

CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, AUGUST 24, 2022

A. CALL TO ORDER:

The meeting was called to order by Mayor Amanda Forrister 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
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
Traci Alvarez, Assistant City Manager
Angela A. Torres, City Clerk-Treasurer
Sonya Renfro, Utility Office Manager
Bo Easley, Electric Department Director

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

2. SILENT MEDITATION:

Mayor Forrister called for fifteen seconds of silent meditation.

3. PLEDGE OF ALLEGIANCE:

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

4. APPROVAL OF AGENDA:

Commissioner Mitchell asked that item C1 be removed from the agenda and added to a future meeting.

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

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C. PRESENTATIONS:

1. Commemorative Certificate of Appreciation for Collysue Lawson:

Item was moved to a future meeting.

D. PUBLIC COMMENT (3 Minute Rule Applies):

There were no comments from the public.

E. REPORTS:

City Manager Swingle reported the following:

- He thanked the staff for weed control. The weeds have been growing like crazy with the rain that we have had. Parks, Facility Maintenance, Streets and all of the departments are working on their little areas and cleaning out the weeds.
- We continue to have vacancies on the Airport Advisory Board, Golf Course Advisory Board, Lodgers Tax Advisory Board, Impact Fee Advisory Board, and Recreation Advisory Board. We just received a resignation from one of the members on the Planning & Zoning Board so we now have a vacancy on that board as well. Anyone interested in serving on those advisory boards, please contact the City Clerk's Office.
- We have a Court Committee Public Hearing on September 12, 2022 at 9:00 a.m. in the City Commission Chambers. The committee will be soliciting public comment concerning designating the Magistrate Court as a Court having jurisdiction for Municipal Ordinances for Truth or Consequences. We will get that notice in the paper.
- We recently received notice that we received a small Clean & Beautiful grant for some recycled benches for Parks. They are using recycled materials for the benches.
- He reminded the public that we still have a large amount of water leaks every week. It's an ongoing process. This problem didn't happen overnight and it won't be resolved overnight. It will take years to get a grip on it, but at least we are putting in the plans to address the problem.
- We've had a problem with the Vac Station on Riverside for many years and that problem is continuing to worsen. We have a Colonias grant that we are working with and trying to get that fully funded. We just have to go through all of the paperwork dynamics to make that happen. That funding is specifically for that. The sooner we can get on that the better.
- They had a hospital board meeting yesterday and they got to welcome two new doctors. One is from Roswell and the other is from Silver City. They are very excited about getting their practices started and moving forward. They are working on contracting an additional behavioral health professional to come into the community as well. The hospital is working hard to develop and bring in more doctors and providers into the community. The board also executed a contract yesterday for a company that provides sleep studies here locally. We send a ton of those studies to other entities because didn't have that capability here. That will be up and running within the next 3 months. We are looking at 15-16 a month

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that are now going to other entities so our hospital is excited to have one here locally.

- Donna Montoya from Environmental Services in the housekeeping staff at the hospital was recognized and received an award by the State for the cleanliness and decontamination of the hospital. The measures that she takes to ensure that they do proper cleanings of hospital facilities is fantastic. She is 1 in 14 individuals in New Mexico that have received that recognition. She is very excited to receive the award. The hospital has great folks, doing great work and it is nice that it was recognized by the State.

City Attorney Rubin reported the following:

- He encouraged the Commissioners to attend the Court Committee Public Hearing on September 12th because at some point they may be called upon to address an ordinance that may come before you so he thinks that they would want to hear the public hearing.

City Commission Reports:

Commissioner Harrelson had no reports.

Commissioner Mitchell reported the following:

- Their first Fiesta Meeting for 2023 will be on September 7, 2022. It will be at 5:00 p.m. at the Chamber of Commerce. It is a preliminary meeting. They are just trying to figure out who their volunteers are. What their theme is going to be, and possibly moving the dates because of feedback.
- They got to see some proposed plans of the hospital changes at the JPC meeting. There were lots of improvements and plans in place for the hospital, and she thinks that is a good step towards getting us where we need to be up there.

Commissioner Fahl had no reports.

Mayor Pro-Tem Hechler had no reports.

Mayor Forrister reported the following:

- She reminded the Commissioners that their reports are used as time to report back on what they have been doing for the Commission so if there are boards that they are sitting on she would like for them to make it a point to come back and report on what is going on in the boards that they are serving on.
- The Hot Springs Volleyball team had their first win last night.

F. CONSENT CALENDAR:

1. **City Commission Regular Minutes, August 10, 2022**
2. **Acknowledge Public Utility Advisory Board Minutes, July 18, 2022**
3. **Take Home Vehicle Form for Parks Department**

Mayor Pro-Tem Hechler moved to approve the Consent Calendar as submitted. Commission Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

G. ORDINANCES/RESOLUTIONS/ZONING:

- 1. Discussion/Action: Resolution No. 09 22/23 Proclaiming the City's Commitment to End All Traffic Fatalities and Serious Injury Accidents in Truth or Consequences Through Participation in The Vision Zero Pledge:**

Assistant City Manager Alvarez: This resolution is part of a grant application for some Bipartisan Infrastructure Law (BIL) funds to establish the new safe streets and roads for all. There is \$5 billion in appropriated funds over the next 5 years. In order to apply for the funds you have to have a safety action plan. We don't have one so our application is going to be to turn our safety plan that we did that was limited in certain areas to an overall safety plan throughout the entire city. The total amount is to be determined, but it is a minimum request of \$200,000.

Commissioner Mitchell moved to approve Resolution No. 09 22/23 Proclaiming the City's Commitment to End All Traffic Fatalities and Serious Injury Accidents in Truth or Consequences through Participation in The Vision Zero Pledge. Mayor Pro-Tem Hechler seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

- 1. Discussion/Action: Publication of Ordinance No. 735 Amending Section 14-48 pertaining to the Customer Generated Renewable Energy Program:**

City Manager Swingle: We brought this to the Commission a couple of meetings ago and it was sent back to the Public Utility Advisory Board for consideration of some modifications. The overall just of the ordinance is to eliminate the 90% requirement that they can only build up to 90% of their usage, and the 12 month analysis period where 90% of the 12 months. That's the major change in it, as well as in the rates and the money that would be returned to the consumer solar provider. Bottom line, every January the billing will credit accounts in access of \$20 should the individual ask for a credit, and then we would compensate them for the money they had in January for the prior year's solar credits that they had obtained. That would be new for us as well. It was sent back to the Public Utility Advisory Board to take into consideration possibly grandfathering some people in, and looking at options to modify it so those people that already provide solar and have had it for a long time would receive the benefit that they currently have vs. what they would have with this new ordinance, and ultimately the board decided not to change it. They didn't think they could come up with a way that was really workable for now as well as in the future. If we modify it and grandfather folks

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in today, then when we change the ordinance we will have to grandfather additional folks in the future and so on as the ordinance was amended over time.

George Szigeti, Public Utility Advisory Board Chairman: The board had a heated discussion over this and they really wanted to try to accommodate people on this, and we are in strong support of making solar power available to any of the city residents as they want to install it. They threw a lot of ideas around, and like the City Manager said you start making little exceptions here and there, and then say to anybody whose system is under 90% we'll allow those to grandfather, and then somebody comes in a system that is at 91%, and they say what about me. So all of these put together, plus the additional burden that we put on the Utility Office, we decided that the fairest way to go forward with this is to treat everybody the same. The other issue that was mentioned is if we pay people more than the wholesale rate for electricity, we may be stepping over the line on the anti-donation clause because we are paying more for something than what the actual value of it is.

Commissioner Mitchell: What do we currently pay per kWh usage, for solar power?

George Szigeti, Public Utility Advisory Board Chairman: Any excess production is currently reimbursed at the retail rate of 13.12 cents/kWh, but they have a 90% cap.

Commissioner Mitchell: What does El Paso Electric pay back for Solar?

Sonya Renfro, Utility Office Manager: El Paso Electric and Sierra Electric Coop both pay .02 cents/kWh.

George Szigeti, Public Utility Advisory Board Chairman: stated that their proposal is to calculate the average annual cost of electricity that the city pay, and use that value, and that will probably come around to the .06 cents/kWh range.

Commissioner Mitchell: If we are talking about selling our Electric Department then our solar users are going to go from getting 13.12 cents/kWh from the city down to .02 cents/kWh so she thinks that they need to make some kind of adjustment to prepare for that because that is a huge drop.

Mayor Forrister: The proposal right now is around .06 cents/kWh.

George Szigeti, Public Utility Advisory Board Chairman: He would have to look at it again because it may be a little more now because prices have changed. We would re-calculate that every year and use that value for the next 12 months.

Commissioner Fahl: We talked in the past about how the metering is difficult for the Utility Office. She asked Sonya to explain the process of what they have to do for the net metering.

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Sonya Renfro, Utility Office Manager: She thinks that the net metering is something they need to get done anyways. It will require some work, but that's what they are here for. As far as grandfathering people in, that would probably require a manual process.

Commissioner Fahl: Even if we understood the grandfathering issue, we would be losing way too much money off of that, and the workflow it would create for you guys would be quite difficult.

Sonya Renfro, Utility Office Manager: She thinks we need to take into consideration the payback amount like having to have trucks on the ground, providing wire, telephone poles, replacing transformer for the solar customers also.

Electric Department Director Easley: He agrees with Sonya. We need to put a price there because now that we've taken away the 90% we're going to have people coming in here and building larger solar arrays to make money, and that's not what it is intended for. We need to set a set price. Even the customers that are out there now that are built at 90% can do another application and put up more solar panels, so they wouldn't have to be grandfathered in.

Mayor Pro-Tem Hechler: So we're talking about 23 customers give or take who have the 90%.

Electric Department Director Easley: We probably have around 80 customers with the applications that he has now.

Mayor Pro-Tem Hechler: So 80 customers have paid between \$16,000 to \$24,000 to put that system in, because he did it, and he did it with the idea of the only way of it being cost affective is if he gets 13 cents/kWh back. He has never broken even, but at least he can start to pay some of that back. His payback is 10 to 12 years, and now you're talking about a payback of 15 to 17 years, and it's not worth doing. Maybe those people who started out with the 90% rule would not have put their system in. He knows that we wouldn't have because it wouldn't have been cost affective to do so, and now he feels that these customers don't have a voice anymore, and he doesn't think that is fair for those customers. When you look at it this way, grandfathering in means past customers. It doesn't mean future customers. It doesn't mean we can't implement this from this day forward, and now you have it at 120% which now when you look at it, it makes a little more sense to put a system in because you know that you can reasonably recoup your money, but f those customers who have already signed up have already lost their money, and it wasn't their mistake. It was the city who decided that a system could only be installed at 90%, and that was wrong for the city to tell them to do so. By the end of the year he is in the negative numbers and he is paying the city whatever cost it is, and for those customers who are making an addition on top of that, they should be compensated all the wholesale cost.

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Sonya Renfro, Utility Office Manager: If that were to go forward there should also be something written down that the customers who are only producing 90% are not able to add on to their systems. That should be grandfathered in also.

Mayor Pro-Tem Hechler: The contract in the past should be null and void should the current customers wished to upgrade their system. They should have to sign a new agreement with the city for what you are proposing.

George Szigeti, Public Utility Advisory Board Chairman: Your suggestion has merit, but that would require the Utility Office to change the way they track and record it. Right now the excess production is immediately changed to monetary value each month so in order to do that they would instead have to track the excess production as Kwh, and that would completely change the way the Utility Office would do their business and he doesn't know if their system is set up where they can do that right now.

Commissioner Mitchell: Does changing this ordinance open us up for any kind of legal compensation back?

City Attorney Rubin: He has thought about that, and the question of grandfathering customers in. He would like to check with City Attorney Appel on that one.

Commissioner Mitchell made a motion to table this item until we can get further information from legal to incorporate that opinion into the ordinance and present it back to the commission when it is ready. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Discussion/Action: Publication of Ordinance No. 740 authorizing the issuance of the City of Truth or Consequences, New Mexico Water System Improvement revenue bonds, Series 2022 in the principal amount of \$750,000 for the purpose of pre-development financing:

Chris Muirhead, Modrall Sperling: This ordinance relates to another water system improvement project as being ultimately financed through the US Department of Agriculture and their Rural Development program. They have approved a total project loan of \$4,811,000 and a grant of \$2,720,000. It used to be that you would just close on that whole amount and go throughout the project from start to finish and pay that back over the 40 years of that transaction, but they changed in the last 5 years or so, and basically you are getting interim loans for each step of the process starting, in this case, the pre-development work for \$750,000, then you would get another loan for the construction work for more along the lines of the \$7.5 million dollars for the project, and then ultimately close on the USDA Bonds when the project is completed and there is the total cost. We looked at this on another USDA project several months ago with the Bank of the Southwest where it was the interim financing for the construction, and they did that transaction. This is another one that is similar in process also with the Bank of the Southwest. This is just for the pre-development work which is basically defined as the

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all pre-development activities including preparation of the PER/ER, design, final plans and specifications, obtained required easements, and required necessary permits. What we did on this one is go back more toward the traditional structure of how Municipal debt is done. The first one with the Bank of the Southwest that we did a couple of months ago was done by a promissory note, security agreement which is more of a commercial context. It is legally sufficient, but we may want to go back and restructure it like this one because normally for Municipal debt the community would issue a bond which is the debt obligation for a Finance Authority Loan Agreement. This one is structured consistent with that. He and Traci Alvarez have been working for several months on and off to try and get it all squared away. The ordinance approves that \$750,000 pre-development financing with the Bank of the Southwest. It is an 18 month line of credit at 5.75% interest. The interest accrues once you draw any of that money so once we close on this it doesn't start accruing on the \$750,000 and 5.75%. It will start accruing at 5.75% for each part of that \$750,000 that is drawn down over the next 18 months. There is a onetime maturity payment at the 18 month mark where it pays all interest and principal at that time with no individual interim maturity so it is much more, straight forward. He is comfortable with the ordinance. It is consistent with what the city has done with the USDA debt. This will be an 18 month financing loan and it is at 5.75% for \$750,000. This is a pledge of your net system revenues from our Joint Utility System so all of the debt is tied into the same pledge. It is important to note that any holders of your debt that is pledged with the Joint Utility revenue do not have a lien against any state shared gross receipts tax, any other local option gross receipts tax, property taxes or other Enterprise funds that you might have. This is a special pledge limited to that. The main hammer that any holder of this debt has is if the system looks like it is not producing sufficient revenues to pay the debt, they can require that you raise your rates.

Assistant City Manager Alvarez: Once we get through all of the pre-development we would turn around and go back out for the construction portion of the loan, and once the project is complete, USDA will pay it all off with the Bank of the Southwest, and then our loan will then be through USDA.

Commissioner Mitchell made a motion to approve the Publication of Ordinance No. 740 authorizing the issuance of the City of Truth or Consequences, New Mexico Water System Improvement revenue bonds, Series 2022 in the principal amount of \$750,000 for the purpose of pre-development financing. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

H. NEW BUSINESS:

1. Discussion/Update: City Wide Project Update:

Alfredo Holguin, Wilson & Company gave an update on the City Wide Projects. (Compete copy attached hereto and made a part hereof).

2. Discussion/Action: Accept and Approve Wilson and Co. Inc. recommendation of award Main Street District (MSD) Water System Improvements:

Alfredo Holguin, Wilson & Company: They went out to bid for the Main Street District (MSD) Water System Improvements project and they had to re-bid because they came out over budget. That actually led them to be able to do some negotiations with the contractor, and in the end they needed to reduce the scope. The overall reduction included removal of a water storage tank at Cook Street as well as some water lines in the eastside of the Main Street District. As a whole they were able to include a big portion of the project. They are recommending the award to Smith Co. Construction. We have already received concurrence from USDA, and the next step is if the City and the Commission sees fit to approve the award. If so, we will then provide that to the contractor and start preparing the performance bonds, and payment bonds. We will then start to schedule a pre-construction meeting and execute all of the agreements, and then be under way on construction.

Commissioner Mitchell made a motion to accept and approve Wilson and Company's recommendation of award to Smith Co. Construction for the Main Street District (MSD) Water System Improvements. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Accept and Approve State of NM Tourism Department Clean and Beautiful Grant Program Agreement:

Traci Alvarez, Assistant City Manager: The city submitted an application to Clean & Beautiful for recycled benches, and it was awarded \$1,678.25. The grant does require a cash match of 25% which amounts to approximately \$420.00 of in kind services and/or purchased materials.

Commissioner Fahl moved to Accept and Approve State of NM Tourism Department Clean and Beautiful Grant Program Agreement. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Approval of the 2022 Youth Soccer Association field fees:

City Manager Swingle: We had the discussion a couple of meetings back, and you asked us to talk to the Recreation Board about the facility pricing. In the discussion with the Recreation Board we had ultimately come up with the realization that we offered Little League and Softball a rate of \$40 per team, and that was the fee prior to the new

resolution being passed. The Youth Soccer Association approached the city and tried to get registered, and take everything under that old resolution, but we didn't except it because there was going to be a new pricing schedule for all events after July 1st. Ultimately, that was unfair on our part. We should have given them the rate that we were giving the other leagues so our recommendation is to charge the Youth Soccer Association \$40 per team for the 2022 soccer season. With concurrence of the Recreation Board, we will move forward with the current pricing structure next season for all of the sports. The board was in agreement that the pricing was probably legitimate, and should stay where it is at. It is under what most entities are paying around the State of New Mexico. However, this season we will give them the rate of \$40 per team and give them a rebate of what that cost is from what they have already paid for because they paid the full amount of the current fees. The Youth Soccer Association is okay with the \$40 per team and feels that is a fair price.

Commissioner Mitchell made a motion to charge the Youth Soccer Association \$40 per team for the 2022 soccer season. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Action: Approval of the Smartphone Water Meter Reading Agreement:

City Manager Swingle: We currently only have one meter reader. We have two positions. One is vacant and has been vacant for a long time. We are looking at technology improvements that we can make to help us operate, and operate a little more effectively and efficiently. Sonya Renfro, Utility Office Manager is interested in purchasing this SPR which is basically the Smartphone Meter Reading capability. What we are buying is the software that allows us to utilize with the phones to go out and GPS the meters, and allow them to enter the reading so we will have verification. Very often we will have a scenario arise where members of the community will say that the individual never read their meter and it was estimated. Things of that nature. This takes that out of the picture. We can verify, and it's really one person's word against another, and it's also improving the process for the billing office. It's going to cost us about \$16 more a year on the software. We have the initial cost of almost \$900 for the web server and web seats, and almost \$1,600 for the training for the package. The annual cost would be for the licensing and maintenance of the software moving forward. You awarded money during the budget process to the Water Department to hire interns to go out and GPS. This is a perfect time for us to tie all of this together. We just won't have to buy the GPS system because it will be part of this package so it will actually save us money in the long run.

Commissioner Fahl moved to approve the Smartphone Water Meter Reading Agreement. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

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

City Manager Swingle: There was an amendment to the Purchase Requisitions over \$20,000 that was provided in the packet. The San Bar Construction Corp purchase requisition will be removed at this time.

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

I. EXECUTIVE SESSION:

1. Threatened & Pending Litigation (Erica Baker vs. City of T or C) pursuant to 10-15-1(H.7).

Mayor Pro-Tem Hechler made a motion to go into executive session at 11:05 a.m. to discuss Threatened & Pending Litigation (Erica Baker vs. City of T or C) pursuant to 10-15-1(H.7). Commissioner Fahl seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Forrister reconvened the meeting in open session at 11:34 a.m.

Mayor Pro-Tem Hechler certified that only matters pertaining to Threatened & Pending Litigation (Erica Baker vs. City of T or C) pursuant to 10-15-1(H.7) was discussed in Executive Session.

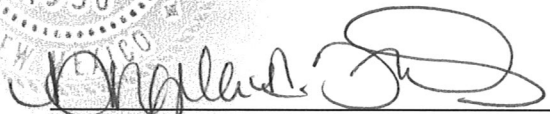
No action was taken.

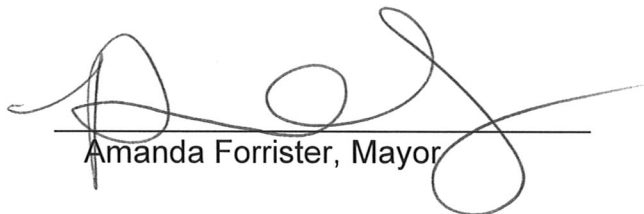
J. ADJOURNMENT:

Mayor Pro-Tem Hechler moved to adjourn at 11:35 a.m. Commissioner Mitchell seconded the motion. Motion carried unanimously.

Passed and Approved this 14th day of September, 2022.




Angela A. Torres, CMC, City Clerk


Amanda Forrister, Mayor