

**CITY OF TRUTH OR CONSEQUENCES  
PUBLIC UTILITY ADVISORY BOARD  
TUESDAY, FEBRUARY 22, 2022**

**MINUTES**

**REGULAR MEETING**

Regular meeting of the Public Utility Advisory Board of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Tuesday, February 22, 2022 at 3:30 pm.

**CALL TO ORDER:**

The meeting was called to order by Chairman Szigeti.

**ROLL CALL:**

George Szigeti, Chairman  
Jeff Dornbusch, Vice-Chairman  
Ron Pacourek, Member  
Gil Avelar, Member  
Don Armijo, Member

**ALSO PRESENT:**

Bruce Swingle, City Manager  
Traci Alvarez, Assistant City Manager  
Bo Easley, Electric Department Head  
Sonya Williams, Utility Department Manager  
Dawn C. Barclay, Deputy City Clerk

**1. APPROVAL OF AGENDA:**

Member Armijo made a motion to approve the agenda. Member Avelar seconded the motion. Motion carried unanimously.

**2. APPROVAL OF MINUTES:**

**a. Regular meeting of January 10, 2022.**

Vice-Chairman Dornbusch made a motion to approve the January 10, 2022 minutes. Chairman Szigeti seconded the motion. Motion carried unanimously.

**3. COMMENTS FROM THE PUBLIC:**

**Betty Harper** – Presented her concerns in regards to Mr. Harper's utility bill. Ms. Harper's handout is made part of these minutes.

**Jon Biemer** – Presented his concerns. Mr. Biemer's handout was made part of these minutes.

**Ariel Dougherty** – Presented her concerns. Ms. Dougherty’s handout was made part of these minutes.

**Ron Fenn** – Presented his concerns. Mr. Fenn’s handout was made part of these minutes.

#### **4. OLD BUSINESS:**

##### **a. Discussion/Action: Recommendation of Amendments to Ordinance No. 664 – Customer Generated Renewable Energy. George Szigeti, Chairman**

Chairman Szigeti started discussions on the finalization of the new proposed Ordinance which is based upon Ordinance No. 664. The board approved the following changes. The new proposed changes will now move onto the City Commission for approval. Upon presentation to the City Commission a new Ordinance number will be issued, repealing Ordinance No. 664.

- 4.a.ii – insert “fees” in place of “charges”.
- 4.b.ii - insert “fees” in place of “charges”.
- 4.d – remove.
- 4.e – now becomes “4.d”.

**Vice-Chairman Dornbusch made a motion to incorporate the said changes. Member Pacourek seconded the motion. Motion carried unanimously.**

##### **b. Discussion/Action: Utility Forgiveness Program. George Szigeti, Chairman.**

Several topics were presented and discussed. These topics are requiring further research. The board decided to table this matter for further discussions. Some of the topics were as follows;

- Review of the presented handout from Chairman Szigeti.
- Establishing a threshold.
- Anti-Donation Clause.
- Creating a fund to hold money to pay for a submitted request for the “Forgiveness Program.”

**Member Pacourek made a motion to table this agenda item. Member Avelar seconded the motion. Motion carried unanimously.**

#### **5. REPORTS FROM THE BOARD:**

**Member Pacourek** – “Would like to see a review on the current fees classified as “Service Fees”. These are fees that are not related to the “Meter Fees”.

**Chairman Szigeti** – Suggested that all the Utility Departments present to the board what the current fees are and when the last time they were updated. Along with a recommendation from each department what the current fee should be.

#### **6. REPORTS FROM STAFF:**

There were no reports from the staff.

**7. ADJOURNMENT:**

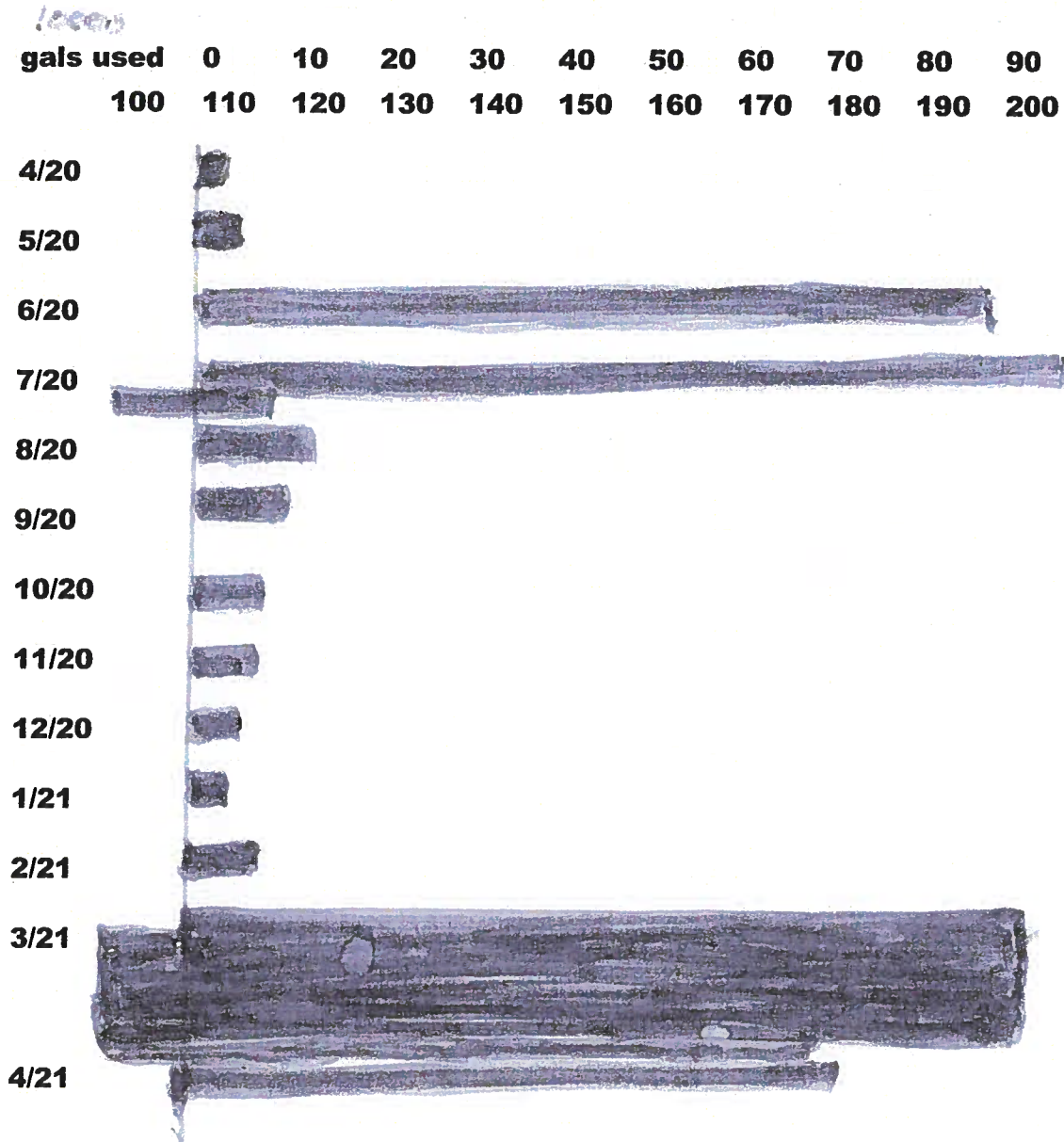
There being no further business to come before the Public Utility Advisory Board, Chairman Szigeti made a motion to adjourn the meeting. Member Pacourek seconded the motion. Motion carried unanimously. The meeting was adjourned.

**PASSED AND APPROVED ON THIS 21<sup>th</sup> DAY OF MARCH 2022.**

  
**George Szigeti, Chairman**  
**Public Utility Advisory Board**

Betty Harper

130.5 Lead



PRESENTATION TO PUBLIC UTILITY BOARD RE: 1305 LEAD ST  
\$6,000 WATER BILL - CULPABILITY OF THE CITY OF T OR C VS,  
HOMEOWNER'S RESPONSIBILITY

present Chart of Water use for 1305 Lead St from April 2020 to April 2021

Something to keep in mind as you view this chart is that there is over a month delay in billing after the meter is read. For example, a meter reading for the period of Jan 23, 2021 - Feb 22, 2021 will not show up on a bill until Mar 29, 2021, as was the case with 1305 Lead St. So there is a 5 week delay from the first indication that there was a water problem until the City took notice and sent personnel out to talk to the homeowner on Mar 29, 2021,.

In the case of 1305 Lead St. water usage jumped from 4,000 gals to 1,261,000 gals in one month. How could this be true if a city meter is only capable of passing 432,000 gals of water through at maximum if water is left running 24/7 at 10 gpm avg for 3/4" pipe feed?

Scenario #1 - Assuming that the City's assertion that all water meters are manually read each and every month is true, only one plausible explanation exists: that the meter itself experienced catastrophic mechanical failure causing it to read that a physically impossible amount of water had passed through it in a 30 day period.

This scenario certainly seems to be possible if one reads the Preliminary Engineering Report commissioned by the City and completed by Wilson & Company in Sept of 2021 for Project #19-600-211-00 "City-Wide Water System Improvements", p. 48, Section 5.2.3.3 "Replacement of City Water Meters". Due to aging, inaccurate meter readings and manual reading record described in the "Existing Facilities" portion of this report, it has been determined that all the water meters should be replaced in their entirety. Water meters are currently older than 40 years exceeding their useful life. This provides incorrect data and has a negative impact on the City's billing system. This will reduce the manpower needed to read the meters which will reduce the labor cost on the system."

Who is culpable for this type of system failure?

- a) the City
- b) the customer or homeowner

The answer is a no-brainer, a) the City.

Scenario #2. Now, let's assume that the pandemic affected the Water Utility Department who might have experienced personnel shortage during the months April 2020 to April 2021 while the pandemic was raging. Also, with approximately 3,700 meters to read each month manually, how many meter readers does the City need to employ to accomplish this goal?

Is it possible or probable that not every water meter was being read each and every month during this most unprecedented event in human history, which coincidentally, the City manager's office had been under scrutiny and former City Manager Madrid had resigned, leaving Ms. Alvarez acting as the interim City Manager? In other words, there was a lot more attention being paid to politics than water issues by the City at that time. In all fairness to you, Mr. Swingle, all of the events I'm speaking of occurred before you were even offered the job of City Manager.

Allow me to quote an article written by Chuck Wentworth that I found relevant to the issue at 1305 Lead St. The date of the article was Mar 25, 2021.

"Aside from the city manager selection, the morning's regular meeting was no doubt topped by a report from utility office manager Sonya Williams, which revealed delinquent utility accounts amounting to approximately \$700,000 since waiving red tag procedures in respect of COVID-19 last year. Board members expressed surprise at the amount of unpaid accounts and after considerable discussion, unanimously approved a motion to immediately reinstate red tag procedures relating to delinquent utility accounts. The commission's action also included a directive for staff members to step up available code enforcement procedures related to red tagged accounts and collection efforts.

In another action, commissioners unanimously approved the submission of application documents relating to a proposed water line improvement project. Interim city manager Alvarez said the approximate \$7.5 million project would deliver almost five miles of new pipelines, as well as the installation of new meters and pressure valves as requested."

Let's look at the chart to see if another plausible explanation for how one water meter can jump from 4,000 gals of consumption to over a million gals from one month to the next (at least on paper).

As you can observe, water usage for 1305 Lead St. increased in June of 2020 with 87,000 gals consumed vs. 4,000 for the previous month. In reality, this 87,000 gals was consumption for the month of May 2020 because remember there is over a month delay in billing. A logical guess based on this chart is that a water leak began at 1305 Lead St. sometime during the month of May 2020 and the last actual reading of the meter occurred in June of 2020 where consumption was 112,000 gals.

Because the bills for 1305 Lead St. are sent to James Harper's payee in Las Cruces, the Ability Center, James never even saw the bill and the Ability Center just cut a check for it even though \$600+ was a pretty high utility bill. They didn't notify James because the following month water consumption and the bill sent to them had dropped back down to normal so an assumption could be made that if there was a problem, it had been resolved. Since the customer can be difficult at times because of his disability and rarely has a working phone number, the homeowner was not made aware of the two high bills that had been paid on his behalf.

Assuming that the meter reading was estimated for the next several months at normal usage, the leak went undetected until the meter was again read on Feb 22, 2021, and recorded a huge amount of water consumption (over a million gals). Still, the exorbitance of the water usage wasn't noticed by City personnel until the actual bill for that reading is printed and being prepared to mail out on March 29, 2021, but by that time 10 months had elapsed since the first signs of a leak had surfaced back in June of 2020 which should have raised a red flag with the City and normally would have

with the homeowner.

This is a logical explanation for the 1,261,000 gals water usage bill for \$5,900 that was mailed to the customer, WHAM! A pretty serious water leak was left unchecked for 10 months from May of 2020 until the end of Mar 2021 when it was finally brought to the attention of the homeowner and subsequently repaired.

Who should be held responsible? Is the City at fault for not reading its meter for 8 or more months? Is the homeowner responsible for having a leak? Should a percentage of culpability be assigned to each party? 50/50, 75/25?

What percentage of the blame would you say belongs to the City? \_\_\_\_%

What % of the blame would you say belongs to the customer? \_\_\_\_%

How do you think a judge would rule in this scenario?

Now, let's take a look at the DOMINO EFFECT for the customer:

From Apr 2021 to now,

594 The Ability Center pays more than the monthly bill every month after the \$6,000 water bill.

700 The customer is charged over \$80 per month in late fees.

Several letters (3) were sent to the City on James' behalf questioning the validity of the exorbitant bill which only delayed the termination of utility service to 1305 Lead until the beginning of 2022. Water, electricity and trash service were all suspended.

100 A codes officer was dispatched to 1305 Lead to evict any inhabitants of the home citing sanitation reasons. James and his roommate, Dave, are told that they cannot stay in the home. James is homeless now and paid a friend to sleep on the couch temporarily.

500 James' freezer and refrigerator thawed and all the meat and groceries are



now spoiled with no means of disposing of them because the City has taken his trash can.

? James' dog is picked up by the pound,

1,250 James has to find another place to live that is all bills paid and wipes out his entire savings account on rent and deposit for a studio apartment but again cannot move in until his payee sends a check for \$1,250 to the apartment manager.

20,000 The city can now file a lien on 1305 Lead St. for the delinquent bill and foreclose on his property but before that happens a fire was somehow ignited in his backyard which destroyed a camper trailer and two sheds and melted one end of the manufactured home. Water from the fire department's high pressure hoses breached the walls of the home. The home was declared uninhabitable and will soon be condemned by the City.

5,000 James will lose most of the contents of his home because he has no means of removing them and moving them to another location.

28,144 TOTAL MONETARY LOSSES FOR JAMES

10X End result, the home that James inherited from his grandmother who parked it there in the 70s and that has been his only source of security in life is no longer his to call home. He went from being a homeowner to homeless as the dominos kept falling one into the next.

0% - 100% The City is at fault for this fiasco to a big degree because it is obvious that the water meter at 1305 Lead St. was not being read monthly as the City keeps claiming. And if the City wants to stick with that story, then the water meter malfunctioned and the City can take all the blame.

Hasn't the City bullied James enough? I'm asking the Board to take a vote right here, right now to forgive this outrageous bill and turn James utilities back on and for God's sake give the man back his trashcan. Give him a chance to salvage what he can and what is left of his home.

PUAB Meeting February 22, 2022  
Comments by Ariel Dougherty

Greetings, PUAB members ---

Yesterday I sent you an email with a graph that projects how many kWh 50 solar producers provided the City in 2021. The chart shows – based on current approved solar producers – that it is likely that the number of kWh solar producers will send into the City's grid in 2022 will double. This renewable energy saves the City from purchasing these kWh from Sierra Electric Coop and or WAPA.

The vast majority of these kWh are NOT excess production. This volume of free electricity the City receives has gone unacknowledged in your deliberations of this ordinance revision. This clearly is a benefit to the City. NM Energy Transition Act requires public utilities to be 40% renewable by 2025. And by 2030 to be 50% renewable. Citizen producers are assisting the City to reach these goals. In your deliberations today please ask me questions on this.

For this, and two other reasons, I URGE that the fee schedule at the end of the ordinance be struct. One, its language is ambiguous. Two, due to net metering, the only time to translate excess production into dollars and cents is at a pay out time, which is best for producer in March, not January. A monthly translation to dollars & cents wastes City personnel time.

As to “procurement”, a national expert on solar wrote: *They shouldn't look at it as paying for excess production. It is a refund. The idea is they are getting excess energy from you--when you over produce, and they are selling energy to you when you purchase energy at night. The payment is or netting is reconciling that. It is not a procurement. It is more like a customer payment adjustment....a refund for over charging.*

Last, If there is to be a new hire in the electric department, renewable expertise should be a requirement.



Ariel Dougherty films &lt;arielcamera@gmail.com&gt;

## PUAB - regular meeting Tuesday, February 22, 2022 @ 3:30pm

Ariel Dougherty films &lt;arielcamera@gmail.com&gt;

Mon, Feb 21, 2022 at 8:43 AM

To: Don Armijo <chanoystoner@yahoo.com>, George Szigeti <szigdog@gmail.com>, Gil Avelar <gavelartorc@gmail.com>, Jeff Dornbusch <jd5cats@gmail.com>, Ron Pacourek <ronpacourek@gmail.com>

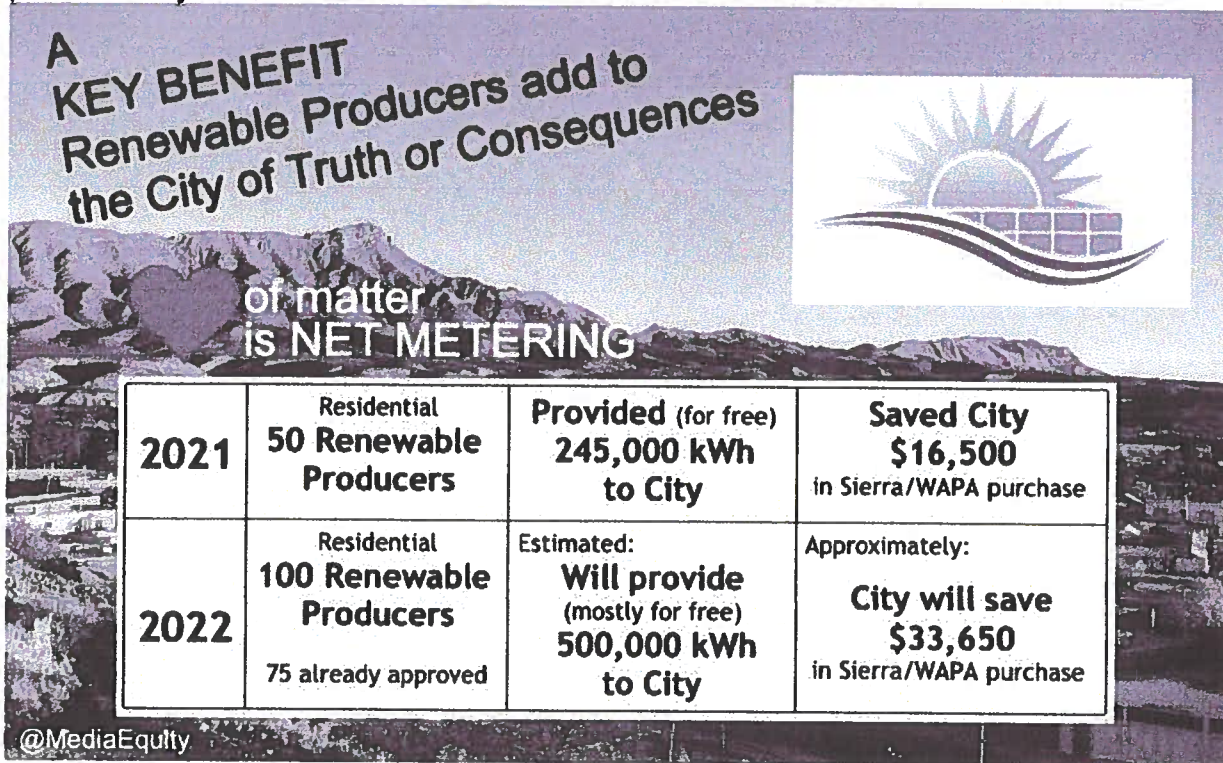
Bcc: Jon Biemer <environmentalhandprint@gmail.com>, Ron Fenn <fenwron234@gmail.com>, Kathleen Sloan <kathleen.sloan@gmail.com>, Jesus Escalera <Jesus.Escalera@merakisolutions.com>

Greetings, PUAB members,

Discussion of 664 (it's still unnumbered replacement) is on your agenda for this Tuesday at 3:30. The newest version as approved at your meeting on January 15 is not included in the packet. Why is it not available for your consideration?

Anticipating this ordinance was to soon come before the Commission I investigated an issue that I never heard acknowledged in any discussions on renewables. That is the actual volume of FREE electricity that solar producers monthly, hence annually provide the city. Here, based on four months (of ~50 producers) of the city's own summary reports, I estimate for 2021 that about 245,000 kWh were provided for free to the city. This meant kWh the City thereby did not have to buy from Sierra Electric Coop, saving the city about \$16,500.

For 2022 I estimate these amounts to basically double. This chart explains in simple terms these benefits producers provide the City:



Only a small portion of these total kWh are excess hours. On sunny days most solar producers will always be providing the City electricity beyond what they are using. At night many or most of these same producers might be using more grid electricity than even they provided during a sunny day.

Hence:

- 1) Give this volume of free electricity, Why at the end of this ordinance is there any monthly "additional" charge made by newable producers?
- 2). Why does this ordinance avoid using the term, "net metering", the standard in the field?
- 3). Why does the City insist each month to translate any excess kWh into dollars and cents. (As per the handout of Chairman Szigeti at the Jan 15 meeting) This counters the entire point of what net metering means.

**Gmail - PUAB - regular meeting Tuesday, February 22, 2022 @ 3:30pm**

- I expect this chart and these questions to be discussed at your meeting on Tuesday. Thank you.**

**ARIEL dougherty**      ArielCamera@gmail.com      **575-740-5868**

**2 attachments**

 **02-22-2022 - PUAB agenda.docx**  
17K

## **PROCESS RECOMMENDATION**

### **TESTIMONY TO THE PUBLIC UTILITY ADVISORY BOARD OF TRUTH OR CONSEQUENCES, NM**

By Jon Biemer, February 22, 2022

#### **Current Public Testimony Process**

The current public testimony process collects oral testimony, limited to three minutes per person. Testifiers have the option of providing written testimony which may become part of the minutes. Board members, at the same meeting, then discuss the matters at hand among themselves, occasionally seeking staff input, before deciding on a given matter.

#### **Problem Statement**

Board members have little opportunity to study proposals made by testifiers before going into closed session to discuss and decide an issue. This minimizes or ignores the detail merits of testimony. This essentially limits the expertise that can be brought to bear on a given issue.

This has been especially evident during discussions relating to revising T or C's solar ordinance. The resulting revisions to the ordinance are not as good for the city or homeowners as they could be.

#### **Recommendation**

Basically, avoid making decision at the same meeting that written testimony is taken on a given subject. More formally, follow these steps:

1. Propose issue at one meeting (the first)
2. Collect oral and written testimony at the next meeting (the second)
3. Assign one Board member or staff member the job of reviewing the testimony. Identify the issues raised, perhaps gather more information (e.g., from staff).
4. At the next meeting (the third), the assigned Board member will report to the Board and the public present what he or she learned and any resolutions he or she may offer.
5. Then, at that meeting, collect oral public testimony.
6. Then, at that meeting or the next (the fourth), the board enters into an internal discussion prior to moving the matter forward either by vote or to invite further input and comment.

#### **Benefits**

While this may seem like a long cumbersome process, but it has the following benefits:

- It gives everyone with an interest an opportunity to be thoughtfully and carefully considered.
- It gives public ownership and respect for the process and the outcome.
- It improves the quality of the final product.
- It reduces the need to revisit an issue in the future.

#### **Deviation from the Suggested Process**

There may be situations that merit quick action. If so, a majority of the Board members can vote to suspend or amend the process for a specific issue – pending future public comment on that issue.



Kon Fenn

Excavations in streets and avenues shall be made in such manner as to impede travel as little as possible, and the time that such excavation is open may be limited by the City. Efficient barricades shall be erected by the contractor around all trenches or embankments made by him within the limits of any street or avenue, and red lights shall be maintained thereon from dark to daylight until the street or avenue shall be restored to a safe and passable condition. At no time during the progress of the work shall sidewalks be unnecessarily blocked to travel.

(Code 1962, § 9-6-3)

IF SIDEWALKS ARE MEANT FOR PEDESTRIAN TRAVEL WHY DOES THE CITY VIOLATE THIS CONCEPT? CODE OFFICER MADE AWARE OF THIS SITUATION 10 DAYS AGO AND NO ACTION TAKEN AS OF FEB 22.

RON FENN

