

CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, FEBRUARY 14, 2024

A. CALL TO ORDER:

The meeting was called to order by Mayor Rolf Hechler 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. Rolf Hechler, Mayor
Hon. Amanda Forrister, Mayor Pro-Tem
Hon. Destiny Mitchell, Commissioner
Hon. Merry Jo Fahl, Commissioner
Hon. Ingo Hoepfner, Commissioner

Also Present: Angie Gonzales, City Manager
Traci Alvarez, Assistant City Manager
Jay Rubin, City Attorney
Angela A. Torres, City Clerk-Treasurer
Arnie Castaneda, Water/Wastewater Director
OJ Hechler, Community Services Director
Tammy Gardner, Executive Assistant
Luis Tavizon, Chief of Police

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

2. SILENT MEDITATION:

Mayor Hechler called for fifteen seconds of silent meditation and asked that everyone keep Officer Jonah Hernandez in their thoughts and prayers.

3. PLEDGE OF ALLEGIANCE:

Mayor Hechler called for Mayor Pro-Tem Forrister to lead the Pledge of Allegiance.

4. APPROVAL OF AGENDA:

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

C. PRESENTATIONS:

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

City Manager Gonzales presented an Employee Service Anniversary Award to Carmen Howell for 5 years of service with the City of Truth or Consequences.

City Manager Gonzales presented an Employee Service Anniversary Award to Matthew Gransbury for 7 years of service with the City of Truth or Consequences.

City Manager Gonzales presented an Employee Service Anniversary Award to Arnie Castaneda for 1 year of service with the City of Truth or Consequences.

City Manager Gonzales presented an Employee Service Anniversary Award to Brain Bean for 1 year of service with the City of Truth or Consequences.

D. PUBLIC COMMENT (3 Minute Rule Applies):

Ariel Dougherty addressed the Commission with comments related to the Police Department referendum. Complete copy attached hereto and made a part hereof.

Deborah Clementi addressed the Commission with comments related to:

- I am here because the electric went up. You voted for a penny raise, and to me it don't seem like a lot. When you have a house like ours, I used 2600 kilowatts last month, and this is the wintertime. That means it went up \$26 plus the \$10 for the meter that was raised, and another \$10 because I have two meters. The other meter is for my well, which only uses 67 cents of electricity, yet I'm paying \$20 for the meter. That isn't fair. I've got two meters now. They went up, so that's \$20, and now the kilowatts. My bill went up, this month alone, \$46. Now, in the summertime, my summertime bill is \$555. That's with the old rate. That was 3800 kilowatts. That's \$38 for the penny per kilowatt and then the \$20 for the two meters that it went up, so that's going to be \$58 in the summer, which is going to send my bill over \$600, which is higher than my car payment. I know that you lowered it a penny for the kilowatt then raised it two cents for the pass-through. I think that pass-through is BS anyway. A lot of people in town, if we're having a hard time, me and my husband, you can imagine the people really don't have anything. It doesn't sound like much, a penny, but when I explained it to you, really it does matter. We're on a fixed income, me and my husband. A \$60 a month raise like that is a

lot. It's a lot. To pay \$20 for a meter that you're only using 67 cents of electricity, that isn't right. I appeal to you to please lower it back down to what it was.

Ron Fenn addressed the Commission with comments related to:

- A little history here. On October, in September, you authorized the Chief of Police to look into funding options for his, after one year of being here, his plan to renovate the armory. That authorization cost the city \$22,000 to Modrall Sperling to create the Ordinance, \$22,000 for their fine work. Then Bosque Advisors came to you on the 11th I believe of October and presented their plan, which was not in the packet. Everything that they talked about. They forgot to tell you that the police department's GRT cannot be used to pay for this bond issue. It's in the packet that they put in the box after they spoke, but apparently nobody had read that. You keep talking about it over and over again. It's the police department's money. No. Has nothing to do with that bond issue that's going to be paid for out of the general fund GRT. It's there. Look for this in the minutes of that meeting. But you approved it, and now you're complaining that this election which was brought on by an employee of one year deciding he didn't like his working conditions. Well, he shouldn't have taken the job then. He should have looked at it before he came here instead of saying well, I'm going to come here, and I'm going to build myself a palace and the people are going to pay for it. This is not the way a city operates for its people. This is not the way. If you don't start looking into these things, we're going to go down the drain.

Kathleen Sloan addressed the Commission with comments related to:

- Kathleen Sloan 708 Olivo, Williamsburg. I'm very concerned about the \$4.8 million bridge loan. The last bridge loan with the USDA grant loan that we did with the same bank was very expensive. My question is, the USDA loan grant parameters, if I understand correctly, please I hope someone answers this question. I thought the grant parameters were that we just have to get to the construction phase, and then the grant loan kicks in. You know, you've spent \$750,000 from somewhere. I mean, this was two-three years ago this project started. I don't remember where this \$750,000 came from. Why, at 5.5% interest for 4.8 million, by my calculation, that's \$260,000 a year. Ok. So, this bridge loan is for 3 years at \$260,000 a year? I mean, there should be a recapitulation of the ins and outs of the project and the financing before you just have like this financing bond on your agenda. There should be broader discussion on this. I would like to see if these USDA loans are even worth going after. After the financial advisors are paid so much. After you pay an origination loan. Who knows what else. I think you only had 60% of the money left for the downtown project. You only had like 6.3 million dollars. It was like a 10 million dollar project by the time you got to construction. I don't understand these bridge loan finances. Is it a draw? Is it for the whole 4.8 million? I mean this seems to be very expensive money.

OJ Hechler, Community Services Director addressed the Commission with comments related to:

- I wanted to share a letter of accommodation that I received last week for one of our city employees: Dear Mr. Hechler, I'm writing to commend one of your outstanding employees, Tara Manning, who serves as the manager at your animal shelter in Truth or Consequences, New Mexico. In my recent interactions with Tara, I have been consistently impressed by her exceptional professionalism, dedication, and genuine love for animals. Tara embodies the qualities of a true leader and advocate for the well-being of animals in her care. Her friendly and helpful demeanor creates a welcoming atmosphere at the shelter, which undoubtedly contributes to the positive experience of both visitors and staff. Tara's optimism is infectious, and it is evident that she approaches her work with a heartfelt passion for making a difference in the lives of animals. One of Tara's most commendable traits is her unwavering commitment to ensuring that every animal receives the love, care, and attention they deserve. She goes above and beyond to ensure that each animal is matched with a suitable and loving forever home. Tara's dedication to this cause is truly inspiring, and it is evident that she deeply cares about the well-being of every animal under her care. Furthermore, Tara's professionalism is exemplary. She consistently demonstrates sound judgment, effective communication skills, and a strong work ethic in all aspects of her role as manager. Her leadership style fosters a supportive and collaborative environment, which undoubtedly contributes to the success of the shelter and the well-being of its residents. In conclusion, I would like to express my sincere gratitude and appreciation for Tara Manning's outstanding contributions to the animal shelter. Her friendly demeanor, optimism, professionalism, and genuine love for animals make her a truly invaluable asset to the team. I have no doubt that she will continue to positively impact the lives of both animals and people for many years to come. Thank you for your attention to this matter, and please extend my congratulations and appreciation to Tara for her exemplary service.

I just wanted to share that with you guys. We're very fortunate to have Tara as a City employee.

E. REPORTS:

City Manager Gonzales reported the following:

- McAdoo Street: Weather continues to affect the ability to work on that street. The contractor and the engineer are working out a drainage issue with the curb pan and sidewalk elevations. What has happened since August, when the contractor opened up that street, they found out that the sidewalk on the south side of the street fits into that brick building. On the opposite side of the street, it also fits into the green building. They can't tell if the sidewalk seams or is part of the foundation. Nobody is really willing to monkey with it. Down there, we're sitting on water. Since that sidewalk fits into the foundation of that building, nobody is willing to take on the liability of cutting that sidewalk. The utilities have done work on trying to move water utilities down, and we've almost sunk a backhoe into

that pond. Everyone is worried that the building could sink in. No one is willing to take on the liability of cutting that sidewalk and what could happen. That affects the original design of the project. They're trying to check the design of the sidewalk and ensure the drainage drains out into Foch Street and/or Jones Street where it's supposed to go because it's going to hit that curve and go around and go down. When you change the sidewalk elevation up or down, water goes down and affects the drainage. They're trying to make sure when the water comes down, it's going to go around the buildings, stay in the curbs, and also the tie-ins in Foch and Jones drain properly. That's where they're at right now. As you can tell, I have had a few discussions with the engineer. I have curbed my enthusiasm with the contractor. I have expressed my displeasure at not having that street open. I'm going to stay on top of that. That's a lot of detail, but I really think that you needed to know that.

- Dams: I have a dam safety maintenance project RFP. I don't think I'm going to do it because I don't like the way it came out through all of these. What I did with the RFP for procurement, for the scope of work, was go through the inspections for each of the Marie Street, Cuchillo Negro, and St. Anne's dams. I went through each one of the dam inspection pages. It really says the big things are:
 - St. Anne's: Address erosion that is occurring at the downstream growing of the east end of the dam. Trash rack needs to be placed. Align the downstream end of the spillway. Remove woody vegetation and inspect outlet conduits.
 - Marie Street: Maintain the area around the outlet works. Inspect the outlet works conduits.
 - Cuchillo Negro: Remove woody vegetation. Inspect outlets.

They're all similar. When I was working with our streets manager, Mr. Smith, these are things that our guys can do. I hate to expend public money, and this is public money that comes from property taxes that have gone into a fund that the Flood Commissioner has access to. That's the purpose of this whole thing. We are not going to get reimbursed. The whole purpose of doing this RFP was to get sealed bids from private contractors for the purpose of providing maintenance for these 3 dams. Buster and I went back and forth on this. We argued and we discussed. My Street Department can do this. What we need in all of these 3 inspections is the lack of design report. These things were done so long ago. Marie Street has a wastewater line going through it. St. Anne's has two electric poles sitting on top of it. I really want this to be a more logical and thoughtful process of how we can properly utilize the public money that is set aside into this Flood Commission fund and actually get some of these inspection findings remedied. That's going to include the operation maintenance manual, the emergency action plan, and some of these other items. That's really where I would prefer to use that funding. I already have it done, so you guys can direct me. I'll put it in the newspaper next week. I really do think for the public funding, these bigger things we cannot do in house are the more important part of it. Commissioner Fahl, in your regards that it actually does say on these that all we have to do is follow the Office of the State Engineer's direction. They have a

booklet, on how mitigate woody vegetation. That's where I would like to go in that direction.

Commissioner Fahl: The woody vegetation and the rodent bait are something that city staff has probably done for years. That is certainly something we can do. Those other items have been on there for years. Let's get them off, and let's get them off now. They have money to hire somebody to go in there and get it done. Then, we can keep up with it, but let's get us up to compliance. They have that money, and we have to spend it before the end of this fiscal year.

City Manager Gonzales: That's what they told us. I went back and talked to Ms. Porter because we're in the middle of February. I need to advertise this for a month because I want to make sure I get lots of interest. That takes me into the middle of March. We can make the Commission meeting on the 13th. We can do a bid opening that first week of March and have it ready for an action item on the 13th of March. By the time we do the notice to proceed and mobilization of the contractor, that's going to be the end of March. April, May, and if we do this, we'd like to have everything invoiced and paid for by the 21st of June so that it has plenty of time to get through our books on our side. We can close out on the 30th of June. Technically the 28th because that's the Friday. That's if everything goes well. That's if the weather works with us. I've got a teeny tiny street that's been open for 7 months. I've been around the block a few times. I just don't know if we would be able to get it done by the end of June.

Mayor Pro-Tem Forrister: That's what I was talking about last time when you guys didn't know what I was talking about. I was saying, let's use that money for something that we cannot do in-house. I understand where you're coming from. These items have been on there and we haven't done them. If we can instruct them to get that done in-house, then let's use that money elsewhere to use it for something we cannot get done. I like that.

City Manager Gonzales: I did double-check, and there is no claw-back on these funds. These funds are your funds. This is Sierra County/City of Truth or Consequences/City of Elephant Butte/Village of Williamsburg. This is our money from our property taxes. This is not going to go back to Santa Fe. It's not going to go back to DC. It's not going anywhere. It's going to stay right here. There's no problem with that. Yes, I did discuss that with Miss Porter also.

Commissioner Fahl: Then you're saying we're not going to use our money this year. Because you can't get an EAP done in that amount of time either. You can't get the big-ticket items, that we really need that money for by the end of the fiscal year. I was just told yesterday EAPs now cost \$150,000. They're big, and that includes operation manuals. That's what we need their money for next year. There are some things in there that you can't do that you could probably do in a professional services agreement like those surveys. They needed surveys done on Cuchillo Negro. You could do some of those things.

City Manager Gonzales: The inspection of the conduit.

CITY COMMISSION FEBRUARY 14, 2024 REGULAR MEETING MINUTES

Commissioner Fahl: You need a special piece of equipment to do that. We don't have that.

City Manager Gonzales: The services of an engineer license, and I'm reading right off the inspection. I'm not making this up. It's services of an engineer, licensed in New Mexico, with experience in the design of dams, needs to be obtained to prepare an assessment of the dam that addresses the items listed above.

Commissioner Fahl: So, do that. Get that done this fiscal year. We have got to start doing something, and if you're telling me that our people are going to do it, you better put your money where your mouth is.

City Manager Gonzales: No, our people aren't going to do that.

Commissioner Fahl: The other things that you said we can do in house well, we should have been doing them for years and years, and we haven't. I don't have a lot of faith in that getting done. Because they don't have time, and we haven't given them the directive and the resources. If you're going to do that, it better be we see some stuff happening or I'm going to be really loud.

City Manager Gonzales: Why don't I give the directive and the resources to do that?

Commissioner Fahl: Let's do that.

City Manager Gonzales: I can't change anything from the back. I can't go backwards. This has kind of been my thing lately. I can't change the past.

Commissioner Fahl: Well, you need to fix it.

City Manager Gonzales: What I can do is go forward, and this I can do a directive. I can work with our Street Department. We can work together, and we can get start pecking away at these things.

Commissioner Fahl: So then are you going to, this fiscal year, hire an engineer to complete those requirements on those structures this year and use the flood Commission's money?

Mayor Hechler: I'm going to interrupt here for a second here. These things usually aren't about dialogue. It's about a Manager's report. She's going to make a presentation on March 13 on what we're going to do exactly and what she recommends that we do. I do agree that services we can provide in house, we shouldn't be paying somebody else for. We need to use that money for something it can be used for that wouldn't be out of our pocket. Let's focus on that part of it. With that, let's try to give us an estimate and a way to spend that money by the 13th.

City Manager Gonzales: I'll actually have it by the 28th.

Mayor Hechler: By the 28th would be fine. Is that okay with you, Commissioner Fahl?

Commissioner Fahl: Yeah, we do have a long agenda. Sorry.

Mayor Hechler: That's okay. I appreciate you. I understand the questions, and I understand your passion. We're moving in the right direction. Let's do something a little bit different here with the City Attorney if I can move you to last, Jay. Because I want the Commissioners to be able to speak first. One of the things that we can do during our reporting is if you want to respond to any public comment during our report, you may. If there's any issues like that, let's bring those out. At the end, I'd like our Attorney to talk and then if we have any questions for him, we can cover it then. Would that be okay?

City Attorney Rubin agreed.

City Commission Reports:

Commissioner Hoepfner reported the following:

- The last two weeks as a new Commissioner have been exciting. Our mayor was gracious enough to take me to Santa Fe to meet all our representatives, the senators, and the committees. We presented the city in a good light with our point of how important certain bills are to us and our community. It was also exciting to meet the Governor. It was an interesting talk. I know he will talk more about it.
- Yesterday, I spoke a little bit with the County Manager about tourism in Sierra County, and how I'm planning on working together with every village and city to get us together and move forward with tourism, and create a collaboration to create a website and excitement about our county as one, and form a tool.
- I have a lot on my mind about what I learned in Santa Fe as well. Next session is coming up very quickly and it is important that we start very soon on our Truth or Consequences Master Plan. We need to have enough public hearings that and include the public very heavily so we can move forward in the direction we want to go. I understand that the infrastructure is priority #1, but the vision to go forward also has to be there. There are many questions, and we really don't have an answer when investors come to town. They are pretty much saying "well, you don't have a guide so we can do whatever" and that is what I want to make a little bit controlled by having a master plan, and say "we would like to start as soon as possible with this project."
- When I look through my agenda package, I would like to have quarterly reports from departments telling us what happened that quarter, including what they spent their money on. We do that quarterly and we have multiple meetings in between, so it can be spread out so it is not all on one day.
- The hospital board meeting was something new for me, and it is a learning process. There's a lot to learn, and I'm working hard to read and to listen.

There's a lot of to do, but I'm willing and happy to do it. That is what I signed up for, and I'm looking forward to what is coming next.

- I'm also looking forward to the special election.

Commissioner Fahl reported the following:

- I have a couple questions for you, Angie. Do we have a Finance Director yet, or how is that going?

City Manager Gonzales: That is internal. We are still interviewing.

Commissioner Fahl: That's positive. Now that we've opted not to sell the Electric Department, I know that we were holding off filling positions in the Electric Department. Are we going to start moving forward? What's your plan?

City Manager Gonzales: That is also within our budget process. I have been directed by you guys to start working on the administration side of it. That's where we're headed is job descriptions and advertisements. That's not going to be an easy position to fill. I'm trying to reach out and see if those of us can work together and kind of see where we need to go.

Commissioner Fahl: I wasn't talking about that new position. I was just talking about his own staff.

Mayor Pro-Tem Forrister: We weren't going to fill it until after budget time if we were giving that back or not.

City Manager Gonzales: We met in a budget meeting Monday, and we discussed that.

Commissioner Fahl: I'm just going to start organizing a collaborative group that I think we need to get together for the Cantrell dam, because I know the people that need to be there. I'm going to get their schedules lined out, then I'll reach out to you so I can get your staff and the city, and the Village, and the Flood Commission.

City Manager Gonzales: Cantrell is already being designed. It's already in the process.

Commissioner Fahl: That's not what we had talked about doing.

City Manager Gonzales: Well, that was already done way before I was here, and so those are plans are already in place.

Commissioner Fahl: We'll have to discuss this later then because that's a problem.

Commissioner Mitchell reported the following:

- We're going to be having a Fiesta brunch coming up soon. It's a Taste of Sierra County. It's scheduled for February 25th, which is a Sunday at 11am at the Brewery. We'll have tickets available probably tomorrow at Rebel Roadrunner. We're doing a Truth or Consequences Game Show to raise funds for the Fiesta. It is also happening during the weekend of the Meteoric festival, which is an art and music festival that's going to take place Friday, Saturday, Sunday downtown Truth or Consequences February 23-25.
- I'm working with the students at the high school for New Mexico Film Prize Junior. Our films are due on March 5, and we're going to start filming downtown this weekend. Downtown TorC, if you see a bunch of kids running around with cameras dressed as 1920s detectives, that's my kids.
- I met with someone from the film industry who's going to be doing that huge film here in March, and they wanted to discuss with the city about painting some buildings and stuff like that, so I wanted to bring that up. I like that they're just pouring money into this community left and right, renting buildings, getting stuff off of New Mexico Square, and it's just kind of like really exciting for the community.

Mayor Pro-Tem Forrister reported the following:

- Kind of hitting on your film thing, I don't know if people know, but it is huge. There are some very big name actors coming in, and we're going to see lots of good things happening. I know that they're renovating the old BBQ on Broadway to be the Sheriff's office, I believe. It's going to have a whole thing in there. They rented a whole bunch of buildings, so I'm really looking forward to that.
- I attended the hospital board over the phone because I realized you two were going, and I didn't think we all needed to be at one place at one time, so I just listened on the phone.
- Thursday, there is going to be a home district game that's boys and girls game.
- Friday is the Not-So-Newlywed Game if you haven't got tickets, please do so. You can get them at Rebel Roadrunner, Farm Bureau. It's a really good fundraiser. Those of you that don't know what's going on, it's not just a fundraiser for Farm Bureau or just a fun thing. That office puts on the dinner for the buyer's dinner at the auction, so it normally costs her around \$5,000. Sharon Luna puts that on, so this is a fundraiser to help offset those funds, so it goes for a really good cause, and it should be a good time, and cash bar, so all the good things.
- This weekend is also Dam Site Day. If you guys don't know, a bunch of good things happening out there.
- We have the Rock & Gem Show coming up March 23-24.
- The Sentinel came out with their 2024 Best of the Best. I wasn't on there. I was on there twice last year. I was a little disappointed. We have the Best of the Best reporter, so Chuck, congratulations. Then our very own Casey, our School Resource Officer, she was voted out there in the community a lot.

Mayor Hechler reported the following:

- I'm going to speak a little bit on public comment. Attorney Rubin, if I misspeak on anything, will you stop me please.
- All of us have received some emails regarding the renovation of the armory or the bond issue. Last meeting on 1/24, we had on the agenda the item to possibly claw back or rescind the bond. The reason we had that on the agenda is because we had a legitimate business person who ran for a Commission seat, and did not make it to the Commission, had as one of his platforms to attach the Police Department to a rec center near the high school, so that was legitimate. Because Commissioners can't speak about these things before we have meetings, I felt compelled to put it on the agenda and have that discussion. After we had that discussion, it was determined that we weren't going to claw back the referendum, that we were going to move forward, and we did so. That was the reason. That's the reason that when someone asks for equal time, that's not going to be warranted because it was not a sham. It was legitimate. I represented it to be legitimate, and that's the way it went.
- As far as equal time goes, on 10/25/23, we had public comment regarding the police station. 7 community members spoke up For. Nobody spoke up Against. One person asked some questions about it legitimately, and that was fine. On 11/15, we had a public hearing. No one spoke up Against. 2 people spoke up For, so there have been ample opportunities for folks to speak during public comment during our public hearings. I think we've met that aspect of it.
- On a final note, we are all Commissioners, but we are also citizens. As citizens, we can make comment in the public. For instance, an article in the paper or a letter to the editor. One of our Commissioners wrote a letter to the editor. It was not signed as Commissioner. It was signed as an individual. We have a right to do that, and you'll probably see more of that down the road, which is fair. We're citizens first. We're here as well as Commissioners or the Mayor. That's kind of what I wanted to address as we move forward.

Mayor Pro-Tem Forrister:

- I want to add that we are elected here. If people think that we don't talk to our constituents, you're crazy. When we're talking up here, we are not just our voice, we're the voice of the people that elected us too. We're doing the best we can by them too.

Mayor Hechler:

- Thank you for nominating me for Mayor. I don't think I've stopped since I've started. I do want to say I'm going to keep my report just to the legislative activity I've been involved in. There are too many other things on here, and I could go on here for hours. Let me just give you a brief synopsis of what's happened.
- I've been to Santa Fe 3 different times. Commissioner Hoepfner accompanied me on two of those occasions and did a very wonderful job for the community.
- As you all know, on 1/22/24, we had House Bill 148 pass, that was for 16 million dollars, and we had a 1.6 million dollar match that we already had from Senator Heinrich. That is still running strong. All my information is that it's not going to get derailed that we're going to see that money down the road. That's not a promise.

I'm hoping that's going to happen. There's no reason to think it's not going to happen, so that's positive and strong for our community.

- On 1/29, Senate Bill 95 presented by Senator Brantley was at the roundhouse. I was there with her. She introduced me as an expert witness. It put a lot of pressure on me, but I do have some experience with Water and Wastewater in a previous life, so I was ready to go. She did a wonderful job for our community represents us very well. We had a Senate committee of 9 folks. One person was absent. 6 Democrats, 2 Republicans, we passed unanimously House Bill 95 for 20 million dollars. I call it a show bill in that I don't expect it to go all the way to where we're going to get funding, but it certainly brought the attention to light in front of many of our legislators. They understand the plight of our community with our water and wastewater systems, and so it was important for us to go. While speaking there, I had my favorite little prop, that little pipe there, and that certainly got attention from all the senators. One of the senators was a contractor that had replaced much of that pipe and had some questions in that regard. I know that we did a pretty good job. Commissioner Hoepfner was allowed to speak, and it was very apparent to me how much he cares for your community. He did a nice job, so thank you.
- In our last trip, we went last week to see the Governor. I finally got the call from the Governor's Chief of Staff that the Governor will see you, after about 10 attempts and numerous emails and everything else. I thought it was important for us to be able to go in there. I also called in a favor of a former Mayor who was acquainted with the Governor. I don't want to drop her name, but she did a wonderful job. She's known the Governor for 30 years, and she emailed the Governor every address that she has and every phone number she left a message. I'm sure that had a little something to do with it, but I got the call. Mr. Hoepfner and I went up to Santa Fe. We again spoke with each one of our legislators there. Two Representatives and our Senator, and I was informed at that time that the Governor had compelled our representatives to provide a half million dollars each to the community as well as our Senator to provide another half million dollars to our community for water waste warrants - million and a half. The caveat being that the Governor would also add some funds to that in the tune of 2.4 million dollars, so that takes up to about 4.4 million dollars or so. When we got to go see the Governor, I said our capital outlay request for 5.5 million, can you jump that up a little bit for us? She said she'd see what she could do, but I couldn't pin her down. That was another little sum of money that's going to come to our community down the road.
- You compare that to the WISPI 1 project, we're going to talk about that today. I know it's a 4.8 million dollar loan, but correct me if I'm wrong, but that also comes with a 2.7 million dollar grant. That's a total of 7.7 million dollars. I understand the 5.5%. That's the way it is now-a-days, and you're not going to find any lower interest rates. That doesn't mean down the road when we have the opportunity that we can't re-finance, and we'll try to do that when that opportunity arises. That looks like about 28 million dollars of improvements for water/wastewater that could come to our community if everything goes the way we would want it to go. I think that's pretty good for our community this year. It's just a start. I'm already

getting excited for next year as I'm learning things and learning how to meander through this process. I know that we need to start early, and we'll do that. We'll be aggressive but we'll see what we can't do to get some more funding down the road.

- Incidentally, as I was leaving Senator Brantley's office, the last little thing she said was, "Oh, by the way, let your Chief know that I have an extra \$100,000 for him." That was a surprise. She has that and also \$100,000 for Sheriff Baker, so that was a nice little tidbit at the end when we were leaving. All in all, I believe our trips to Santa Fe were successful. I think your community was well-represented by our Representatives Armstrong, Jaramillo, our Senator Brantley. They certainly put us on the map, and they spoke up well for us. That's my report.

Mayor Pro-Tem Forrister:

- I want to add a little bit. You downplay the work you're doing. You're working your tail off, and we appreciate you so very much. Senator Brantley, I'm in contact with her quite often, and she raised on you and said you did a really good job. She's working her tail off too, and she appreciates you getting up there and working for us too, so thank you for that. And, last but not least, I didn't make the Best of the Best, but I'd be remiss to not say that my husband did. He got Best of the Best Rancher for 2024.

City Attorney Rubin reported the following:

- Let me go ahead and elaborate for you a little further on your comments regarding public input and comments, especially in reference to the passing of the Ordinance back in November. There was a comment made during public comment that somehow, we're failing to involve the citizens from the get-go. From a legal standpoint, this Commission is actually doing more than you are legally required to do. We take some of these things for granted, but we need to articulate that at this point. The Open Meetings Act, for example, does not require public comment, but we do it. It's a good idea that we do it. We get public comments, and they are welcome. It's always good to hear how the public feels about certain items, and it's even welcome to receive constructive criticism in that regard. You have the 3-minute public comment at the beginning of every meeting. Additionally, I'm glad Mr. Muirhead is here because maybe you can tell me if I say something that's not totally correct, but I think when it comes to the passes of Ordinances, we have a requirement that we have to advertise the Ordinance, that we have to put it on the agenda, but I don't think the state statute requires a public hearing, but we do it anyway. Is that correct, Chris? I don't think the statute requires that.

Chris Muirhead: Definitely the introduction is not statutorily required. The Ordinance is just going through the regular open meeting process of notice of publication. There is the publication beforehand, and you're doing the extra step today of the introduction and then the actual hearing.

City Attorney Rubin: My reading of the statute was that we're not even required to have a public hearing at the time when we're actually going for the final adoption. We have to have it on the agenda, have a notice, but I don't think we're even required to have a public hearing. My point is, we include all these additional safeguards for the very purpose that we encourage public comment. So, let's take a look at that. The first meeting in October was when this was on the agenda for publication. You had that meeting. You had the second meeting in October where people could have stepped up during public comment. On the November 15 hearing, you had the public comment for 3 minutes, and you also had the public hearing for 5 minutes, so that's 14 available minutes that people would have had. Having something on the agenda for public hearing is not done as a formality. We actually welcome people to step up to the plate and give us your feelings. Theoretically, if you have an Ordinance on the agenda and there's a lot of ground swell of opposition, people are standing up at that podium, you're going to take note of that. If you have a public hearing for an Ordinance and people aren't really showing up, you're going to assume there isn't much opposition. I've had the pleasure of working with this Commission, and I know this Commission pays attention to what the public is saying. It's really important to make that point. Now, let's do a quick mathematical analysis. You had the two meetings in October. You had the one meeting in November, one meeting in December, two meetings in January, two meetings in February, and one meeting in March before the referendum. If my math is right, that's 8 meetings times 3 minutes, that's 24 minutes, plus the 5 minutes you have for a public hearing. I think this Commission really does do its job and try to get as much input as possible. Had there been opposition at the public hearing, we had Mr. Muirhead here. I'm sure he'd be more than happy to answer some of the questions that might have been addressed at that time. We have all these safeguards in trying to support a good discourse here, and that's my opinion based upon really what the Open Meetings Act says and what public hearings are required.

Mayor Pro-Tem Forrister: To add, I think Chief was pretty clear on his intentions during the ICIP discussions.

City Attorney Rubin: That's just my take, and if you have any questions about legal responsibility of the Commission related to public hearing, public comment, anything I said here that you wish to address.

Mayor Hechler: Thank you for being so much clearer than I could be. One more question for you if you wouldn't mind. I want to make sure that we don't violate the Government Conduct Act in any way. What are our parameters as far as if we wanted to purchase an ad or make public comment outside of this Commission?

City Attorney Rubin: Thank you for bringing that up. Also, again, I know there are questions raised, and these are things we do want to take a look at. Commissioner Mitchell did write a letter to the Sentinel, but she did not say this is something that was authorized. This is her opinion, something that she had a right to do according to her 1st Amendment right to do. You always have that right to do that. I think I would always just make sure you make it clear when you're speaking to someone or you're doing an ad

that you're doing as an individual, that you make that clear. That's the only thing I would point out. It is important. We want to be sure we're being clear. I did research the Government Conduct Act. I don't see there has been a violation or anything. Nevertheless, this is a good time to ask questions about that. Mr. Muirhead, since you're here, is there anything else regarding this process. I know you drafted the Ordinance.

Chris Muirhead: I think that sums it up. Jay did a good job.

Mayor Hechler: I hope that satisfies. We usually don't respond to public comment, but I want people to understand where we're coming from sometimes. We do listen, and we want to do things right. We may not have the same opinions on things, but you'll at least know where we're coming from. With that, let's move on with our agenda.

Commissioner Fahl: About the consent calendar, I have a question about Item #5.

Mayor Pro-Tem Forrister: You probably have the same question we all have.

Mayor Hechler: Let me go forward and then we'll go ahead and pull Item #5 out. We're moving on to consent calendar.

F. CONSENT CALENDAR:

- 1. City Commission Regular Minutes, January 24, 2024**
- 2. Acknowledge Regular Lodgers Tax Board Minutes, November 27, 2023**
- 3. Acknowledge Regular Public Utility Advisory Board Minutes, November 20, 2023**
- 4. January 2024 Accounts Payable**
- 5. Take Home Vehicle Forms**
- 6. Subrecipient FY 23/24 2nd Quarter Reports**

Commissioner Fahl made a motion to approve the consent calendar with the removal of item 5 Take Home Vehicle Forms, for discussion. Mayor Pro-Tem Forrister seconded the motion. Motion carried unanimously.

Mayor Pro-Tem Forrister: Can I guess what you were going to ask?

Commissioner Fahl: How do we have that many cars?

Arnie Castaneda, Water/Wastewater Director: Our employees rotate going on call, so when they are on call, they take a vehicle home.

Mayor Pro-Tem Forrister made a motion to approve item 5. Take Home Vehicle Forms of the consent calendar. Commissioner Fahl seconded the motion. Motion carried unanimously.

G. ORDINANCES/RESOLUTIONS/ZONING:

- 1. Discussion/Action: Publication of Ordinance No. 759 An Ordinance Amending the City of Truth or Consequences Municipal Code of Ordinances, by Amending Section 14-31 of the Code Pertaining to Taking Service-Without Authority.**

Bo Easley, Electric Division Director: Last time we brought this to you, we wanted to make some changes. Me, Sonya, and Jay got together and put everything pretty much back to the way it was. Jay has some comments that he wants to talk about.

City Attorney Rubin: I would say yes. I think the Ordinance looks fine, and I told Mr. Easley, I was approving it. When I was looking at this again last night and this morning, I was looking at subparagraph B, and from a grammatical standpoint, there are a couple things that I can correct. It won't be any substantive changes. If you're in the favor of the Ordinance, we can just clean it up a bit for when it goes to publication.

Bo Easley, Electric Division Director: The only thing that we did was put everything back to the way it was. We changed the fee from "any person who by theft of" back to "it shall be unlawful for any person who by theft of". We do want to point out that there is a Section 8-90: tampering with utilities, "No person shall, without first having secured permission from the City or its duly authorized agent, start or stop any pump, open or close any fire hydrant, valve or stop cock; open, break or remove any seal or lock; or in any way tamper with or molest any pipe, meter, connection, appurtenance, or property belonging to or any part of the utility system. If any meter, stop cock or other service connection appurtenance has been tampered with, the offending party shall be subject to the following fines: (1) A minimum fine of \$150.00 for the first offense; (2) A minimum fine of \$300.00 for each subsequent offense. Further, the City shall pursue a claim for civil damages resulting from any damage occurring to the subject utilities.

Commissioner Fahl moved to approve Publication of Ordinance No. 759 An Ordinance Amending the City of Truth or Consequences Municipal Code of Ordinances, by Amending Section 14-31 of the Code Pertaining to Taking Service-Without Authority. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Discussion/Action: Publication of Ordinance No. 763 Authorizing the Issuance of The City of Truth or Consequences, New Mexico Water System Improvement Revenue Bonds, Series 2024, In the Principal Amount of Four Million Eight Hundred Eleven Thousand Dollars (\$4,811,000) For the Purpose of Construction Financing for Acquiring, Extension, Enlarging, Bettering, Repairing or Otherwise Improving the City's Water System.

Assistant City Manager Alvarez: I did want to give a brief update for the Commissioners on what this project does pertain to. It is the replacement of a transmission line or main transmission line from Cook Street to Morgan as well as some various water lines. I'm going to get Arnie up there to get maybe a more in depth. This is a project you've previously approved. We had already done the pre-development loan to Bank of the Southwest. We're now at the tail end of the design process if we're going to be ready to go out to bid for construction. We do have to go to loan for full construction funding. Once the project is complete, as Chris will attest to, that's when the USDA will then close out those loans. They did used to do that after pre-development, and they no longer do that anymore. I'll let Chris touch on that as well.

Arnie Castaneda, Water/Wastewater Director: This project involves about 7 miles of transmission lines that will push water from Cook Street into Morgan and from Morgan up to the twin tanks. Right now, the way the system is set up is that when we pump into Cook, and Cook pumps the water into the system, and any left-over water goes into our storage tanks. This way, water goes directly into the storage tanks and then distributed out to the system. We have 7 miles. We're going to have about 4 or 5 pressure reducing valves throughout the system that will help us regulate our pressure better. Right now, we have two pressure zones, and with this new project, once it's completed, we'll have three pressure zones that will help a lot with our leak situation. It's a pretty big project, but it'll help us out a lot.

Chris Muirhead, Modrall Sperling: I'd like to start with what Traci referenced, and this is an important point. This transaction really ties to the letter of conditions from the USDA from 2021, and that is \$4,811,000 as a loan and then \$2,720,000 as a grant, which you don't have to repay. That is very good. What USDA has done nationally and has changed in New Mexico, as Traci referenced. It used to be that you could just close on the USDA loan, and then do construction, and they would pay as it goes. They changed that 5 plus years ago that they wanted the recipients to get construction financing on an interim basis. Then they would close out that once the construction was finished based on the exact amount of construction. What you have now is cities like Truth or Consequences looking for interim lenders. In this case, the city went out and requested bids from multiple potential providers. I know that's been presented to the Commission, so Bank of the Southwest is doing it. Here's the important point. Bank of the Southwest is doing this at 5.5%. It is only a 3-year term, and you're only accruing interest on the amount as it's drawn. Here's the really good news about this in terms of comparing the interim financing to the final USDA financing. The interim financing at 5.5%, 3 years at

maturity. The USDA then will issue your bonds at that point, and the USDA will pay back this interim financing, so it doesn't need to be refinanced. It's actually retired, in no more than 3 years. The terms of that USDA financing are 40 years at 1.375%. Currently as of this morning, a 10-year bond/10 year T-bill is like 4.5%. Normally when you borrow, you would not find someone to lend you money for 40 years as a private investor. Hypothetically, if you did, you'd start year one at 1.27%, and then it would go out to year 40 at 6%, 7%, or 8%. USDA is giving you \$4.8 million dollars at 40 years at 1.375% over the whole time. These are extraordinarily favorable terms that we kind of took for granted in the last 10-15 years because rates were low, period. Now, you're seeing if you were to do this in the open market, your true interest cost would be 6+ percent. This interim loan, it's unfortunate. I wish it didn't happen because it is a cost to the city. The origination fee is \$36,000, and they are accruing interest as you draw it down, but it is a requirement for the USDA. This is not a city choice. This has to be done to get the USDA loan. The good news is, although it is a cost, the final terms for 40 years are extremely beneficial. The project described to you, the pledge, now, this is important because we've had multiple bond issues that we've discussed. The gross receipts tax bond is getting some attention right now, of course. You've had G.O. bonds last year. Those were ad valorem property taxes that paid that back. That was voter approved. The GRT bonds went through an Ordinance and democracy working, there is a referendum. It's going to the voters because that's what that statute provides. That will be a pledge of your state share of Gross Receipts' Tax even when it happens. These bonds, like your other utility bonds, are pledge of your net system revenues from the water system. You get all of your revenues from the water system, known as your gross revenues. You then look at the operation of maintenance expenses that are incurred for that system for a month. You pull back the operation maintenance expenses because fundamentally, whoever's lending you this money, it's paramount that the system keeps running because that's what's paying it back. You pull those operation maintenance expenses out. Then what's left is known as your net revenues, and those net revenues are what is pledged toward the debt. Here's the important thing. Unlike the G.O. bond, which is a global pledge. That is your most secured debt. The lender whether it's Bank of the Southwest to begin with and then USDA, they don't get to look at any Gross Receipts Tax. Hypothetically, if there were a short fall, there is no saying "well, supplement it with an ad valorem tax or state share". The city may decide they want to do that to avoid default or whatever. That's not a legal requirement. The hammer is that they can compel rate increases to make sure things are paid. I know the city is going to be working on that. That's kind of it in a nutshell. We will be back next month for your actual consideration of this. It does require a 75% majority. The reason it takes so long is certain letter of conditions in 2021 is 26 pages of requirements, and your staff does a great job working through that. Once that loan has been paid off with this loan and then you decide to go through with the Bank of the Southwest interim loan, that will be paid off with the USDA bonds.

Mayor Hechler: I have one question. It's a little unusual for me to do this, but I'm going to do this anyway. I want to thank Ms. Sloan for asking the question she did at the beginning. Have your questions been answered? Do you have any other questions that you'd like to present?

Kathleen Sloan: Where does the \$750,000 come from?

Chris Muirhead: For the design? There was initially a loan that was done on an interim basis also with Bank of the Southwest. Traci, was that a year ago? 18 months ago? So that paid for that design, and now that is being paid back with part of this construction loan, and then the construction costs.

Kathleen Sloan: Is that at 5.12%?

Chris Muirhead: It was 5.3 something percent. Initially, in this case, Bank of the Southwest proposed their commercial rate to the city. It was 8.5% I believe. Traci and staff went out and got two or three other bids that came in in the 5% range for entities that do some of this funding, and so Bank of the Southwest came down to that margin. They dropped 300 basis points as requested.

Kathleen Sloan: The USDA loan is at 1.375%. That's incredible.

Chris Muirhead: That's ultimately, really for the life of the project which is 40 years.

Kathleen Sloan: In the banking speak, you said it's a draw down. You pay interest as you draw it down?

Chris Muirhead: Interest accrues monthly at 5.5% on the amount that's drawn for construction. In the beginning, it's going to be zero, and then the first 2-4 months, it's going to come down as your contractors do the work, so you're going to get up to that \$4.8 million.

Mayor Pro-Tem Forrister: We get the big packet, and we have to try to digest that, and it was really nice and refreshing.

Commissioner Forrister moved to approve publication of Ordinance No. 763 Authorizing the Issuance of The City of Truth or Consequences, New Mexico Water System Improvement Revenue Bonds, Series 2024, In the Principal Amount of Four Million Eight Hundred Eleven Thousand Dollars (\$4,811,000) For the Purpose of Construction Financing for Acquiring, Extension, Enlarging, Bettering, Repairing or Otherwise Improving the City's Water System. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Resolution No. 32 23/24 Budget Adjustment Request.

Assistant City Manager Alvarez reviewed the budget adjustment request submitted in the packet.

Mayor Pro-Tem Forrister moved to approve Resolution No. 32 23/24 Budget Adjustment Request. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Resolution No. 33 23/24 authorizing and approving the submission of a completed application for financial assistance and project approval to NMFA for the Colonias Infrastructure Fund Waterline Replacement Project.

Assistant City Manager Alvarez: This application for the Colonias Infrastructure Fund is for \$4,400,000. There will be a 10% cash match of \$440,000. This dollar amount is comprised of, if we are lucky enough to receive the 16 million that we applied for Water Trust Board. This is the remaining 4.4 of the estimated 21 million dollar critical water line replacement project. At this time, we're just requesting approval to submit the application. If we are awarded exterior money between now and I don't even believe they do these awards for Colonias is usually in late summer. We can adjust accordingly when the awards come out. Those awards will come to City Commission for their review and approval before we accept it as well.

Mayor Hechler: Thank you for that explanation. Where would the \$440,000 match come from, or is that included?

Assistant City Manager Alvarez: For the Colonias water funding, it would have to come from our Water Department revenues potentially part of the G.O. bond that we have for cash match. We can't use the \$1.6 million because they don't intercross. So, if we get the \$16 million from Water Trust Board, the \$1.6 isn't being accounted for as the match for that \$16 million. We can't use that same match on the Colonias funding.

Mayor Hechler: Is there any opportunity to be forgiven that match?

Assistant City Manager Alvarez: We will file that. In the past, we have not been successful with that. It is always something. They don't forgive the match. All they do is add an additional loan component. Either way, we end up paying it.

Mayor Hechler: Alright. If we're going to get \$16 million, I guess we should be lucky, right.

Commissioner Mitchell moved to approve Resolution No. 33 23/24 authorizing and approving the submission of a completed application for financial assistance and project approval to NMFA for the Colonias Infrastructure Fund Waterline Replacement Project. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Action: Resolution No 34 23/24 authorizing and approving the submission of a completed application for financial assistance and project approval to NMFA for the Colonias Infrastructure Fund WWTP Bar Screen Replacement Project.

Assistant City Manager Alvarez: This will be kind of back-to-back with the previous one. If somehow, we are awarded lots of money on our water side, and we don't necessarily have to do the Colonias project for the water, we do have a secondary application in place. Maybe we'll be lucky enough to be funded from both since one is water and this one here is for wastewater. This particular application is for the bar screen. It's located within our headworks. Some of the Commissioners may remember, back in 2020, when we had the flood, that bar screen and headworks system was damaged. We did appeal to, when we were going through the whole flood process for funding. This one is not one that they were in consideration of because in order to receive those funds, you have to restore back to what was existing. We cannot restore the bar screen and headworks system back to what was existing because it's so old and so outdated, it just can't be repaired. In essence, we've been operating that manually for the last 4 years. We're requesting 1.25 million to completely re-do the entire thing. With that request there is a 10% cash match of \$125,000. There again, there's a match component, and this would come out of our wastewater funds. Not water. I did give a definition of the headworks within the summary background of the agenda request form, but if anybody is looking for a more in-depth idea of what that process is and how it does, we are lucky enough to have Arnie, and I'm sure he can give a very knowledgeable information on what that does.

Commissioner Fahl: I think he's talking about this situation to us in the past.

Commissioner Mitchell: Is he just going to replace it with a brand new one up to code and up to par?

Assistant City Manager Alvarez: Yeah. This would be completely engineered, and completely new. It would really alter the entire design of what's in there.

Mayor Hechler: And it is also a safety concern. It has been identified to us as a safety concern. We have to do something, so I'm glad we're being proactive.

Commissioner Fahl made a motion to approve Resolution No 34 23/24 authorizing and approving the submission of a completed application for financial assistance and project approval to NMFA for the Colonias Infrastructure Fund WWTP Bar

Screen Replacement Project. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

6. Discussion/Action: Resolution No. 35 23/24 Requiring the Prompt Removal of Accumulated Rubbish, Junk, Trash and Refuse from the Property at 731 Wyona Street.

Assistant City Manager Alvarez: This is not the first time that you have seen this Resolution before you. For clarification, this property first came to City Commission back in maybe 2014 & 2018. It went through court process. It went through the resolution process. That was before I was here. We have since brought it back to the Commission most recently in November 16, 2022. You guys approved the Resolution for abatement. Since then, I have been actively working both local and non-local contractors, sending pictures, having them go out and look at the property, and we have not one contractor willing to touch the property due to the environmental hazards that they've noticed, due to the physical endangerment of employees that they've noted. We are bringing it back to the Commission for one final approval. At that point, we will look at obtaining roll-off dumpsters and assigning City staff to have to go out and clear that property. You'll see from the pictures that I have added. Even after the Commission approved us going in with a contractor in November, there has been no attempt to clean that property, and as you see from the most recent pictures, even more accumulation especially in the back alley way, which now infringes on our easement for our electric department to be able to get back there even to his electric pole. We are just requesting approval one more time. We'll do our due diligence with making sure the property owner is notified. We will make sure Code Enforcement Police Officers are on standby. We'll make sure that we have Adult Welfare Services available as needed. Anything to assist this gentleman plus give him plenty of notification that this is going to happen this time, so he can either work on getting it cleaned himself prior to us getting out there, or we will be removing. Within your packet, you also have a letter from Fire Chief. This is considered an extreme fire hazard as well.

Mayor Pro-Tem Forrister: I assume we will go forward with a lien.

Assistant City Manager Alvarez: Yes, once we completely abate the property, then we'll go through the process of putting a lien on the property. Well, the first thing that would happen is they would be invoiced for the cost and then failure to pay that invoice would then result in a lien being put on the property and foreclosure of that lien. It's not an intent to uncertain anybody by any means, but this property needs to be taken care of.

Mayor Pro-Tem Forrister: We've tried to work with him for how many years?

Assistant City Manager Alvarez: Years.

Commissioner Mitchell: Did you send this information out to the property owners yet?

Assistant City Manager Alvarez: We don't send this until Commission approves it, so once Commission approves it. I'll let Jay speak on the appeal process.

City Attorney Rubin: That's exactly right. I think it's even set forth in Paragraph 2 on page 2. If you approve the resolution, then we actually have to serve the property owner, with the actual Resolution. He would then have the opportunity to file a protest if he wishes to, and bring this back for approval here in front of the Commission. Or, not do that in which case, we will go ahead and proceed. That's a very important due process point we're talking about.

Assistant City Manager Alvarez: It is important to know. I haven't looked recently, but in the past, he wasn't listed as the property owner. We do the due diligence of not only mailing the certified letters to the property owner on file that I believe at that time was out of state. We mail it to the residents locally as well as physically deliver and post the property via Code Enforcement. We do ensure that he gets all proper notification.

Mayor Hechler: The City's been very restrained in dealing with this individual over the years. The only reason this property isn't cleaned up to date is because we couldn't find a contractor that would go into that mess and clean it up. It presents a hazard to the folks that are going to deal with it. I'm not happy that the city has to clean it up, but I don't know what other choices we have. The other point I want to make is that we just had another similar issue here at last meeting. A totally different response. Very receptive and started cleaning it up right away. We got our first update where she is continuing to work. The property will be cleaned up eventually. I have a lot more faith in her now than I did before. I'm glad for the update. Part of the update is we've had continued communication with these folks. We let them know that they have 6 months to clean it up. I don't know if she responded because we reached out to her or if she did it on her own. At least we did get a response. We have received absolutely nothing from Mr. Henson. This is a problem for our community. I know there's some folks that want to leave him alone and don't mess with him. It's a decision we have to make if we're going to clean up our community and remove these dangerous situations. It's time to get those things done, so I'm glad that we're moving forward. We're still giving him ample time. He's had several years, and he knows of our interest in getting this thing cleaned up. He's had several years to get this thing done. He's still going to get some additional notification through an appeals process. He still has time to get those things done. I know he probably has some things in there that are of value to him. He needs to have time to remove those things. We need to let him know that he needs to remove those things if he wants them or make other arrangements. We'll be as accommodating as we can, but we have to get this thing rectified. That's the extent. Anybody else want to say anything?

Commissioner Fahl: It reminded me when you said that. I recall that the City had an ongoing issue for another private citizen that went on for years and years. We forced the issue with him. We need to continue doing that. I know it's an ugly process and emotional for the land owner, but we need to treat everybody the same. If we've done it for others, we need to continue that road.

CITY COMMISSION FEBRUARY 14, 2024 REGULAR MEETING MINUTES

Mayor Pro-Tem Forrister: Mr. Mayor, also I definitely don't ever want to impede on anybody with these personal property rights, but the problem is the problem at this address is impeding other people's personal property rights. That's where we have to really draw the line.

City Attorney Rubin: I'm thinking about Commissioner Mitchell's question. The whole point of all this as I'm going through the due process procedure here. It's all part of a process where it's coming to the Commission. You approve the Resolution, so we know what to do. We notify Mr. Henson by serving him the Resolution. You have the right to come in to the Commission with a timely filed protest. Then we go ahead and do our thing. That's the whole thing we're looking at.

Mayor Hechler: One question for City Manager and Assistant City Manager. When Mr. Henson is notified, will he be notified in writing or will someone have to present to him and let him know what's going on?

Assistant City Manager Alvarez: Both. He will receive the certified mail that we will mail to him. We will post the property with a copy of the Resolution, and then in the past what Code Enforcement has done is hand-delivered and make as many attempts as they can. They have been successful in actually hand-delivering the notice and explaining to him what was going to happen.

Mayor Hechler: Thank you for that. That's very important. I think we need to have that one-on-one communication with him to have him clearly understand what's happening.

Commissioner Hoepfner: I walked by it. I saw it in a documentary actually. He's part of the movie I saw. He made an interview and expressed how passionate he is about collecting. We are not talking about - hey I never bring my trash out and it is trash and roaches and rats everywhere. For him everything has value. I know it is hard to do, and I hope that we can start to give him more time. We say "ok in front of the street here doesn't look nice" and that we clean that up and do it in multiple phases. Then he has the time to remove what is very cherished to him or give it to people who are interested in it. It is a nice interview he gave and how passionate he is about it. He thinks that he does something good to preserve old things.

Mayor Pro-Tem Forrister: Including his feces and urine.

Commissioner Hoepfner: I don't know about that.

Mayor Pro-Tem Forrister: We do. It's in barrels in his yard.

Mayor Hechler: Mr. Rubin, would you re-iterate the process please, so we know how much time Mr. Henson actually has.

City Attorney Rubin: At the time he is served with the Resolution, which of course includes the posting, the delivering of the certified mailing. From that time, Mr. Henson has 10 days

in which to file a written contest to the Resolution. If he does that, then we set a hearing before the Commission where we hear live testimony. If he does not do that then we can assume there's not a written opposition. Then we can go ahead and proceed with our procedure of what we're going to do with the property.

Commissioner Hoepfner: Does he have representation? I heard he is in mental stages and not right to make decisions. Is there Adult Services to help him or speak for him?

Assistant City Manager Alvarez: The last time, he declined Adult Services. We did submit property abatement before. We had people out there. We sent somebody from Adult Services. He declined their assistance.

Mayor Hechler: So, Commissioner Hoepfner, what we'll have is he has an opportunity for a hearing, and he'll come back before us in the Commission. We'll be able to ask him questions, and we can get into the details a little further if we need to. Then we'll make a final decision. That's if he exercises his right to an appeal or to come before us.

Mayor Pro-Tem Forrister: Right. And, how many times have we done this exact process? We've already done this before.

Assistant City Manager Alvarez: He appealed it last time and it came to you guys and then I believe from there, it went to District Court.

City Attorney Rubin: Yeah, but that wasn't quite related.

Mayor Pro-Tem Forrister: The bottom line was the only reason we had not moved forward. We would have already had this done, but we could not get somebody to do it. It was already a done deal. We were already going to be abating that property. We couldn't find somebody to do it, so now we have to re-start the process again.

Assistant City Manager Alvarez: If the structure itself was considered to be a dangerous structure and part of this resolution was to also abate that structure, this property would have been done a long time ago. Contractors have no problem going in with a big ol' backhoe and wiping it all out.

Mayor Pro-Tem Forrister: But we're just removing the items.

Assistant City Manager Alvarez: We're just removing the items. Correct.

Mayor Hechler: Let's move on with a motion, please.

Mayor Pro-Tem Forrister made a motion to approve Resolution No. 35 23/24 Requiring the Prompt Removal of Accumulated Rubbish, Junk, Trash and Refuse

from the Property at 731 Wyona Street. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

7. Discussion/Action: Resolution No. 36 23/24 Confirming the City of Truth or Consequences to participate in the NM Department of Transportation Municipal Arterial Program Local Government Road Fund Program.

Assistant City Manager Alvarez: This is one of the funders that we request for street funding. This particular program has to have roadways that attach to our main arterial roadways. They have to be out there either attaching to Date, Main, Broadway, 3rd Street. The particular roadway that we're requesting is Pershing Street. This would be all the way through Pershing Street from North Broadway to 2nd Street, and then 2nd Street, Pershing Street to Date Street. It'll include the new sidewalk curve gutter, the whole bit. That is an area where the waterline has been replaced already. Part of it was replaced during the MSD Project. Part of that was replaced during the drinking water project, so we are requesting to repair the roadway after the waterline has been taken care of. I do apologize. I didn't have the estimated cost prior to the Commission meeting, but I do have those now. The estimated cost for this would be \$1.9 million dollars that would be a cost share for NMDOT grant funding of \$1,487,141.23 with a 25% match of that of \$495,713.74. There again, if we go through this process, we come back to you for approval or acceptance of the award. This one is not in-kind. No, this doesn't allow in-kind.

Mayor Hechler: Thank you for that update and that extra clarification.

Commissioner Fahl: Traci, would we pay for the cash match out of the general fund?

Assistant City Manager Alvarez: That would be out of the Street's budget.

Commissioner Mitchell: Does this include that little alleyway on Pershing between 4th Street and 2nd Street that's just a dirt road right now?

Assistant City Manager Alvarez: I would have to look at our mapping. I don't believe so. We were just looking at the section of Pershing that we just replaced waterline, and I don't know if we replaced the waterline on that area or if there's waterline that goes through it. I will definitely look, and I'll send everybody out an email and verify that.

Commissioner Mitchell: I just wanted to get kind of a map picture of it.

Assistant City Manager Alvarez: I'll email everybody a map.

Commissioner Fahl: So, it's basically from where the old school admin building that's 2nd Street and Pershing. From there south. How far south?

Assistant City Manager Alvarez: It's going to come down from Date Street, down to Main Street, and then the Pershing section that's between Main to Broadway.

Commissioner Fahl: Okay. Yeah, a map will be good.

Assistant City Manager Alvarez: I do apologize. Normally, I do try and include mapping and everything with this. Unfortunately, the engineer that I work with on these was out sick, so they didn't get me the mapping. Because of the funding timeline, I didn't want to not have this to present.

Commissioner Mitchell made a motion to approve Resolution No. 36 23/24 Confirming the City of Truth or Consequences to participate in the NM Department of Transportation Municipal Arterial Program Local Government Road Fund Program. Mayor Pro-Tem Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

H. NEW BUSINESS

1. Discussion/Update: Water Update.

Arnie Castaneda, Water/Wastewater Director: In the month of January, our crews fixed a total of 27 leaks. We have an active leak list of 38 leaks right now. We have 12 leaks already on the schedule to be repaired. January was kind of a slow month with all the holidays and everything kind of winding down. Saturday evening, we had a major line break on Veater that ran into Sunday. The waterline on Veater is a feeder to Williamsburg, so every time we have to shut it down, it affects Williamsburg, and it did this time again. The crew repaired a 17-foot section of pipe that cracked. It was taken care of. We're still waiting on the vac truck to get back from Albuquerque. In the meantime, we'll be sharing the older vac truck with the Electric Department. We continue to have problems on the vac station. There's a pump we sent to Cruces they couldn't repair, so we shipped it over to El Paso. It's still there getting diagnosed to see if they can actually repair it. In the meantime, I had talks with Angie, and we are going to be buying two new pumps so we have back-ups out there in case something happens.

City Manager Gonzales: Arnie, I'm going to interrupt you really quick and kind of push you guys. It's at the end. The approval of this new purchase is at the end of your new business. Just FYI.

Arnie Castaneda: We're working on that. We're keeping the vac station working. I know that some of you live out in that area. We're trying to do the best we can. I was hired about a year ago and I have tried to hire certified operators. We could not hire certified operators. They're just not available. So, we started hiring labor workers with the intention of getting them certified. Now, we're getting to that point where I have two employees that are ready to go apply for their certification. Hopefully, they get approved and then they can test. I have another employee who already got approved and will be testing in March. We're getting there slowly but surely. I'm really proud of the

employees. Hopefully, they can pass their tests. That was it for this month. I'll stand for any questions.

Commissioner Fahl: I can't imagine what your crews had to go through working on that line over the weekend in the snow. Kudos to them. That terrible weather and there they were. We all need to remember the great work they do. Nobody else would want to do that. I did have a question. I believe the Commissioners all got an email from a lady about her situation. Has that been taken care of? Whoever was emailing us about her sewer that kept. Then is somebody going to answer that? Is Arnie going to answer that or are you going to answer that?

Mayor Hechler: I think Arnie is probably more qualified to answer than I am, but I can certainly jump on the back of that.

Arnie Castaneda, Water/Wastewater Director: We've been having trouble in that area for the last 8 months, close to a year. Maybe before that. We call it a pit where the sewer drops into a pit and then from there it's vacuumed over to the station. That particular pit is an area where any little, it's so sensitive, any little pebble that goes in there, water from when it rains will affect it. I think this is what started happening there. Damage to what we call a flow and there's an actuator. It damaged that. We went in and changed the flow, then it happened again. They went back in and changed the actuator. Then they did some other work. In other words, they rebuilt the whole thing by the time they were done, but we did have problems there.

Cross discussion about where this particular area is on Riverside.

Mayor Hechler: It's all the way on the other end of Riverside almost to the other end behind where all the storage areas are. I know because I've visited the site twice. That's why I said I know a little bit about it. I did talk with the home owner briefly about the situation. Not to check up on you. You guys did a wonderful job. It was cleaned up quickly. My bigger concern was that it's a vac system. A vac system is a little more difficult to fix than a waterline for instance because you can't find where the leak is. It's a vacuum leak. Initially, it runs with one pump. This one pump wasn't sufficient. It was failing to the point where it was able to pull all the affluent down the line, so that it backed it up at the second pump. Now there's two pumps working at it, but one of the pumps started to fail, so we had to take immediate action. We'll discuss that item a little bit later. I did go ahead and visit the folks that live there. Very nice folks. I tried to tell them what the situation is. We may not be able to remedy this thing right away because of the issues, but what it did bring to light is that this year we worked with the legislature. Next year, we need to work on wastewater. I'm getting a head start on some of those things. That's kind of where it is.

Commissioner Fahl: We've talked about it a lot. I just wanted to visually figure out where it was located.

Mayor Pro-Tem Forrister: And that vac station affects the very end of 3rd, correct?

CITY COMMISSION FEBRUARY 14, 2024 REGULAR MEETING MINUTES

Commissioner Fahl: Thank you for clearing that up, Arnie. I just wanted to understand.

Mayor Hechler: A couple of questions to follow-up. Your vac truck is at one vendor and it's going to be a while before it gets fixed. Is there a way that we can take it to another vendor even if it's more money? It's more important to get the vac truck back, isn't it?

Arnie Castaneda, Water/Wastewater Director: This is the 2nd vendor that we've worked with. We sent it originally to Las Cruces and they did a horrible job. Now, we sent it to Albuquerque, but they are busy, so now I'm looking at a place in El Paso to see if we can send it over there.

Mayor Pro-Tem Forrister: We have another vac truck within the city that belongs to...

Commissioner Fahl: The Electric Department.

Mayor Pro-Tem Forrister: They're being very nice and letting us borrow that.

City Manager Gonzales: We are all playing in the same sand box, yes. We also have to understand the Electric Department has their projects that they have to work with.

Mayor Pro-Tem Forrister: Emergencies override that.

City Manager Gonzales: If you don't have electricity and you don't have sewer. It's not a question of who's more important. It's equal. We are also trying to address some of that through the budget process. So be patient.

Mayor Hechler: One more question. Cherry Lane – my other favorite street. You guys fixed something about a month and a half ago. Then it started leaking again. What's the status of it now?

Arnie Castaneda, Water/Wastewater Director: It was repaired, but we always have situations there. That's a high-pressure zone. I think that's what's causing the issues. Major breaks. Not services but the major line is the one that's having the problems.

Mayor Hechler: Just one more question. Assistant Manager Alvarez, if we get those \$16 million dollars, where is that going to be spent first? What area of town?

Assistant City Manager Alvarez: The critical lines that were identified for that are the metal streets really. We have the metal streets over towards Williamsburg and then Veater. Veater is one of them. Then there are a couple streets over by Maple and Elm. There was a lot of line breakage over there that's been identified. \$16 million sounds like a lot or \$20 million, if we get it, sounds like a lot, but it doesn't really cover as much as we'd like it to.

Mayor Hechler: We know that we have a \$120-million-dollar project. We have to bite it off a little at a time. We'll continue to be as aggressive as we can. It's nice to know we're

going to go to the worst areas first and get those things rectified. That's where your crew was this last weekend.

Assistant City Manager Alvarez: I will say if we're lucky enough to get a lot of water funding through this, Arnie and his crew have been amazing with the GIS system and the new Doppler system. Being able to really track a lot of the repeat areas that keep breaking. If we're able to expand the project, we have good history just recent history even that'll tell us where we need to expand to try to get those trouble areas.

Mayor Pro-Tem Forrister: I also want to give a shout out to Riverbend. I don't know if you guys saw that, but they were offering showers to people that were out of water. How long was that? You guys posted it was going to be like 3 hours give or take. Then it ended up going over night and into Sunday. That was really cool that Riverbend stepped up and offered showers.

Assistant City Manager Alvarez: We were able to turn on water to Williamsburg for a few hours and then had to shut it down again.

Mayor Pro-Tem Forrister: Right. It was 8 hours then you brought it back up for a little bit then shut it down again, so it was a long time.

Commissioner Fahl: More compliments cause you guys get a lot of negative press, but when you drive around town. What your crews do. Cherry Lane is one and Magnolia too. I think that people like to complain, but if you just drive around town Those of us, you know where they were then they're not there anymore. Your guys are amazing, so kudos.

Commissioner Mitchell: I'm glad lake Pershing dried up finally.

2. Discussion/Action: Approval of the Liquid Waste Dumping Agreement between City of Truth or Consequences and Talon Septic, LLC.

Arnie Castaneda, Water/Wastewater Director: When I was hired, there was already an existing contract between the City and Talon for liquid waste disposal. However, I wasn't too happy with that contract. I don't believe the two systems should mix. When you pick up septic discharge, that's dead water. It has nothing alive in it. It's dead. Our treatment plant is a biological process that's alive. There are microorganisms in it that do all the work, so if you mix both, it affects our treatment plant. It affects our numbers that we have to report to EPA and MED. This new liquid waste contract reflects some of the changes that I would like to do with that contract. There's some testing that I have to report now to EPA that we're taking some of this discharge. There are forms that we need to fill out. It's all reflected in this new contract. We sat down with Talon, discussed it, and we will go to an agreement now, so this is the final product.

Mayor Pro-Tem Forrister: So, are they going to be dumping it at the treatment facility on Animal Shelter Road, correct?

Arnie Castaneda, Water/Wastewater Director: Correct.

Mayor Pro-Tem Forrister: Do they ever get close to those 50,000 gallons a month?

Arnie Castaneda, Water/Wastewater Director: No, that's the top that I'm willing to take, but they haven't gotten close yet.

Mayor Pro-Tem Forrister: Right. I'm assuming that's what you're willing to take, but I'm wondering how close they got because that's like \$6,000 a month. If they got to that.

Arnie Castaneda, Water/Wastewater Director: Most of it would go through our testing. We have to test their water now. Also, that's what we'll reflect on this agreement. Also, this is only a temporary agreement. I think that Talon is working on their own facility, so once they finish their facility, they'll be dumping it over there.

Commissioner Fahl: I was just going to ask Arnie to verbalize more so that the public understands what is different from what it was to what it is now. You said it is a biological wastewater treatment plant, so how is the way you deal with it now different than what it was before. Because I read it, and that doesn't mean I understand it.

Arnie Castaneda, Water/Wastewater Director: Like I said, this is dead water right. It hits our treatment plant. We have to test our water according to our permit. We have to test it frequently. Every time they dump, our numbers are heavily impacted. What I'm trying to do now is spread it out throughout the week and then test that water out of their trucks to make sure there's no petroleum products and other stuff that's not supposed to be in it. Also, they need to start screening their water. I can't take any rags or anything they might be pumping in there because it clogs our pumps. I have to send out the testing to a lab in Albuquerque, and that costs the city money. I'm trying to pass that all on to Talon. Then we did some work on the schedule as to when they can dump and how much they can dump.

Commissioner Fahl: Good. Thank you for spelling that out. That makes it good for us and the public.

Assistant City Manager Alvarez: I know the original agreement came through the Commission with a previous City Manager and previous Wastewater Director. I can tell you that the first time Talon went out there to dump, I had a phone call almost immediately from Arnie. Arnie, in a perfect world, would love to dissolve this agreement. He doesn't want it. He doesn't think it was made in the best decision. This secondary agreement we did have good discussions with Talon Septic and Arnie, their understanding of it. We're trying to be good stewards of honoring an agreement that was put in place prior. It's not something that Arnie wants to have to accept, but for right now, we'll accept it. We're trying to honor something while Talon Septic moves forward with their facility. They are working diligently or as fast as they can with state permitting processes. They're not easy.

CITY COMMISSION FEBRUARY 14, 2024 REGULAR MEETING MINUTES

Mayor Pro-Tem Forrister: We appreciate you for keeping the City's best interest at heart.

Arnie Castaneda, Water/Wastewater Director: I understand that there's a need out in the community for him. I honestly don't want it in my treatment plant, but we'll accommodate him for now.

Commissioner Fahl: They're moving toward that positive solution where they have their own.

Mayor Pro-Tem Forrister: That they're going to be renting from us.

Commissioner Fahl: Exactly. It's a win-win.

Mayor Hechler: I have a couple of short comments. This agreement is from January 1st to December 31st. It can be renewed. I am not going to be happy if it's renewed. We need to move forward aggressively to have Talon move his system out by the airport, which he had proposed before. Let's make sure that he understands that and we put pressure in that regard.

Commissioner Fahl: However, he has to be at the whim of NMED who does not move quickly.

Mayor Hechler: The second comment I want to make and it's because there's been other interest in folks that want to dump at the plant because Talon Septic does. Talon Septic is the first person that approached us, and he provides a service for our community. There's a lot of septic tanks still within our city that need to be pumped, so he provides a service to these folks that would have to pay exorbitant rates if they have to go somewhere else. That's why we accommodated Talon Septic, but we can't accommodate any others right now. That's because we have a finite amount of septic that we can take. That's why you have this spread out over the contract, and it's important that we do that. As I hear things from other folks that are saying Talon Septic has a monopoly on our community, that's not what we're trying to achieve here. What we're trying to achieve here is we're trying to solve a problem but we're also trying to keep our plant from peril, so we're avoiding that.

City Attorney Rubin: Mr. Mayor, on your first point, you are correct. I drew this contract a couple months ago, and we did at that time have a start date of January 1, 2024. Do you want to keep that?

Commissioner Fahl: We don't need to change the date.

Mayor Hechler: It starts January 1, right? We're fine. I'm not going to be happy if we have to go to January 1, 2025, and we have to look at this again unless there's been significant movement toward the project near the airport. I think that's going to be important, and I know that everything's not in his control. He's working with the Environmental Department and other folks there.

Commissioner Fahl: Hopefully, he'll have progress. He'll have some sort of progress that he can give us a report.

Commissioner Fahl moved to approve the Liquid Waste Dumping Agreement between City of Truth or Consequences and Talon Septic, LLC. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Grant agreement between the New Mexico Economic Development Department and the City of Truth or Consequences for Ralph Edwards Park improvements to include shade structures, floating dock, and a trail.

OJ Hechler, Community Services Director: It's a pleasure to be able to present another grant award for the City of Truth or Consequences. I just want to give you guys a quick rundown of how the Trails+ Grant got affiliated with Ralph Edwards Park. It started off with some trail improvements as part of the Conceptual Master Plan that was approved in 2020 for Ralph Edwards Park. There was a trail that was going to go between the park and the river. We were applying for some trailhead signs, some trail improvements, and some shade along the river. We sent in our application, and Colonias said "hey, you guys aren't thinking big enough". I was taking pictures to determine what we need at the park. The shade structures over the picnic tables are old. They're dilapidated. That was the first thing that popped out at me. We newly installed some benches along the river that need shade. Part of the grant were some single cantilever shade structures that will go over the benches as well. Then we thought if we're going to go bigger, we might as well go bigger, so we included a floating dock into the grant agreement. We included the shade structures at the fish pond. We applied for everything. We received it. There was a match that was involved with it. It's \$322,000 (and some change) for the grant. There's a \$162,000 match. I have been told that our general fund can support this, so you, Commissioners can decide that. With that, I will open up for any questions. I did want to say something real briefly. After looking this over, you have to remember we didn't have playground equipment when we applied for this grant. One thing that I'm going to see if I can do, and I went over the other day and looked at our fish pond shade structures a little closer. They're metal shade structures with cedar shingles. The problem with the cedar shingles is they're real expensive to replace. The structures underneath are sound. I want to see if I can amend this grant to accommodate, and I'm working on a quote right now, to have shade put over the playground area. We can address the shelters at the fish pond if we need to replace cedars and things of that nature. Like I said, the structure underneath looked sound to me. That is something I'm going to try to amend on this grant. With that, I'll open up for any questions.

Commissioner Mitchell: You said the general fund could absorb that match, so it wasn't initially budgeted.

OJ Hechler, Community Services Director: Correct. I'm going to go ahead and defer to the higher-ups on this one.

City Manager Gonzales: Actually, the grants aren't budgeted because you don't know if you're going to get them or not. That's where we're at right now is you're getting this grant because we weren't thinking big enough. Now, that we do have our general fund is looking okay. So, we will be able to support the community in the improvement of the usefulness of the parks. You have invested money into Ralph Edwards. You need to invest in shade because it's silly for you not to be able to utilize that beautiful playground equipment because it's too hot.

Commissioner Mitchell: Another question is there any grant funding available for planting trees in the park?

OJ Hechler, Community Services Director: At the beginning of last year, the Sierra Soil helped us out, and we planted some trees out there. What we really need to focus on and look at it is getting some larger trees initially. Some 12 or 14 footers with a 3 inch trunk on them already. The trees we planted out there have survived. They're growing. That's what we really need to look into. Commissioner Fahl mentioned Sierra Soil can help out. I know they helped us out with a grant last year.

Commissioner Fahl: I would think if you approached them to purchase larger trees, they should be willing to. Just a follow-up, so this is exciting for the park. When you talked about the trail. I was talking to the folks at Sierra Soil, they were talking about putting up some interpretive panels for restoration. I don't know if they told you that. That signage doesn't conflict, so you might want to visit with them and what they're going to be putting up. Talking about the funding question, so if we approve this today, how long is. The \$152,000 match, most of that is not going to come out of fiscal year because it'll be next fiscal year. Even if you start spending some of it, it's next fiscal year money anyway. Anyway, I think that's really good. Just as a suggestion for the cedar shingles. You probably shouldn't do that because of fire and you're next to the river. Shingles and fire don't go good together, so maybe you should do metal. Metal that looks like that.

OJ Hechler, Community Services Director: We have the cedar shingles at the fish pond now. They're aesthetically pleasing. They look pretty. This could be the start because I sit on another committee where river access is a priority. This could be a start. Ralph Edwards Park is centrally located on the Turtleback Trails Network Plan. Ralph Edwards Park, the floating dock, the trail, it could all be tied in together down the road.

Mayor Hechler: Thank you for that presentation. Any further discussion? I'll entertain a motion.

Commissioner Fahl moved to approve the Grant agreement between the New Mexico Economic Development Department and the City of Truth or Consequences for Ralph Edwards Park improvements to include shade structures, floating dock,

and a trail. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Review, Approve and/or Allocate Funds for Sierra County Arts Council Application #4 Reprint of Gallery Brochures.

Tammy Gardner, Executive Assistant reviewed the application from Sierra County Arts Council for the Reprint of Gallery Brochures and discussed the amount allocated by the Lodgers Tax Advisory Board.

Commissioner Hoepfner moved to approve the Sierra County Arts Council Application #4 Reprint of Gallery Brochures in the amount of \$633.00. Mayor Pro-Tem Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Action: Review, Approve and/or Allocate Funds for Sierra County Arts Council Application #3 for Website Update/Maintenance.

Tammy Gardner, Executive Assistant reviewed the application from Sierra County Arts Council for their Website Update/Maintenance and discussed the amount allocated by the Lodgers Tax Advisory Board.

Mayor Pro-Tem Forrister moved to approve the Sierra County Arts Council Application #3 for Website Update/Maintenance in the amount of \$1134.00. Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

6. Discussion/Action: Review, Approve and/or Allocate Funds for MainStreet.

Tammy Gardner, Executive Assistant: This is the application they brought forth at the last meeting for Fiesta. They requested \$33,000, but in talking with the board and discussing different outlets, they have a lot of people that are coming for tents and bleachers and things of that nature. They decided to add to their application. The board added to their application. They added \$15,000 for bleachers and I believe that's why it went from \$33,000 to \$46,000. That's part of it, but they amended a whole bunch of things and added some things because it was a very lengthy application. Those items can be turned into the city when the Fiesta is done, and then they can be housed and

CITY COMMISSION FEBRUARY 14, 2024 REGULAR MEETING MINUTES

used for anyone that may want to come and ask for that funding. Then they won't have to ask for funding anymore because we have everything available.

Cross discussion ensued about panels purchased for the last Fiesta.

Mayor Hechler: Commissioner Mitchell, would you elaborate on this please since you were there.

Commissioner Mitchell: At the Fiesta meeting with Cathy Mears-Martin and Main Street as our fiscal non-profit sponsor, Cathy worked really hard on this. We got a quote for the barricades that came in on the high-end because we were going online. Originally, we worked out a deal with Tractor Supply then that manager left. Now, we've got to re-negotiate a deal, but we're going to buy them from Tractor Supply hopefully. The Lodger's Tax Board approved us \$7,000 to purchase those barriers. They're roughly \$75-\$115 a piece depending on where you buy them. We're going to get as many of those as we can with that \$7000. During that meeting, it was also brought up that our bleachers at the ball parks are older than OJ and I. We brought up that Fiesta has the funds to do this. We're going to use those for that event. For the basketball tournament, we put a bleacher there. We put bleachers for the stage, so why don't we just go ahead and get it, and then donate it back to the city when we're done. So, it's not Fiesta's. It becomes property of the city that they can use for rentals or concerts or whatever else.

Mayor Pro-Tem Forrister: Just like anything that's purchased with Lodger's Tax, it belongs to the city, correct? Like those panels. Like those pen panels.

Commissioner Fahl: Those were bought with the City's Lodger's Tax not their Lodger's Tax.

Commissioner Mitchell: This would technically belong to Fiesta, but we did come into agreement during that Lodger's Tax meeting to donate it back because honestly, where am I going to put 100 barricades and 5 tents and bleachers. Someone in the City will find a place to store it after May 3, 4, or 5. Then you guys can use it to build these events. You can have street dances any time. Actually, we're going to use them hopefully to bring a circus here on April Art Hop, do it at the Bank of the Southwest, and have the barricades up and all that stuff.

Mayor Pro-Tem Forrister: Do you guys want to do a circus for our fair?

Commissioner Mitchell: I could make that happen.

Mayor Pro-Tem Forrister: We could do that. We'll talk.

Commissioner Mitchell: Otherwise, everything else went for advertising, sanitation, security, and the regular stuff.

Commissioner Hoepfner: I have one question about the tent. Are we talking about the original smaller tents or are we talking about the beer garden tent size 50x100?

Mayor Hechler: 20x40 and there's two of those, and we have a round one too.

Commissioner Mitchell: We got approved for another tent, so all together we'll have 3 20x40 tents, and those fit both sets of bleachers under one tent. They're really good for that, and we also have one that's like 15' diameter round tent. They all have the flaps on the sides and canopies on top. You can use them outdoors in the winter. You can use them for weddings.

Mayor Pro-Tem Forrister: Can people come to the city and rent these?

Commissioner Mitchell: The two tents we got last year under Lodger's Tax, currently, are under the Fiesta Board. When we rent them out, we get that money for Fiesta. In the future, we can work something out if it's better to go under the city and the city kicks back something to Fiesta.

Mayor Hechler: I want to clearly thank Main Street for being the umbrella organization for Fiesta. We needed to have an anchor in this community. Up to date, it's just been a few of us that have kind of kept Fiesta together. We've had to shop around for non-profits to help us out. Thank you, Mr. Hoepfner, in the past. Having someone that is anchored in this community like Main Street and has some more resources to help us out is really appreciated. That shout out is for Main Street. With that, if we have no further discussion, I'll entertain a motion.

Commissioner Fahl moved to approve the MainStreet Application in the amount of \$46,000. Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

7. Discussion/Action: Delta Airport Consultants Contract Renewal.

Assistant City Manager Alvarez: Delta Airport Consultants is the consultant for our airport. The contract was only set for one year, and we are requesting to go ahead and renew it for the additional 3 years. They are helping us oversee all of our funding that we get for the airport and of course, we have the 1 million that's sitting out there plus all of our bill funding and allocation. We're having a little bit of delay on that project due to the specs the FAA is requiring for the asphalt improvements out there. Local contractor, it really exceeds what's financially beneficial for them to provide us. Going with concrete will extremely shorten our funding project area, so we're kind of a little bit back and forth right now with FAA and NMDOT to see if they'll accept normal NMDOT specs that our

contractor can provide us. We are going to be in a long haul on this project if we want to renew their contract for the additional 3 years.

Commissioner Fahl: Angie, is this the first year we've had a contract with them? I thought when they came before us that we'd done work with them before.

Assistant City Manager Alvarez: We went out to RFP a while back. When I first started and took over, Delta was our airport consultants. After their 4 years, we were required to go back out to RFP. Another engineer was awarded at that time. Then went back out to RFP then re-awarded back when our previous finance director was here. She was just doing contracts every year. For some of these projects, it's just easier to do it for the whole length.

Commissioner Fahl: I just wanted to make sure that you were satisfied with everything they've been doing.

Assistant City Manager Alvarez: Very satisfied, yes. Very satisfied with Delta.

Mayor Hechler: You want a 3-year term, so we're not going to see this again for 3 years, or are we going to renew every year?

Assistant City Manager Alvarez: No, we won't see it again for 3 years.

Mayor Pro-Tem Forrister: That will be the remainder of the project, how long it should take, correct?

Assistant City Manager Alvarez: Hopefully.

Commissioner Fahl: So that's as long as we can go?

Assistant City Manager Alvarez: At the end of the 3 years, we have to go back out to RFP. When Delta comes in and does updates to our Airport Advisory Board, and at any point in time, the City Commission would like them to come in and do an update for the City Commission, I can make that happen as well.

Commissioner Mitchell moved to approve the Delta Airport Consultants Contract Renewal. Mayor Pro-Tem Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

8. Discussion/Action: Contract for Administrative Services with South Central Council of Governments.

Assistant City Manager Alvarez: As you know, we received the planning grant award plans for CDVG for the City-wide comprehensive master plan update. Part of that funds allows for administrative services for the grant administration of CDVG for our local

CITY COMMISSION FEBRUARY 14, 2024 REGULAR MEETING MINUTES

COG. This is the agreement with the COG to administer the CDVG grant. All of this stuff is kind of a long process with CDVG. Once we sign this then it has to go through approval of CDVG, go back and forth. Then at some point, we'll be going out for RFPs for somebody to begin working on the comprehensive plan update, and you'll see that coming before you guys as well. I do anticipate that it is going to be much more than the \$50,000 that we've been awarded.

Commissioner Hoepfner: How long is that process until we can start with the updating of the master plan?

Assistant City Manager Alvarez: Once we get through the approval of the agreements and DFA approves us to go out for RFP, we'll work somebody to start working on the comp plan, and then within their task order of the RFP will determine, we'll have to have a public hearing.

Mayor Pro-Tem Forrister: So, in other words, a very long time.

City Manager Gonzales: It'll probably be along the line of late summer, and I think I'm being really...

Assistant City Manager Alvarez: Part of our current comprehensive plan, so when we did our comp plan in 2004, it was updated again in 2014. When it was updated again in 2014, it referenced our downtown master plan as well in the comp plan. We have the Affordable Housing plan that it was referencing. There's a lot to it. I've never been through a whole comp plan update. I have no clue how long it's going to take. We've got a lot of potential in this town. We really need to discuss the growth of the town city-wide and get some public input.

Commissioner Hoepfner: I want to be part of that and the possibilities when it comes to public hearing. We can do some leg work. Then when we have a firm doing the physical and master plan, we will already have a list of what the public would like to see. We can start with the preparation work of the public comments to ask what they would like. We can be ready when the first meetings come. We can say okay, we figured out which projects would be important.

Assistant City Manager Alvarez: We have to be really careful with grant funding. We sometimes cannot do preliminary work because if we do the work prior then they feel like don't need the grant so we have to follow their timeline and their guidelines. What we'll do is, with any type of planning grant, we have to keep in mind, we always want to get public input. It's really important, but with that being said, the more time we schedule for these engineers to come into town and do multiple public meetings or do websites, everything, that adds to the cost. I'll get a good proposal. It'll come to City Commission for review. You guys will decide if you want to add to it or take apart, but the plan itself is going to be more than \$55,000, so it would be mindful to keep in mind what funds are available within the general fund to extend on this as well. It's a balancing act.

Mayor Pro-Tem Forrister moved to approve the Contract for Administrative Services with South Central Council of Governments. Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

9. Discussion/Action: State of NM Dept. of Aging and Long-Term Services Capital Appropriation A23H-2062 Agreement.

Assistant City Manager Alvarez: It's that time of year with all these things coming in. This is money that's been appropriated to SJOA. It'll go toward the purchase of a vehicle for the SJOA. It probably will not be enough funding. I know that they are reaching out currently to see if they can get some additional funds to make sure they have all the monies possible. They're really shooting for a meal truck, and those are expensive. Hopefully, they'll be able to combine two types of funding. We're the fiscal agent, so all the funding goes through us. We're just asking for approval of the grant agreement, so they can start their process.

Mayor Hechler: When I was at the Governor's office and talking with Governor Grisham, she looked at me and she goes, "Mayor Hechler, would you do a favor for me? I'm really concerned with SJOA and their funding. Would you ask them to bolster their funding for next year especially for funding for home visits and things of that nature?" I think this is on her agenda to deal with. I've already talked with Crystal Walton about it, and I told her what my conversation was. I'm glad to hear the Governor's in support of this thing. We're on the track, and I think this is a good thing.

Commissioner Fahl made a motion to approve the State of NM Dept. of Aging and Long-Term Services Capital Appropriation A23H-2062 Agreement. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

10. Discussion/Action: National Museum of the United State Airforce (NMUSAF) Community Static Display Loan Program 2024-2029 Loan Agreement, SDA0220.

Assistant City Manager Alvarez: This is for the T33 Aircraft that's on display out at our airport. We've had it out there at the airport for years. It's my understanding, prior to that, we actually had it on display at the Ralph Edwards Park. Background history, it's a training aircraft. It's got history of being used in New Mexico for pilot training. It is a big draw out at our airport. I haven't personally noticed it, but I hear you can see it from the highway. We actually have some pilots that fly in just to take pictures by it.

Commissioner Fahl: I love that airplane and what a great location for it. As on the other museum board, I wish it was in town, but it is a really big draw for the airport. Kudos that we got it there.

Assistant City Manager Alvarez: You guys don't know how hard it is to get a status report. They value it at \$10,000. We don't pay any of that. That's just the value of it. We do have to cover the insurance then of course, annually, we have to show if there's been any nicks or anything like that. We cover that if we have to do a little bit of maintenance on it. Last time it was overhauled was by your local chapter of EAA. I think that was last year or the year before they did a complete overhaul. They kind of switch up their agreement sometimes. I feel like we just did it last year, but maybe it was the year before. Now, we're doing it every two or every one year. Standard agreement we've signed before. I stand for any questions.

Mayor Pro-Tem Forrister made a motion to approve the National Museum of the United State Airforce (NMUSAF) Community Static Display Loan Program 2024-2029 Loan Agreement, SDA0220. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

11. Discussion/Action: Approve Impact Fee Funds for Water and Wastewater Impact Fee Land Use Assumptions and Capital Improvement Plan.

Assistant City Manager Alvarez: We have an Impact Fee plan that needs to be reviewed and updated. We last had it done in 2017, I believe it was. They recommend us doing this approximately every 5 years. Mostly, they'll be taking a look at our land use consumptions and the capital improvement plan that's specific to our Water and Wastewater Department. Impact Fees are assessed by fixture unit on a new bill that's \$150 per fixture unit that you put it. The fees are to assist with the impact to our water or wastewater utility services. We currently have approximately \$215,000 in our Impact Fee account. Any time somebody pays those, they're put into separate accounts at the bank, and we hold those. We are allowed to use our Impact Fee money specific for study. I spoke to Jay as well as John Appel to be sure that we can use those monies for a study. With that, we would like to request approval. We did go in front of our Impact Fee Board. We're down to only 3 members on our board. We did an update to them, and then we're going to go back to get action. However, we have one member that was unable to be at the meeting, and we didn't have a quorum. So, we're bringing it to City Commission and requesting approval to use some of the funding. The last quote that I got was approximately \$77,000 for an Impact Fee Study update. We have plenty of money within there.

Mayor Hechler: Ms. Alvarez, if we don't use the Impact Fees, don't we have to give them back within a certain time?

Assistant City Manager Alvarez: 7 years.

Mayor Hechler: So, it's probably a good idea that we use these funds.

Assistant City Manager Alvarez: We have approximately \$107,000 almost \$108,000 that we need to use up within the next 7 years. The Impact Fee Study is something that we can do and I know one of the things I'm going to reach out and talk to the Attorney about is that we're having some issues, and Arnie doesn't know this because I thought about it last night. I know we're having issues at the Veteran's home with some of the flow. They have done a lot of development there. I am going to reach out to John Appel and find out because the Veteran home is not a new development. However, what they are doing with their new development is definitely impacting our system. We might be able to use some of this to maybe provide them better service, so that it's not having issues with some of their fire flow and irrigation and the other items.

Commissioner Fahl: Just following up on the uses of those Impact Fees. I would assume we could use those, if the purpose to gather it is the impact on our infrastructure, can't we use some of that money to pay for some of the issues with our infrastructure?

Assistant City Manager Alvarez: No, we can't. That's one of the first things we look at. Impact Fees are very specific to it being a completely new service, so we can't use it to rehab or repair anything existing.

Commissioner Fahl: Like when we get our new little fancy thing in the sewer line, right?

Assistant City Manager Alvarez: No, because we would just be improving or upgrading people that we're already servicing.

Mayor Pro-Tem Forrister: It has to be for a new build, correct?

Assistant City Manager Alvarez: No, but if we were to develop across the river, and then we're putting a whole new system over in there.

Mayor Pro-Tem Forrister: But maybe you can get away with what they're doing at the Veteran's home since they're putting in a whole new living quarters.

Assistant City Manager Alvarez: That's, yeah, that was a little iffy. I'm grasping at straws. We have looked into it for potential replacement.

Commissioner Fahl: And that was a no?

Assistant City Manager Alvarez: Yeah.

Mayor Hechler made a motion to approve the Approve Impact Fee Funds for Water and Wastewater Impact Fee Land Use Assumptions and Capital

Improvement Plan. Mayor Pro-Tem Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

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

City Manager Gonzales: I called City Clerk Torres, and I begged her to put this on the agenda, and I appreciate her being able to do that. Yes, it was within the 72 hours. This is about those two motors. I'm going to beat you over the head with this, so I apologize in advance. This is those two motors for the vac station. As was already said previously in the meeting, the vac station pulls the waste then dumps into the wastewater then it goes through the system. Literally dumps. It's such an aged infrastructure, and it's vacuum. Those of us who have ever used a vacuum cleaner or a vacuum something, we know that you have to suck it up. Whenever you have pin holes or air, it doesn't suck as well. That's why we have to have two motors is because that one motor gets hot. When motors get hot, they break. What we're doing is supplementing the one motor with the other one so we can get the useful life out of them until we can figure out what to do with this aged vac station. That's the purpose. The problem is they're \$35,000 each. This is going to be \$65,000. We guessed with shipping. Once we were doing that and our brain went to procurement, \$60,000 always raises an antenna. What we were thinking is go ahead and let you guys and the public know, this is what we need to do. We are going to make sure that it is procured properly. We have gone through and Arnie has done quite a bit of research. Through the procurement code, sole source is a pain because it's been abused over so many years. If it's a sole source, it's a sole source, and this is a sole source. Our procurement person is going to have to do some extra steps. We're all going to support and help out. What we're going to end up doing is it's a sole source procurement. I just really wanted to be very open and clear with you all that that's what it is. Two motors to operate the vac station. They are very expensive. What we want is these brand new motors, so the one that is in the shop can be an emergency back-up. That's where we're at. Are there any questions?

Commissioner Fahl: Which vac station is this going to be at?

City Manager Gonzales: The only vac station we have on Riverside.

Mayor Hechler: Thank you for that report, Manager.

Commissioner Fahl: You did a very good job explaining that.

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

I. EXECUTIVE SESSION:

1. **Limited Personnel Matters (Police Department, Facility Department, Streets Department, Animal Shelter, Finance Department, Golf Course, Parks Department) Pursuant to 10-15-1(H.2).**
2. **Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2).**

Mayor Pro-Tem Forrister made a motion to go into executive session at 1:13 p.m. to discuss Limited Personnel Matters (Police Department, Facility Department, Streets Department, Animal Shelter, Finance Department, Golf Course, Parks Department) Pursuant to 10-15-1(H.2) and Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2). Commissioner Mitchell seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Hechler reconvened the meeting in open session at 1:36 p.m.

Mayor Pro-Tem Forrister certified that only matters pertaining to Limited Personnel Matters (Police Department, Facility Department, Streets Department, Animal Shelter, Finance Department, Golf Course, Parks Department) Pursuant to 10-15-1(H.2) and Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2) was discussed in Executive Session and no action was taken in executive session.

J. RETURN TO REGULAR SESSION; ACTION (if any)

1. **Limited Personnel Matters (Water/Wastewater, Police Department, Facility Department, Streets Department, Animal Shelter, Finance Department, Golf Course, Parks Department) Pursuant to 10-15-1(H.2).**
2. **Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2).**

Mayor Pro-Tem Forrister made a motion to approve the request to correct employee classifications on various positions. Commissioner Mitchell seconded the motion. Motion carried unanimously.

K. ADJOURNMENT:

Mayor Hechler adjourned the meeting at 1:38 p.m.

Passed and Approved this 13th day of March, 2024.


CITY COMMISSION FEBRUARY 14, 2024 REGULAR MEETING MINUTES



Rolf Hechler, Mayor



ATTEST:



Angela A. Torres, CMC, City Clerk