

**CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, FEBRUARY 9, 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
Jay Rubin, City Attorney
Angela A. Torres, City Clerk-Treasurer
Victor Rodriguez, Chief of Police
Carol Kirkpatrick, Finance 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 Harrelson to lead the Pledge of Allegiance.

4. APPROVAL OF AGENDA:

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

C. PRESENTATIONS (10 Minutes):

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1. Presentation: Certificate of Appreciation to Denise Addie and her group for the Toyz for Kidz Event:

Mayor Forrister presented a certificate to Denise Addie and her group for the Toyz for Kidz Event that supplied 584 gifts, and 157 bikes to children in our community.

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

City Manager Swingle and Finance Director Carol Kirkpatrick presented an Employee Service Anniversary Award to Kerin Salcedo for 14 years of service with the City of Truth or Consequences.

City Manager Swingle and Chief of Police Victor Rodriguez presented an Employee Service Anniversary Award to Anthony Zagorski for 9 years of service with the City of Truth or Consequences.

City Manager Swingle and Community Development Director OJ Hechler presented an Employee Service Anniversary Award to Tara Manning for 2 years of service with the City of Truth or Consequences.

City Manager Swingle presented an Employee Service Anniversary Award to Tammy Gardner for 5 years of service with the City of Truth or Consequences.

City Manager Swingle presented an Employee Service Anniversary Award for Henry Flores for 2 years of service with the City of Truth or Consequences. Mr. Flores unfortunately could not attend the meeting.

3. Presentation: Presentation of a community Cat Trap-Neuter-Return (TNR) program:

Diane Lombardo and Majie Powey presented a community Cat Trap-Neuter-Return (TNR) program. (Complete copy made a part hereof and attached hereto).

Majie Powie explained that the purpose of this presentation is for the request to have a portion of the proposed Animal Ordinance include language that feral cats being fed by a community member will be considered community cats, and that they will be trapped, spayed/neutered, and released back into the community due to the fact that most of the time feral kittens are tamable and make great pets. In 2015 Deb Peters got a call from the Recycling Center because somebody had dumped a bag of trash that had 9 kittens in it. There were 9 kittens in the bag, and 8 were dead. Deb called her (Majie) to see if she could take the kitten. She did, and after a few weeks the kitten was back to health. She feels that it is worth saving these cats and their kittens if possible.

I am writing to give support to a feral cat Trap Neuter and Release Program (TNR) for Truth or Consequences. A well-run program can effectively stop all feral cat problems in a given area.

The Program:

- Feral Cats are humanely trapped and delivered to a site where they will be processed. Usually, volunteers do the trapping in their neighborhood and either know of someone or are willing to care for the cats once the procedure is finished.
- The cats are processed by being
 - Anesthetized
 - Tested for life-long lethal diseases (FeLV/ FIA, or what the diseases are in the area) if they test positive, they are euthanized so they do not pose a threat to all the other cats they would have come into contact with.
 - Healthy cats are then spayed or castrated/neutered
 - One ear of the sterilized cat is notched so if that cat is trapped in the future, it can simply be released

The Advantages:

- This program will work amazingly well because the cat population in each given neighborhood stabilizes and any encroaching new cats will be chased off. As the cats die, they will be replaced by new cats with ears that are not notched who will go into the TNR program
 - Further the stable population has a ready source of food and water so there is no reason for the cats to hunt or in their wanderings run into other cats and mark territory, in fact the cats tend to get fat and generally lay around and sleep, waiting for their next meal. Given the choice cats will sleep about 18 hours a day

Who are the volunteers:

- People who love cats and are willing to coordinate the trapping process with the TNR veterinary service and care for them by offering:
 - Food
 - Water
 - Sleeping places (warm in winter and shaded in summer)

The Disadvantage (only one):

- Money!

- There are grants out there, I do not know where but there may be people in the city with that skill or the investment in a grant person would be very worth the price.

Alternatives:

- Kill them all! Nope- It will never work, you can never kill them all and the boomerang effect will you in a worse situation. It will create a vacuum of cats and all it takes is a few have the problem we have today and worse after about 2 – 3 years. Nature abhors a vacuum. It's been tried and it does not work
- Do nothing and hope things get better. They won't. Cats "breed like rabbits"

What's it like to be a wild feral cat:

- A feral cat is always at risk of:
 - Females breeding every spring and fall struggling to find food and shelter and feeding their many young
 - Kittens trying to figure out how to survive
 - Males fighting and marking territory with strong urine (neutered males do not have the strong-smelling urine and obviously have no reason to fight)
 - They are all subject to death by dogs, disease, cars, malicious people, wild animals, freezing, dehydration, starving and I am sure there are lots more threats I am unaware of for a miserable life and then death

My name is Laura Van Dyne and I live at 409 Kopra. I have retired and have lived here for the last 6 years and intend to finish my life here. I am aware of the Sierra County Animal Rescue Society and have donated \$400 to their TNR program in 2021 and would donate more if I could afford it.

I am a dog lover and owner and was a Canine Behavioral Consultant who was on the Board of Directors of Colorado Animal Rescue in Glenwood Springs, Colorado. I was involved in the TNR program that was instigated in Carbondale and seen the town go from what we have here today to a town with only a few cat issues. It is not a quick fix but over time, with dedication and great volunteers it does work, if you research the problem, you will find that TNR is the ONLY thing that really works.

Robbin Brudski with Sierra County Animal Rescue Society explained that they have an agreement with the city that allows them to spay and neuter, and give rabies vaccinations to every cat that comes into the Animal Shelter. Last year they did 390 un-owned cats, and those were either shelter housed, community cats, or cats in foster care that were being groomed to go to rescues. So far this year they have done 58 cats. They define "community cats" as those roaming in a particular neighborhood that are being fed by individuals in the neighborhood. Once males are neutered, they stop prowling, and howling at night, and they stop marking their territory by spraying everything. Therefore, just getting the males done helps a lot, and then the females stop having kittens. They have been sponsoring spay and neuter community cats for the express purpose of reducing the number of animals that are taken to the shelter.

D. PUBLIC COMMENT (3 Minute Rule Applies):

Rick Dumiak addressed the Commission with comments related to smart meters. (Complete copy attached hereto and made a part hereof).

Didi Shoen addressed the Commission with comments related to:

1. She is in support of the proposed Animal Ordinance because she is concerned with the cows that are freely roaming around within the city. She would like to know if there is something that can be done about that.

Diane Lombardo addressed the Commission with comments related to a Trap-Neuter-Return (TNR) program. (Complete copy attached hereto and made a part hereof).

Roberta Barnes addressed the Commission with comments related to:

- (1) She is in support of the proposed Animal Control Ordinance.

Alan Hansen Beg addressed the Commission with comments related to:

- (1) He reported on the upcoming Disc Golf Tournament that will take place on February 26, 2022 at the City Golf Course. He feels that it will be a great event for our community.

Jeff Barbour addressed the Commission with comments related to:

- (1) He is in support of the proposed Animal Control Ordinance.

Kathy Lunenburg addressed the Commission with comments related to:

- (1) She is in support of the proposed Animal Control Ordinance because when feral cats are released back into the neighborhoods, they affect those who are allergic to cats.

Commissioner Mitchell read a comment submitted by Alan Edmonds (Complete copy attached hereto and made a part hereof).

Good morning Madam Mayor and City Commissioners,
Rick Dumiak 705 Charles Truth or Consequences

Once again I am here to ask you to consider revisiting resolution 05 21/22. If you recall, Resolution 05 21/22 sets forth a monthly charge of \$50.00 for the simple task of reading an electrical meter.

In my opinion, the \$50.00 fee in resolution 05 21/22 was a knee jerk reaction to a very emotional issue. This fee to read an electrical meter was not arrived at after a cost study was performed or thru consulting with the electrical department regarding the true cost to read a meter, but was brought forward by a former city commissioner that (in my opinion) wanted to punish a few citizens that tried to opt out of having a smart meter.

Just to show how unfair the 50 dollar fee is, I recently had the TorC city electrical department change out my overhead electrical service. By the way, I want to say they did a great job, they were all very professional and they completed the work on time.

Now, I was billed for two skilled electricians. The labor rate that I was charged for the two skilled electricians was \$25.00 per man per hour. Yet we are being charged \$50.00 dollars each month to simply read an electrical meter. Can it really take an electrician two hours to read an electric meter?

Google maps shows it takes 4 minutes to drive from the TorC electrical yard to my residence, lets say it takes 5 minutes to read my meter as well as log the information and then another 4 minutes to drive back to the electrical yard, lets even factor in 10 minutes more for traffic or whatever, thats a total of 23 minutes which we can round up to thirty minutes. If we were billed the same as I just paid for two City of TorC electricians it would amount to \$12.50 for a 1/2 hour of labor at the current billing rate of \$ 25.00 per hour.?

In my opinion, the few of us that disagreed with the smart meters have been financially punished for speaking out against the smart meters.

The \$ 50.00 monthly fee was not arrived at by a true cost study being performed or by any other legitimate accounting method. Even the TorC Public Utility Advisory Board advised fees for the meter reading service ranging from \$ 0.00 to \$ 25.00 dollars a month, never did they recommend a \$ 50.00 dollar fee for the simple task of reading an electrical meter.

Please I urge you to revisit or abolish resolution 05 21/22 it's passage was a slap in the face to the few citizens that spoke out against the smart meters, and it makes other citizens wonder if it is worth the risk to become involved in our local governmental process.

While I feel there is a sound argument to be made for not having to pay any additional fee to read our electrical meters since that fee was and sill is included in our monthly utility bill, I am asking you to consider amending resolution 05 21/22 as it is clearly an overcharge for service.

Thank you,
Rick Dumiak

JM & JE
INVOICE



INVOICE #	DATE
0.2141678415	1/31/2022

BILL TO

Rick Dumiak

TERMS

Due Upon Receipt

705 Charles T or C NM, 87901

DESCRIPTION OF WORK TO BE DONE: Remove/Replace Service

DESCRIPTION	QTY	UNIT PRICE	AMOUNT
Equipment-Bucket Truck	1	45.00	45.00
Labor	1	25.00	25.00
Labor	1	25.00	25.00

Thank you for your business!
 95.00
 8.500%
 8.08
\$ 103.08

Invoice Submitted By: _____
 If you have any questions about this invoice, please contact
 City of Truth or Consequences Electric Department- (575)894-6673, Ext. 372

Select Grant Funding Opportunities for Trap Neuter Return Programs in South Central Pa.

Grantor	Web Site
ASPCA	http://www.aspcapro.org/grants
Bernice Barbour Foundation	http://www.bernicebarbour.org/funding-information.html
Binky Foundation	http://www.binkyfoundation.org/binky_foundation_grantees.html#firststeps
Build A Bear Foundation	http://www.buildabear.com/html/en_US/aboutus/community/2013BKPGGrantGuidelines.pdf
Doris Day Animal Foundation	http://www.dorisdayanimalfoundation.org/grants/guidelines-and-faq
Dr. Jane's Healthy PetNet Foundation	http://www.lifesabundance.com/Pets/Foundation.aspx?realname=&cat=0&hdr=&Ath=False
Greg Biffle Foundation	http://www.gregbifflefoundation.com/grantInformation.cfm
Petco Foundation	http://www.petco.com/petco_Page_PC_foundationgranttypes.aspx?CoreCat=LN_PetcoFoundation_GrantTypes
PetSmart Charities, Inc	http://www.petsmartcharities.org/grants/types/targeted-spay-neuter-program.html
Summerlee Foundation	http://www.summerlee.org/APP_GrantGuidelines.html
The Body Shop Foundation	http://thebodyshopfoundation.org/
The Foundation for Enhancing Communities	http://www.tfec.org/index.cfm?act=funds_grants_how
Walmart Foundation	http://foundation.walmart.com/apply-for-grants

Grantor Listings for Additional Opportunities

Fundsnet Services (By category)	http://www.fundsnetervices.com/searchresult/19/Animal-&-Wildlife-Grants/1.html
Fundsnet Services (By state, for PA)	http://www.fundsnetervices.com/searchresult/66/Pennsylvania-Grants/1.html
Foundation Center (By criteria)	http://www.foundationcenter.org/
MSU (For animal welfare non-profits)	http://staff.lib.msu.edu/harris23/grants/2animal.htm

E. REPORTS:

City Manager Swingle reported the following:

- Ray Slade (Country) from our Service Center is in critical condition, and he is in the hospital. We ask for prayers for him and his family.
- He gave kudos to Rene and Kathy from the Utility Office/Meter Reading Department for helping an individual who was in a motorcycle accident.
- He gave kudos to Dave Johnson for doing such a great job with setting up Tim Johnson's memorial service. He also thanked Dave for keeping the city facilities slip free during the snow storm.
- He thanked Benny Fuentes and his crew in the Streets Department for keeping the roads free of ice.
- He gave kudos to Sonya Williams and the Utility Office. The life of the utility billing is a very challenging and difficult life. We have so many people that have an aversion of paying their utility bills, and paying them on time. Typically, we have a lot of repeat offenders that they deal with on an ongoing basis, and it creates a lot of strife. The Utility Office is doing an amazing job.
- We have been pretty stagnant on the COVID vaccinations that have taken place in the state. The Department of Health would like to put on a vaccination clinic that is free of charge, at the Healing Waters Plaza. We are working on finalizing it, but they are looking at March 22nd, 23rd and 24th.
- We have given out over 1400 COVID test kits to residents.
- The City Commission tour is scheduled for February 18, 2022.
- He asked for suggestions from the Commission for the Commissioners Retreat.
- We still have vacancies on various city boards. We have two vacancies for the Airport Advisory Board. We have five vacancies on the Golf Course Advisory Board. We have two vacancies on the Lodgers Tax Advisory Board. We have two vacancies on the Impact Fee Advisory Board, and we have two vacancies on the Planning & Zoning Commission. We are also seeking a city representative for the Sierra Vista Hospital Governing Board. Those vacancies are being advertised, and posted on the city website.
- He reported on the electric study with Sierra Electric Coop. A report on that will be available the beginning of March.

Mayor Forrister asked if we have a date scheduled for the Commissioners Retreat.

City Manager Swingle responded that they are still working on putting that together. We are looking at hopefully sometime in March.

City Attorney Rubin had no reports.

City Commission Reports:

Commissioner Harrelson reported the following.

- The Community School's Program with the city will be moving forward. They may be having a junior commissioner, or something like that to sit with us. They are also still planning to come in, and do a presentation on what they are working on.

City Manager Swingle stated that the program is really impressive, so he hopes to see the city being very much involved in the program.

Mayor Pro-Tem Hechler reported the following:

- The Spaceport Committee will meet in March. He may have them do a presentation before the Commission about what is going on out there.
- They now have a bank account for Fiesta at the Bank of the Southwest, so if you would like to donate, you can go to the Bank of the Southwest and look for the Fiesta account to donate should you wish to do so.

Commissioner Mitchell reported the following:

- The Fiesta meetings have been going very well. They will meet today at 3:00 p.m. at the Chamber of Commerce. They have things pretty much lined up and secured. They wanted to initially do a light Fiesta this year, but it looks like it may be a full Fiesta. Everything is coming along great, and they have a lot of community support, and hopefully fundraising opportunities for it. Nick Williams is their new Chairman for the Fiesta Committee, and Ingo Hoepfner is the new Vice-Chairman. They are still looking for a Secretary Treasurer, and members of the committee for the parade, fundraising, music, etc. If anyone is interested in that they can come to the meeting today.

Commissioner Fahl reported the following:

- Last week was the Sierra County Recreation and Tourism meeting. She was very excited to go and represent the city, but she was out of state, so she wasn't able to attend. Hopefully, they will start to meet on a regular basis so she can come back with something very important to say.
- She met with the Chairman of the Recreation Advisory Board, and he talked to her a little bit about their big strategic plan. She recommended that he look at some of the old plans that have been developed over the years. There is a lot of good data in there. She also encouraged him to get a lot of public participation.

Mayor Forrister reported the following:

- She commended Mayor Pro-Tem Hechler and Commissioner Mitchell for stepping up and spearheading Fiesta. She thinks that it is going to be a great event. They still need volunteers, so if you want to get involved with your city that is a great way to do it. We also have a lot of Advisory Boards that have vacancies, so that is also a great way to be involved if you wish to do so.

F. CONSENT CALENDAR:

- 1. City Commission Regular Minutes, January 26, 2022**
- 2. Acknowledge Regular Lodgers Tax Advisory Board Minutes, November 15, 2021**
- 3. Acknowledge Regular Library Advisory Board Minutes, January 31, 2022**
- 4. Accounts Payable, January 2022**
- 5. Subrecipient Fiscal Year 2021/2022 2nd Quarter Reports**

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

G. PUBLIC HEARINGS:

- 1. Public Hearing/Discussion/Action: Public Hearing and approval of the issuance of a Beer and Wine Liquor License with on premises only consumption, at the Outer Edge Pizzeria located at 719 Main Street, Truth or Consequences, New Mexico. Application No. is 1214846:**

City Clerk Torres explained that the Outer Edge Pizzeria submitted an application for an on premise consumption only Restaurant Beer and Wine Liquor License, at 719 Main Street. A zoning statement was submitted and approved by our Planning & Zoning Department, and it is required by the State of New Mexico Alcohol and Gaming Division that we hold a public hearing and receive approval from our Governing Body. If approved, the application will be signed and submitted to the State of New Mexico Alcohol and Gaming Division for final approval and processing. Once the applicants receive their liquor license from the state, they will be required to obtain an annual liquor license permit through the city.

Mayor Forrister opened the public hearing.

Opponents:

None.

Proponents:

Rick Dumiak is in favor of the approval of the liquor license. He thinks it is a great idea. The pizza is awesome, and having a place to sit down and have a beer while he has his pizza will be great, instead of him just taking it home.

Mayor Forrister closed the public hearing.

Commissioner Mitchell stated, as also being a downtown business owner, she feels that it is a good idea. The more places that you have beer and wine, especially in a restaurant type setting, draws more people to our downtown area. The Outer Edge Pizzeria has done a great job with launching their restaurant, and moving forward.

Commissioner Fahl asked what the timeline is for this once it is approved by the Commission.

City Clerk Torres responded that she will send the signed application to the Alcohol and Gaming Division either today or tomorrow, but the final approval all depends on how fast Santa Fe processes the application.

Commissioner Harrelson commented that anything we can bring into our community to draw in tourism, finances, or any sort of money is something we should definitely support.

Commissioner Mitchell moved to approve the issuance of a Beer and Wine Liquor License with on premises only consumption, at the Outer Edge Pizzeria located at 719 Main Street, Truth or Consequences, New Mexico. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 724 authorizing the execution and delivery of a promissory note and commercial security agreement by and between the City of Truth or Consequences, New Mexico, and the Bank of the Southwest:

Chris Muirhead, Modrall Sperling explained that this project relates to a USDA financing of about \$9.5 million dollars for Water System Improvements for the city, and of that \$5,542,045 is a loan. The good news is that \$3,930,000 is a grant, and it doesn't have any re-payment obligations. What USDA has done in the last few years is set up financing and construction through issuing the bond itself, and paying for the construction; requiring the borrowers which is the city, to get interim financing for a construction loan to do all of the construction. Then the city will issue a bond that USDA buys, and then they will pay off that loan. We are in the phase for the initial financing for the design, and now we will go into the construction of the project, and that is in the amount of the \$5,542,045. The lender in this case is Bank of the Southwest. USDA encourages communities to go to private lenders to do this, so the city is working with the Bank of the Southwest to get the security agreement, and the promissory note which is approved in this ordinance, to be acceptable to the city. We made some changes because their forms kind of fit commercial lending, but they have been very easy to work with, and they have been very helpful as well. He is comfortable at this point that the documents are in good shape to approve. The terms of that are the \$5,542,045. It is a drawdown line of credit. Which means you pay interest on it as you draw down the principal. The principal amount is not due until USDA approves it, we close on the USDA bond, and they pay off the \$5.542 million dollars to the Bank of the Southwest. You are paying interest only on the accrued portion. You

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are not paying anything on the principal over that time. The banks interest rate is 5% up to that 3-year term. The good news is when you do the USDA financing, that minimum interest rate is 2.125% over 40 years. The USDA financing is extremely beneficial. As the rates go up in the country, they've already committed to providing the financing to the city at 2.125% over 40 years. This current rate is the banks interest rate on the accrued interest. Even though it is an interim finance, and you do things the same way you would do any bond that the city issues, as well as any NMFA loan agreement, you are required to do it through an ordinance with a first reading, publication, and adoption by the Governing Body.

City Manager Swingle stated that the loan/grants you are going to be seeing over the next couple of months are kind of in the Water System City Wide Plan. It is kind of taking care of phase 1 and phase 2. We are submitting an infrastructure package right now to cover phase 3. All of these projects are consistent with the water plan that was presented at the last meeting. We knew what the first couple of steps were. Assistant City Manager Alvarez has been ahead of the game in working to accomplish this because it is a very time consuming process. Ideally, when this is done, and the infrastructure is done, we will be able to have the first 3 phases of the water situation resolved. We cannot continue to piecemeal everything, and deal with leaks.

City Attorney Rubin stated that the date of the promissory note is November 29, 2021. He asked if that makes a difference of when the interest starts to accrue.

Chris Muirhead, Modrall Sperling explained that was the initial draft when we started with the bank. However, it will be dated sometime in March, or early April. We have to wait a 30 day period to close this. Then the documents will be dated for the closing date and it won't accrue interest until you actually draw out monies for construction, and it will only be applied toward the amount that you draw down. This is a limited pledge to the net revenues of the water system. What that means is you take the full amount of gross revenues that come in. You pay operation and maintenance expenses to make sure the system keeps running and is operational, and what is left are the new revenues. That is the only lien that Bank of the Southwest, and ultimately USDA will have on any city revenues. You are not pledging any general obligation monies. However, USDA can require you to raise your system rates if it fails to pay debt services, but that is only a default if you are not producing enough net revenues to pay the debt services.

City Attorney Rubin stated that the documents states that the principle is due November 29, 2024.

Chris Muirhead, Modrall Sperling explained that you are now looking at April 2025. If you are 3 years down, and they are still drawing on it, there will probably be a negotiated extension, and the bank is fully aware of this. They have the security of knowing that this ultimately gets paid off by USDA.

City Attorney Rubin asked if the revised documents will reference the USDA loan.

Chris Muirhead, Modrall Sperling stated that they absolutely should, and could.

Mayor Forrister opened the public hearing.

Opponents:

None.

Proponents:

Jeff Barbour feels that it is a very worthwhile thing to do.

Mayor Forrister closed the public hearing.

City Manager Swingle stated that there seems to be an opinion in the community that our water problem is going to be fixed overnight, or short term, and you see the comments when we have a water leak that the city is not fixing it. Decades of issues have contributed to where we are today, and it is going to take us a long time to get through it. We are going to have water leaks, and it is going to take the Water Department time to get out there and repair them. Leaks that are having an impact on a resident's home, and their water flow is handled immediately. Very slow leaks may not be addressed as quickly because there are other things that require immediate attention. We have a very small department, with very limited funding, which has contributed to our long term problem, so we are asking for patience and understanding. The solution is going to take time, but what is important is that we have a plan now, and we are going to execute that plan.

City Attorney Rubin asked if we need to approve the ordinance with the modifications.

Chris Muirhead, Modrall Sperling stated that the form allows for modifications for the closing date, and things of that nature. So you can approve it as submitted.

Commissioner Fahl moved to approve Ordinance No. 724 authorizing the execution and delivery of a promissory note and commercial security agreement by and between the City of Truth or Consequences, New Mexico, and the Bank of the Southwest. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

- 3. Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 725 amending Chapter 3 of the Municipal Code of Ordinances pertaining to animals:**

Victor Rodriguez, Chief of Police explained that this is the final adoption of Ordinance 725 amending Chapter 3 of the Municipal Code of Ordinances pertaining to animals. It addresses a lot of the issues that we've had from the restraint of animals, animals running at large, rabies vaccinations, habitual offender penalties, some issues of safety, and how long an animal will be held. The livestock portion of the ordinance basically copies what the state statute says. This new proposed ordinance will make the job a lot easier for Animal Control, and it will put a bite to our bark.

Mayor Forrister opened the public hearing.

Proponents:

Cathy Luenborg is in favor of this ordinance passing.

Roberta Barnes is in favor of this ordinance passing.

Isabell Ruggles is in favor of this ordinance passing.

Didi Schoen is in favor of this ordinance passing.

Jeff Barbour is in favor of this ordinance passing.

Rick Dumiak stated that he is for anything that gives the Animal Control Officers more power. He lives across the street from an area where he watched a big dog kill a little dog because the owners can't take care of their dogs. They can't keep their fences up, and dogs are constantly running around. There are people who are afraid to walk early in the morning because of some of the strays out there, so he is all for anything that we can do to help Animal Control.

Brenda Makala thinks that anything you can do to possibly empower the Police Department, and Animal Control would be amazing in this town. She has come here for several years, and she has heard nothing about the way the dogs are treated. Not so much the cats, because they are just not a direct relation to her. She just witnessed a very friendly Pitbull that was left outside across the street from her, during the entire cold snap. You are talking temperatures not only below freezing, but down to 12 degrees, or whatever it got down to. This is a happy Pitbull. She has a dog, and every time they would be in the presence of that Pitbull he would be happy, wagging his tail, barking, and he would just want to play, but ever since the cold snap, something happened to his rear leg, and he just lays there. He doesn't even look up at her or her dog. She doesn't know what is wrong with him, but it is wrong. She doesn't think that there is anything in the ordinance that covers temperatures, so hopefully someday that could be added, but anything that can help is good right now.

Opponents:

Robbin Brudski stated that she already spoke, but she feels that the city needs to implement a Trap-Neuter-Return (TNR) program into the ordinance.

Diane Lombardo stated that she spoke before about supporting this ordinance. There was nothing in it at that time, and the problem has since reared its head which is the feral cat problem. She feels that it needs to be addressed in the ordinance more clearly. Way back when Deb Peters took over, we went from Animal Control to Animal Humane, and we need to continue with that. Not all cats are domesticated. Some are wild and we need to address that. The only thing that has been proven over time is a Trap-Neuter-Return (TNR) program. Otherwise, you are putting water in a bucket with no bottom.

Majie Powey stated that people are dumping animals if they are cited for feral cats, even if they are Trap-Neuter-Return (TNR). These are people's pets, and if somebody is telling them that they have to get rid of them or we are taking them away, they may be dumped like the kittens that at the Recycling Center. She can tell you from her own experience in Williamsburg, over the years she has had more than 15 animals, mostly cats, dumped in her yard. She is right by the river and people dump them. Most of them she could re-home because they were cats that were friendly, but there is another issue. People own cats that they allow to roam. People believe that your cats should not have to stay in your home, so they allow them out into the yard. A lot of the cats we trap are semi-friendly, and they are not necessarily really feral, so you are dealing with not only community cats that are truly feral, but community cats that belong to people that think its fine to let them roam. With that being said, she feels that it is important to add a portion into the ordinance that says that they can continue to trap, neuter, and spay without breaking the laws.

Mayor Forrister closed the public hearing.

Commissioner Mitchell referred to the comment about temperature, and she asked if there is anything in the ordinance that covers that.

Victor Rodriguez, Chief of Police stated that it is referenced in the definition of adequate shelter. Under that reference it talks about temperature and weather.

Commissioner Mitchell asked how many pets per household are allowed.

Victor Rodriguez, Chief of Police explained that there will be two separate types of kennel permits. Each household can have no more than 4 pets until they have to enter into the kennel permit or multi-animal license. The multi-animal license will allow a residence, or a business who has more than 4 pets, to apply through a Special Use process through the Planning & Zoning Board. That will allow them to have up to 7 animals if approved. This is something that the City of Las Cruces currently uses. That would allow an individual who is not running a shelter, rescue/boarding, or anything that would require them to have more than 7 animals at one time. If you are going to run something of that nature, then you can apply for a kennel permit which requires them to also get a business license. That permit is also subject to a Special Use permit through the Planning & Zoning board, as well having our Code Enforcement Officer or Animal Control Officer go to the

residence to verify that the location, and space is adequate. Going through the process of a Special Use Permit will also give the neighbors the opportunity to have input. He completely understands where Diane, Majie, and Robin are coming from. Robin has been great with assisting us with spay and neuter programs for the feral cats. The problem is that we have to be considerate of others. It is our job as a Police Department to enforce the law, and it would be very difficult to go to a complaint about stray cats and tell the owner, hang on, we participated in a feral cat program and in 2-5 years these cats will all die off. He is all for the Trap-Neuter program. Just not the "return" portion of it.

Commissioner Fahl asked about the portion that does not allow people to feed stray animals.

Victor Rodriguez, Chief of Police explained that it was added to the ordinance because that is where the problem starts. It's not that we don't want people to care for animals. What they want people to do is to contact them when there is a stray animal, so the city can assume the responsibility of it. What tends to happen is that people start feeding the stray animals, and that animal becomes a nuisance. It starts attracting more animals, and before you know it, the location is over run with stray animals, and they get called in at the end. It also eventually starts to create a health and sanitation issue for the residents. Especially the elder community.

Commissioner Fahl asked what our plan is to address the issue regarding feral cats.

Victor Rodriguez, Chief of Police explained that we absolutely want to address that issue. They have had conversations about it with Majie and Robin. He thinks the solution to the problem would be for us to trap them, spay and neuter them, and confine the animal. We cannot allow animals to return to the colony where they are at and run amuck. We have several domesticated cats that are not taken care of, so then they start joining the group, the next thing you know you have more of a problem. One of the greatest ideas he heard from Robin was to maybe start fundraising to get some catteries. He feels that the best solution is to trap, spay and neuter the animal, and send it to a cattery, a rescue organization, or to somebody who wants them as a barn cat.

City Manager Swingle stated that they met with Robin and Majie, and clearly this is a passion of theirs. However, what it boils down to is that the ordinance does not allow for animals to run at large. They have to be secure. We have licensing, and there are a lot of people who do not realize that they have to license their cat. You have to license your cat, just like you do your dog. You have to also secure your cat like you do your dog. The cat needs to remain on your property, and that is a tricky thing with a cat, but it still is required. It is not just here. It is most everywhere that requires that. We talked about some solutions, and one was a cattery which is a location where the cats are confined, and they can live out the remainder of their life, which is a lot safer than them living out in the community. At the last meeting an individual complained about their neighbor not securing their cat. He walks at night, and it is amazing how many cats are running wild out in the community. The disease that feral cats bring to other animals is also a concern. They looked into the Trap-Neuter-Return (TNR) programs, and studies show that they are not

that successful. We have to have whoever has animals be responsible for those animals. When you have a neighborhood or community that just wants to put food out and care for the animals to some extent, they ultimately still don't want to take responsibility for the animals. He feels that a cattery is a great solution, and he wants to work with the special interest group to make that happen.

Victor Rodriguez, Chief of Police also mentioned that Tara Manning from the Animal Shelter has done an excellent job. She has a great system in place to where the animals (cats) either go to barns, rescue organizations, or they are adopted out.

City Attorney Rubin stated that it sounds like nobody is challenging the presented ordinance itself, and there is nothing stopping us from later on coming back with an amendment, so we are not burning any bridges here by passing this ordinance.

Mayor Pro-Tem Hechler moved to approve Ordinance No. 725 amending Chapter 3 of the Municipal Code of Ordinances pertaining to animals. 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. 42 21/22 Budget Adjustment Resolution:

Carol Kirkpatrick, Finance Director reviewed the Budget Adjustments provided in the packet.

Commissioner Mitchell moved to approve Resolution No. 42 21/22 Budget Adjustment Resolution. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Discussion/Action: Resolution No. 44 21/22 Finance Authority Colonias Loan/Grant CIF-5550 to the City of Truth or Consequences:

Traci Alvarez, Assistant City Manager explained that the city received the New Mexico Finance Authority Colonias funds on June 28, 2021 for a Water Infrastructure Project in the amount of \$500,000 consisting of a 10% loan in the amount of \$50,000.00 at 0% interest, and a 90% grant in the amount of \$450,000 with a required cash match in the amount of \$50,000. Resolution 03 21/22 was approved July 14, 2021, accepting the award. Approval of this resolution is the final step to execution and obligation of the NMFA Loan/Grant Funds, allowing the city to proceed with the project. Funds will be used in conjunction with monies awarded from the Drinking Water State Revolving Loan Fund to complete infrastructure improvements on Marshall Street and Sierra Vista Drive.

Commissioner Mitchell moved to approve Resolution No. 44 21/22 Finance Authority Colonias Loan/Grant CIF-5550 to the City of Truth or Consequences.

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

3. Discussion/Action: Resolution No. 45 21/22 City of Truth or Consequences, PG-5240, Proposed Closing Timeline:

Traci Alvarez, Assistant City Manager explained that the city was awarded funding from NMFA for an Economic Feasibility Study on May 29, 2020. The study was completed, presented, and adopted by Resolution 37 21/22 on November 17, 2021. The final documents were submitted to NMFA, and approval was received from the Economic Development Department. Execution of Resolution 45 21/22 is the final step to receive reimbursement.

Commissioner Mitchell moved to approve Resolution No. 45 21/22 City of Truth or Consequences, PG-5240, Proposed Closing Timeline. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Resolution No. 46 21/22 for the Sale of Surplus Property to be sold at the March 15, 2022 online Auction through J.J. Kane Associates, Inc. dba J.J. Kane Auctioneers:

City Clerk Torres explained that the city sold numerous vehicles through an online auction with JJ Kane Auctioneers on January 18, 2022. Most of the vehicles sold. However, there were some that did not. JJ Kane Auctioneers will be holding another online auction on March 15th, and we would like to take those vehicles that did not sell back to auction, as well as a 2013 Chevy Impala, a 1970 Forklift, a 1995 Ford F-350, a 1988 GMC Pickup, and a 2001 Jimmy 4x4.

Mayor Pro-Tem Hechler moved to approve Resolution No. 46 21/22 for the Sale of Surplus Property to be sold at the March 15, 2022 online Auction through J.J. Kane Associates, Inc. dba J.J. Kane Auctioneers. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Action: Resolution No. 47 21/22 pertaining to Animal Shelter Fees:

Traci Alvarez, Assistant City Manager explained that staff is requesting to amend the fees at the Animal Shelter to offset increase costs incurred for animal care, spay/neuter, impounds, court holds, and safe keeps. Some of the changes that we made to the shelter fees really focus around boarding fees, so when an animal is impounded, they'll have the impound fee. We also have repeat offenders, so we want to be able to assess additional fees for each time the dog is impounded, plus a daily boarding fee. These

fees are in conjunction with other Municipalities, and expenses that are incurred at our shelter.

City Manager Swingle stated that we are trying to address a problem like they have with the Elephant Butte animals. For the last 6 months of last year, they only had 46 or 48 animals that were actually captured by Animal Control, and taken to the shelter or submitted to the shelter by the residence, and the animals stayed in the shelter for an extended period of time. We have been keeping these animals for free, and it is costing the city a lot of money to take care of these animals, so the cost per day that we are adding is to address that issue.

Commissioner Fahl moved to approve Resolution No. 47 21/22 pertaining to Animal Shelter Fees. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

6. Discussion/Action: Publication of Ordinance No. 726 amending Chapter 11-11-6 of the Municipal Code of Ordinances pertaining to RV Dwellings:

Police Chief Rodriguez Manager explained that this ordinance along with H7 are brought forth to you to address some of the issues that we've been having in the community. We have a huge amount of individuals who live in RV's as their permanent home that is not in an RV Park. We wanted to clean up the language in the old ordinance to encourage people who are doing new builds, and need to live on their property to be able to do that past the 6 month period to do so as long as they work with Planning & Zoning, and are making continuous progress to the property. This proposed ordinance is beneficial for the things that were just mentioned, and it really targets the RV squatters that we have throughout the community who are living behind permanent structures which is a quality of life, and health and public safety issue. Some of these individuals are not connected to utilities, and they are using extension cords, and are defecating and urinating in the ground that goes to our water.

Commissioner Mitchell asked if there is a portion that covers special events such as Fiesta weekend, so when they have their vendors come from out of town, they will be able to be hooked up to city power for 2 days.

Assistant City Manager stated that we can revise the ordinance to include something for special events.

Mayor Pro-Tem Hechler moved to approve the Publication of Ordinance No. 726 amending Chapter 11-11-6 of the Municipal Code of Ordinances pertaining to RV Dwellings to include a special event amendment that allows people to stay in our community for a period of time for city approved special events. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

7. Discussion/Action: Publication of Ordinance No. 727 amending Chapter 7, Article 2 of the Municipal Code of Ordinances pertaining to registered businesses within the city limits:

Traci Alvarez, Assistant City Manager explained that this amendment will enable us to collect business registration fees from anyone who is engaging in business within the city limits. We have contractors who come into the city limits to do a one time job, and they are required by the state to have a municipal business license. However, unless they come in for a state building permit application, we don't necessarily have anything in our code right now that says they must have a business registration if they are engaging in business within the city. It just says that you must obtain a business registration if you own or operate a business within the city. We want to make sure that everyone who is doing business within the city is registered.

Mayor Pro-Tem Hechler asked how we would then deal with vendors who come to Fiesta to conduct business on a temporary status.

City Clerk Torres explained that last year when the city was going to do Fiesta, we had them fill out a vendor form, and there was a specific fee that was associated with that.

Traci Alvarez, Assistant City Manager stated that the business registration fee is \$35 a year. Our hope is that these vendors could pay \$35 a year, so they can then be able to be vendors for multiple events within the year.

Mayor Forrister asked what would happen for someone who only wants to be a vendor at one event, and they don't have a CRS number, so they can't get a business license.

Traci Alvarez, Assistant City Manager stated that we can amend the ordinance to have a vendor registration fee, if that is the will of the Commission.

City Manager stated that the intent of this is to have anyone engaging in business to pay taxes and get a business license. If it is the will of the Commission to have some exemptions, then we will need to know what those are to carve them out. There are some businesses who are not registered, and they are not paying commercial rates to dump at the collection center when registered contractors are required to.

Traci Alvarez, Assistant City Manager stated that the \$35 annual business registration fee is a state statute, but there are other cities that also have what they call a licensing fee which is a fee on top of the \$35. Right now all we charge is the \$35 fee. We don't have other licensing fees.

Commissioner Harrelson stated that the city is very good at assisting customers with getting a CRS number. It was mentioned that there may be people who want to do

business at a one-time event, and they are just trying to make an extra buck at a show, but we are also trying to draw in revenue for our city.

Commissioner Fahl stated that she can understand that we need licensing if businesses are operating here, but to her that is just another step vendors would have to go through, and she thinks that might discourage people from coming and being vendors.

Mayor Pro-Tem Hechler stated that he has a problem, and a possible solution. The problem is that he already contacted numerous vendors and advised them of the fees for Fiesta which is \$75 for the 3 days, plus \$25 for the electric. It would be problematic to go back to them right now and say we need another \$35, but he does agree in the future we should do that. Therefore, the solution would to have the ordinance take affect after Fiesta if we decide to approve it. That way we can deal with Fiesta the way it is now, and then we can put the ordinance into effect, and change the vendor form for next year charging the additional \$35 to include that fee along with instructions on how to deal with it.

Mayor Pro-Tem Hechler moved to approve the Publication of Ordinance No. 727 amending Chapter 7, Article 2 of the Municipal Code of Ordinances pertaining to registered businesses within the city limits with the Ordinance and for it to take effect July 1, 2022 if adopted. Mayor Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

1. Discussion/Action: Review and approval of take-home vehicle form from the Electric Department:

City Clerk Torres explained on July 28, 2021 the Commission approved a Resolution identifying the city's take home vehicle policy which means that every time an employee is assigned to take home a city vehicle, a take-home vehicle form must be filled out, signed by the employee and the department supervisor, and then approved by the Commission. Today I bring forth a take home vehicle form submitted by Crispin Bush from the Electric Department. Staff recommends approval.

Commissioner Mitchell moved to approve the take-home vehicle form from the Electric Department. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Discussion/Action: Agreement Amendment with Bohannan Huston for Engineering Services:

Carol Kirkpatrick, Finance Director explained that this is for additional services with Bohannan Huston. We awarded a vendor that we felt needed some oversight, so this is going to help keep that vendor on task. They will be onsite twice a week for as long as it takes. An additional increase is \$32,130. We procured this through the Cooperative Education Services (CES) which helps to not have to go through procurement.

Commissioner Fahl moved to approve the Agreement Amendment with Bohannan Huston for Engineering Services. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Update: Budget Information to Commission:

Carol Kirkpatrick, Finance Director reviewed the documents that were submitted in the packet. (Complete copy attached hereto and made a part hereof).

Commissioner Harrelson left the meeting at 11:53 a.m.

4. Discussion/Action: Memorandum of Understanding (MOU) between the Truth or Consequences Police Department and the United States Marshal's Office:

Victor Rodriguez, Chief of Police explained that this is a Memorandum of Understanding (MOU) between the Truth or Consequences Police Department and the United States Marshal's Office. This is just another tool in the tool box to have a Federal partner where we would have the ability, depending on our resources, to send one or two officers that would be commissioned by the United States Marshal's Office, to assist them with any potential Federal cases here in Truth or Consequences, or in the State of New Mexico. It is a task force so they can also assist if the resources are needed somewhere else.

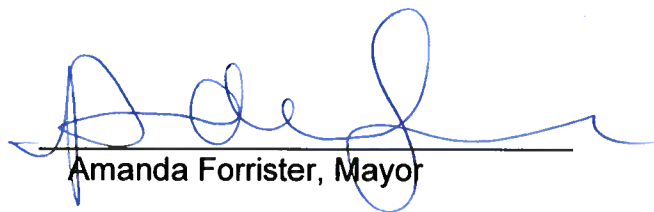
Commissioner Mitchell moved to approve the Memorandum of Understanding (MOU) between the Truth or Consequences Police Department and the United States Marshal's Office. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

K. ADJOURNMENT:

Commissioner Mitchell moved to adjourn at 12:18 p.m. Mayor Forrister seconded the motion. Motion carried unanimously.

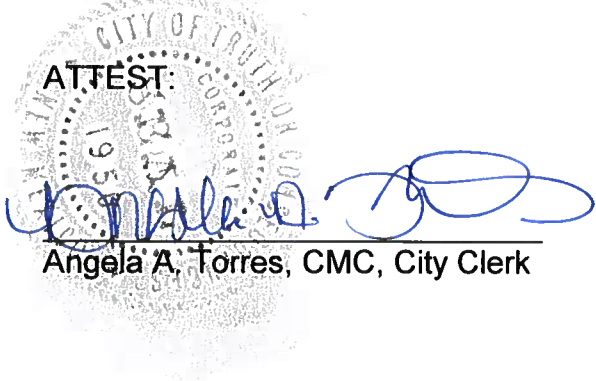
Passed and Approved this 26th day of February, 2022.




Amanda Forrister, Mayor

CITY COMMISSION FEBRUARY 9, 2022 REGULAR MEETING MINUTES

ATTEST:



Angela A. Torres, CMC, City Clerk