

CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, JUNE 28, 2023

A. CALL TO ORDER:

The meeting was called to order by Mayor Amanda Forrister at 9:00 a.m., who presided and Angela A. Torres, City Clerk-Treasurer, acted as Secretary of the meeting.

B. INTRODUCTION:

1. ROLL CALL:

Upon calling the roll, the following Commissioners were reported present.

Hon. Amanda Forrister, Mayor
Hon. Rolf Hechler, Mayor Pro-Tem was absent
Hon. Destiny Mitchell, Commissioner
Hon. Merry Jo Fahl, Commissioner
Hon. Shelly Harrelson, Commissioner

Also Present: Angie Gonzales, City Manager
Traci Alvarez, Assistant City Manager
Jay Rubin, Assistant City Manager
Angela A. Torres, City Clerk-Treasurer
Kristie Wilson, Finance Director
Luis Tavizon, Chief of Police

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

2. SILENT MEDITATION:

Mayor Forrister called for fifteen seconds of silent meditation.

3. PLEDGE OF ALLEGIANCE:

Mayor Forrister called for Commissioner Mitchell 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. PUBLIC COMMENT (3 Minute Rule Applies):

Rick Dumiak addressed the Commission with comments related to 630 Charles Street. (Complete copy attached hereto and made a part hereof).

D. REPORTS:

City Manager Gonzales reported the following:

- She has the executed MOA with Sierra County on the improvements on the shooting range. They approved it at their meeting last week.
- She also has the fully executed cooperative agreement with the tourism department.
- On Monday, we started the MSD roadway and drainage improvements. Spartan Construction of New Mexico is starting that right after the 4th of July. The contract is for \$705,775.12. This is for paving on McAdoo Street from Jones Street to Pershing Street, and Daniels Street to McAdoo Street to Broadway, and Pershing from Main Avenue past McAdoo, and Pershing Street/McAdoo intersection to Broadway.
- We are working on the employment for the departments. Water in particular. We are trying to going in the direction of an employment agency. If you see those guys out there, please tell them thank you. They are really working their fingers to the bone. As does everyone.
- The airport will have some construction done. They are going to re-locate the self-serve fuel to the fuel farm, and they are re-surfacing the apron.
- End of (fiscal) year is Friday, and on top of that the auditors are here this week.
- We have vacancies on our Planning & Zoning Board, Impact Fee Board, and the Recreation Board.

City Attorney Rubin reported the following:

- I don't usually encourage responding to public comment, but I wanted to address Mr. Dumiak's statements, and I think it would be helpful if I said a few things. As the City Attorney, I share your frustrations Mr. Dumiak. We filed a foreclosure action on 630 Charles several months ago, and it is based upon two different things. We have a lien on the property for the cleanup that we did, and also for unpaid utilities in the ballpark amount of \$8,000. Ordinarily when I do one of these foreclosures, usually they are uncontested and I usually come in here and I usually pat myself on the back a little bit and I say well we did this and we got this taken care of, but in this case I have gotten some resistance from one of the property owners who keeps claiming that they are going to get the property cleaned up and they are going to make payments towards the lien. We had a hearing around early May and the court ruled in the city's favor in the sense that we now have a judgement for foreclosure on the property, but the one stipulation was that the court pushed us pretty hard to try and at least allow them one last chance to come up with

a payment plan as to how the lien was going to be paid off. We entered into an agreement which was set forth a stipulated judgement, but unfortunately that has been defaulted upon so I filed another request for a hearing. The earliest I have right now is the first week of August, and at that hearing it will be my intention to ask the court to appoint a special master so we can at least get the foreclosure done. I will visit with Ms. Alvarez a little bit more on this because she has been very frustrated, and she has called me several times to get updates on this thing so we may come up with a plan of what to do in the interim. Mr. Dumiak, if you call my office I will give you the passcode information if you want to listen in on the hearing. Everyone is welcome to listen in on the hearing. When we get to the last meeting in July I will give out a copy of that Notice of Hearing so we can circulate that to anybody who wants to hear it.

Assistant City Manager Alvarez: I would love to have the court prove our foreclosure, and then once it is foreclosed on, and it becomes city property, I can just demo the whole thing and wipe it out. That is my goal.

City Commission Reports:

Commissioner Mitchell reported the following:

- I want to apologize for being absent the past couple of months, with the ending of school and starting of summer. I have been reading through the minutes to make sure I'm keeping up on what is going on, and trying to stay current.
- Four of my swimmers qualified for the State Games of America which will take place next year in San Diego. I had two 1st places and two 3rd places. I am really proud. This is the first time that they have really gotten to go outside of New Mexico to compete so there is some light at the end of the rainbow for busting my butt with these kids.

Commissioner Fahl had no reports.

Commissioner Harrelson reported the following:

- We have a new Administrator who that just got hired on in the Arrey area so we want to welcome that person back. She is a graduate of Hot Springs High School. Her name is Brandy Williams.
- If you are needing a job and you are wanting to help out with our community, we are have EA positions, custodial positions, and other various positions available at our school district. We offer insurance, and summers and holidays off.

Mayor Forrister reported the following:

- We have a new football coach at the high school so I would like to welcome him and his family.
- There is a lot of stuff going on this summer for our youth and adults as well.

E. CONSENT CALENDAR:

1. **City Commission Regular Minutes, June 14, 2023**
2. **Acknowledge Regular Public Utility Advisory Board Minutes, May 15, 2023**
3. **Take Home Vehicle Form**

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

F. PUBLIC HEARINGS:

1. **Discussion/Action: Final Adoption of Ordinance No. 720 amending the City of Truth or Consequences Municipal Code of Ordinances Section 7-201 (A1) and (A2) pertaining to Lodgers Tax Exemptions:**

City Clerk Torres: This item is for public hearing and final adoption of the amendment of Ordinance No. 720 pertaining to Lodgers Tax Exemptions. The amendment is to include the language adopted by the state in subsection (A1) and (A2). The added language reads "*unless those premises are temporary lodging*" which means, if the premises is a short term rental, they will still need to submit Lodgers Tax, and they do not fall under that exemption. This includes short term rentals, hotels and motels.

Mayor Forrister: I guess this is pretty cut and dry. We are just following what we have to follow I guess.

Mayor Forrister opened the public hearing.

Proponents:

There were no proponents.

Opponents:

There were no opponents.

Mayor Forrister closed the public hearing.

Commissioner Fahl: Has this gone before the Lodgers Tax Board and were they okay with it?

City Clerk Torres: We didn't bring it back to them for the amendment.

Commissioner Fahl: So they didn't have any heartburn over it?

City Attorney Rubin: This is just mandatory language from the state.

Commissioner Fahl: I just wanted to know what their opinion was.

Mayor Forrister: This was something we needed to do whether they approved of it or not.

Commissioner Fahl: I just wanted to know what their opinion was.

Commissioner Fahl moved to approve adoption of Ordinance No. 720 amending the City of Truth or Consequences Municipal Code of Ordinances Section 7-201 (A1) and (A2) pertaining to Lodgers Tax Exemptions. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

G. ORDINANCES/RESOLUTIONS/ZONING:

1. Discussion/Action: Resolution No. 50 22/23 Budget Adjustment Request.

Kristie Wilson, Finance Director reviewed the budget adjustments provided in the packet.

Commissioner Mitchell moved to approve Resolution No. 50 22/23 Budget Adjustment Request. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Discussion/Action: Resolution No. 51 22/23 Gravity Pad Tower Lease Resolution.

City Manager Gonzales: This is a resolution that authorizes and empowers the City Manager to enter into assignment of lease and easement agreement with the Tower Point people who are leasing the towers so I can sign the documents. That is all this is for.

Commissioner Fahl moved to approve Resolution No. 51 22/23 Gravity Pad Tower Lease Resolution. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

H. NEW BUSINESS:

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

Kristie Wilson, Finance Director reviewed the Purchase Requisitions over \$20,000 provided in the packet.

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

2. Discussion/Action: Summary Plat Amendment at 401/405 Austin Street.

Assistant City Manager Alvarez: Items H2-H6 all were heard at a public hearing in front of the Planning & Zoning Commission on June 12th. All were unanimously recommended by the board to the Commission for approval, there was no opposition on any of the items. This item is for 401, 405, 413 and 415 Austin Street. The applicant purchased the property in between those two properties. They just wanted to buy the property they purchased, and split it in half. Half would go to the 401/405 side and the other half would go to the 413/415 side. There were no issues with utilities or anything like that.

Commissioner Fahl moved to approve the Summary Plat Amendment at 401/405 Austin Street. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Sign Code Variance request at 2270 N. Date St.

Assistant City Manager Alvarez: This is for the replacement sign that they are putting up for the Travel Lodge on the corner of Johnny B's. It is required to go to the Commission for a variance request for two reasons. One being the setback requirement of the front setback for the sign location with a maximum height of 8ft. plus the motion sign requires them to go for a public hearing. It is being placed in the same location that they one that blew over was in. There were no issues or concerns regarding this item.

Commissioner Mitchell moved to approve the sign Code Variance request at 2270 N. Date St. Commissioner Fahl and Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Request for the City to vacate a section of alley adjacent to 2911 Cook Street.

Assistant City Manager Alvarez: The dwelling unit located at 2911 Cook Street is a very old dwelling unit. It encroaches on city property by a few ft. so the property owner is requesting that we vacate that section of city property or alleyway so that the back section of their home is on their property and not ours for potential sale. In your packet it shows the very small section that they are requesting. It is only a 10 ft. section. It doesn't interfere with any alley openings or utilities.

City Attorney Rubin: If the Commission approves this we will have to prepare a notice of vacation which would also include a quit claim of the property to the applicant. I can bring that back to the Commission or you can authorize staff to proceed and we can just handle it administratively.

Commissioner Mitchell moved to approve the Request for the City to vacate a section of alley adjacent to 2911 Cook Street and allow staff to handle further necessities administratively. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Action: Special Use Permit for Parcel #3022078314491. Applicant wishes to use the land as an art park/display park.

Assistant City Manager Alvarez: This parcel of property is located across the street from the Mile Marker coffee shop. The property is too small for development. This is private owned property. The property owners wish to develop it into some type of Display Park. In your packet is a proposal of an idea they have for the property. We didn't have any concerns the way the property sits. We know that when they get ready to do any type of development on that property or landscaping, it will have to go through the Planning & Zoning office like any other development. We didn't have any issues or concerns with the proposed idea.

City Attorney Rubin: The special use permit ordinance is 11-5-6. It sets forth all of the different provisions that you would consider for a special use permit. So by approving this special use permit you are making a determination that this will not have any adverse effects on traffic within the neighboring areas or anything of that sort.

Commissioner Fahl moved to approve the Special Use Permit for Parcel #3022078314491. Applicant wishes to use the land as an art park/display park. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

6. Discussion/Action: Variance Request at 1012 Kopra Street.

Assistant City Manager Alvarez: The applicant is request a variance from the side setback. The property is located in the R1 district which happens to be our strictest district. All other districts require a 5ft. setback. The R1 district requires an 8ft. setback. The applicant wants to add onto his property. That add on would only leave him a 5ft. instead of 8ft. In your packet is the site plan drawings, as well as an overview of the generalized area. If you take a look at some of the overview you will notice that past approvals have been granted or allowed by previous building inspectors and previous Commission. Some of those properties to go within 5ft. of their property line. There were no issues or concerns on the Planning & Zoning side.

Commissioner Mitchell moved to approve the Variance Request at 1012 Kopra St. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer.

**Hon. Amanda Forrister, Mayor voted aye
Hon. Destiny Mitchell, Commissioner voted aye
Hon. Merry Jo Fahl, Commissioner voted aye
Hon. Shelly Harrelson, Commissioner recused herself from the vote.**

Motion carried with a 3-0 vote.

7. Discussion/Action: Approval of contract for Steven Sage as the appointed Attorney for the Municipal Court.

City Attorney Rubin: This is a contract we do every year for our public defenders at the Municipal Court. This is normally an annual contract, but this one is a 6 month contract from July 1, 2023 to December 31, 2023. I believe at that point the Municipal Court will be dissolved so that's why we did this as a 6 month agreement. The rate is the same. Mr. Sage has served honorably as a public defender so I am in favor of this contract.

Commissioner Fahl moved to approve the contract for Steven Sage as the appointed Attorney for the Municipal Court. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

8. Discussion/Action: Appointment of Lisa Kent to serve as a member on the Planning & Zoning Commission:

City Clerk Torres: As mentioned earlier, we have two vacancies on our Planning & Zoning Commission. We received two applications and they both went to the Planning & Zoning Board for consideration. The Planning & Zoning Commission appointed Lisa Kent to serve in one of the vacancies. We have a 1 year term open and a 2 year term open. If appointed, you will have to choose which term limit you want her to serve in.

Mayor Forrister: There were two openings. Were there two people who applied and the Planning & Zoning Commission only approved one?

City Clerk Torres. Yes. Gordon Edelheit also applied for one of the vacancies. One of the board members had some personal interest questions for him, so they tabled his application. That is why we did not bring that one to you. If he is still interested, we will send that application back to the Planning & Zoning Commission for consideration.

Mayor Forrister: It is unfortunate that we have people that want to apply to serve on these boards, but we are turning them away. I don't know the reason for that, and why the board did that, but I would urge the Planning & Zoning Commission to take action whether it be in favor, or not in favor. They can't just not make a decision. They need to either vote for, or against the item, then it can come to us for a decision. That is my opinion, and I urge them to do that.

Commissioner Mitchell made a motion to appoint Lisa Kent to serve a 2 year term as a member on the Planning & Zoning Commission for a 2 year term. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

9. Discussion/Action: Approval of proposed funding of Investigator position.

Chief of Police Tavizon: It has been a little while since we've been at capacity at the Police Department. We are now at capacity. I want to thank you all for your efforts and support to get us there because without you guys we wouldn't be able to do it. From June 2022 to June of 2023, officers responded to approximately 9,996 calls for service. In 2022, Officers took approximately 1,333 reports which is a little low, considering the call volume. I will need to address that to make sure that we are taking reports for the things we need to be taking reports for. So far this year, officers have taken approximately 568 reports to date. We are 6 months in so we will probably be equivalent to last year. In 2022 there was approximately 350 cases that needed additional investigation. These cases are major crimes against children, burglaries, narcotics, unattended deaths. Things that require additional hours and specialized skills. In 2023 we have had around 200 cases that need additional investigation. Some of these cases from prior years have come back in litigation for failing to have that position fixed. I know that you guys hired me to identify areas that need improvement within the organization to prevent and protect our city from future litigation so with that I am requesting that you approve funding for a full time investigator for the City of Truth or Consequences Police Department. I have made arrangements. I know if approved, we have to go out and potentially open it up to someone that might have 5-10 or more years of investigation experience, which is fine. If we can't find anyone, I know that we have some younger and eager officers that are willing to do what they need to, to get the training and experience to serve us well. I've also reached out to some of my contacts. The APD Chief has agreed, if we do hire somebody within our organization

that lacks the experience, he agreed to allow them to attend their 3 week investigator academy for free, and with that I know that they have a high crime rate in Albuquerque. That is bad for them, but it is something that will benefit us because not only will they get the experience in the classroom, they will also go and respond as investigators to those scenes as well so they will have plenty of experience to be competent investigators for our organization. With the high turnover that we've had, the problem that we have is that we have experience levels from one spectrum to the other. We have a couple of guys that are 15 plus years that are on the patrol area, and then we have anywhere officers that have 1-3 years and then we have maybe two officers that have 5 years of experience. So there is a huge gap in experience. Currently the way they are working these investigations is if a new guy gets it, it takes an experienced officer to assist them, so it takes two officers to handle one investigation, and so that increases our overtime and it affects it that way as well.

Commissioner Mitchell: Does the funding for this come out of the Police Department revenues or does it come from the General Fund.

City Manager Gonzales: It would come out of the General Fund. It would be the creation of a new position. That individual will be tasked with these investigations leaving the officers on the street to be able to do patrols.

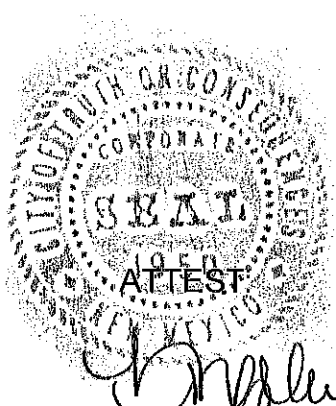
Mayor Forrister: While it is going to be an expense to the General Fund, all of this overtime is being paid right now, so it is probably going to even itself out.

Commissioner Mitchell made a motion to approve the proposed funding of Investigator position. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

J. ADJOURNMENT:

Mayor Forrister adjourned the meeting at 9:52 a.m.

Passed and Approved this 12th day of July, 2023.



Angela A. Torres, CMC, City Clerk

A handwritten signature in black ink, which appears to be 'Amanda Forrister', is written over a horizontal line. Below the signature, the text 'Amanda Forrister, Mayor' is printed.

Amanda Forrister, Mayor

Rick Dumiak
705 Charles
TorC, NM 87901

I am here today to ask how long do the homeowners in the vicinity of Post And Charles have to put up with the conditions of the property located at 630 Charles?

630 Charles has been unoccupied for well over a year and has been in disrepair and a nuisance and danger to the neighborhood for at least 5 years.

When someone was living there, the property was a haven for criminals and illegal acts. The TorC PD would be at the home almost weekly for domestic disputes, criminal complaints, animal complaints and to serve outstanding warrants on the previous residents.

630 Charles has been and currently is in violation of numerous municipal ordinances including but not limited to the following violations;

- Section 4-228. Unsafe structures or premises.
- Section 4-229. Dangerous structure or premises.
- Section 6-74. Unsanitary premises.
- Section 6-75. Hazardous premises.
- Section 6-76. Accumulation of solid waste.
- Section 6-77. Storage on private property.
- Section 6-78. Weeds

I wonder if any of you commissioners lived adjacent to this property how many years you would have to wait until the law was enforced and municipal code section 4-232 was followed for removal of this property?

For the last 5 years I have tried to get the city to enforce and follow our existing ordinances with minimal if any actions being taken by the City of TorC concerning this property.

At the present time 630 Charles remains a unsafe structure with trash and discarded appliances littering the property, the fences are in disrepair and falling down. This property is a danger to the local residents as well as an an eyesore that is negatively impacting our property values. If the city does not take action someone will be hurt from the conditions of this property. I have had flying debris from 630 Charles blown on to my property and there have been squatters living in the home as well as rodents and wildlife using it as a home.

The city has a responsibility to protect its residents from dangerous and unsanitary conditions that exist at this property yet nothing is taking place to protect the neighboring properties around 630 Charles.

Why must we live near this property when it is clearly in violation of our municipal codes?

I urge all of you commissioners to drive by 630 Charles and honestly ask yourselves what you would do if this property was across from where you live? How long would you wait for the city of TorC to follow and enforce our municipal code?

In addition regarding the new homes being built on Wyona, why doesn't the city require the developer to contain the trash and debris from this project? There is no trash dumpster present on the construction site and as a result garbage and debris is being allowed to accumulate in the drainage ditch and trash is being blown all over our neighborhood.

Thank you
Rick Dumiak