,000 that was provided in the packet.

Commissioner Mitchell moved to approve Purchase Requisitions over \$20,000. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

6. Discussion/Action: Approval of Chief of Police Contract:

City Manager Swingle explained that this is the renewal of the employment contract for the Chief of Police contract. The Chief has completed his one year with the city and we would like to renew his contract. His contract is eligible to be renewed up to 3 years so we would like to renew it for another year. The only change would be his salary based on the salary rate study. He had an increase of a couple thousand dollars for his position so what we negotiated was not that far off from what the salary study recommended. He is doing an outstanding job for the city and the community. He doesn't think that you've had a Chief of Police who has worked any harder than the Chief you have now.

Commissioner Fahl moved to approve the Chief of Police Contract. Commission Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

7. Discussion/Action: Approval of the Municipal Golf Course Tenant Lease Agreement:

City Manager Swingle explained that this is an annual lease agreement for the residence building located at the Truth or Consequences, Municipal Golf Course between the City of Truth or Consequences and the Chief of Police Victor Rodriguez. We would like to renew this lease for another year. We estimated the fair market value

of that apartment to be around \$500 and that is probably high for what it is. The Chief is responsible for paying his utilities at the apartment and he provides security to the Golf Course.

Commissioner Mitchell moved to approve the Municipal Golf Course Tenant Lease Agreement. Commission Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

8. Discussion/Action: Approval of Professional Services Agreement with 1898 & Co., a division of Burns & McDonnell Engineering Company, Inc.:

City Manager Swingle explained that this is for the approval of the Professional Services Agreement with 1898 & Co, a division of Burns & McDonnell Engineering Company, Inc. to perform an electric rate study. The cost of the study is \$48,300. It is a very expensive endeavor. They will do a lot of data collection, and financial forecasting of what we are currently doing. We know now that we are in deficit. The revenue that they're generating is not keeping pace with the cost of the operations of the Electric Department. We haven't had a rate study done on the electric department in a substantial number of years so we really need to get a grip on our rates.

Commissioner Mitchell moved to approve the Professional Services Agreement with 1898 & Co., a division of Burns & McDonnell Engineering Company, Inc. Commission Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

9. Discussion/Action: Approval of Contract with Mike Torres for Integrated Technology Services:

Carol Kirkpatrick, Finance Director explained that this falls under a small purchase of professional services. We are hiring a local person, Mike Torres to take over our Integrated Technology Services contract. We are hoping to get some great service from him.

City Manager Swingle also explained that we went out for an RFP for Integrated Technology Services, and the companies that were responding would like to remotely address our IT issues, and you can do that to a point. However, the city has never developed an IT network within the city. We someone to create a system for us. This is going to be expensive and it will have to be pieced over a number of years to put this together. Our systems don't talk well, and some of our files are not saved other than on our hard drive on the desk top. The important things such as Finance and Utilities are through Tyler and it is in the clouds and very safe and secure. However, the rest of the system is very piece milled together and we have to develop that network. Mike Torres

is retired from the schools. He was their Integrated Technology director. He has a plethora of experience and knowledge in putting systems together as well as daily maintenance.

Commissioner Fahl moved to approve the Contract with Mike Torres for Integrated Technology Services. Commission Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

10. Discussion/Action: Approval of the Police Department Confidential Informant Policy:

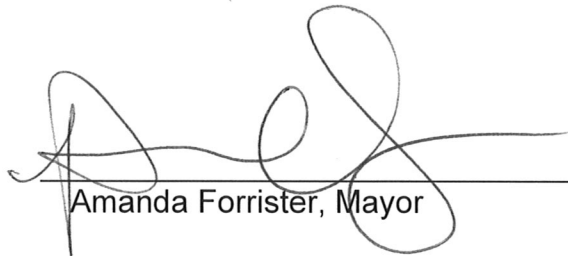
Police Chief Rodriguez explained that this is the Police Department Confidential Informant Policy. It is for the way we will do business when we do any type of confidential Informant handling or use of their services. This has been used in law enforcement forever, and this just gives the Police department a clear understanding of how we would use these individuals as far as handling them, and what criteria the Confidential Informants and Officers have to follow. His department has a budget allocated for that.

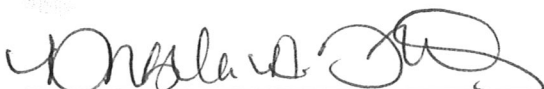
Commissioner Mitchell moved to approve the Police Department Confidential Informant Policy. Commission Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Pro-Tem Hechler adjourned the meeting at 11:25 a.m.

Passed and Approved this 10th day of August, 2022.




Amanda Forrister, Mayor


Angela A. Torres, CMC, City Clerk