

CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, APRIL 26, 2023

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 was absent
Hon. Merry Jo Fahl, Commissioner
Hon. Shelly Harrelson, Commissioner

Also Present: Bruce Swingle, City Manager
Angie Gonzales, City Manager
Traci Alvarez, Assistant City Manager
Jay Rubin, City Attorney
Angela A. Torres, City Clerk-Treasurer

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

2. SILENT MEDITATION:

Mayor Forrister called for fifteen seconds of silent meditation.

3. PLEDGE OF ALLEGIANCE:

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

4. APPROVAL OF AGENDA:

Mayor Pro-Tem Hechler moved to approve the agenda with the amendment of G1 being presented after item E1. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

C. PUBLIC COMMENT (3 Minute Rule Applies):

Priscilla Spitler addressed the Commission with comments related to:

- She is a 16 year resident, and owner of two businesses. One being an Airbnb which contributes to Lodgers Tax. She asked that the Commission approve MainStreet's funding request from Lodgers Tax because they have been a vital source for 13 years in providing down town business, tourism and assistance with store fronts and new paint jobs and mural projects. They also sponsor popular holiday events for our children as well as Art Hop night. They have improved the face downtown, and are an important part of our community, so she hopes that the city will approve the funding for not only MainStreet, but other vital organizations as well.

Cathy Mears Martin addressed the Commission with comments related to:

- She is here on behalf on MainStreet. MainStreet has recently completed an update on their economic transformation strategy which was provided to you by Linda DeMarino. It outlines fantastic projects that they have in the works such as a quarterly business breakfast and the relocation guides. They are also working with a specialist on a property re-development project. They submitted a grant to New Mexico Resiliency Alliance to help fund a project to help with better signage for businesses. Through that grant, they are hoping to help at least 5 businesses. Another project they are working on is a Local Economic Assistance and Development Support grant which has just opened. They are also apply for funding for an ecommerce project which will help train local business owners with online support with the aim and intention to generate additional revenue to the district from outside sources.

Marty Allen addressed the Commission with comments related to:

- She also feels that MainStreet T or C should be funded because the organization has been nothing but tremendously beneficial to the businesses downtown. She knows that there have been many of the citizens that have contacted you about supporting MainStreet T or C, and she hopes that the Commission will listen to them.

Dean Lamanna addressed the Commission with comments related to:

- He asked that the Commission continue to fund MainStreet T or C. He is a new member of the MainStreet Board of Directors and he has been serving on the Chamber of Commerce Board of Directors since January where he has helped spearhead an ongoing effort to improve communications and further promote our city's businesses and attractions. He is also the creator of the T or C social media pages where he promotes our City, Sierra County, and the State of New Mexico, mostly from his own experiential perspective. MainStreet has a long record of significant accomplishments and it is an important and vital organization. MainStreet's Board President Linda DeMarino's professionalism and willingness to volunteer so much time and her love for the city is astonishing. He is aware that there has been some communications issues between MainStreet and the

city, and that is something to be worked on, but with the willingness to listen and make adjustments, nothing is insurmountable. They have many projects in the works and he pledges to bring his professional background in media, publishing and promotions to assist with these and other projects, and to help foster greater collaboration between MainStreet, the Chamber of Commerce, and other organizations.

Linda DeMarino addressed the Commission with comments related to:

- On behalf of MainStreet Truth or Consequences she just wanted to say, when the questioning of funding came up, the two primary reasoning's were because we didn't know if it could come out of Lodgers Tax, and there was a misunderstanding that the projects that were on the contract from the previous year were not completed. She has since sent you guys the contracts and the deliverables, as well as a graph explaining how each of the contracts and services were indeed completed. She's been looking into Lodgers Tax and it appears that it is all able to happen. There may need to be some adjustments made on how it was funded in the past, but after clearing up those two things, she believes that they are indeed worth complete funding that they asked for.

Rhonda Brittan addressed the Commission with comments related to:

- She is a former owner of Black Cat Books and Coffee. She and her husband operated that business for 17 years. She bought the building before there was a MainStreet organization. Many of the buildings were a mess, and were only being fixed up by rogue business owners willing to buck the restrictive local building ordinances. Downtown was discombobulated. A group of people helped Sue Long get historical designations for downtown buildings. I bet that many current owners don't realize that they have a historic building. About that time a small group of people contacted the National MainStreet Organization, and she was very excited to see it happen here, knowing what MainStreet had done for their hometown in Washington. It has been a wonderful asset to this community with bringing a sense of cohesion to a disparate business district so she hopes that the city can support MainStreet T or C.

D. REPORTS:

City Manager Swingle reported the following:

- He gave kudos to the city staff. Everybody is working really hard. The Street Department has been working out at the shooting range and they are doing some improvements to make it a safer environment.
- Staff is very busy working on budgets, and we will be prepared to present to the Commission on May 8th and May 9th.
- We are continuing to have a dialog every 2 weeks with DFA and other state agencies on our water leak problem and the replacement of about 31,000 linear ft. of water lines. We are repairing well #6 right now. It had some issues so over the next couple of weeks the repairs are going to be made to that well. It will be

very similar to what we did to well #7 a year ago. Well #7 is working quite well and we expect the same outcome with well #6.

- The water conservation watering schedule is in play now. It runs April through September of every year. Even addressed properties should only water on Tuesday's, Thursday's, and Saturday's, and odd numbered properties should only water on Wednesday's, Friday's, and Sunday's. There is no watering on Mondays. This is a schedule that the city has imposed for many years, and the information will be printed on the city utility bills.
- The NMDOT roundabout project flipped the route so they can do the other half started. It created a little consternation and concern for drivers going through it. It is just going to take a little getting used to. I think if you can handle this construction, you are certainly going to be able to drive through the roundabout once it is completed.

City Attorney Rubin reported the following:

- At the last City Commission meeting I gave a report regarding the property of 630 Charles. This is a property that the city placed a lien on for delinquent utility invoices and the cleanup of the property itself. He filed a foreclosure action in District Court to foreclose on our lien. We had a hearing this past Wednesday, April 19th, and part of the hearing agreement we reached an agreement to resolve the case, and I was pleased with the resolution. The resolution contemplates that the owner will be paying the city all of the funds pertaining to the utilities and the cleanup of the property. It is supported by a judgement which means if there is a fault in the payment plan with the city, we would then have the right to foreclose without us having to go back to court again. In the meantime, if there are any future violations on the property, the city is still free to proceed by resolution.

City Commission Reports:

Commissioner Fahl reported the following:

- After the Wilson & Company report on the Cantrell Dam, I was contacted by members of the County Commission and the Village of Williamsburg, and they were glad to see the report, but there are some things that they did not see in the report that they would like to discuss so I would suggest that soon or before Wilson & Company gets too much further in the process that we can have a meeting with those other entities involved.

Commissioner Harrelson reported the following:

- In Socorro last weekend they had an event with a lot of attendees, and she thought it would be a really great thing to have in our community so she recommended it to the Fiesta Board. It is called midget powers. They are professional bull fighters, and they have monster trucks and little bulls, and little people who do an entire event with fireworks and singing and dancing. There are also a lot of mariachis and things like that. The director of the event told her all

about it, and she said that she would pass it on as an event that we should have at Fiesta.

Mayor Pro-Tem Hechler reported the following:

- They looked into that event that Commissioner Harrelson mentioned, but they are booked this year for Fiesta, but that doesn't mean that we can't have them come in the future.
- Fiesta is coming along very nicely. We have about two meetings a week now, and they pretty much have their event calendar set. They have a number of sponsors this year, and there are lots of vendors that are coming. Please check us out at "annualforcfiesta.com" or you can get on Facebook and look for Fiesta T or C. We will have all of the events posted here shortly to give you all of the information that you need so that we can have a great event.

Mayor Forrister reported the following:

- She gave a shout out to Chief. She was contacted by 4H and they needed some assistance out at the shooting range, and he helped them tremendously, and jumped on it with no questions asked.
- She received a call from the Sierra Soil Conservation. They had a water leak outside of their building and they wanted to call to make sure that we gave kudos to our water department that was out there really quickly fixing the problems that they were having.
- She was contacted by CYFD and she wanted her to get out to the public that they are in desperate need of foster parents so if anybody in our community is interested in looking into that, please go down to the CYFD Office across the street from Foxworth.
- There is a special school board meeting tonight at 5:30 p.m. They are discussing the new text book adoption presentation, so if anybody has kids in the school, I would recommend going and hearing what is being presented, and then giving your opinion on that presentation.
- Hot Springs volleyball is going to have a volleyball camp every Tuesday from 3-5 in June, for grades of Kindergarten through 6th grade.
- Her and Mayor Pro-Tem played donkey basketball for the elected officials and they were in the championship game. They beat the school staff 14-0.

E. CONSENT CALENDAR:

1. Acknowledge Regular Planning & Zoning Minutes, March 13, 2023:

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

G1 was moved after item E1.

G. NEW BUSINESS:

1. Discussion/Action: Approval of the FY 2024 Tourism Marketing Proposed Plan:

Joanie Griffin, Sunny 505, reviewed the Tourism Marketing Proposed Plan. (Complete copy attached hereto and made a part hereof).

Commissioner Fahl: what was the amount we funded last year?

Joanie Griffin, Sunny 505: The New Mexico True portion was \$25,000 last year, and then they got a secondary campaign for \$130,000. So it was around \$155,000 total from the city.

Mayor Pro-Tem Hechler: How does the City of Elephant Butte and Sierra County benefit by this? Do we advertise as a whole for everybody?

Joanie Griffin, Sunny 505: We do advertising as a whole. Sierra County is really promoting their OHV trails, so we want to do some videography of that as well, and then also have more asset shots of the lake and the lake activities so as we produce our new commercials, it will show the whole region.

Mayor Pro-Tem Hechler moved to approve the FY 2024 Tourism Marketing Proposed Plan. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

F. ORDINANCES/RESOLUTIONS/ZONING:

1. Discussion/Action: Resolution No. 40 22/23 Budget Adjustment Request:

Kristie Wilson, Finance Director reviewed the Budget Adjustments provided in the packet.

Commissioner Fahl moved to approve Resolution No. 40 22/23 Budget Adjustment Resolution. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Discussion/Action: Resolution No. 41 22/23 Approval of a Planning & Zoning Commission Rules of Procedure Manual:

City Attorney Rubin: This was on your agenda a few meetings ago. A member from the Planning & Zoning Commission had approached us about a possibility of preparing rules of procedures for their conduct of meetings and public hearings. The governing body voted to remand it back to the Planning & Zoning Board to adopt rules and bring that back to you for your approval. You also wanted me to take the lead in drafting the rules so he drew them up, and then presented them to the Planning & Zoning Board for their recommendation. What you have before you is the resolution that I prepared. If you remember at the meeting where we discussed this, you were presented with rules that had been adopted by Sandoval County. Some of the rules I incorporated came from Sandoval County. I thought that they were very helpful, but a lot of the rules that they had did not apply to how we operate. They operate differently than we do. Our Planning & Zoning Commission actually acts in an advisory capacity, while Sandoval County takes action which is actually binding so there are a lot of rules that they had which I chose not to include here. There is a section included in the rules of procedures that is called an Ex Parte communication which is where we tell the Planning & Zoning Commission not to talk to applicants or opponents, or proponents about an action that is going before them prior to the meeting.

Commissioner Fahl: On section 4 where it states "*Planning & Zoning Commissioners shall not conduct independent fact finding investigations besides a drive by of the property*" is that saying, all they can do is drive by and look at the property? If an applicant is requesting a variance for whatever reason, and a member of the Planning & Zoning Commission has a question regarding the application, and that member knows people who are experts in the field of what is being presented, why can't they talk about it? When we have items like that, I call that person because I want to understand the complexity of whatever that situation is, and it sounds to me like you are not going to allow them to do that.

City Attorney Rubin: If the individual Commissioner happens to know there may be an expert witness who may be available, then we would ask them to come to the Planning & Zoning meeting and give their testimony.

Commissioner Fahl: What if they can't come to the meeting, but that person calls them for their expertise? They can't do that?

City Clerk Torres: It really should be discussed during an open meeting with all of the Commissioners, rather than a one on one conversation. If they can't attend the meeting, they can always have a representative attend for them. Another option would be to contact city staff "*Traci*" because she is very knowledgeable on everything that would pertain to that item.

Commissioner Fahl: I call people, and I get fact finding information on items on my agenda. I do it. We are not allowed to do that?

City Manager Swingle: You cannot have Ex Parte communications. Whether you be on the Planning & Zoning Board or should you be acting in that same capacity on this Commission. You cannot have communications on cases that you are going to be rendering a decision on, that is not purvey to the entire board, and public information. If experts need to be brought in on something, then they need to be brought in for everybody, but that is exactly what Ex Parte communications is eliminating.

Mayor Forrister: It says, "*Shall not conduct independent fact findings*" so my thought when I read that was that none of us should go and do fact finding. That is what Code Enforcement or the Planning & Zoning **staff** would do. It does say if you want to drive by their house you can.

City Attorney Rubin: You want to keep in mind that the witnesses that give testimony are sworn in, and what the Planning & Zoning Commission is supposed to be doing is basing their decision solely on the evidence that is being presented to them at that particular hearing. I see an issue with Planning & Zoning Commissioners or City Commissioners having Ex Parte communications because if the action is ever challenged by the land owner who got denied a permit, we are going to be in court, and the Judge can ask us what it was based on.

Mayor Pro-Tem Hechler moved to approve Resolution No. 41 22/23 Approval of a Planning & Zoning Commission Rules of Procedure Manual. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Approval of Ordinance No. 747 an Ordinance authorizing the lease of real property (Sun State Towers III (ballfield site) pursuant to section 3-54-1 NMSA 1978:

City Manager Swingle: This is for the tower that is at the ballfields. This is a long term lease proposal that we are working on to lease this tower and easement to Sun State Towers III. The city will receive \$175,000 immediately after all of the documents are finalized and executed. The lease will be for 99 years for the easement to the property. Jay has gone through the whole process of what we have to follow to establish the ordinance.

City Attorney Rubin: I believe that there are 5 different ordinances/towers that we are dealing with. At first there was a little bit of confusion in matching up one ordinance to one piece of property regarding the legal description. I have to apologize because there were a couple of things that I did not catch until we had already taken action, so we had to bring these back to take some corrective action. The good thing is that we caught everything and the city is going to be able to pass these corrected ordinances at no cost to the city. All tenants involved are in support of the proposals.

Commissioner Fahl moved to approve Ordinance No. 747 an Ordinance authorizing the lease of real property (Sun State Towers III) (ballfield site) pursuant to section 3-54-1 NMSA 1978. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Publication of the Repeal of Ordinance No. 748 of the City of Truth or Consequences, New Mexico.

City Manager Swingle: We are wanting to repeal this ordinance that was approved because the ordinance had the wrong legal description in it so we wanted to appeal that and then the next item on the agenda is to approve for publication the correct ordinance.

Mayor Pro-Tem Hechler moved to approve Publication of the Repeal of Ordinance No. 748 of the City of Truth or Consequences, New Mexico. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Action: Publication of Ordinance No. 750 an Ordinance authorizing the assignment of the lease of real property to American Tower (Kopra St. Tower) pursuant to section 3-54-1 NMSA 1978:

City Manager Swingle: This is for the Kopra Street Tower. This is the ordinance that we would request authorization for publishing. The city will receive \$480,000 for this tower, and it is for a 99 year lease. There have been some minor amendments made to it in the last 12 hours, from the tower company, so we will get those available to the Clerk for the availability of the community, should they wish to view. This is what these tower companies do worldwide, and they've never really ran into the rules that we have in New Mexico to comply with. They are quite frustrated that we have to do ordinances and things of that nature. For them, it is typically just a lease agreement that they complete in most states, and they are going through a lot of gyration, so there is a lot of indecision and confusion between the legal counsel with these different tower companies, and how they want to propose, and how they want the verbiage to read. They are learning, as are we, on this process.

Mayor Pro-Tem Hechler moved to approve Publication of Ordinance No. 750 an Ordinance authorizing the assignment of the lease of real property to American Tower (Kopra St. tower) pursuant to section 3-54-1 NMSA 1978. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

6. Discussion/Action: Publication of Ordinance No. 751 an Ordinance authorizing the lease of real property to Tower Point (Water tank site on Pershing) pursuant to section 3-54-1 NMSA 1978:

City Manager Swingle: This is a long term lease agreement for 99 years, for the Water tank site on Pershing. The city will receive \$300,000 for this agreement. At this point we are requesting publication of the ordinance. Once we get through these, we have two more, and they will both be with Tower Point. That will be for water tank hill off of Second Street.

Commissioner Fahl moved to approve Publication of Ordinance No. 751 an Ordinance authorizing the lease of real property to Tower Point (Water tank site on Pershing) pursuant to section 3-54-1 NMSA 1978. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

G1. was presented after item E1.

G. NEW BUSINESS:

2. Discussion/Action: Variance/Special Use Permit at 120 Winston, T or C, NM:

Assistant City Manager Alvarez: The applicants at 120 Winston are requesting a Variance/Special Use Permit. We had a public hearing at the Planning & Zoning Meeting on April 10, 2023. This property is located in the T-1 zone. The applicant is wanting to use this property to allow for a community club house, a sound and video recording studio, a gift shop, and to have weekly swap meets and special events at this location. Per our Municipal Code, in the T-1 area, some of these items that they are requesting are not really specified within our code which is the reason why we are doing a Special Use/Variance request. Our community club house does require a Special Use Permit in the T-1 zone. The sound and video recording studio, gift shop, and special events, are not specified within our code so we are doing it as a Special Use Permit for those. Weekly swap meets will require a Special Use Permit, as well as a potential Variance request. The T-1 zone allows for garage sales, yard sales, or similar uses, but they are only allowed 3 per year, and they are not to exceed 3 consecutive days. There were no proponents or opponents at the public hearing, and we sent notification to the adjacent property owners within a 300 ft. radius.

Commissioner Fahl moved to approve the Variance/Special Use permit at 120 Winston, T or C, NM. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Recommendation of Award for the Main Street District (MSD) Roadway and Drainage Improvements:

Assistant City Manager Alvarez: The city was awarded Colonias funding in July 2020 for the purpose of the MSD Roadway and Drainage Improvements, to coincide with the MSD Water Project. The project was originally bid out in December, and again in February. December request for Bids garnered no submissions. The project was then re-scoped, and in February, bids came in above the available funding amount. The project was re-scoped again with a further breakdown, to allow for funding restrictions. Bids were received April 11, 2023, and 1 bid was received from Spartan Construction of NM. Wilson and Co. has reviewed the Bid for compliance, and recommends awarding a contract to include the following: McAdoo Street from Jones to Pershing; Daniel Street from McAdoo to Broadway; Pershing Street from Main to McAdoo and Pershing Street from McAdoo to Broadway for a total contract award in the amount of \$765,766.01, including NMGRT. This recommendation fits within the allowable funding source.

Mayor Pro-Tem Hechler moved to approve the Recommendation of Award for the Main Street District (MSD) Roadway and Drainage Improvements. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Re-allocation request of the NM Department of Economic Development FY21 Capital Outlay Grant 419-A20E2046-2101:

Assistant City Manager Alvarez: The City Commission accepted a grant award from the NM Department of Economic Development, in partnership with T or C MainStreet for the purpose of the Foch Street Renovation in the amount of \$1M. Economic Development is asking to transfer the remaining balance of \$986,908 back to the department so they can re-allocate it to another municipality that is in construction, and short of funding. The city project is in the design and permitting process, and has not gone out to bid. Economic Development would then allocate a new grant this fiscal year for \$600,000, and then execute another grant in fiscal year 23/24 for the difference, with a potential to receive additional funding due to expected cost overruns for the project.

Commissioner Fahl moved to approve the re-allocation request of the NM Department of Economic Development FY21 Capital Outlay Grant 419-A20E2046-2101. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

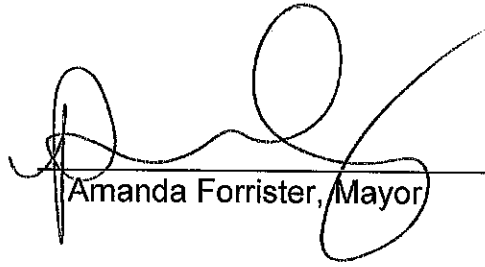
H. ADJOURNMENT:

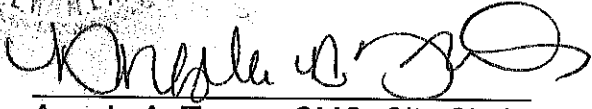
Mayor Forrister adjourned the meeting at 10:22 a.m.

Passed and Approved this 10th day of May, 2023.

CITY COMMISSION APRIL 26, 2023 REGULAR MEETING MINUTES




Amanda Forrister, Mayor


Angela A. Torres, CMC, City Clerk



FY2024 Tourism Marketing Proposed Plan

Contributors:

Elephant Butte:	\$5,000
Sierra County:	\$10,000
TorC:	\$159,321 + NMGR

New Mexico True Cooperative Advertising:

Once again the New Mexico Tourism Department is giving communities a 2:1 match on all advertising, meaning we pay 33 cents on the dollar for advertising.

Contribution from all entities is \$54,321 for \$162,963 in advertising which includes:

- A video and photo shoot (we desperately need new assets for our advertising)
- A seasonal InstaMeet (with Instagram Influencers)
- Facebook and Programmatic Digital Advertising
- Google Ad Words
- A full-page ad in the New Mexico True Adventure Guide
- 3 Full Page New Mexico Magazine ads and digital ads
- 12-week Albuquerque billboard campaign
- 12-week El Paso billboard campaign

Additional Advertising Outside of NM True

\$60,000 for Television Advertising on Albuquerque TV stations (that reaches the entire state except for Las Cruces)

\$40,000 for Television Advertising on El Paso TV stations (that reaches the El Paso area as well as Las Cruces)

\$20,000 for Sunny505 fees for managing the grant and TV placement as well as developing advertising and handling public relations.