

CITY COMMISSION MEETING MINUTES  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
CITY COMMISSION CHAMBERS, 405 W. 3<sup>RD</sup> St.  
WEDNESDAY, SEPTEMBER 14, 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  
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 Hechler 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:**

**1. Certificate of Commendation presented by Chief of Police Rodriguez:**

Chief of Police Rodriguez presented Certificates of Commendation and lifesaving pins to Officer Jude "Mike" Vega, and Office Shane Jeffers for courageously risking their own

personal safety to save the life of an individual experiencing crisis and prevent the individual from taking their own life. Your actions are a true reflection of what it means to be a public servant by risking your personal safety in the protection of others.

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

City Manager Swingle and Chief of Police Rodriguez presented an Employee Service Anniversary Award to Kaci Frazier for 2 years of service with the City of Truth or Consequences.

City Manager Swingle and Chief of Police Rodriguez presented an Employee Service Anniversary Award for Jaffee Blomquist for 5 years of service with the City of Truth or Consequences. Jaffee unfortunately was not able to attend the meeting.

City Manager Swingle presented an Employee Service Anniversary Award to Wesley Myers for 2 years of service with the City of Truth or Consequences.

City Manager Swingle and Andy Alvarez presented an Employee Service Anniversary Award to Melissa Toutcheque for 1 year of service with the City of Truth or Consequences.

City Manager Swingle presented an Employee Service Anniversary Award to Steven Smith for 2 years of service with the City of Truth or Consequences.

City Manager Swingle presented an Employee Service Anniversary Award to Elijah Martin for 1 year of service with the City of Truth or Consequences.

City Manager Swingle presented an Employee Service Anniversary Award to Thomas Bobelu for 7 years of service with the City of Truth or Consequences.

City Manager Swingle and City Clerk Torres presented an Employee Service Anniversary Award to Lisa Gabaldon for 4 years of service with the City of Truth or Consequences.

City Manager Swingle and Pete English presented an Employee Service Anniversary Award to Christina Ramos for 4 years of service with the City of Truth or Consequences.

City Manager Swingle presented an Employee Service Anniversary Award to Ruby Otero for 6 years of service with the City of Truth or Consequences.

City Manager Swingle presented an Employee Service Anniversary Award for Priscilla Fuentes for 7 years of service with the City of Truth or Consequences. Priscilla unfortunately was not able to attend the meeting.

City Manager Swingle presented an Employee Service Anniversary Award for Benny Fuentes for 24 years of service with the City of Truth or Consequences. Benny unfortunately was not able to attend the meeting.

**D. PUBLIC COMMENT (3 Minute Rule Applies):**

Terry Vanderverter addressed the Commission with comments related to:

- (1) He would like the Commission to take another look at the increase that was put on the Golf Course Fees. Family dues went from \$1,788 and they went up to \$2,903. That is a 62% increase, and that seems like an awful lot when we are only receiving around a 6% increase in their income. Golfers are going to Sierra Del Rio because there is not much of a price difference. When Howie Tucker left 7 years, their course was the best it has ever been, and he has been playing it for 25 years, but after Howie left nothing has really been accomplished except for it going downhill. He however feels that the new Golf Course Manager Rick Artman will do a great job, and get the course back in shape if he sticks with it.

**E. REPORTS:**

**City Manager Swingle reported the following:**

- He just received word that James Bush who served on the Planning & Zoning Commission sadly passed away due to an automobile accident. If there is any silver lining here, it is that anyone who knew Jim knew that if he passed away in an auto accident that was his passion. His cars and auto meant a lot to him. He was a very good gentleman and he really served well on the Planning & Zoning Commission.
- We gave a lot of kudos to staff today, but we could never give them enough recognition. Everyone is working extremely hard. Our new Water/Waste Water Director started two weeks ago, and on his first day on the job he was out all day and night with a very significant water and waste water issue that they were dealing with. He was pulling every trick he had in the bag to address the problem, and by 2:00 a.m. they finally got it resolved, and he was back to work the very next day.
- He reminded the public that the infrastructure problems they have are going to continue. There has been lots of neglect over decades of time, and it's going to take an extended period of time for the Water and Wastewater Department to get a grip on those. They are very expensive. We are working on financing for the problems, but it is going to be a long-drawn-out process for us to deal with this problem. They are working their tails off day and night and weekends to address the problem so please have some understanding and patience. As of today, we probably have about 30 water leaks. They are taking care of the high priority ones. The large gushers, and those that are impacting residence and customer water use. They are doing the best they can.

## CITY COMMISSION SEPTEMBER 14, 2022 REGULAR MEETING MINUTES

- We have the general obligation bond coming up in the November ballot. There are 2 questions. \$1 million for streets, and \$2 million for water and wastewater. We had a conversation with the Chamber of Commerce. They voted to take the lead on promoting the bond questions and getting as much information out as possible to inform the public of the situation and the benefits to the bond.
- On September 3<sup>rd</sup> we received a letter from DFA that the city's budget had met all of the requirements, and the final budget has been approved. Congratulations to Carol Kirkpatrick and the Finance Department for the wonderful job that they did in getting that budget in.
- 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, and two vacancies on the Recreation Advisory Board.
- Textron Aviation has been doing some Beechcraft testing at the Airport with the Beechcraft King Air 300. They are doing some take off landings on the dirt runways. They are certifying the aircraft on runway operations. They concluded their work for this period, and they will be back later on to complete their certification testing.
- The New Mexico Department of Transportation has put out the Roundabout RFP, and they received and reviewed the bids, and they are much higher than expected so they requested a little over \$1 million dollars from the city to cover the increase in cost. There was a lot of protest discussed with them, and he has a conference call with them this afternoon. They may have found some other solutions for us and them to address this problem. Initially we were going to pay somewhere in the neighborhood of \$700,000. We've had to pay more than that as the project continues. The city's commitment to this project, and the revenues available have been fully met and obligated. We don't have the revenue for that. We will work with them, and he will update the Commission after the conference call.
- The Court Committee was scheduled to meet Monday, September 12<sup>th</sup>. Unfortunately one of the committee members could not make it and we rescheduled. It looks like we will have to reschedule it for September 26<sup>th</sup> at 9:00 a.m. here in the Commission Chambers.
- The Swimming Pool has been closed. Their plan was from Memorial to Labor Day. They completed that, and we had a pretty good year. We are still analyzing the revenue and attendance. He received a lot of requests from the community and mainly the seniors that are doing their water aerobics. They are wanting to continue and keep the pool open year round, but the numbers and the revenue just don't reflect that we should keep it open. It is just not financially feasible to do that.
- Our Chief of Police is retiring at the end of this month. He has had a number of calls and conversations from the community over how disappointed that the Chief is leaving. They tell me that he is doing a fantastic job, and we know he was doing a fantastic job. Lieutenant Venable is the heir for the interim Chief of

Police. We are just trying to work out the dynamic of the Chiefs departure, and the interim period until we have a Chief of Police on board. We are advertising quite aggressively around the Country for a Chief of Police. We've received a couple of resume's and applications at this point, but not enough to start setting up interviews. He will spend a little more time on this at our next meeting which will be the Chief's last meeting. He has done a fantastic job in the short time that he has been here.

**City Attorney Rubin had no reports.**

**City Commission Reports:**

**Commissioner Mitchell reported the following:**

- She gave her condolences to the friends and Family of Sara Frothingham and Collysue Lawson who we recently lost. They were very active members in the Friends of the Pool. Sara was at the pool every single day. She wanted to personally thank them and their families for all of their hard work keeping the pool open.
- They had their first Fiesta Meeting last week and they nominated some board member, and they discussed a new theme. Last year they went with the theme of through the years, and this year they are looking towards the future. Nothing is set in stone, but they wanted they definitely want to tie in with Spaceport and Virgin Galactic, and kind of promote the space theme of Sierra County in their signature annual event. They had a pretty good turnout with volunteers, and they are thankfully having a much earlier start than last year. They are hoping to get a steady board going so it won't be a City Commission ran thing, it will be an event ran by the community.

**Commissioner Fahl reported the following:**

- The City offered to have an advisory member from the Commission serve on the Geronimo Springs Museum Board. She has attended a few meetings and she is now the treasurer, but she can't vote anymore. It is exciting. September 24<sup>th</sup> is their 50<sup>th</sup> Anniversary. She encouraged everyone to attend. They will have activities, music, and free hot dogs and hamburgers.

**Commissioner Harrelson reported the following:**

- She invited the community to get out and see what is going on with our youth. We have a lot of sports going on right now, and come hungry because they have the concession stands that will support each team. The schedule for those events can be found on the Hot Springs High School website under the sports schedule.
- She gave a shout out to all of the kids that are at the State Fair in Albuquerque. They are doing a great job representing Sierra County.

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

- He is looking forward to serving on the Fiesta Committee again this year. It is exciting, and it will be nice to get started early.
- They recently had a meeting with the Virgin Galactic CEO, and it was a very productive meeting. Mayor Forrister was there with them. He is really looking forward to the relationship they are going to have with Virgin Galactic.

**Mayor Forrister reported the following:**

- She gave kudos to our staff. It was really nice to see an audience full of them coming to support each other, and support the work that they do, and giving recognition those who deserve it. She shared Kaci Frazier's thing on Facebook, and the Principal talked to her at a game to commend her for her work that she is doing there so we really appreciate that.
- There is a lot of stuff going on with our youth, and it would be nice to have community presence there. Even if that isn't your thing, showing up and showing your support for our youth and community is very important.
- She agreed that their meeting with Virgin Galactic was very productive, and she is glad that Fiesta is going with that theme.

**F. CONSENT CALENDAR:**

1. **City Commission Regular Minutes, August 24, 2022**
2. **August 2022 Accounts Payable**
3. **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: Public Hearing and approval of the issuance of a Small Brewer Off-Site Liquor License for Sidekixx, located at 820 Cedar Street, Truth or Consequences, New Mexico:**

City Clerk Torres: The T or C Brewing Company purchased Bedroxx which is the local bowling alley at 820 Cedar Street. They are applying for a Small Brewer Off-Site Liquor License. The new name of the business will be Sidekixx, and as you know, in order to move forward we will need to have a public hearing and approval from the Governing Body. If it is approved, the application will be sent back to the Alcohol and Gaming Division so they can proceed with their final approval process.

Mayor Forrister opened the public hearing.

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Mayor Pro-Tem Hechler: Mr. Masterson can you please step forward and give us a brief summary of the vision you have for Sidekixx so the Commission will understand what they are doing.

### **Proponents:**

Applicant John Masterson: Their vision is to continue the Whiteheads vision of family friendly entertainment. We've got to keep the pizza the same, and they want to add delivery, and add cocktails. They want to also get a handle on the actual bowling alley operation, and get that open as soon as they can. Pretty much steady as she goes with a new name, and some new faces. They are hiring most of the people who currently work there. Their last day is Friday so get in there and buy the wine and give them a nice send off. Their goal for opening is October 7<sup>th</sup>. They need to close, clean, re-brand, and re-train, so if they can get it opened earlier then they will, but part of it is due to the state's license issuance process.

Mayor Forrister: That is only to open the bar and food portion? How about the bowling part.

Applicant John Masterson: As soon as they can. They had their first meeting about that and it is interesting.

Mayor Forrister: We're looking forward to it, and she's glad the pizza is staying the same because that is one of her favorite things there.

Commissioner Mitchell: So, it says a Small Brewer Off-Site Liquor License. What does that mean? Is there going to be a full bar?

Applicant John Masterson: That is just the State's name for when a Small Brewery establishes an off-site location, but it just so happens that in the legislature last year, they changed the Small Brewery law, and they are now allowed by law to serve hard liquor. They have chosen not to do that yet downtown. However, they do sell to go liquor at the Bodega next door to the Brewery. His wife is the CEO, and she makes the decisions of when they will start serving cocktails at the Bowling Alley, but it is on the radar.

Commissioner Mitchell: Well, I'm going to be texting her about getting whiskey at the Brewery.

Commissioner Fah: Are you planning on retaining any of their ale there, or will you just have your own?

Applicant John Masterson: He believes they have 26 taps up there so that is a lot of variety. They already have 8 beers up there right now, and they will continue that for the foreseeable future and provide a broader array of ciders, and beers from other Brewery's.

Mayor Forrister: Will you also be delivering beer there?

Applicant John Masterson: That is on the road map. They are allowed to get an alcohol delivery license that they can bolt onto a liquor license so hopefully by the end of the year they will be delivering beer and pizza.

City Manager Swingle: John and Marianne have done an excellent job with the Brewery. They took a very strategic, and planned out process at the Brewery. John has timelines of things and he has a very systematic approach. They did a great job with that and he thinks they will do a fantastic job with Sidekixx. Congratulations and we wish you nothing, but Godspeed.

Commissioner Fahl: When John came and opened up the Brewery, it opened up the dynamics of downtown so drastically. When she goes in there, she doesn't see people that she knows very often, but she doesn't care because she just thinks that it is exciting because now you go downtown and there is something going on. John you are a Godsend to our community, and we just want to thank you for what you have done for us.

**Opponents:**

None.

Mayor Forrister closed the public hearing.

**Mayor Pro-Tem Hechler moved to approve the issuance of a Small Brewer Off-Site Liquor License for Sidekixx, located at 820 Cedar Street, Truth or Consequences, New Mexico. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**2. Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 737 amending Sections 7-106 through Section 7-114 of our Municipal Code of Ordinances pertaining to Rental Spaces and Licensure:**

Police Chief Rodriguez: This is a public hearing for the amendments that we made to the ordinance pertaining to Rental Spaces and Licensure. This pretty much evens the playing field and requires individuals to have business licenses, except for those activities that are covered under city recognized events or activities that are not occurring on a regular basis.

Mayor Forrister opened the public hearing.



**Opponents:**

There were no opponents.

**Proponents:**

There were no proponents.

Mayor Forrister closed the public hearing.

Jay Rubin: He had a really good conversation with the Chief yesterday. If you look at Sections 7-106. Letter (A) talks about license required, and then letter B also talks about license required. He was wondering at first if it is repetitive, but it is not, and as the Chief pointed out, letter (A) talks about the license being required of someone who is renting space to a seller, and B talks about the seller itself. The other thing they talked about is recommending a slight change in letter C on the 3<sup>rd</sup> line where it says "*as long as they are participating*" we think it should say "*as long as they are a participating vendor.*"

**Commissioner Fahl moved to approve adoption of Ordinance No. 737 amending Sections 7-106 through Section 7-114 of our Municipal Code of Ordinances pertaining to Rental Spaces and Licensure with the amendment noted by City Attorney Rubin. 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. 738 amending the City of Truth or Consequences Municipal Code of Ordinances, by adding a section 8-53 regulating the use of BB or pellet guns:**

Police Chief Rodriguez: This one here does not prohibit discharging. What it does is make the individual pulling the trigger responsible of where the pellet or BB goes. You can still use them in town, but if you discharge them and break your neighbor's window or hit their dog, or whatever the case may be, this ordinance puts responsibility on that individual.

Mayor Forrister opened the public hearing.

**Opponents:**

There were no opponents.

**Proponents:**

There were no proponents.

Mayor Forrister closed the public hearing.

**Commissioner Mitchell moved to approve adoption of Ordinance No. 738 amending the City of Truth or Consequences Municipal Code of Ordinances, by adding a section 8-53 regulating the use of BB or pellet guns. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**4. Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 739 amending the City of Truth or Consequences Municipal Code of Ordinances, by adding a section 8-149 of the code pertaining to closing of certain City Parks and Properties:**

Police Chief Rodriguez: In the past you can recall that we had only two parks which he believes were Ralph Edwards and the camping area of Rotary Park that was subject to closure. Obviously, we have a lot more parks, and a lot more facilities, including the Golf Course, and so we wanted to make sure that our community had accessibility to partake in these public facilities, but within a reasonable time. We came up within 10:00 p.m. and 5:00 a.m. and there is really no reason for people to be in these areas and facilities within these hours with the exception of recognized events that are approved by the city. This is to protect our infrastructure, and also make sure that our community can access those facilities and reduce the amount of vandalism by allowing Officers to take enforcement action if there are any individuals on those properties between the prohibited time frame.

Mayor Forrister opened the public hearing.

**Opponents:**

There were no opponents.

**Proponents:**

There were no proponents.

Mayor Forrister closed the public hearing.

**Mayor Pro-Tem Hechler moved to approve adoption of Ordinance No. 739 amending the City of Truth or Consequences Municipal Code of Ordinances, by adding a section 8-149 of the code pertaining to closing of certain City Parks and Properties. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

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

Chris Muirhead: If you recall from the last meeting, this is first step of financing related to a large USDA finance Water System Improvement. The total is \$7,531,000. This is just the \$750,000 for pre-development costs which cover the PER/ER, design, final plans and specifications, obtained required easements, and required necessary permits. This is a \$750,000 loan with Bank of the Southwest at 5.75%. It has an 18-month maturity. There are no interim, principal or interest payments. It is all paid off at maturity in 18 months. The payoff is paid with the next level of financing which will be the interim construction financing which will be much larger that ties to the actual construction in the ground. The pledge is the net system revenues of the water system which is consistent with your outstanding utility debt. It is a special limited obligation, so it is not a general obligation of the community where you are looking at property tax or other gross receipts taxes. This is the first step to get that project rolling with the design.

Mayor Forrister opened the public hearing.

**Opponents:**

There were no opponents.

**Proponents:**

There were no proponents.

Mayor Forrister closed the public hearing.

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

**H. ORDINANCES/RESOLUTIONS/ZONING:**

**1. Discussion/Action: Resolution No. 10 22/23 Budget Adjustment Resolution:**

Assistant City Manager Alvarez reviewed the Budget Adjustments provided in the packet.

**Commissioner Mitchell moved to approve Resolution No. 10 22/23 Budget Adjustment Resolution. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

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

City Manager Swingle: What you have before you is an item we've had on the agenda a couple of times, and each time we've had it on the agenda for publication there has been some questions asked, and some research was done. In our last Commission meeting Mayor Pro-Tem wanted some legal opinions on some matters.

City Attorney Rubin: We have a letter from Mr. Appel which is Attorney Client Privilege. Commissioners, do you want to make it open to the public so we can discuss it?

**Mayor Pro-Tem Hechler made a motion to approve the letter of opinion provided by City Attorney Appel, and make it available to the public. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

City Attorney Appel reviewed the letter with the Commission. (Complete copy attached hereto and made a part hereof).

Commissioner Mitchell: It was mentioned that potentially we could have so many solar users that we wouldn't even need to buy that energy so would it be in the city's best interest to put some type of cap on how much solar we would purchase per year and make it a percentage base of some sort so we won't have people moving here with the incentive of getting a complete solar house and coming back and saying that they built solar and you're supposed to pay for solar. Should we have something that says that we are only going to purchase x amount of our electric usage from solar providers so we won't end up where we are today.

City Attorney Appel: It appears to him that some limit, or statement of limitation as to how much power the city would purchase would be appropriate. You described one

possibility of us only purchasing a certain amount of electric from private producers. Another possible way to structure it would be to say that the city's purchase will be limited at times when the city does not need power in the quantities that are being offered. The problem of course is that we don't have good ways yet, to store electrical power. The problem of course it at 3:00 p.m. on a July day with no thunder showers around, everybody produces power, including the city itself. Then at 8:00 that evening, nobody produces power and solar power, you are going to have to get it from the grid. It is really a time dependent question as to when the city would want to purchase the power and when the city wouldn't. He thinks that language could be added to this ordinance by an amendment that says that the city's agreement to purchase power from private producers would be limited to the extent if the city had any.

Mayor Pro-Tem Hechler: Just for clarification, 80 customers out of 4000 customers were originally told that they could only build their system to 90% of their utility bill. They were told this erroneously or illegally. He doesn't know what the best term is so when they were told this, the deal wasn't that bad when they knew they were getting 13 cents/kWh payment for their electric. These folks were then able to make that decision to invest \$16,000 to \$24,000 to build their system, but now what we are proposing is that these paying customers would now be given .06 cents/kWh instead of the 13 cents/kWh which cuts that in half. He feels that perhaps those 80 customers could have been grandfathered in or other allowances made because they were originally told that they could only build their systems at 90%.

City Attorney Appel: He understands that you are in a position with about 79 other customers. Legally, the Commission can change policy, and frankly you and the other 79 customers would be left out in the cold. You don't have a protected interest in continuing to get the rate that you have been getting previously. That is pretty well established in the law. They cite a number of cases in both New Mexico and Federal that Municipal Government can change policies. If the Commission should choose to add an amendment that affectively grandfathers previously built systems at the rate that they are presently getting, he frankly doesn't know if that would withstand a case brought by other rate payers or not. It probably does not make a significant amount of difference in the bills of the other several thousand rate payers, but at least theoretically one of those rate payers could bring a complaint against the city and say "you're purchasing power at a rate higher than you need to and it is causing my bill to be greater than it should be." Therefore, I think that you should refuse to purchase power at anything above the avoided cost. He doesn't know how such a suit would work out. He thinks it would be unlikely to be brought forward, but the possibility is there.

George Szigeti, Public Utility Advisory Board Chairman: Right now we have 80 out of 3,800 customers that produce their own electricity. The amount that is produced is a tiny fraction of electric consumption of the city. The solar farm on average only produces about 10% of the electricity that the city purchases. Any solar that is generated is energy that we don't need to buy from Sierra Electric. Any solar energy that is generated automatically decreases what is bought from Sierra Electric. We do however have a contractual obligation under the current contract to buy a certain amount of

electricity every month and every year. We can displace energy that we buy from Sierra Electric up to the point to where we reach that obligated purchase amount. We would have to roughly have 1000 residential solar customers before we even get close to endangering that contract amount, and by the time we reach that level, that contract would have expired and we can look at where we are in our overall electrical situation when we renegotiate that contract and possibly change those limits. The solar generating customer gets full wholesale value for the electricity (every kWh) that they generate that offsets their usage each month so the value of that electricity does not decrease. It is only the value of the excess production that is reduced. Customers will no longer have to pay the GRT on the total amount of electricity delivered so that is a savings to that customer which partially offsets the decrease in the value of the electricity the city is purchasing back. The smaller the system is in relation of the customer's total consumption, the less of a financial hit they are taking.

City Attorney Rubin: Mr. Appel, I was looking at the ordinance that is on the table, and you made a comment that an amendment may be appropriate that says that the city's agreement to the purchase of power is limited to the city's need. Is that something that you think we should add to the draft?

City Attorney Appel: He would recommend that the city consider adopting such an amendment. We could draft with the help of city staff a proposed amendment to be considered when this comes back for final approval that might simply say that the city undertakes no obligation to purchase power at any time when the power is not needed to meet demand, and can thereupon discontinue its purchase from an individual producer.

City Attorney Rubin: We can also just go to publication with the changes that we discussed.

**Commissioner Mitchell made a motion to approve Publication of Ordinance No. 735 Amending Section 14-48 pertaining to the Customer Generated Renewable Energy Program with the amendment noted by City Attorney Appel. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer.**

**Hon. Destiny Mitchell, Commissioner voted aye  
Hon. Merry Jo Fahl, Commissioner voted aye  
Hon. Shelly Harrelson, Commissioner voted aye  
Hon. Amanda Forrister, Mayor voted aye  
Hon. Rolf Hechler, Mayor Pro-Tem voted nay**

**Motion carried with a 4-1 vote.**

**I. NEW BUSINESS:**

**1. Discussion/Action: Approval of the Spaceport Visitors Center Memorandum of Understanding:**

City Manager Swingle: What you have before you is a Memorandum of Understanding that we've had in place since 2017 with the Spaceport to use space at the Lee Belle Johnson Center for a Spaceport Visitors Center. It is time for a new agreement, and this is the document. He thinks that everyone agrees that the Spaceport Visitors Center has really not developed to what we believe it should be. Historically he believes that the State committed to building a Spaceport Visitors Center in Truth or Consequences and this is by proxy that visitor center as long as the City and the Spaceport continue to partner in the endeavor. The Spaceport is aware of the community's feelings that it hasn't really materialized into a true visitor center. They are making efforts to work with the Space Museum in Alamogordo to bring a lot of displays and exhibits that they have there to this facility to improve it. They are also looking at making some physical changes to the space to make it a little bit more pleasant, and a facility that will accommodate some of the designs that they want to bring in. Had they not been doing that, he would have really recommended that the Commission re-think this. If we are not going to make this a true Visitor Center, then what's the point? Let's give them the opportunity to turn this into a Visitor Center, and if not, let's bring it to their attention that will not satisfy, and go to a Plan B.

**Commissioner Fahl moved to approve the Spaceport Visitors Center Memorandum of Understanding. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously**

**2. Discussion/Action: Approve Contract Package and Agreement between City of T or C and Smithco Construction Inc. for Main Street District (MSD) Water System Improvements Project:**

Traci Alvarez, Assistant City Manager: The city issued a Notice of Award to Smithco Construction for the Main Street District (MSD) Water System Improvements Project. This is the contract package and agreement for this award, and the project is funded by a USDA Grant/Loan.

**Commissioner Mitchell moved to approve the Contract Package and Agreement between City of T or C and Smithco Construction Inc. for Main Street District (MSD) Water System Improvements Project. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously**

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

Traci Alvarez, Assistant City Manager reviewed the Purchase Requisitions over \$20,000 that was provided in the packet.

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

**4. Discussion/Action: Approval of Contract renewal with Wilson and Company Inc.:**

Traci Alvarez, Assistant City Manager: As you know we went out to RFP for multiple engineering's under a single contract for on call engineering services. One of those awards went out to Wilson & Company. We usually do those as an annual renewal that we can renew for a 4 year contract. City staff is requesting to renew the contract for the 3 remaining years, and the reason for that is all of the projects that we do have in place with Wilson & Company are going to extend through that time. Every time we go through a contract renewal it requires her to submit it to the funding source which takes a really long time to get there approval so if we could just do this one time for the additional 3 years to finish off the projects we have funded that would be easier.

**Mayor Pro-Tem Hechler moved to approve the Contract renewal with Wilson and Company Inc. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously**

**5. Discussion/Action: Approval of the El Terrero Construction Company Rental Agreement:**

City Manager Swingle: This agreement is in place due to the construction of the Williamsburg Bridge. The replacement of the existing bridge and the on and off ramps. This company was selected as the company to do most of the work out there. They would like to enter into a 2 year agreement at \$750 per month to use the space that is basically in front of, and slightly to the east of the solar field to use as a staging area and storage yard for their equipment, and materials that they are going to be bringing in. It is close in proximity to the project, and it will help decrease some of the costs of hauling materials and equipment back and forth. The project is scheduled for 2 years so we have the ability to continue to extend it for a few additional months if that becomes necessary based on the construction. They will hold the city harmless for anything that is done to the property or their equipment as a result of their actions. They are also for ensuring that there will not be any hazardous materials out there. They are also



planning to move their construction command posts to this location so it will be in close proximity to the project. It is very likely that they will need to hook up to water and electricity, and they will pay the appropriate fees for those connections. They may want sewer, but haven't ironed that out yet. If they do we will charge them all of the appropriate fees for that.

Commissioner Fahl: The contract says when they are done they don't have to do any restoration. She knows that there's not much there, but you don't just want to leave it, and then we have a dust problem.

City Manager Swingle: What they are not going to do is re-seed it because there is no vegetation. The re-seeding issue is a NMDOT requirement that they ask upfront, and we confirm or reject the idea of re-seeding. They will restore it back to the condition it was.

Commissioner Fahl: She has dealt with noxious weeds for most of her career and that can be a problem with construction, and we have a number in New Mexico, and in our County that we are really trying to control. One is African Root. It is a highly invasive plant. Construction companies bring those in all the time from other place. She doesn't know if that is in their NMDOT contract, but most places when they do construction, they have a requirement to wash off when they are first coming to a site so that they don't have noxious weeds because it can be a real problem. She is not talking about tumble weeds or goat heads. The State of New Mexico are really trying to control the other noxious weeds. We can't change that now, but she is concerned as a natural resource issue that we don't have those become a problem. We don't want them to become what the salt cedar has become. They are not a big problem in Sierra County, but they are in Deming and other surrounding counties so if there is something we can do to abate that we should probably try to something about it.

City Manager Swingle: If you want to add that as one of the conditions, we can add it as a condition that they de-contaminate the noxious weeds from the equipment prior to bringing it to the site.

**Commissioner Fahl moved to approve the El Terrero Construction Company Rental Agreement as amended per their discussion. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously**

**6. Discussion/Action: Approval of City Attorney Contract Renewal for Jaime F. Rubin, LLC:**

City Manager Swingle: This is a contract extension for Jay Rubin to extend his contract for an additional year. The only language on the contract that has changed is that he is asking for a \$10 an hour increase. It is very similar to John Appel's contract renewal. It is to keep consistency with our City Council contracts. He doesn't know of the last time

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Jay has had an increase in his contract, but he does know that Jay under bills us in the first place, and he is definitely worthy of the \$10 increase.

Commissioner Mitchell moved to approve the Approval of the City Attorney Contract Renewal for Jaime F. Rubin, LLC including the aforementioned increase in rate. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously

**J. EXECUTIVE SESSION:**

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

Mayor Pro-Tem Hechler made a motion to go into executive session at 11:15 a.m. to discuss threatened & Pending Litigation (Cloverleaf) pursuant to 10-15-1(H.7). Commissioner Mitchell seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Forrister reconvened the meeting in open session at 11:32 a.m.

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

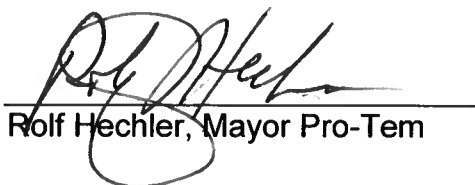
No action was taken.

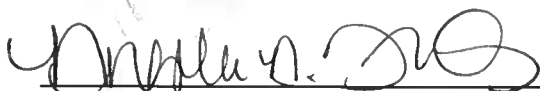
**K. ADJOURNMENT:**

Mayor Forrister adjourned the meeting at 11:34 a.m.

Passed and Approved this 28<sup>th</sup> day of September, 2022.



  
Rolf Hechler, Mayor Pro-Tem

  
Angela A. Torres, CMC, City Clerk