

CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, OCTOBER 26, 2022

A. CALL TO ORDER:

The meeting was called to order by Mayor Amanda Forrister at 9:40 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
Jay Rubin, City Attorney
Angela A. Torres, City Clerk-Treasurer

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 Mitchell to lead the Pledge of Allegiance.

4. APPROVAL OF AGENDA:

Mayor Pro-Tem Hechler moved to approve the agenda with the removal of item C1. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

C. PRESENTATIONS:

1. Presentation of City of Truth or Consequences Employee Service Anniversary Awards:

Item was removed from the agenda.

D. PUBLIC COMMENT (3 Minute Rule Applies):

Joe Byers addressed the Commission with comments related to:

- (1) He commented on behalf of item I4: Request for a Special Use Permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings. He is strongly in support of this item because it is very important for the recovery community to have a place where they can meet on a regular basis with no interruptions.

Geneva Pryor addressed the Commission with comments related to:

- (1) She commented on behalf of item I2: Request for a Special Use Permit at 865 W. 4th Ave. for the purpose of a Multi Animal Permit. She is the applicant of this item and she asked that this item be approved because she is compliant with all regulations required for this permit, and she would hate to have to move if she does not get approved for this permit.

Kathy Adkins addressed the Commission with comments related to:

- (1) She commented on behalf of item I4: Request for a Special Use Permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings. She is the applicant of this item, and she apologized for not making it to the Planning & Zoning Public hearing, but it was due to the recent passing of her husband. This is for an Alano Club which is a meeting place for 12-step groups, and it doesn't allow drinking or drugs. They have only meetings there. They used to meet at different churches, but they have been moved several times because it conflicts with a lot of their time slot, and they would just like to have a permanent place to conduct these meetings. The use of this building will be for meetings only.

Glenn Gibson addressed the Commission with comments related to:

- (1) He commented on behalf of item I3: Request for a Special Use Permit at 300 Osborne for the purpose of a Multi Animal Permit. He is the applicant of this item. He has been compliant with all of the steps needed, and given by Animal Control for this permit. He has camera's up and has done a lot of work to prevent the dogs from barking, but they don't bark as much as everyone says. He hopes that the Commission will consider approval of his permit.

Frank Dearman addressed the Commission with comments related to:

- (1) He commented on behalf of item I4: Request for a Special Use Permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings. He is strongly in support of this item because recover to him is very important because he sobered up in 1978, and they have always had a place to go, but the location is always changing, and they need a permanent place to go so people can get their recovery.

John Bradley addressed the Commission with comments related to:

- (1) He commented on behalf of item I4: Request for a Special Use Permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings. He is strongly in support of this item because he has been in the recovery community for 37 years. It is an important thing for the community because there are a lot of people who are trying to get help, and they need some support and it will be a great idea to have a permanent space. If the property isn't used its going to turn into a vacant lot.

Dan Simpson addressed the Commission with comments related to:

- (1) He commented on behalf of item I4: Request for a Special Use Permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings. He is strongly in support of this item because he moved here from Albuquerque where there are many places you can go for a meeting, and places like that saved and changed his life. He is now a productive member of society because of places like that, and he would like a permanent place for others to go so they can also get support.

Ted Reed addressed the Commission with comments related to:

- (1) He commented on behalf of item I4: Request for a Special Use Permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings. He is strongly in support of this item because places like that have helped him, and it has helped many others that are sitting in this room. Everything is voluntary in these groups, and they are self-supporting their own contributions. AA is color blind, and what is neat with these things is that everyone comes together and helps each other to try to be a contributing citizen.

Ron Fenn addressed the Commission with comments related to:

- (1) He commented on item I1: Final Adoption of Ordinance No. 735 Amending Section 14-48 pertaining to the Customer Generated Renewable Energy Program. He asked that the Commission not approve this item. The City is not prepared to handle this ordinance because they haven't even handled Ordinance 664 when it was passed. He does a utility analysis every month, and he finds a lot of inaccuracies in the solar reporting. The September report that he requested was incomplete. We need to tell the people what is really going on and this Ordinance is not going to correct any of this. It is going to create bigger problems. If you can't answer the questions that are on this paper to say how did these numbers get here, then you have no business voting on this issue because

it is going to create worse issues. Please hold off on this. There is no reason that this needs to be passed right now and because it will just create more havoc in the community.

Submitted comment by Ariel Dougherty. Complete Copy attached hereto and made a part hereof.

Tim Smith addressed the Commission with comments related to:

- (1) He commented on behalf of item I4: Request for a Special Use Permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings. He is strongly in support of this item because he has been a member of recovery for 17 years and it has been a huge part of him being a productive member of society. He has a successful Airbnb in town, and being a member of recovery has led to him to be able to do that as well as do voluntary work. It will be a very good thing for the community.

Mike Sparks addressed the Commission with comments related to:

- (1) He commented on behalf of item I5: Summary Plat Amendment at 719 Palo Verde, Truth or Consequences. He is the applicant of this item. He and his wife are asking to have 2 parcels combined. He is zoned R1 which has 25 ft. setbacks for everything and on the street side it is 37ft. from the curb. They are not planning on doing a lot. They just want to put up a car port for an RV and a flatbed trailer.

E. REPORTS:

City Manager Swingle reported the following:

- He handed out a schedule for the MSD Water Project downtown. It started on October 24th. We are very excited to get that project moving forward. (Handout attached).
- He handed out a list of properties that the city is putting up for sale. We have a lot of properties that we don't need, and we need to get them on the tax rolls. Once we get rid of these we will get some more on the list. (Handout attached).
- He handed out a flyer that the hospital put together on the \$2 million Mill Levy that is on the ballot. Historically this has been in place. It is not a new tax. It is just something that was continue with the existing tax. It equates to somewhere around \$620,000 to \$630,000 a year to the hospital which is significant revenue that the hospital does use and need.
- He gave kudos to Fleet Maintenance Department. The apache helicopters that were flying around in the evening were at the Airport resting and getting fuel and we had a mechanical breakdown at the Airport and we are not in a location that we can get aviation equipment mechanics out there fairly quickly, but our Fleet Maintenance Department went out and addressed the problem and did fantastic work. They are not on call, but they were available and they made it out there and did great work.

Torres, Angela

From: Ariel Dougherty films <arielcamera@gmail.com>
Sent: Wednesday, October 26, 2022 5:39 AM
To: Forrister, Amanda; Hechler, Rolf; Mitchell, Destiny; Harrelson, Shelly; Fahl, Merry Jo; Torres, Angela
Subject: Public Comments Re 735 Renewables for Oct 26, 2022 Meeting
Attachments: Section 3-18-32 - Limitation of county and municipal restrictions on solar collectors. (2007) __ 2013 New Mexico Statutes __ US Codes and Statutes __ US Law __ Justia.pdf

Dear Mayor and Commissioners,

Because I am unable to attend today's meeting, I am sending my comments via an email to each of you.

Attached is the state law governing municipalities as regards solar. The old ordinance 664 violates this law by its 90% clause. This new version 735 violates the law *especially* with inclusion of paragraph f.

As rewritten 735 shows City staff, PUAB members and the City's counselors do not fully comprehend net metering – a simple exchange of solar produced kWh for City provided kWh. This shows the City fails to understand, hence to acknowledge the benefits solar producers provide the City. There is never a need to convert these kWh into dollars and cents in both a complicated and convoluted billing process. The only time to do such a fiscal conversion – using *avoided costs* -- is if there is to be a payment and that should only happen if a producer wants such a settlement.

Each commissioner should state why a grandfather clause is not included in 735 and how they anticipate this will affect the 85 producers who have contracts under 664.

Last, I would like each Commission to explain why they think this ordinance meets the needs of producers and fulfills the intent of 3-18-32.

Thank you.

Sincerely, Ariel Dougherty

Public Comments

Ariel Dougherty – October 26, 2022

Attached is the state law governing municipalities as regards solar. The old ordinance 664 violates this law by its 90% clause. This new version 735 violates the law *especially* with inclusion of paragraph f.

As rewritten 735 shows City staff, PUAB members and the City's counselors do not fully comprehend net metering – a simple exchange of solar produced kWh for City provided kWh. This shows the City fails to understand, hence fails to acknowledge the benefits solar producers provide the City. There is never a need to convert these kWh into dollars and cents in both a complicated and convoluted billing process. The only time to do such a fiscal conversion – using *avoided costs* -- is if there is to be a payment and that should only happen if a producer wants such a settlement.

Each commissioner should state why a grandfather clause is not included in 735 and how they anticipate this will effect the 85 producers who have contracts under 664.

Last, I would like each Commission to explain why they think this ordinance meets the needs of producers and fulfills the intent of 3-18-32.

Thank you.



[View the 2020 New Mexico Statutes](#) | [View Previous Versions of the New Mexico Statutes](#)

2013 New Mexico Statutes

Chapter 3 - Municipalities

Article 18 - Powers of Municipalities

Section 3-18-32 - Limitation of county and municipal restrictions on solar collectors. (2007)

Universal Citation: Universal Citation: NM Stat § 3-18-32 (2013)

3-18-32. Limitation of county and municipal restrictions on solar collectors. (2007)

A. A county or municipality shall not restrict the installation of a solar collector as defined pursuant to the Solar Rights Act [47-3-1 through 47-3-5 NMSA 1978], except that placement of solar collectors in historic districts may be regulated or restricted by a county or municipality.

B. A covenant, restriction or condition contained in a deed, contract, security agreement or other instrument, effective after July 1, 1978, affecting the transfer, sale or use of, or an interest in, real property that effectively prohibits the installation or use of a solar collector is void and unenforceable.

History: Laws 2007, ch. 232, § 1.

Disclaimer: These codes may not be the most recent version. New Mexico may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or

adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.



Truth or Consequences

Ron FENN's Public Comment SUBMISSION

Monthly Billing Report

Sept

Consumption Range: 09/2022 - 09/2022

Billing Summary

Account Type	Bill Count	Total Arrears	Service Current	Non-Service Current	Total Balance	Active Account Reconciliation
Active	3,668	74,230.61	818,790.42	37,966.43	930,987.46	
Disconnect	60	5,133.06	6,825.68	659.99	12,618.73	Disconnect-Transfers 0
New	53	-587.89	3,731.40	1,847.20	4,990.71	Disconnect-No Transfers 61
Overall Totals	3,781	78,775.78	829,347.50	40,473.62	948,596.90	

Calculation Summary	Total Charges:	869,821.12
Deposit Returns/Adjustments:	-4,257.25	
Energy Assistance Returns:	0.00	
Total Current:	865,563.87	

? 3527 - 527 FROM AUG NOT COMPLETE 10/24

Category	Service Count	Total Net	Total Tax	Taxable	Non-Taxable	Billed Consumption	Unbilled Consumption	Total Consumption
Electric	5	250.00	0.00	0.00	250.00	0.00	0.00	0.00
Electric	3,522	479,624.84	31,462.29	375,668.41	72,494.14	3,232,671.28	100,818.00	3,333,489.28
Lights (Street/Area)	259	1,435.26	82.35	975.82	377.09	319.70	0.00	319.70
Metered Sewer	4	350.40	0.00	0.00	350.40	204.00	0.00	204.00
Refuse/Garbage	3,207	139,048.28	6,101.90	122,146.39	10,799.99	1,632.00	0.00	1,632.00
Sewer/WasteWater	2,777	77,911.81	3,364.09	67,186.30	7,361.42	12,906.40	0.00	12,906.40
Water	2,912	130,726.91	5,191.65	103,864.59	21,670.67	24,278.00	10,024.00	34,302.00
Overall Totals	12,686	829,347.50	46,202.28	669,841.51	113,303.71	3,272,011.38	110,842.00	3,382,853.38

Revenue Code Totals

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Revenue Code - Description	GL Revenue Account	Amount
Billing Revenue Codes		
Revenue Category: 100		
Accounts Receivable GL Account: -		125,535.26
100 - Water	504-3803-34523 - UTILITIES SERVICES-WATER DIVISION	-125,535.26
	100 AR Sub Total:	125,535.26
Revenue Category: 190		
Accounts Receivable GL Account: -		5,191.65
190 - Water Tax	504-3803-30153 - GOVERNMENTAL GROSS RECEIPTS-WA	-5,191.65
	190 AR Sub Total:	5,191.65

SEPT

Rate Code Totals

Category\Rate	Service Count	Total Net	Total Tax	Taxable	Total Metered Consumption	Total KVAR Consumption	Total Demand Consumption	Total Billed Consumption
ELECTRIC - LARGE COMMERCIAL 3 PHASE W/DEMAND	65	141,202.49	6,750.79	134,451.70	897,659.00	0.00	3,314.02	900,973.02
ELECTRIC - RESIDENTIAL	2,836	239,044.91	18,461.40	220,583.51	1,506,868.00	0.00	27.83	1,506,895.83
ELECTRIC - SMALL COMMERCIAL 1 PHASE	396	56,237.76	3,974.47	52,263.29	354,153.00	0.00	0.00	354,153.00
ELECTRIC - SMALL COMMERCIAL 3 PHASE	35	6,987.14	315.03	6,672.11	45,836.00	0.00	0.00	45,836.00
ELECTRIC - WMBG RESIDENTIAL	1	40.56	3.13	37.43	220.00	0.00	0.00	220.00
ELECTRIC - WMBG SMALL COMMERCIAL 3 PHASE	1	214.29	0.00	214.29	1,483.00	0.00	0.00	1,483.00
ELECTRIC- TRIP FEE	5	250.00	0.00	0.00	0.00	0.00	0.00	0.00
SOLAR- RESIDENTIAL	71	-3,353.07	0.00	0.00	25,518.00	0.00	0.00	25,518.00
SOLAR -ELECTRIC - SMALL COMMERCIAL 1 PHASE	1	-21.12	-1.63	-19.49	177.00	0.00	0.00	177.00
SOLAR- LARGE COMMERCIAL 1 PHASE W/DEMAND	2	-182.69	0.00	0.00	1,543.00	0.00	47.60	1,590.60
SOLAR- LARGE COMMERCIAL 3 PHASE W/DEMAND	4	-3,836.28	0.00	0.00	32,401.00	0.00	473.38	32,874.38
Electric Category Totals	3,527	479,874.84	31,462.29	455,534.59	3,228,093.00	0.00	4,578.28	3,232,671.28
Lights (Street/Area)								
MIMS STREET LIGHTS	122	279.91	21.90	258.01	122.00	0.00	0.00	122.00
YARD LIGHTS	137	1,155.35	60.45	1,094.90	197.70	0.00	0.00	197.70
Lights (Street/Area) Category 1	259	1,435.26	82.35	1,352.91	319.70	0.00	0.00	319.70
Metered Sewer								
SEWER - EFFLUENT WATER	4	350.40	0.00	0.00	204.00	0.00	0.00	204.00
Metered Sewer Category Totals	4	350.40	0.00	0.00	204.00	0.00	0.00	204.00
Refuse/Garbage								
TRASH - BASIC COMMERCIAL ADDITIONAL POLY CART	13	300.00	13.20	286.80	12.00	0.00	0.00	12.00
TRASH - BASIC COMMERCIAL POLY CART	92	4,601.12	200.76	4,400.36	92.00	0.00	0.00	92.00
TRASH - COMM CLASS I	194	13,282.79	597.31	12,685.48	194.00	0.00	0.00	194.00
TRASH - COMM CLASS II	49	5,411.51	237.60	5,173.91	49.00	0.00	0.00	49.00
TRASH - COMM CLASS III	76	11,824.70	260.99	11,563.62	76.00	0.00	0.00	76.00
TRASH - COMM CLASS IV	17	3,676.78	155.40	3,521.38	17.00	0.00	0.00	17.00
TRASH - COMM CLASS V	12	7,395.96	238.56	7,157.40	12.00	0.00	0.00	12.00
TRASH - COMMERCIAL FLAT RATE	2	161.35	7.68	153.67	0.00	0.00	0.00	0.00
TRASH - DUMPSTER	7	500.45	23.81	476.64	7.00	0.00	0.00	7.00
TRASH - NOT ACCESSIBLE RESIDENTIAL	2	69.38	3.30	66.08	2.00	0.00	0.00	2.00
TRASH - RESIDENTIAL	1,073	36,672.94	1,742.79	34,929.66	1,066.00	0.00	0.00	1,066.00
TRASH - RESIDENTIAL ADDITIONAL POLY CART	106	1,769.19	84.53	1,684.66	105.00	0.00	0.00	105.00
TRASH - RESIDENTIAL POLY CART	1,564	53,382.11	2,535.97	50,845.16	0.00	0.00	0.00	0.00
Refuse/Garbage Category Total	3,207	139,048.28	6,101.90	132,944.82	1,632.00	0.00	0.00	1,632.00

Handwritten notes:
- 59,639 (with arrow pointing to 3,228,093.00)
IMPOSSIBLE (with circle around 4,578.28)



Truth or Consequences

Monthly Billing Report

AUG

Consumption Range: 08/2022 - 08/2022

Billing Summary

Account Type	Bill Count	Total Arrears	Service Current	Non-Service Current	Total Balance	Active Account Reconciliation
Active	4,214	61,557.25	1,109,107.97	35,230.92	1,205,896.14	
Disconnect	58	3,444.17	5,263.10	478.49	9,185.76	Disconnect-Transfers 2
New	53	-365.76	4,282.06	1,596.25	5,512.55	Disconnect-No Transfers 57
Overall Totals	4,325	64,635.66	1,118,653.13	37,305.66	1,220,594.45	

Calculation Summary	Total Charges:	1,155,958.79
Deposit Returns/Adjustments:	-1,672.00	
Energy Assistance Returns:	0.00	
Total Current:	1,154,286.79	

4054 + 6 FROM JULY

Service Category Totals

Category	Service Count	Total Net	Total Tax	Taxable	Non-Taxable	Billed Consumption	Unbilled Consumption	Total Consumption
Electric	4,047	711,573.08	44,890.71	536,006.55	130,675.82	4,983,219.91	502,532.00	5,485,751.91
Electric	7	350.00	0.00	0.00	350.00	0.00	0.00	0.00
Lights (Street/Area)	281	6,578.62	93.17	1,104.30	5,381.15	411.19	0.00	411.19
Metered Sewer	19	793.26	0.00	0.00	793.26	639.00	0.00	639.00
Refuse/Garbage	3,640	157,021.44	6,865.38	137,433.93	12,722.13	1,828.00	0.00	1,828.00
Sewer/WasteWater	3,156	90,623.08	3,926.27	78,426.08	8,270.73	15,220.50	0.00	15,220.50
Water	3,345	151,713.65	6,045.04	120,934.21	24,734.40	28,734.00	998.00	29,732.00
Overall Totals	14,495	1,118,653.13	61,820.57	873,905.07	182,927.49	5,030,052.60	503,530.00	5,533,582.60

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Revenue Code Totals

Revenue Code - Description	GL Revenue Account	Amount
Billing Revenue Codes		
Revenue Category: 100		
Accounts Receivable GL Account: -		145,668.61
100 - Water	504-3803-34523 - UTILITIES SERVICES-WATER DIVISION	-145,668.61
	100 AR Sub Total:	145,668.61
Revenue Category: 190		
Accounts Receivable GL Account: -		6,045.04
190 - Water Tax	504-3803-30153 - GOVERNMENTAL GROSS RECEIPTS-WA	-6,045.04
	190 AR Sub Total:	6,045.04

Deposit Return Revenue Codes

Revenue Code - Description	GL Deposit Liability Account	Amount	
Revenue Category: 996			
Accounts Receivable GL Account: -			-669.93
200-DEP- Electric Deposit	503-3702-26216 - CUSTOMERS DEPOSITS	669.93	
		996 AR Sub Total:	-669.93
Revenue Category: OT			
Accounts Receivable GL Account: -			-48.94
200-DEP- Electric Deposit	503-3702-26216 - CUSTOMERS DEPOSITS	48.94	
		OT AR Sub Total:	-48.94
Sub Total Deposit Return Revenue Codes:			-1672.00
Overall Totals			1,154,286.79

Rate Code Totals

Category\Rate	Service Count	Total Net	Total Tax	Taxable	Total Metered Consumption	Total KVAR Consumption	Total Demand Consumption	Total Billed Consumption
Electric								
ELECTRIC - CITY	89	28,159.33	43.32	28,116.01	389,117.00	0.00	0.00	389,117.00
ELECTRIC - LARGE COMMERCIAL 1 PHASE	3	422.12	30.83	391.29	2,447.00	0.00	0.00	2,447.00
ELECTRIC - LARGE COMMERCIAL 1 PHASE W/DEMAND	36	33,370.91	2,282.26	31,088.65	205,293.00	0.00	743.11	206,036.11
ELECTRIC - LARGE COMMERCIAL 3 PHASE	1	25.50	0.00	25.50	0.00	0.00	0.00	0.00
ELECTRIC - LARGE COMMERCIAL 3 PHASE W/DEMAND	68	204,549.93	8,424.46	196,125.47	1,380,781.00	0.00	3,863.37	1,384,644.37
ELECTRIC - RESIDENTIAL	3,093	341,349.07	26,365.13	314,983.94	2,209,486.00	0.00	34.33	2,209,520.33
ELECTRIC - SMALL COMMERCIAL 1 PHASE	411	74,369.05	5,190.71	69,178.34	477,105.00	0.00	0.00	477,105.00
ELECTRIC - SMALL COMMERCIAL 3 PHASE	41	9,493.18	413.71	9,079.47	62,957.00	0.00	0.00	62,957.00
ELECTRIC - WMBG LARGE COMMERCIAL 1 PHASE W/DEMAND	1	1,333.11	103.02	1,230.09	8,878.00	0.00	19.46	8,897.46
ELECTRIC - WMBG LARGE COMMERCIAL 3 PHASE W/DEMAND	3	4,532.96	350.30	4,182.66	29,811.00	0.00	72.07	29,883.07
ELECTRIC - WMBG RESIDENTIAL	206	19,622.90	1,516.49	18,106.41	125,207.00	0.00	0.00	125,207.00
ELECTRIC - WMBG SMALL COMMERCIAL 1 PHASE	13	2,009.62	136.10	1,873.52	12,742.00	0.00	0.00	12,742.00
ELECTRIC - WMBG SMALL COMMERCIAL 3 PHASE	3	797.17	36.20	760.97	5,315.00	0.00	0.00	5,315.00
ELECTRIC- TRIP FEE	7	350.00	0.00	0.00	0.00	0.00	0.00	0.00
SOLAR- RESIDENTIAL	72	-3,206.07	0.00	0.00	24,399.00	0.00	0.00	24,399.00
SOLAR -ELECTRIC - SMALL COMMERCIAL 1 PHASE	1	-23.61	-1.82	-21.79	220.00	0.00	0.00	220.00
SOLAR- LARGE COMMERCIAL 1 PHASE W/DEMAND	2	-120.41	0.00	0.00	1,017.00	0.00	48.41	1,065.41
SOLAR- LARGE COMMERCIAL 3 PHASE W/DEMAND	4	-5,111.68	0.00	0.00	43,173.00	0.00	491.15	43,664.15
Electric Category Totals	4,054	711,923.08	44,890.71	675,120.53	4,977,948.00	0.00	5,271.91	4,983,219.91

-68,809

IMPOSSIBLE



Truth or Consequences

Monthly Billing Report

July

Consumption Range: 07/2022 - 07/2022

Billing Summary

Account Type	Bill Count	Total Arrears	Service Current	Non-Service Current	Total Balance	Active Account Reconciliation
Active	4,217	67,929.89	1,083,521.54	38,367.61	1,189,819.04	
Disconnect	64	5,852.86	5,305.89	648.54	11,807.29	Disconnect-Transfers 1
New	51	446.93	4,446.55	1,565.38	6,458.86	Disconnect-No Transfers 63
Overall Totals	4,332	74,229.68	1,093,273.98	40,581.53	1,208,085.19	

Calculation Summary	Total Charges:	1,133,855.51
Deposit Returns/Adjustments:	-2,860.00	
Energy Assistance Returns:	0.00	
Total Current:	1,130,995.51	

4062

Service Category Totals

Category	Service Count	Total Net	Total Tax	Taxable	Non-Taxable	Billed Consumption	Unbilled Consumption	Total Consumption
Electric	6	200.00	0.00	0.00	200.00	0.00	0.00	0.00
Electric	4,056	697,205.82	43,376.10	516,661.40	137,168.32	4,868,630.17	102,573.00	4,971,203.17
Lights (Street/Area)	283	8,576.27	93.05	1,102.07	5,381.15	412.19	0.00	412.19
Metered Sewer	18	473.98	0.00	0.00	473.98	378.00	0.00	378.00
Refuse/Garbage	3,649	156,938.82	6,849.66	137,118.06	12,971.10	1,829.00	0.00	1,829.00
Sewer/WasteWater	3,167	91,073.80	3,920.29	78,306.00	8,847.51	15,437.50	0.00	15,437.50
Water	3,355	140,805.29	5,744.43	114,852.38	20,208.48	30,723.00	145.00	30,868.00
Overall Totals	14,534	1,093,273.98	59,983.53	848,039.91	185,250.54	4,917,409.86	102,718.00	5,020,127.86

?

+70,994

Revenue Code Totals

Revenue Code - Description	GL Revenue Account	Amount
Billing Revenue Codes		
Revenue Category: 100		
Accounts Receivable GL Account: -		135,060.86
100 - Water	504-3803-34523 - UTILITIES SERVICES-WATER DIVISION	-135,060.86
	100 AR Sub Total:	135,060.86
Revenue Category: 190		
Accounts Receivable GL Account: -		5,744.43
190 - Water Tax	504-3803-30153 - GOVERNMENTAL GROSS RECEIPTS-WA	-5,744.43
	190 AR Sub Total:	5,744.43

Rate Code Totals

Category\Rate	Service Count	Total Net	Total Tax	Taxable	Total Metered Consumption	Total KVAR Consumption	Total Demand Consumption	Total Billed Consumption
ELECTRIC - LARGE COMMERCIAL 1 PHASE W/DEMAND	38	31,345.94	2,150.00	29,195.94	189,019.00	0.00	742.69	189,761.69
ELECTRIC - LARGE COMMERCIAL 3 PHASE	1	25.50	0.00	25.50	0.00	0.00	0.00	0.00
ELECTRIC - LARGE COMMERCIAL 3 PHASE W/DEMAND	68	210,381.28	8,222.56	202,158.72	1,413,618.00	0.00	4,131.54	1,417,749.54
ELECTRIC - RESIDENTIAL	3,095	323,787.31	25,085.82	298,701.49	2,085,750.00	0.00	11.41	2,085,761.41
ELECTRIC - SMALL COMMERCIAL 1 PHASE	413	64,467.20	4,446.64	60,020.56	409,826.00	0.00	0.00	409,826.00
ELECTRIC - SMALL COMMERCIAL 3 PHASE	41	9,302.77	395.59	8,907.18	61,694.00	0.00	0.00	61,694.00
ELECTRIC - WMBG LARGE COMMERCIAL 1 PHASE W/DEMAND	1	1,687.34	130.39	1,556.95	11,540.00	0.00	20.92	11,560.92
ELECTRIC - WMBG LARGE COMMERCIAL 3 PHASE W/DEMAND	3	5,518.83	426.48	5,092.35	37,080.00	0.00	78.20	37,158.20
ELECTRIC - WMBG RESIDENTIAL	208	28,726.75	2,219.94	26,506.81	189,064.00	0.00	6.23	189,070.23
ELECTRIC - WMBG SMALL COMMERCIAL 1 PHASE	13	2,564.43	169.88	2,394.55	16,602.00	0.00	0.00	16,602.00
ELECTRIC - WMBG SMALL COMMERCIAL 3 PHASE	3	989.54	49.76	939.78	6,626.00	0.00	0.00	6,626.00
ELECTRIC- TRIP FEE	6	200.00	0.00	0.00	0.00	0.00	0.00	0.00
SOLAR- RESIDENTIAL	73	-3,075.31	0.00	0.00	23,404.00	0.00	0.00	23,404.00
SOLAR -ELECTRIC - SMALL COMMERCIAL 1 PHASE	1	-20.14	-1.56	-18.58	160.00	0.00	0.00	160.00
SOLAR- LARGE COMMERCIAL 1 PHASE W/DEMAND	2	-121.01	0.00	0.00	1,022.00	0.00	48.59	1,070.59
SOLAR- LARGE COMMERCIAL 3 PHASE W/DEMAND	4	-5,494.71	0.00	0.00	46,408.00	0.00	517.60	46,925.60
Electric Category Totals	4,062	697,405.82	43,376.10	662,520.75	4,863,073.00	0.00	5,557.17	4,868,630.17
					- 70994			
							IMPOSSIBLE	
Lights (Street/Area)								
CITY STREET LIGHTS	1	4,617.00	0.00	0.00	0.00	0.00	0.00	0.00
MIMS STREET LIGHTS	123	280.83	21.98	258.85	122.00	0.00	0.00	122.00
YARD LIGHTS	159	1,678.44	71.07	1,607.37	290.19	0.00	0.00	290.19
Lights (Street/Area) Category 1	283	6,576.27	93.05	1,866.22	412.19	0.00	0.00	412.19
Metered Sewer								
SEWER - EFFLUENT USED FOR CITY LANDSCAPE	1	122.88	0.00	0.00	192.00	0.00	0.00	192.00
SEWER - EFFLUENT WATER	17	351.10	0.00	0.00	186.00	0.00	0.00	186.00
Metered Sewer Category Totals	18	473.98	0.00	0.00	378.00	0.00	0.00	378.00
Refuse/Garbage								
TRASH - BASIC COMMERCIAL ADDITIONAL POLY CART	13	300.00	13.20	286.80	12.00	0.00	0.00	12.00
TRASH - BASIC COMMERCIAL POLY CART	98	4,741.88	207.45	4,534.29	98.00	0.00	0.00	98.00
TRASH - COMM CLASS I	200	13,741.08	615.95	13,125.13	200.00	0.00	0.00	200.00
TRASH - COMM CLASS II	54	5,965.86	264.00	5,701.86	54.00	0.00	0.00	54.00
TRASH - COMM CLASS III	92	14,330.05	280.03	14,050.02	92.00	0.00	0.00	92.00
TRASH - COMM CLASS IV	18	3,824.12	162.42	3,661.70	18.00	0.00	0.00	18.00
TRASH - COMM CLASS V	12	7,395.96	238.56	7,157.40	12.00	0.00	0.00	12.00



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2013 New Mexico Statutes

Chapter 3 - Municipalities

Article 18 - Powers of Municipalities

Section 3-18-32 - Limitation of county and municipal restrictions on solar collectors. (2007)

Universal Citation: Universal Citation: NM Stat § 3-18-32 (2013)

3-18-32. Limitation of county and municipal restrictions on solar collectors. (2007)

A. A county or municipality shall not restrict the installation of a solar collector as defined pursuant to the Solar Rights Act [47-3-1 through 47-3-5 NMSA 1978], except that placement of solar collectors in historic districts may be regulated or restricted by a county or municipality.

B. A covenant, restriction or condition contained in a deed, contract, security agreement or other instrument, effective after July 1, 1978, affecting the transfer, sale or use of, or an interest in, real property that effectively prohibits the installation or use of a solar collector is void and unenforceable.

History: Laws 2007, ch. 232, § 1.

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CITY OF TRUTH OR CONSEQUENCES PROPERTIES FOR SALE



Contact: Traci Alvarez 575-952-0565

talvarez@torcnm.org

401 McAdoo Street -Truth or Consequences, NM 87901

(COPIES OF SURVEYS AND APPRAISALS AVAILABLE UPON REQUEST)



612 E Second Street
Parcel # 3021078400386
Appraisal \$ 20,000

Parcel # 3023078055228
Lots 63, 64, 65, 66
Appraisal \$ 8,000 each lot

Parcel # 3023078055171
Lots 56, 57, 58, 59
Appraisal \$ 8,000 each lot



309 Birch Street
Parcel # 3022078023342
Appraisal \$ 20,000

Parcel # 3023079239313
Tract 2 Lot 10
Appraisal \$ 8,000

OFFERS TO
PURCHASE WILL
BE ACCEPTED UNTIL
NOVEMBER 15, 2022

Some Things You Need To Know for Nov 8th:

- Hospital Mill Levy Is Not A New Tax
- Reapproving Mill Levy Will Not Increase Your Taxes
- A Vote Against Will Not Decrease Your Taxes

COUNTY
CONDADO

HOSPITAL MILL LEVY QUESTION
Shall the Board of Commissioners of Sierra County, New Mexico, impose a tax of two (2) mills (\$2.00 per \$1,000.00) of net taxable value of property allocated to the County for a period of eight (8) years commencing 2023 to support the operation and maintenance of Sierra Vista Hospital?

HOSPITAL MILL LEVY PREGUNTA
¿La Junta de Comisionados del Condado de Sierra, Nuevo México, impondrá un impuesto de dos (2) molinos (\$2.00 por cada \$1,000.00) del valor neto imponible de la propiedad asignada al Condado por un periodo de ocho (8) años a partir del 2023 para apoyar la operación y el mantenimiento de Sierra Vista Hospital?

Financial & Economic Impact to the Community

- Sierra Vista Hospital employs close to 225 staff members
- Wages & Benefits from SVH are \$57,645,000 annually
- Total Economic impact to our region is \$74,935,000 annually
- Sales Tax from SVH services are collected in Sierra County

Healthcare Impacts to the Community

- Emergency Department treated over 8,000 patients in the last fiscal year
- SVH Clinics saw 7,290 patients last fiscal year
- SVH EMS provides local, regional & state wide support including Nursing & Veteran Homes
- SVH provides healthcare for low income & underinsured patients.
- Return of Services: Cardiology, Surgery and Sleep Studies.

Truth or Consequences MSD Water System Improvements

Smithco Construction Two Week Look Ahead (TWLA)

Description of Work	Responsible Party	24-Oct	25-Oct	26-Oct	27-Oct	28-Oct	31-Oct	1-Nov	2-Nov	3-Nov	4-Nov	Notes:
		Mon	Tues	Wed	Thu	Fri	Mon.	Tues.	Wed	Thur	Fri	
Mobilization	Smithco	X										
Construction Yard Setup	Smithco	X										
Pot-Hole												
Inserta Valve Locations for existing pipe OD's	Smithco	X										
Utilities at all 6 Bore Locations	Smithco		X	X	X		X					
Excavate Bore Pits	Smithco			X	X			X	X			
Bore Mirms Street (CU-223)	Kelly Cable						X					
Bore Foch St (CU-206)	Kelly Cable							X				
Bore Post St (CU-217)	Kelly Cable								X			
Bore Main Street (CU-210)	Kelly Cable									X		

For any questions or concerns regarding this schedule please contact:

CITY COMMISSION OCTOBER 26, 2022 REGULAR MEETING MINUTES

- We had a complaint of a safety issue on Gold Street and 7th. Benny Fuentes went out and evaluated what was necessary and addressed the issue by putting in a stop sign. It is on a hill and it is now a 4-way stop. Cars that were backing out of the driveway which is on a hill could not see vehicles coming so that stop sign stops traffic there. The resident called to say that they were ecstatic with the fix Benny came up with.
- There will be tree treatments happening at the Ralph Edwards Park, Family Park and the Louis Armijo Park. They will winterize prune and remove some of the trees that are dead. When they did the work at Ralph Edwards Park, some of the trees looked pretty bad, and the advice that we had was to leave trees, and continue to water to see if they were salvageable or not, and there are a couple that are not. That work will start in mid-November.
- We continue to have water leaks. If it is not a short term fix, we ask the public to be understanding and patient with us. We have limited resources and staff, and it took many decades for this problem to rise and it is not going to be resolved in the next day or two or even year or two it will take substantial time to address. We are in the process of drafting an emergency fund request from the State Board of Finance. We are putting the dollars together and what constitutes the emergency right now. We cannot keep up with all of the water leaks that we are experiencing right now. We are getting a call an hour later or 5 hours later for all of the leaks that we repair. They are not the same spot, but usually either side of the repair finds the next weak spot in the piping or it leaks there. We are at a critical point with our infrastructure, and we've got to get ahead of the game. It is just going to take time and money, and we need patience and understanding of the community. I have to admit, it has gotten better. I was getting many calls a day about the same water leaks, and why they haven't been fixed. I think people are starting to understand. At least the message that we are trying to get out is that it is going to continue to be a problem. Absolutely continue to report the water leaks. We will assess it and it will be prioritized based on the level of leaking that we are seeing, and the more serious leaks, or leaks that are impacting residents and they have water loss. They take top priority. Everything else is put at a lower priority.
- The Chamber of Commerce is doing a fantastic job with the advertisement of the infrastructure bond question. We had the premiere of the movie Paul's Promise the other night, and they had a commercial running for half an hour before the movie started. It showed the water leaks and the need for the bond to be approved, as well as for the streets. Fantastic work by the Chamber of Commerce. The Mill Levy is on the ballot as well. That is very important to the community as well.
- We still have vacancies on various city boards. We had a resignation on the PUAB Board from Ron Pacourek so we have one vacancy on the PUAB Board, we have on vacancy on the Recreation Advisory Board, one vacancy on the Airport Advisory Board. We have five vacancies on the Golf Course Advisory Board. However, we are in the process of trying to merge the Golf Course

Advisory Board and Recreation Advisory Board together. We also have two vacancies on the Impact Fee Advisory Board.

- The Court Committee met on Monday. They formed an opinion that they are going to recommend to the Commission that the City transition to Magistrate Court as the Court of jurisdiction over City Ordinances. We will have another meeting on Monday, November 7th. Jay drafted the report, and the committee will meet again on the 7th to vote to approve or not approve the report. We would like to have it on the next agenda meeting of whatever the outcome of the vote is.
- The Chief of Police recruitment is going very well. Interim Chief Venable has been doing the background investigation on our Chief, and I think he is quite ecstatic of the background that he has found. I think that you are going to be very comfortable with the individual that we are going to recommend to the City. We will have all paperwork and contracts likely available for the next Commission Meeting. We had a number of candidates from out of state that applied. There were some very good ones. Some had a little baggage that just didn't seem right for our community, but I think that we are going to have an outstanding Chief.
- We have a major issue with the Lee Belle Johnson Center. We brought in an engineer to take a look at it, and the building is showing a lot of movement. The floors are warping, at least in the library area, which is an indication of movement of the building. The walls and the baseboard are starting to separate from the walls, and we are seeing some significant gaps under the building because this is actually on pylons. It's not a slab through most of the facility. There is a big dome that has been created. We think that it is the geothermal water. *He joked... "Don't tell me there's a shortage of water. It's popping up right under our building"*. It could be an anomaly. We don't know. The engineers are still working on it, but they've recommended that we close the building and move all of the people that are in it. We immediately notified Spaceport because they are expensing money as we speak to re-design that space, and to bring in some artifacts and exhibits from the Space Museum in Alamogordo, and we wanted to put a kibosh on it so they don't incur any additional expense until we can work through this. We are looking at moving the library to the Nadine Gardner Learning Center. There is a space there that we are going to move that to. Our Librarian Pat is very excited for the opportunity of actually opening the library up to those folks on the southern and western portion of the town. As well as to Williamsburg. We are looking for a location for the Geronimo Springs Scenic Byway Center. We're not moving anyone out until the site is ready, and in this case, we have to find a site for them. Not right now, but we do eventually need to get them out of the facility, and we are looking quite hastily for a site so if you have any ideas of a site let us know. It is very important that we find them a site in the downtown area. My first thought was to move them to the Civic Center into the space that the Workforce Solutions used to be at, but that isn't in the downtown area, and it's not where the visitors are. We need to keep them as close to the downtown area as possible, and to where the visitors are so we are looking for that site.
- He will be out of town Monday and Tuesday of next week because he is getting married and he is very excited about that.

City Attorney Rubin reported the following:

- He congratulated City Manager Swingle on getting married next week. That's fantastic.

City Commission Reports:

Commissioner Fahl reported the following:

- She asked City Manager Swingle what the process is for us to merge the Recreation Advisory Board and the Golf Course Advisory Board.
- She attended the New Mexico Water and Dam Owners Coalition and the next meeting will be at the same location, and she will make sure that it is not held during our Commission Meetings so perhaps some of the Commissioners can attend. Usually from October to March they usually do our Dam inspections, and she would be very interested to know what the status of our Dams are so she would like to see the last 3 years of reports. She wanted to read them because of her experience with Dams. When Wilson & company came and gave their presentation about the Dams. She would like for them to explain why breaching Contrail Dam is their recommendation because that is rare for people who have a Dam to do that, and the cost of breaching a Dam is almost the same in most cases as repairing it so she would like for them come and explain to us why that is their option.

City Manager Swingle responded to the following questions:

- We are going to have to change our ordinance, and decisions have to be made about how many board members we should have, but moving the Golf Course Advisory Board right now, we don't have a board, but we do have a couple of people that have submitted letters of interest on it, but it is a matter of merging it together that they will have representation on the board. Those ordinances will all come before the Commission. We have an ordinance that's creating the Golf Advisory Board and we have one that is creating the Recreation Advisory Board, and we will basically eliminate the and repeal the ordinance on the Golf Advisory Board, and modify the ordinance of the Recreation Board to merge it together.
- You asked me something at the beginning of the meeting that you wanted me to address about a Facebook post and some criticism of some of the doctors not being credentialed at the hospital. Credentialing is an interesting issue. The credentialing process is a very lengthy process. You're getting credentialed by the insurance providers that are out there such as Medicaid and Medicare. You also have Presbyterian, Blue Cross, Blue Shield, Molina, and there are other insurances out there, and you have to get credentialed by each one them so it is a very lengthy process so when you have doctors working, they are going to be working in the areas that they are credentialed to do at this point, and they won't be doing work if they are not credentialed. It is not an issue of their medical license or anything like that. It is just the due diligence from the insurance companies, and the payers basically of coverage that they just want to do their due diligence on the background of the particular physician. It is a very long

process. We have some that have taken many, many months to accomplish. Some can be done very quickly, and others are not. It depends on the work flow and all of your insurance providers out there, but it doesn't mean anything against the doctors or the providers going through that process. It's such a regulated practice and process.

- As for the Dam inspections, they don't typically come every year. They come every so many years. They inspected them a year to a year and a half ago, and I will be glad to make those reports available to everybody.

Commissioner Mitchell reported the following:

- She congratulated City Manager Swingle on getting married.
- She gave a shout out for all of the upcoming festivities this weekend for Halloween. MainStreet is doing a downtown trick or treat on Saturday from 4-7. Apple Tree has their harvest fest at the same time so you can hit both of them. There will be a multitude of trunk or treats going around town. One is at Foxworth, Hot Springs High School Renaissance and Drama Club will be putting on a haunted house Friday and Saturday night at the old gym. It is going to be pretty cool.
- She was also at the Paul's Promise premiere and the Chamber of Commerce did a great job on advertising. She has seen it in the newspapers, on flyers, on commercials and she thinks that they did an outstanding job getting that information out to the public.

Commissioner Harrelson reported the following:

- There are a lot of activities going on this week for the kids.
- This is red ribbon week for the Elementary School, and it kind of goes along with all of the recoveries so that is something that our kids are learning about this week. Every day is a different event that talks about "just say no to drugs".
- She gave kudos to our community teachers on how hard they are working. Teachers work very, very hard every day and they don't get nearly the amount of praise that they need for the hard jobs that they have.
- Go Tigers! Our Volleyball team is ranked #2 and if you haven't been to a volleyball game, they are pretty amazing! Those girls work so dang hard and they look amazing on the court. We have 3 more games before we go to state and then we will have our big competition up at the state level. We would like everyone to come out and fill the gym. It makes the girls feel good and it is a great way to cheer our Tigers on.

Mayor Pro-Tem Hechler had no reports.

Mayor Forrister reported the following:

- She congratulated City Manager Swingle on getting married.
- The Bond item and Mill Levy items are on the ballot so don't forget to go out there and vote.
- She thanked everyone for coming to the meeting. We don't usually get that much community involvement unless there are issues being brought up.

F. CONSENT CALENDAR:

- 1. City Commission Regular Minutes, October 12, 2022**
- 2. Acknowledge Regular Public Utility Advisory Board Minutes, September 19, 2022**
- 3. Subrecipient FY 22/23 1st Quarter Reports**
- 4. Take Home Vehicle Forms**

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: Final Adoption of Ordinance No. 741 to amend Article VIII, Section 7-202 of the City Code of Ordinances, pertaining to the Collection of Lodgers Tax and Reporting Procedures:**

City Manager Swingle: This ordinance amendment is at the request of the lodgers tax Board and as you all know, they do fantastic work, and they are absolutely a great board to work with. Recognizing that we have a lot of Airbnb's that we were not receiving on, but for the most part, the Airbnb's thought that they paying lodgers tax, and this amendment would allow the marketplace provider which is an entity like Airbnb to collect not only the fee for the lodger, but the taxes and the lodgers tax. Our existing ordinance prohibits them from collecting the lodger's tax. Our existing ordinance requires the individual owner to pay that to us. I think there is a disconnect there because of the ordinance, and that will clean that up, and it will be collected, and what we would anticipate is significantly more lodgers tax revenue coming to the City.

Mayor Forrister opened the public hearing.

Proponents:

Gina Kelley Lodgers Tax Advisory Board Vice Chairman: I want to thank City Manager Swingle for helping us with this. It has been a 2 year process, and I want to stress that our Airbnb hosts really and truly believe that they are paying lodgers tax just by virtue of reporting that Airbnb gives them, but in truth Airbnb only has been collecting GRT and paying that to the State. We are estimating anywhere between \$40,000 to \$60,000 a year extra in lodgers tax if you pass this, so I just want to thank you for all of your support. We can do great things with that money. There are a lot of really great marketing efforts going on in town, but we also have all of that infrastructure that we have to take care of, like our parks.

CITY COMMISSION OCTOBER 26, 2022 REGULAR MEETING MINUTES

Tim Smith: I have to make a correction. I am one of the individuals that thought that I was paying lodgers tax because it is on the invoice that I receive from Airbnb, but I suppose that it just covers GRT so forgive me for my misstatement, and I am in support of this.

Opponents:

There were no opponents

Mayor Forrister closed the public hearing.

City Attorney Rubin: The first four subsections are identical to what we already had on A, B, C, & D. E is the only paragraph that we are talking about which says:

- For transactions where a vendor uses a Marketplace Provider to facilitate the sale of lodgings, the City may use a "Marketplace Provider" as follows:
 1. Definition: A Marketplace Provider means any person who facilitates a retail sale by a vendor by listing or advertising for sale or furnishing by the vendor, in any manner, rooms, lodging, or other accommodations through agreements or arrangements with 3rd parties.
 2. Marketplace Providers shall be responsible for collecting all applicable lodgers taxes and remitting the same to the City. The marketplace provider shall be considered an agent of the vendor for purposes of lodgers tax collections and remittance responsibilities as set forth in this ordinance.
 3. A Marketplace Provider operating exclusively on the internet, who operates in compliance with subsection 2 above, shall be presumed to be in compliance with this ordinance, except that the marketplace provider remains responsible for compliance with the administrative penalty provisions described in this section.

City Manager Swingle: Jay drafted the amendment based on an ordinance out of Albuquerque. We did work with the Airbnb legal counsel and they are in support of the change, and this is something that they can work with to move forward and accomplish what we as a community want.

Mayor Forrister: Is this something that will be collected through Airbnb or will it be a private thing that we collect at the City? How will that work?

City Manager Swingle: It will be collected by Airbnb just like they do now with collecting the fee for the GRT, and then they would make the distributions accordingly.

Mayor Pro-Tem Hechler: Is Airbnb the only marketplace provider that we reached out to?

City Manager Swingle: Yes, because it is the only one that I know of. Once we make the change I guess we can search for others that are out there.

Commissioner Fahl moved to approve adoption of Final Adoption of Ordinance No. 741 to amend Article VIII, Section 7-202 of the City Code of Ordinances, pertaining to the Collection of Lodgers Tax and Reporting Procedures. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

H. ORDINANCES/RESOLUTIONS/ZONING:

1. Discussion/Action: Resolution No. 15 22/23 Budget Adjustment Resolution:

City Manager Swingle reviewed the Budget Adjustment provided in the packet.

Mayor Pro-Tem Hechler moved to approve Resolution No. 15 22/23 Budget Adjustment Resolution. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

I. NEW BUSINESS:

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

City Manager Swingle: Mayor Pro-Tem asked a question at our last meeting, and we tabled the matter because we didn't really have a full Commission at that time. We only had 3 Commissioners and this is a very important ordinance. Mayor Pro-Tem had the question about adding that one paragraph that was added and wanted clarification. I sent you all a copy of the email that council had sent us. This is our Attorney John Appel out of Santa Fe, New Mexico. The bottom line is that it had no direct impact on the ordinance other than possibly in the future it may be an issue on us having solar providers generating more electricity than we actually need, and this would give us the ability to not buy anymore if we didn't have to. As a matter of fact, it is a non-issue at this point, and it will be for some time.

City Attorney Rubin: We went through a lot of legal reviews on this, and there was a letter that Mr. Appel had shared and I also supported, and I believe it answered the outstanding legal question so I am prepared to proceed.

Mayor Pro-Tem Hechler: I thank Mr. Appel for his response, and my feeling is that this was really an unnecessary statement or paragraph. I don't consider myself a staunch environmentalist, but I do believe that there is global warming, and I do believe that we don't need to change today or tomorrow, but we need to change sometime, and I think sometimes when we write these ordinances, we have to keep those things in mind. We should also be encouraging people to buy solar. We should be encouraging green energy. Like I said, it's not going to happen tomorrow or the next day, but it is something that we should be doing. I think statements like this kind of serve to scare people

sometimes with the language of *"the City reserves the right to reduce or terminate its acceptance of electricity generated by customers in the event that the total amount of electricity generated and offered at any given time exceeds the amount that can be put to use,"* and to me that doesn't inspire people to say hey, *"I'm going to sign up for solar tomorrow."* They City may say that I can't buy my solar anymore, and then what am I going to do with my \$26,000 investment so I don't want to see that statement even in this ordinance for that reason. If down the road the City feels like there's an issue with buying electricity or if some other things come up, we can change it then. I think what we need to do now is encourage people to continue to invest in solar. I know that the state is doing that, and a lot of folks are, and I just think that this is contrary to that.

Commissioner Mitchell: I do consider myself a staunch environmentalist, and I actually agree with Mayor Pro-Tem Hechler in the sense of that we don't want to discourage future solar use. It is also in conflict with the City at this point in time as we're technically losing money on solar so for the environments sake we should be encouraging solar use.

George Szigeti, PUAB Chairman: As Commissioner Hechler and the City Manager pointed out this is something that is way down the road. We have to have around 800 to 1000 solar customers before we come into conflict with our contract with Sierra Electric, and it has taken almost 10 years to get 80 customers and that may even be accelerating so I don't see us getting to that point any time soon, and if it is needed we can enact it then. The other issue I have is when the City no longer needs it. I think it would be very easy to legally challenge that statement. I don't think that it is definite enough. What do you base the fact on that the City doesn't need the electricity. All of sudden everyone is putting in batteries, and nobody is using electricity anymore. There are a lot of interpretations for that. The other part is the actual implementation. You cannot just go up to a solar customer and say we don't need your electricity anymore. There is only one way to disconnect the solar production from the grid, and that is to turn off the switch at the house, which means that you are not providing them any electricity from the grid either so you basically have to cut them off completely from the grid. It could be managed, but the only way to handle this is by an energy management system and it would require each solar customer to install an energy management system on top of their solar and then have that connected to the City grid, and have them interact with a specialized energy management system in the Electric Department. That will be a huge additional expense for each of the customers. I would advise to remove this from the ordinance because we don't need it to proceed, and a possibility in the future we may have a little more technology available to manage this. We are moving in that direction. These type of systems are coming out, and probably will be implemented in the future, but at the present time we don't have that capability to implement that part of the ordinance.

Commissioner Harrelson: If the committee decides that they want keep something like that in there, then it should say something like "if". It should say the City reserves the right "if" 80% of the homes have solar then this ordinance goes into place. That would

be the only way to make that more of a percentage and that type of statement if that were to stay.

City Manager Swingle: I think the intent was that we were not going to pay you if we don't need any more electricity between what we bought, and what is being produced. That is kind of complicated as George explained the process. If you are discussing eliminating that one sentence, it is on page 4 subsection f.

Commissioner Fahl made a motion to approve Ordinance No. 735 Amending Section 14-48 pertaining to the Customer Generated Renewable Energy Program with the amendment of striking section 4(f) from the ordinance. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer.

Hon. Shelly Harrelson, Commissioner voted aye

Hon. Amanda Forrister, Mayor voted aye

Hon. Rolf Hechler, Mayor Pro-Tem voted nay

Hon. Destiny Mitchell, Commissioner voted aye

Hon. Merry Jo Fahl, Commissioner voted aye

Motion carried with a 4-1 vote.

2. Discussion/Action: Request for a Special Use Permit at 865 W. 4th Ave. for the purpose of a Multi Animal Permit:

Assistant City Manager Traci Alvarez: A public hearing was held at the Planning & Zoning Commission Meeting on October 11th. The applicant was present at that meeting. I attached the draft minutes to that meeting for your reference in your agenda packet. The applicable section of the meeting is highlighted for each item. The applicant has 7 cats and the cats are either contained in the house or within an outdoor "catit" and do not roam free. Applicant has submitted a completed application, all animals have been licensed per municipal code, and all fees have been paid. Animal Control and Code Enforcement have completed their required site visit and didn't have any concerns. There were no opponents at the meeting and there were 2 proponents. The Planning & Zoning recommendation was to approve the multi animal use permit, and that motion was carried unanimously.

Mayor Pro-Tem Hechler: I want to commend the applicant for taking the extra steps to ensure that the animals are safe and they are harbored and taken care of the way they should be. I think that's got to be an important factor in our decision.

Commissioner Mitchell moved to approve the Special Use Permit at 865 W. 4th Ave. for the purpose of a Multi Animal Permit. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Request for a Special Use Permit at 300 Osborne for the purpose of a Multi Animal Permit:

Assistant City Manager Traci Alvarez: A Public Hearing was held at Planning and Zoning Commission Meeting on October 11, 2022. The applicant was present. An applicable section of draft meeting minutes is included in the packet. The applicant has 6 dogs, and a completed application has been received, and all animals have been licensed per municipal code and fees paid. Animal Control and Code Enforcement have completed the required site visit and didn't see any concerns on their end. There was 1 proponent which was the applicant, 3 opponents, and phone call received in opposition. Planning & Zoning unanimously voted to deny the Special Use Permit for 300 Osborne Lane. The application was denied due to the people who spoke in opposition and it had to do with the noise of the animals and consistent barking that disturbed the church during their sessions.

Mayor Forrister: It is my understanding that Animal Control has been called to residents.

Assistant City Manager Traci Alvarez: They noted at the Planning & Zoning meeting that they did receive one noise complaint prior to the public hearing.

City Manager Swingle: I think it is important to explain what the comments from the public hearing were. They were from the church and I think people around the residence with the animals. They weren't indicating that the dogs bark all the time. They were indicating that at least when they have church services that the dogs would bark then and it was very disruptive to church. They actually had to stop sermons when this was taking place and wait for the dogs to calm down and then continue church services. It was literally when people were at the church when the dogs would bark. It wasn't that the dogs were barking unceasingly. Animal Control did indicate that they had been there at one other time because of a barking dog complaint that they had received, not on multiple occasions. It was for one event.

City Attorney Rubin: The minutes are very detailed and I complement the City Clerk staff for putting this together, so you might take a look at the last 4 pages because that has the information of what was said.

Mayor Forrister: Mr. Gibson is there a reason as to why you have 6 dogs. Is it a breeding program?

Applicant Glenn Gibson: No. They are all fixed. It is the mom and dad and the babies.

Mayor Forrister: And you plan on keeping the babies?

Applicant Glenn Gibson: Yes. They are a year old, but they are pups. They are Pyrenees and Border Collie mixed. We've installed cameras, and they record 24/7. Last Wednesday my dogs never barked except for at the UPS guy and the mail guy, but it's

not all day or night. I can actually sit right here now and look at the cameras and if they were doing something wrong, I can talk to them from here. I think the privacy fence helped, but they still hear the UPS truck coming down the hill, but they don't bark all day long.

Commissioner Harrelson: How long was all of this installed prior to this meeting.

Applicant Glenn Gibson: The fence has been up about a week and a half, and the cameras have been up about the same time.

Commissioner Harrelson: I don't feel that there has been enough time for the gentleman's proactive measures to be taken place to see if they are working or not, and I think that maybe this needs to be tabled at some point and then come back in 30 days and have a report back from both sides on that. It's a change in behavior and you need to give the animal's time to change their behavior, and the property owner time to adjust to that, and a week is not, I don't feel, an appropriate amount of time.

Mayor Forrister: In some regard I agree with you Commissioner Harrelson, but also, our job is to look at the facts and people around you didn't buy their houses with the thought that there is going to be 6 dogs next door. People also don't attend that church thinking that there are going to be 6 dogs next door so I have a problem with that impeding on his neighbors and the people around him.

Assistant City Manager Traci Alvarez: As part of the special use permit, the City Commission can grant or deny final approval with certain conditions, and right of appeal and accordance. Approval can also be granted with additional conditions imposed which are deemed necessary to ensure that the purpose is met. These permits are normally on an annual renewal. If you wanted to grant approval that they would have to renew it sooner than an annual basis you can do so or you can table it. I don't know if you would want to go back to a public hearing or not.

Mayor Forrister made a motion to revisit this item as a public hearing at the December 14th City Commission Meeting. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Request for a Special Use Permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings:

Assistant City Manager Traci Alvarez: A Public Hearing was held at Planning and Zoning Commission Meeting on October 11, 2022. The applicant was not present at that meeting. All applicable fees were paid and all documents were presented to the Planning & Zoning Commission. There were no proponents at that meeting. There were 2 in person opponents and 2 emails that were received in opposition and they were read aloud during the public hearing and noted in the draft minutes. You heard from the

applicant during public comment and the applicant is still here. A motion carried at the Planning & Zoning meeting with a 2-1 vote to deny the Special Use Permit.

City Attorney Rubin: I want to thank the people for showing up today on behalf of this item. Here is what you have to look at. We are required to allow a public hearing for all of these land matters, and the way we set it up is that it is handled through the Planning & Zoning Commission. There is a procedure that we follow when we have these meetings we first determine who is within the zone of influence, and who are the people who would be most affected by the particular application and someone who is either a proponent or opponent usually will need to identify what their particular interest is. In other words, are they within the designated radius of the property, or if they have some sort of financial interest. We do allow members of the public to speak, but that is in a different realm. The testimony is first given and then the Planning & Zoning Commission will deliberate it and then they have their vote, and when it comes to you, you usually are not expected to have a public hearing. Although you can, but you would usually take a look at what happened at the Planning & Zoning level and you would make your decision based upon that. The initial legal concern that I have when I look at this is when we had the Planning & Zoning meeting there were no proponents there so if you were to strictly go by the intent of the public hearing and rules, you would really have no choice but to deny the application. However, with that being said, of course, I understand that there a lot of people who spoke up today, and I am curious as to why they did not show up to the public hearing. They would still have been able to give testimony. They just would not have been able to do cross examination unless they are within the designated radius of the property, or if they have some sort of financial interest. You do have the right to remand this back to the Planning & Zoning Board if you want to hear more testimony, but again, if you decide to make a decision today, I think that we may be hamstrung on what has already happened.

City Manager Swingle: I think the just of the Planning & Zoning Commission's decision was based on them having a lot of questions. I have a lot of questions. We just did not have anybody to ask those questions to at the meeting. My sincere condolences to Ms. Adkins. That's a pretty good reason for not being at a meeting.

Mayor Pro-Tem Hechler: This is real difficult for me. My condolences as well. I really appreciate all of you folks for being here to speak on behalf of this recovery program. There is not a family anywhere, I don't think, that hasn't been touched by alcoholism or drug abuse, and these programs are so important for our community. The issue that we have here is that the location is not zoned that way, but now that I have a better understanding of what you are trying to accomplish there I have softened my view to some degree. City Manager Swingle, when we issue a permit like this, it's usually for a period of one year correct?

City Manager Swingle: That is correct.

Mayor Pro-Tem Hechler: So to me that is a good trial period. If there were any issues that come up within that one year, we as Commissioners can say, hey we are not going

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to renew it because this, this, and that. I think that the benefit to the community is really important so maybe we should bend a little bit here and there to allow these things to happen for a trial period, and when we give them a trial period, then we can give them a better assessment.

Mayor Forrister: I agree with you. This is a tough decision, and I thank everyone who got up and spoke, but my concern lies with the people around there also, that did not buy a home with the intent that there would be a recovery program happening next door, and those were the opponents that spoke during the Planning & Zoning meeting and we have to take their concerns into consideration as well.

Commissioner Fahl: I agree that supporting our Planning & Zoning Commission members is very important, but they need to have a permanent home and we need that service in our community so I agree that a one year permit would give the neighbors that were concerned a chance to see if they were really adversely impacted or not.

City Manager Swingle: I think it would be very important for everyone for everybody to find out exactly what these meetings are, how often they are and how long they are. This was the concern of the opponents at the meeting.

Assistant City Manager Traci Alvarez: The reason why this is coming in as a special use permit is because it is in a residential zone. It is in the R3 zone. Had this been proposed in a commercial location, it would not have been a special use application. It would have been allowed by right.

Mayor Forrister made a motion to revisit this item as a public hearing at the December 14th City Commission Meeting. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Action: Summary Plat Amendment at 719 Palo Verde, Truth or Consequences. Applicant wishes to combine parcels 3022078506194 & 3022078519194:

Assistant City Manager Traci Alvarez: A Public Hearing was held at the Planning and Zoning Commission Meeting on October 11, 2022. The applicant was present, and all required documents and fees were submitted. The applicant is requesting to combine both parcels. You heard from the applicant during public comment.

Commissioner Fahl moved to approve the Summary Plat Amendment at 719 Palo Verde, Truth or Consequences as presented. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

6. Discussion/Action: Approval of extension to the Franchise Agreement between the City of T or C and TDS:

Assistant City Manager Traci Alvarez: We have various franchise agreements different entities, and it was brought to our attention that the Franchise Agreement between the City and TDS is due to expire this month. At this time we are requesting to extend that agreement for a few months so we can obtain some more information, and take a look at what the franchise fees are being charged around the state, and see if we need to potentially review what we are charging now and increase the fees if needed.

Commissioner Fahl moved to approve the extension to the Franchise Agreement between the City of T or C and TDS. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

7. Discussion/Action: Approve recommendation from the Recreation Advisory Board to remove the BMX sign and track:

OJ Hechler, Director of Community Services: We've got the recommendation from the Recreation Advisory Board to flatten out the BMX track and to remove the signage. As you can see in your packet, one of the attachments is a photo of the current condition of the BMX track. It is unusable so we are asking if we can have permission to proceed with flattening and removing the BMX track and sign.

Commissioner Mitchell moved to approve the recommendation from the Recreation Advisory Board to remove the BMX sign and track. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

8. Discussion/Action: Review, Approve, and/or Allocate Funds for the Sierra County 4-H/Extension Lodger's Tax Application:

City Manager Swingle reviewed the Sierra County 4-H/Extension Lodgers Tax application provided in the packet. The requested amount to purchase portable panels/pens and a large tent for the Southern Regional Livestock School in June of 2023 was recommended by the Lodgers Tax Advisory Board. This is a great way of helping the kids with monies that you have available to you at this time. The more we can do to support the kids and keep them involved in activities like this, the better it is for the community.

Mayor Forrister: I'd like to add that these type of events also puts heads in beds.

Applicant, Sara Marta: The biggest challenge with the event the past couple of years is having the facilities and room enough to host the event. We've had to turn participant away because of that, and with that challenge, Las Cruces has proposed to host this

event instead of us. I would like to keep the event here in Sierra County because the total number participating the entire 4 days this year was probably over 700 people. That is a lot of people in our County. This would be one way to help keep the event here if we are able to have more pens, and an additional tent to set up an arena etc.

Mayor Pro-Tem Hechler: Who will retain ownership of these items once they are purchased, and will they be available for other events.

City Manager Swingle: They would be owned by the City, but my recommendation would be to transfer the equipment to the County, because they work with them almost on a daily basis.

Applicant, Sara Marta: We borrowed some panels this past year from Socorro County because Socorro, Hidalgo, and Sierra County are kind of the head of this event. The panels in Socorro weren't necessarily perfect for what we needed them for, but we used them anyways. They are on a big fancy trailer that you hang the panels on so if we can potentially do something similar as to when the panels are not in use, they are hanging on a trailer and they are stored very nicely so if they are needed for a different event, we could hook up the trailer and haul them to where they are needed.

Commissioner Mitchell moved to approve the contract and allocate Funds to Sierra County 4-H/Extension in the amount of \$18,000. \$15,000 for panels and \$3,000 for the tent. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

9. Discussion/Action: Approval of the 2023 City Holiday Schedule Memo:

City Manager Swingle: We typically get the annual holiday schedule out around this time to get it approved and distributed to the employees. There are a few that are less than this year because of how the holidays fell on some weekends.

Commissioner Fahl moved to approve the 2023 City Holiday Schedule Memo. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

J. EXECUTIVE SESSION:

1. Threatened & Pending Litigation (Alfadiva Peru) pursuant to 10-15-1(H.7):

Mayor Pro-Tem Hechler made a motion to go into executive session at 12:00 p.m. to discuss Threatened & Pending Litigation (Alfadiva Peru) pursuant to 10-15-1(H.7). Commissioner Fahl seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

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Mayor Forrister reconvened the meeting in open session at 12:04 p.m.

Mayor Pro-Tem Hechler certified that only matters pertaining to Threatened & Pending Litigation (Alfadiva Peru) pursuant to 10-15-1(H.7) was discussed in Executive Session.

No action was taken.

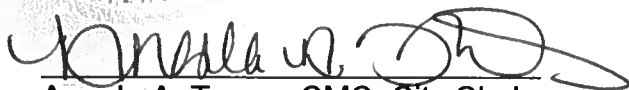
J. ADJOURNMENT:

Mayor Forrister adjourned the meeting at 12:05 p.m.

Passed and Approved this 16th day of November, 2022.



Amanda Forrister, Mayor



Angela A. Torres, CMC, City Clerk